Crown Action and Māori Response, Land and Politics 1840-1900

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CFRT Commissioned Report—2018

Contents

CHAPTER 1

INTRODUCTION

This research report is intended to provide a large overview of land loss experienced in the nineteenth century by all of the hapū and iwi broadly associated with Ngāti Raukawa ki te Tonga, Ngāti Kauwhata, Ngāti Wehiwehi, Ngāti Tukorehe, Ngāti Hinemata, Ngāti Hikitanga Te Paea and the hapū and iwi of Te Reureu including Ngāti Pikiahu, Ngāti Parewahawaha, Ngāti Whakatere, Ngāti Matakore, Ngāti Waewae, and Ngāti Rangatahi.[1] This includes ngā hapū of Hīmatangi (Ngāti Rākau, Ngāti Tūranga, and Ngāti Te Ao) and ngā hapū o Kererū (including Ngāti Hinemata, Ngāti Takihiku, and Ngāti Ngārongo).[2] In general, however, the historical record refers to these hapū as 'Ngāti Raukawa' only. Thus, it is to named tūpuna and land names that reference must be made to identify hapū concerned.

Although the tribal complexities of customary tenure in the region are an important context, the focus of this report is on land alienation itself and the impact on rangatiratanga from the signing of the Treaty of Waitangi to the beginning of the twentieth century. That period spans two different systems of land acquisition: Crown pre-emption purchasing under the policies of Governor Grey, Donald McLean, and the Native Land Purchase Department and then modified by Isaac Featherston; and purchases by both Crown and settlers under the Native Land Court system. The emphasis is necessarily on the large-scale purchases in a region comprising many hundreds of land blocks.

Having provided a brief sketch of the region and of the arrival of the heke, we discuss the signing of the Treaty of Waitangi, and the complications arising from the New Zealand Company purchase at Manawatū-Horowhenua (chapter 2) before turning to the impact of Grey's land and law policies (chapter 3).

The next major topic (discussed at chapters 4 and 5) is the Crown's acquisition of three large blocks of land: Rangitīkei-Turakina, Ahuaturanga, and Te Awahou; the tactics employed and the reaction of the hapū involved, and, in particular, the wider tribal understandings that had been created. We turn then to the controversial purchase undertaken by Featherston of the Rangitīkei-Manawatū block and the many difficulties and complexities that remained even after native

[1] Memorandum-Directions Finalising the Research Programme, 24 December 2012,Wai 2200, #2.5.58 para 7.

[2] It is not practical to list here all hapū of Ngāti Raukawa ki te Tonga, but claimants are assured of their ability to participate in and engage with these projects should they self-define as a hapū of Ngāti Raukawa, Ngāti Kauwhata, Ngāti Wehi Wehi, Ngāti Tukorehe, and/or the hapū/iwi of Te Reureu.

title had supposedly been extinguished and which were an on-going source of grievance well into the 1880s. This discussion is contained in chapters 6 through to 8.

The lands remaining after those purchases undertaken during the Crown pre-emption period - namely the lands around Ōtaki, including the township allotments, Manawatū-Kukutauaki, Pukehou, Muhunoa, Ōhau, Ngākaroro, Aorangi and Horowhenua - were brought through the Native Land Court in the late 1860s and early 1870s for determination of title and then partitioned multiple times, with alienation to the Crown, the Wellington and Manawatu Railway Company and private individuals proceeding apace. This section of the report investigates that process and its impact. Chapter 9 discusses general Native Land Court and Crown purchase matters from 1865 to 1880, chapter 10 the Horowhenua block, and chapter 11, the period from 1880 to 1900.

Throughout, the report attempts to highlight the opinions expressed by Māori in their hui, their negotiations, and political development as they responded to the many challenges posed by colonisation and the imposition of settler dominated institutions.

1.1 Project brief

The project brief states that the following issues and themes will be included within the scope of the 'Crown Action and Māori Response, Land and Politics 1840–1900' report:

- What were the Crown's political and economic objectives during this period. Were there any special circumstances at play, for example, engagements to the New Zealand Company, the residence of Sir William Fox, provincial politics, and war policies?
- What instructions were given to Crown purchase agents and to what extent were these followed?
- Is there evidence that the Crown achieved its purchase objectives by paying those known to be willing to sell without proper consideration of the nature of their rights; did it favour its allies or elevate the rights of one party irrespective of the existing customary arrangements and understandings?
- Were negotiations conducted in open hui attended by all potential right-holders? Were they held on the land or was participation more limited?
- Did Crown officers seek to actively undermine the land-holding stance of Ngāti Raukawa, Ngāti Kauwhata, and the others? Did they seek to undermine the alliance between Ngāti Raukawa and other participants in the heke?

- What promises were made by the succession of Crown agents who conducted negotiations within the region?
- What was the reason for, and effect of, removing the Rangitīkei-Manawatū block from the jurisdiction of the Native Land Court in terms of Crown purchase operations?
- Did Māori desire alternatives to sale; were these explored? What was the impact of the Native Land Purchase Ordinance 1846 and the decision by Crown agents to withhold rents?
- How influenced were Crown agents by prevailing theories about wastelands, and by pressures created as a result of commitments undertaken to New Zealand Company settlers?
- What role was played by Governor Grey and Premier Fox?
- What questions are raised about the conduct of Crown purchase agents – notably, Searancke, Featherston, and Buller? What were the implications of the dual roles of Featherston and Buller (purchaser and provincial politician, and purchaser and resident magistrate respectively)?
- Did purchase agents work on commission and what was the impact on Māori?
- Are there allegations about abuses – forged signatures, purchase of interests of infants and the 'insane', use of bribery and alcohol – and does the evidence support such allegations?
- To what extent did Crown purchase officials assume a protective role, and what was their attitude to particular reserves during their negotiations? Were all promised reserves made?
- Was the price adequate and how was that determined? Were other promises about benefits of settlement made?
- What was the political relationship with the Crown? Did support for the Kīngitanga have a bearing on how the Crown (and subsequently, the Native Land Court) determined land rights in this district?
- What was the effect of confiscation on the hapū who had departed Maungatautari to settle in the Rangitīkei-Kukutauaki region?
- Was there evidence of ongoing dissatisfaction with the purchases, and how were any defects in the purchases addressed (notably at Hīmatangi and Horowhenua)?
- What was the extent of land and resource loss (including Waikato interests) experienced by the hapū of the heke confederation in this period?
- What was the overall impact on their rangatiratanga?

1. The Contractor should provide a detailed case study in relation to the Himatangi Crown Grants Act 1877, assisted by close engagement with ngā hapū o Hīmatangi constituent members. In particular, the following matters should be examined:
   - The circumstances leading up to the establishment of the Act, and its effect/s;
   - Opposition by tangata whenua to the sale of the Rangitīkei-Manawatū block;
   - The circumstances and detail surrounding Ngāti Raukawa hapū of Ngāti Rākau, Ngāti Te Au, and Ngāti Tūranga being recognised as non-sellers in the sale of that block;
   - Any tensions between the hapū and the wider iwi, and neighbouring iwi, at the time of the sale of the block;
   - Details regarding iwi and hapū responses to these tensions, and treaties created to manage inter and intra hapū/iwi relationships moving forward; and
   - An investigation into, and detailed analysis of, the discrepancy between the original acreage promised to the three hapū by the Crown, and the final acreage actually provided under the legislation.

2. In relation to the Native Land Court era, the following issues should be investigated:
   - The reasons for and strategies used by Ngāti Raukawa, Ngāti Kauwhata, and other hapū in bringing the lands through the Native Land Court; the extent of encumbrances on the land (leases and down-payments) before title was determined;
   - The role of Crown purchase officers in bringing lands through the Court and their influence, if any, on court determinations; and
   - The legislation under which this process of title investigation and partition took place, for example, Native Land Act 1873 and Government Native Land Purchase Act 1877.

3. In terms of land alienation the following issues should be addressed:
   - • The impact of Native Land legislation and the Native Land Court on rangatiratanga, (for example, increasing title fragmentation and multiple owners as a result of partitioning and succession, retarding effective land management and retention);
   - The extent, conduct, and impact of Crown purchasing;
   - The policies and objectives which informed the Crown's approach to the purchase of land in the district, for example, the impact of Public Works and Immigration Acts; the influence and purchases associated with Wellington-Manawatū Railway; and any purchases associated with scenery and wildlife preservation;

- Use of advances before title determination; the use of monopoly powers and the effect of this and other factors on the prices paid by the Crown; and whether prices were lower than current market values;
- What (if any) reserves were made?[3]
- Were any promises made regarding the provision of educational, medical, or other public services or infrastructure such as railways and roading? The extent, conduct, and impact of private leasing and purchasing (including any use of debt to foster transactions, the use of pre-title advances, the role of land agents, and the role of lawyers);
- The use of specific legislative measures such as Validation Acts;
- The loss of taonga (for example, maunga, mere pounamu); and
- What was the nature of Ngāti Raukawa and affiliates' ongoing political relationships, for example with Parihaka, Kotahitanga, Kauhanganui, and the Kīngitanga, and how did those matters affect their relationship with the Crown?

1.2 The claimants

Wai number	Named claimant	Hapū/Iwi Affiliation
113	Iwikatea Nicholson	All iwi and hapū of Ngati Raukawa
366	Wayne Herbert	Ngāti Rangatahi
408	Ngawini Kuiti	Ngāti Kikopiri ki Muhunoa and Ngāti Huia
651	Turoa Karatea and Anthony Nopera Karatea	Ngāti Pikiahu Waewae, Ngāti Matakore, Ngāti Rangatahi
767	Te Awanuiarangi Black	Ngāti Raukawa
784	Rodney Graham	Ngā Uri Tangata O Kauwhata Ki Te Tonga
972	Edward Penetito and others	Ngāti Kauwhata Ki Te Tonga
977	Margaret Morgan-Allen	Ngāti Hikitanga Te Paea
1064	Robert Herbert and Robert Jonathan	Ngāti Rangatahi

[3] Note that the issue of reserves is the subject of a separately commissioned report.

Wai number	Named claimant	Hapū/Iwi Affiliation
1461	Dennis Emery	Ngāti Kauwhata Ki Te Tonga
1482	Richard Orzecki, Paddy Jacobs, R Miratana	Te Kotahitanga o Ngati Wehi Wehi/ Ngati Wehi Wehi
1618	Milton Rauhihi, Hayden Turoa, Ted Devonshire	Ngā Hapū o Hīmatangi (Ngāti Rākau, Ngāti Tūranga, Ngāti Te Au)
1623	Turoa Karatea, Mason Durie, Danny Karatea-Goddard, Sue Herangi	Ngāti Rangatahi Kei Rangitīkei
1625	Te Waari Carkeek and Enereta Carkeek	Ngāti Parekōhatu, Ngāti Huia, Ngāti Kimihia
1626	Te Waari Carkeek	Ngāti Parekōhatu, Ngāti Huia, Ngāti Kimihia
1630	Heitia Raureti	Ngāti Kapumanawawhiti
1638	Ipimia Arapata	Ngā Iwi o Te Reureu
1640	Te Meera Hyde	Ngāti Whakatere Ki Te Tonga
1872	Hare Arapere and Puruhe Smith	Ngā Hapū o Ngāti Pikiahu
1913	Kelly Bevan and Fiona Wilson	Te Iwi o Ngāti Tukorehe
1944	Te Kenehi Teira and others	Ngāti Hinemata
2031	Simon Austin on behalf of the descendants of James Howard Wallace	Wallace whānau, Ngāti Raukawa, Ngāti Kauwhata, Te Arawa, Ngāti Huia

1.3 About the authors and acknowledgments

The team involved in the production of this report include the following people:

Dr Robyn Anderson completed her doctorate at the University of Toronto, where she worked for a number of years before returning to New Zealand in 1991. In

1992, she joined the staff of the Crown-Congress Joint Working Party and prepared historical evidence underpinning the return of railway land to Wellington Māori. She undertook research projects for the Waitangi Tribunal and for claimants from the Hauraki, Kaipara, and Whanganui districts and co-authored reports in the Rangahaua Whānui series. From 2000 to 2003, Robyn was the first History Concept Leader at Te Papa Tongarewa Museum of New Zealand, where she led research and exhibition development for history and Pacific cultures. Dr Anderson was appointed to the Waitangi Tribunal in 2004.

Dr Terence Green is a Fulbright Scholar, and holds a Ph.D. in the History of Political Thought from Columbia University (NYC), and an M.A. in Political Philosophy from Victoria University. Over the course of the last two decades, he has worked as a researcher and report writer on claims concerning Northland, the East Coast, Taranaki, and Wellington, and has been previously contracted directly by claimants as well as by the Waitangi Tribunal and the Crown Forestry Rental Trust to be a member of the team responsible for working with the iwi of the central North Island in the pursuit of the settlement of their claims. Terence has also worked as a Senior Policy Analyst at Te Puni Kōkiri in the Treaty Analysis Unit.

Mr Louis Torehaere Chase affiliates to Ngāti Waewae, a hapū of Ngāti Tūwharetoa and Ngāti Pikiahu. He is Ngāti Pikiahu Waewae from the 'valley'. Lou has been involved in land-related research work since 2001 for various tribal and non-tribal agencies. His interests are whānau oriented, with mokopuna, and having an involvement with hapū, and marae 'mā mua, mā muri hoki'.

Mr Piripi Walker, Ngāti Kikopiri, Ngāti Raukawa, graduated from Victoria University of Wellington with a B.A. (Hons) in Māori Studies. He trained as a Māori Language producer at Radio New Zealand and was a founder and former station manager of Te Upoko Māori o Te Ika Radio. He remains trustee and secretary of the station's Trust Board. He has been closely involved in many initiatives to improve Māori language learning and develop Māori broadcasting and currently serves as a director of Māori Television. Piripi was the Director of Language Studies at Te Wānanga o Raukawa in Ōtaki from 1992 to 1996, and also directed the Māori Laws and Philosophy Programme. He has worked as a writer, editor, and translator for more than 20 years and has provided translation services to the Waitangi Tribunal for the Porirua ki Manawatū district inquiry.

We have been ably supported by the other members of the ARRK team: Professor Whatarangi Winiata, Sir Edward Taihakurei Durie and Ms Rachael Selby.

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CHAPTER 2

THE LAND, THE TREATY, TWO PEOPLES

2.1 He whenua

The south-western coast of the North Island is fringed for most of its length by a sandy beach. Inland, spreading from Paekākāriki in the south to the Whanganui River in the north for a distance of more than 120 kilometres is a region of alluvial plains, low terraces and undulating hills, making it 'one of the largest areas of relatively flat land in the country.'[4] This was, however, very different country from what it is today.

Extending inland from the sea and foreshore and the unstable sand hills was a zone of sand country with a light cover of mānuka, bracken, pīngao, and other small plants regarded by Māori as a source of rongoā and by Europeans as scrub. This area of flat, sandy soil varies in width, narrowing to the north and south but gradually widening in between. At its widest, the area extends some 34 kilometres, from the coast to where the Manawatū River emerges from between the Ruahine and Tararua Ranges in the interior.[5]

The Rangitīkei, the Manawatū, its tributary the Oroua River, and several other smaller watercourses ran from the mountains across the plains to the sea and were to prove an obstacle to European settlement for many decades until bridged. Their course was more winding than today since extensive river straightening, mostly undertaken in the twentieth century. Adjacent to the rivers were alluvial flats, which were particularly extensive in the case of the Manawatu and Oroua Rivers. The region was characterised by lagoons, small lakes, ponds, and marshy areas, rich in flax and an important source of mahinga kai, but now extensively modified by drainage and farmed; or now overwhelmed by sand drifts. The largest of these areas were the Makurerua (Makerua) swamp alongside the middle reaches of the Manawatu; the Taonui swamp bordering the small river of that name, which ran into the Oroua River near its confluence with the Manawatu; and the Roto-nui-a-hau swamp on the western side of the Oroua River. Closer to the coast there was a particularly rich concentration of tuna, kākahi (fresh water mussels), and other resources at Papaitonga and Waiwiri.

Further inland, the plains, low terraces, and foothills were covered in dense forest, much of which would be felled from the 1870s onwards and now mostly in pasture right up to the mountains.

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[4] R Lange, 'The Social Impact of Colonisation and Land Loss on the Iwi of Rangitikei-Manawatu', Report commissioned by CFRT, 2000, p 1.
[5] Lange, 'Social Impact of Colonisation and Land Loss', p 1.

Resources included forest fruits and berries, birds, tuna, shellfish, whitebait, fish, and flax amongst others, while good crops of kūmara could also be obtained, sustaining a considerable population of Māori hunters, gatherers, and cultivators.

2.2 Arrival of ngā heke

At 1800, a number of hapū groupings had been in long-established occupation of this region. Loosely speaking, Ngāti Apa were living in the north on both sides of the Rangitīkei River, while Rangitāne were located further south on both sides of the Manawatu River. Muaupoko were based around Lake Papaitonga and southwards. Although there had been periodic conflict between these groups over resources, their occupation had not been threatened for many years.

This was to change dramatically in the decades immediately prior to the Crown's apparent acquisition of sovereignty, the arrival of heke from the north creating a complicated tenurial situation that had to be worked through before the area could be considered legitimately acquired for the purposes of colonisation. The exercise of customary rights by the people of these heke, the relationship with the people they found in occupation and with each other is complex, multi-layered and fluid, changing seasonally and over time. Such mobility and mutability did not stop at 1840. These matters – who had the authority over land and resources and where such authority resided, whether in senior rangatira, hapu, or iwi – were interpreted by the European authorities and institutions that came to have enormous sway over the lives of Māori through purchase and land court activity. An understanding of the basis on which such decisions were made is key to explaining the experience of the hapū discussed in this report.

It is not our intention, here, to discuss the traditions of origin, in detail; the stories of ancestral home; tupuna and whakapapa of the hapū who migrated from south Waikato and northern Taupō into this region in the 1820s; the battles fought; the losses and victories; instances of utu and peace making through marriage and gift. That is for the Korero tuku iho hearings and the oral tradition reports that have been separately commissioned, in order to draw on and express the mātauranga of descendants of the hapū and rangatira concerned. Such matters will be discussed in the context of Native Land Court evidence where customary rights and questions about authority were fiercely debated and in which the Crown and colonists became actively involved. So important were the decisions of the Crown and Courts in the colonisation of the people of the region that they are the subject of a special report by Professor Richard Boast but they are matters which must be considered in the following as well.

Below, we briefly outline events associated with the arrival of hapū of 'Ngāti Raukawa', the closely associated hapū Ngāti Kauwhata and Ngāti Wehi Wehi, and others as well – groups such as Ngāti Pikiahu – in a series of heke into the region..

The narrative traditions dealing with the migrations to the south usually begin with Te Rauparaha's decision to relocate his people. These stories are well known, as are the motivations for it. In part, the heke was necessitated by the tribal turmoil caused by the Waikato invasion and, in part, Te Rauparaha's acumen in first identifying the region's potential for trade, guns, security, and resources during his scouting expedition of 1819. As Tāmihana Te Rauparaha told it, his father had been attracted by the Pākehā, the abundance of the mahinga kai, and the closer proximity to the pounamu of the South Island.[6] The migrations of Ngāti Toa that followed took place in two stages as Te Rauparaha moved his people in discrete groups until they found initial safety in Te Ati Awa territory south of the Mōkau River. According to Te Ahukaramū Charles Royal, this migration to Taranaki was called Te Heke Tahutahuahi, and the second stage to the Kapiti Coast became known as Te Heke Tātaramoa because of the many difficulties encountered.[7]

Te Rauparaha's links with Ngāti Raukawa were strong. Not only was his mother a Ngāti Raukawa rangatira of high rank but he had also been chosen by their senior rangatira, Hapekituarangi, when he was dying, to carry the mana of Ngāti Huia. One of Te Rauparaha's biographers notes that while not of the highest rank himself, he rose to the leadership of Ngāti Toa because of 'his aggressive defence of his tribe's interests and his skill in battle'.[8] Tradition has it that Te Rauparaha looked for allies in his invasion of the south to establish a new homeland. Leaving his people at Taranaki, he went on a 'recruiting expedition' to Taupō, Rotorua, Tauranga, and even to Ngāti Maniapoto, but without success.[9] Angela Ballara in *Taua* recounts how Ngāti Raukawa rangatira, Te Au and Horohau, had rebuffed Te Rauparaha for attempting to command his seniors in years and rank. They suggested that he should join them in their efforts to take Heretaunga as a new home instead. 'Saddened by their anger', he returned to his people and began the further journey south to Kapiti.[10]

An initial heke of people identified by S Percy Smith as Ngāti Raukawa, took place shortly afterwards. Smith mentions the chiefs:

> Te Rua-maioro, Te Mahunga, Te Paheka (all killed), Mahoro, Te Whare, Te Puke, Te Ao, Rourou-ao, and Tupaea. The hapūs engaged in it were Ngāti Waiu-rehea and Ngāti Rangi. On the arrival south they first lived at Kapiti with Ngāti Toa – but some time after and when vessels began to frequent that island they removed to the mainland in order to be near the flax swamps…[11]

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[6] Tamihana Te Rauparaha, *The Life and Times of Te Rauparaha*, Waiura, 1980, pp 10-13.
[7] Royal, *Kati au I konei*, Wellington, 1994, p 17.
[8] Steven Oliver, 'Te Rauparaha', https://teara.govt.nz/em/biographies.
[9] Royal, *Kati au I konei*, p 17.
[10] A Ballara, *Taua: 'musket wars,' 'land wars,' or tikanga? Warfare in Maori society in the early nineteenth century*, Auckland, 2003, p 326.
[11] S Percy Smith, *History and Traditions of the Māoris on the West Coast, North Island of New Zealand prior to 1840*, Polynesian Society, New Plymouth, 1910, p 403.

McBurney cites Nigel Te Hiko as commenting that these chiefs are generally acknowledged as Ngāti Kauwhata who, as we discuss further below, were often included within the appellation of 'Raukawa', with whom they were closely allied through a long history of marriage.[12] They were an autonomous people, however, sometimes choosing to identify and cooperate with Ngāti Raukawa in defence of shared interests (especially when confronted with challenges from rival iwi, or resulting from Crown policies), or, as in the ownership of Otaki pa[13]; sometimes choosing their own independent path (as, for example, when making claims to lands at Maugatautari in the 1860s and 1880s.) The Te Hono-Ngāti Kikopiri report agrees that, although the 'names given are ambiguous'; these are likely Ngāti Tūranga, Ngāti Maiotaki, and Ngāti Kauwhata/Wehi Wehi. The two main hapū identified by Smith as 'Waiu-rehea and Ngāti Rangi' were possibly Waihurihia and Ngāti Te Rangiwāhia.[14]

According to Tāmihana Te Rauparaha, this heke also included a large party of Ngāti Whakatere, who escaped attack from the Whanganui tribes and joined a Ngāti Tama migration, also south to the Kapiti coast. The Ngāti Whakatere party included Tawhiri, whose daughter Ruta married Tāmihana Te Rauparaha.[15] Oral tradition has it, too, that a contingent of Ngāti Rangatahi (of Ngāti Maniapoto) were early participants in the migration southwards, joining with Ngāti Tama from their ancestral home of Mokau-Mokauiti-Te Kuiti and living first on Kapiti Island, where they intermarried closely with Ngāti Toa and later assisted in the settlement of the Heretaunga valley.

Te Ahukaramū Royal has identified the first Ngāti Raukawa migration, of 1825, as Te Heke Karere, or the migration of messengers, prompted by the obligations of whanaungatanga. When news of a serious assault on Te Rauparaha and his whānau reached his Ngāti Raukawa relations at Maungatautari, in about 1825, Mātenga Te Matia of Ngāti Pare, Te Ahukaramū, Te Horohau, and Ngārangiorēhua led a taua of about 120 south to investigate. Their route was along the west side of Taupō, and south across the Rangipō desert, and then along the Turakina and Rangitīkei rivers.[16] The report proved false, and they met with Te Rauparaha and their other relations at Rangiuru, a pā at the mouth of the Ōtaki River. Te Rauparaha suggested they settle in the area, but they refused at first and it was Waitohi, his older sister, who is said to have moved them to bring back her peoples of Ngāti Kauwhata, Wehiwehi, Parewahawaha and Ngāti Huia. Te Ahukaramū promised to lead that migration with the famed whakataukī: 'Māku,

[12] P McBurney, 'Ngati Kauwhata and Ngati Wehi Wehi interest in and about Te Rohe Potae District', CFRT, 2013, pp 57 and 123.
[13] See appendix 1.
[14] Smith, *History and Traditions of the Māoris*, p 403.
[15] Ngati Kikopiri report – Te Hono Raukawa [draft 12.1.16].
[16] Bateman New Zealand Historical Atlas: Ko Papatuanuku e Takoto Nei, Malcolm McKinnon, ed, David Bateman Ltd, Auckland, 1997 p 29; Te Rauparaha, Life and Times of Te Rauparaha, p 51.

mā te tuarānui o Pakake.' (I will! By the strong back of Pakake.)[17] As noted above, Hape had chosen Te Rauparaha to carry his mana as Ngāti Huia or Ngāti Raukawa leader after he died, and Ngāti Kikopiri states: '[T]his was a strong reason to follow him and Waitohi in migrating to the south.'[18]

The heke of 1826 instituted by Te Ahukaramū in response to Waitohi and Te Rauparaha was known as Whirinui, the migration of the large weaving. This was the first major migration of Raukawa people.

Te Ahukaramū had returned to Maungatautari, determined to persuade his hapū to undertake the journey and when they proved reluctant, burnt down their whare (an action that was to work strongly against them when they later attempted to have the court recognise their ongoing rights in that area). Ngāti Pare and Ngāti Maiotake [sic] were involved, as were Ngāti Huia.[19] Aperehama Te Ruru was on the heke as likely were Taratoa and Te Ahukaramū's cousins, Te Hoia and Tuainuku.[20] Parakaia Te Pouepa also led his hapū, Ngāti Tūranga, on this stage of their migration. According to his later evidence in the Himatangi hearing: 'We attacked Ngāti Apa and Tāwhiro was killed. Came on to Kapiti. Rauparaha then invited Whatanui and Hūkiki to come and occupy this country between Turakina and Porirua.'[21]

Whirinui is thought to have followed a similar route as its precursor, along the Rangitīkei River to a destination on the coast. Mātene Te Whiwhi gave evidence in the land court that 'Ngāti Raukawa came as a whole body brought by Te Ahu Karamū. Went to Kapiti to be near the "Pakehas". On obtaining guns and ammunition, came to Otaki.'[22]

Having discussed some of the battles that occurred between the migrants and those they found in occupation, Ngāti Kikopiri states with reference to their rights at PapaitongaL 'Fighting alongside Ngāti Toa in attacks on Muaūpoko gave Ngāti Huia and Te Tuarānui-o-Pakake rights to land there. Te Ahukaramu and Tuainuku were some of the chiefs who settled there. Te Rangihaeata, Topeora, Te Paea and Matene Te Whiwhi were also strongly associated … with the place, but may have arrived later.'[23]

In 1827, Taratoa, of Ngāti Parewahawaha, raised a taua of about 200 of his hapū and joined Ngāti Te Kohera and Tūwharetoa, leading his people south from Maungatautari in a heke named Kariritahi. His cousin, Te Whatanui (the son of Tīhao of Ngāti Parewahawaha and Ngāti Huia and Pareraukawa, the elder sister

[17] Ngati Kikopiri report – Te Hono Raukawa [draft 12.1.16].
[18] Royal, *Kati au I konei*, p 19, cited Ngati Kikopiri report – Te Hono Raukawa [draft 12.1.16].
[19] F L Phillips, *Nga Tohu o Tainui, Landmarks of Tainui*, 1989, vol 2, p 153.
[20] Ōtaki minute book, 1C, p 198.
[21] Ōtaki minute book, 1C, p 200.
[22] Ōtaki minute book, 1C, p 198.
[23] Ngati Kikopiri report – Te Hono Raukawa [draft 12.1.16], p 15.

of Hape) was said to have been part of Te Heke Kariritahi, although he seems to have returned north.[24]

Te Whatanui also had been contemplating a move to the east coast and, according to the Te Hono-Ngāti Kikopiri report, made a second unsuccessful attempt to settle that area, in alliance with Ngāti Te Kohera (and Ngāti Ngarongo) and Ngāti Upokoiri, between 1826 and 1827. Te Whatanui, along with Te Hoariri Paerata and his wife were forced to flee over the Ruahine Ranges to join their relatives at Kapiti.[25] There were other waves of escapees from the conflict, including a large number of Ngāti Upokoiri. A group of Ngāti Takihiku fought back along the route, slowing their pursuers and allowing a larger group of survivors to make their way down the Manawatu River.[26] This migration, in 1828, became known as Te Heke Mai Raro. Ngāti Parewahawaha are said to have participated in it, through belonging to 'Te Ngare o Huia'.[27]

This migration may well have included those among the hapū who had been residing at Taupō while the fighting force went on to Heretaunga. According to some sources, these people included the remainder of Ngāti Kikopiri, Ngāti Parewahawaha, Ngāti Huri, Ngāti Kapu, and Ngāti Ngarongo.[28]

Royal notes that Te Whatanui, the acknowledged leader of this heke, later declined an invitation to return north, expressing his feelings in a waiata thus, 'Should I, Ngāti Raukawa, return to Maungatautari? To the home abandoned from the heart? … I dread to be looked on as a visitor.'[29] Te Whatanui was honoured for his peacemaking with Rangitāne, Ngāti Apa, and Muaupoko, and an act of grace towards the latter in their collision with Te Rauparaha during the migration of his people into their territory when he famously offered to be the rātā tree that sheltered them.[30] We return to the significance of this action later in the chapter.

McBurney states in his report on Ngāti Kauwhata and Ngāti Wehi Wehi that this last migration south from Maungatautari, in about 1828, again involved Ngāti Kauwhata 'following closely on the heels of the final Ngāti Raukawa hekenga … While Ngāti Raukawa travelled down the coast, Ngāti Kauwhata led by Te Wharepakaru and Te Whata took an inland route.'[31]

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[24] Ngati Kikopiri report – Te Hono Raukawa [draft 12.1.16]. p 16.
[25] Te Hiko (2010) p 217; Grace (1992) p 318; Joseph (2010) p 7; cited Ngati Kikopiri report – Te Hono Raukawa [draft 12.1.16].
[26] Tarakawa (1900) pp 61-62, cited Ngati Kikopiri report – Te Hono Raukawa [draft 12.1.16].
[27] Ngati Kikopiri report – Te Hono Raukawa [draft 12.1.16].
[28] See McBurney, 'Ngati Kauwhata and Ngati Wehi Wehi', pp 120-121.
[29] Royal, 'Ngati Raukawa', https://teara.govt.nz/em/biographies.
[30] See for example Ballara, 'Te Whatanui', https://teara.govt.nz/em/biographies.
[31] McBurney, 'Ngati Kauwhata and Ngati Wehi Wehi', pp 124-125.

An important strand within the heke tradition was the obligations developed as a result of the heke along the Whanganui River in which they suffered terrible losses at Makatote. According to Downes, the pā Makakote was captured and the great Ngāti Raukawa chief Te Ruamaioro killed; while Tupaea, Te Puke, Te Ao and Wharemakatea, all chiefs of high rank, were taken prisoner.[32] Te Hono-Ngāti Kikopiri report states:

> Some of the survivors returned to Maungatautari, bringing word to Te Whatanui. … While Tāmihana's account says Te Whatanui merely had to send word and the prisoners were released, and allowed to join Ngāti Whakatere and others heading south; another account by Arama Tinirau describes Te Whatanui negotiating with his relative Peehi Turoa at Okahukura (near Taumaranui) for the release of the prisoners.
>
> Peehi Turoa then acted with grace releasing the prisoners and allowing them to travel onwards but along the Rangitīkei (rather than Whanganui River). The parents of Hoani Taipua Te Puna-i-Rangiriri Taipua (Ngāti Pare and Ngāti Huia) and Te Ria Haukoraki are said to have come south as part of this migration.[33]

Also arriving in the region and eventually settling along the upper reaches of the Rangitīkei River were Ngāti Pikiahu, (led by Paranihi Te Tau), Ngāti Waewae, Ngāti Matakore (Ngāti Maniapoto), and their close allies, Ngāti Rangatahi (led by Kaparatehau and Ngarupiki). These groups were linked not only by whakapapa, coming originally from the region of Tongariro/Taupo, but as colonisation proceeded, also by their resistance to land sales, in which they were joined by Ngāti Parewahawaha and Ngāti Whakatere who had also settled in that region after the battle of Haowhenua in 1834 (see below). Little has been written about their migration into the area but oral tradition suggests that some members came with the earlier heke, already described, living for a time at Kapiti and (in the case of Ngāti Rangatahi) joining in the occupation of the top of the South Island. Eventually these iwi/hapū took up residence at Kaikariki and Pourewa on the Rangitīkei River, when displaced as a result of the conflict in the Hutt valley and the sale of Rangitīkei-Turakina. In part the rights of Ngāti Waewae, Ngāti Matakore, and Ngāti Whakatere derived from their participation in Haowhenua assisting Ngāti Toa and Ngāti Raukawa in their conflict with Te Ati Awa and coming through with Te Heuheu and Tūwharetoa.[34] Te Heuheu, we note, had joined Te Whatanui in the earlier 1825 heke assisting in the 'clearing' of the land in the vicinity of Rangataua as well.[35] It is also said that these different groups had participated in the 'pivotal' attack on Ngāti Apa pa, Pikitara, near the Rangitīkei River, after the earlier conflict at Waiorua.[36] Ngāti Waewae was later 'chosen' by Te Heuheu to lay down an aukati at Pourewa under Te Oti Pohe who was based at Ōtara.

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[32] T W Downes, *Old Whanganui*, Christchurch, 1976, p 131.
[33] Royal, *Kati au I konei*, pp 59-63.
[34] Evidence of Manaaki Tibble, Korero tuku iho, Tokorangi, 19-20 May 2014, Wai 2200, 2.5.92 (a).
[35] Evidence of Mr Reweti, Korero tuku iho, Tokorangi, 19-20 May 2014, Wai 2200, 2.5.92 (a).
[36] Evidence of Mr Reweti, Korero tuku iho, Tokorangi, 19-20 May 2014, Wai 2200, 2.5.92 (a).

According to the statement of Henare Te Herekau of Ngāti Whakatere, NgātiPikiahu had participated in earlier heke but after Haowhenua had gone home to Taupo, returning with their friends from among Tuwharetoa to settle at Rangitikei where they had a claim 'according to old custom, by right of conquest'. They had settled first at 'Otara' in 1841 and moved further south to Te Reureu. Te Herekau said that they had been invited, there, by Mohi Kahira, because of the danger of conflict with Ngāti Upokoiri, living at Te Reureu with and 'under the authority of Ngātiraukawa chiefs'. They were joined by some Ngāti Maniapoto and, in 1846, by other Ngāti Pikiahu from the Manawatū. 'There was no other tribe or hapū of any other tribe occupying that country,' Te Herekau said, 'only Ngātiraukawa, which made it quite right their settling Ngātipikiahu and their friends at Te Reureu'. Their boundaries had been settled by Nepia Taratoa with other chiefs in 1849.[37] (This took place as part of the Turakina-Rangitikei sale and is discussed further in chapter 4.)

There were peoples from Tauranga, as well, where Ngāti Raukawa had connections. It seems likely that this connection prompted some people living in the Manawatū region to participate in the 1860s Tauranga campaigns, notably, Henare Taratoa who was killed at Te Ranga in 1864; but little is known about these customary relationships and their involvement in the migrations we have outlined here.

2.2.1 Settlement in the south

Mātene Te Whiwhi stated at the Himatangi hearings in 1868 that Ngāti Raukawa went first to Kapiti, 'to be near the Pakehas, and on obtaining guns and ammunition, came on to Otaki'.[38] There, they exchanged flax for guns and other European goods, but Te Rauparaha remained strongly in control of the region's trade. As the Te Hono-Ngāti Kikopiri report points out, it was always Te Rauparaha whom the ships' captains asked to see.[39]

Witnesses before the Native Land Court frequently related how various hapū had been allocated rights for their contribution in 'clearing the land'. Often the name invoked was that of Te Rauparaha. Parakaia Te Pouepa said, for example, that when Te Heke Whirinui arrived, 'Rauparaha then invited Whatanui and Hukiki to come and occupy this country between Turakina and Porirua. Te Roto Kara near Ohau and Te Whakapuni on the other side of Manawatu – near Te Wharangi – these were appropriated by Hukiki.'[40] In general, Ngāti Raukawa were seen as having been allocated all the land lying between the Rangitīkei River and

[37] 'Statement of Henere Te Herekau',23 May 1873, in T C Williams. *A Letter to the Right Hon. W. T. Gladstoie Being an appeal on behalf of the Ngatiraukawa tribe*, pamphelt collection of Sirt Robert Stout, vol 63.
[38] Ōtaki minute book, 1C, p 194.
[39] Ngati Kikopiri report – Te Hono Raukawa [draft 12.1.16].
[40] Ōtaki minute book, 1C, pp 200–1.

Kukutauaki Stream, from the sea to the Ruahine and Tararua Ranges. More detailed evidence showed, however, that other Ngāti Toa rangatira were involved in this important stage of establishing rights in a new territory, making tuku of land and resources to the next wave of arrivals. When title to different blocks of land in the region came through the Native Land Court for investigation, Te Rangihaeata, Tungia, Topera, and others were also named as having given particular sites.

Te Hūkiki, as we discuss later in the report, said that it was Waitohi who had made that initial allocation of territory; a distinction that was important to his section of Ngāti Raukawa. Ngāti Raukawa traditions also recounted their own role in the successful establishment of a homeland for themselves and their kin. Some of their leaders had been involved in the early stages of the heke, they had participated in battles and skirmishes on the journey south with local iwi, and they brought large numbers. Further rights developed and were asserted as time passed, places named, marriages made, and their own tuku of land to others undertaken in a process that continued after European colonisation had begun.

At the same time, according to some later evidence, ahi kā were kept alight in their ancestral homelands at Maungatautari, by leaving relatives in place and by going back and forth on a regular basis. Continuing interests were occasionally given recognition in Native Land Court decisions; for example, Ngāti Huia based near Levin would be awarded interests in Waotu no 2 block near Muangatautari. The larger claim of Ngāti Kauwhata and Ngāti Raukawa that they retained rights in the north would be rejected, however, both at the hearing stage and subsequent commission of inquiry.[41] In contrast to their experience of the Native Land Court in the Manawatu region which placed most importance on evidence of 'occupation', in the north, the emphasis was on that of Take raupata with serious consequences for the hapū who had chosen to go south.[42]

There was a further change in occupation patterns after the battle of Haowhenua, fought between Te Ati Awa and Ngāti Raukawa over resources in about 1834. As noted earlier, Te Whatanui was assisted by Mananui Te Heuheu and other northern chiefs as well as by Rangitāne, Ngāti Apa and Muaupoko. Ballara notes that 'both sides in the quarrel were considered winners and losers'.[43] As a result, however, some Ngāti Raukawa shifted further north to the Rangitīkei River (as was much discussed at the Himatangi hearings), while others remained at Haowhenua, Horowhenua, Ōtaki, and the Manawatū River.

Tensions between the migrant groups flared again in 1839 when Ngāti Raukawa unsuccessfully attacked Te Ati Awa at Waikanae in the battle known as

[41] McBurney, 'Ngati Kauwhata and Ngati Wehi Wehi interests', pp 154-171 and 191-238.
[42] See Ballara's asserssment in *Taua*, p 242, that those who migrated south, 'did not flee, but chose to leave'.
[43] Ballara, 'Te Whatanui'.

Kuititanga, on the day that the *Tory* carrying William Wakefield arrived at Kapiti Island. Charles Heaphy, also on board, recorded the destruction of the pa and the lamenting for the dead, with Ngāti Raukawa suffering the heaviest losses. That conflict continued to have repercussions in the decade that followed as the Crown sought to exploit tribal rivalries in the interests of the colonists.

2.3 Conflict and peace-making

As the different waves of migrating parties arrived in the region they came into contact and in some cases escalating conflict with those they found there (and with other arrivals as well). A number of battles were fought from which no party escaped entirely unscathed. It would seem that the first heke arrived without major conflict. While Rangitane settlements near the Manawatu gorge were attacked, they had been defended only by the older people, with the young taking refuge in the mountains. An attempt to take Hakakino pā in the Wairarapa failed and according to Ballara's study, the greatest victory seems to g=have been against Ngāti Ira at Te Whanganui-a-Tara.[44] Ngāti Apa who were a numerous people were not immediately affected. A high-ranking marriage was arranged between Te Pikinga and Te Rangihaeata which would later be emphasised in Native Land Court judgments. There were other important arrangements made of this nature, notably the marriage of Enereta Te One of Ngāti Kauwhata to Te Rangiotu of Rangitāne and the sister of Penehamine, a chief of Ngāti Apa based at Rangitikei, to a Ngāti Raukawa rangatira named Paraone.[45] Such marriages assisted the new arrivals in establishing connection with the whenua and in their accommodations with local atua.

At Rangitikei, the decision was taken by other sections of Ngāti Apa, to receive the initial heke peacefully and escort Ngāti Toa to their pā, Te Awamate.[46] The situation deteriorated sharply, however, after Te Rauparaha was attacked by Muaūpoko at Horowhenua as they sought to avenge the death of Waimai (a chiefly woman of Muaūpoko and N**g**āti Apa lineage who had been killed over the theft of a canoe) and in order to stop the incursion from the north. As the heke travelled south, escorted by a party of Ngāti Apa they met with little resistance as Rangitane avoided trouble by retreating to Ahuaturanga (in the upper Manawatu)) with Te Rauparaha allocating portions of the territory through which they were travelling to various groups within the heke.[47] They halted at the mouth of the Ohau River where they began cultivating. Their Ngāti Apa escorts who had warned them against interfering with Muaūpoko then left. Muaūpoko subsequently attacked Te Rauparaha at Papaitonga – a possibility of which Te Rangihaeata had received warning from Te Pikinga's people - resulting in the

[44] Ballara, *Taua*, pp 321-2
[45] See discussion at chapter 4.
[46] Hunia Te Hakeke, Otaki minute book, 1D, p 513.
[47] Ballara, *Taua*, p 327.

death of Te Rauparaha's children, Retaliatory taua followed with large losses sustained by Muaūpoko.[48] When Ngāti Toa and their allies withdrew to Kapiti, Rangitane and sections of Ngāti Apa had taken the opportunity to fortify their great pa on the Manawatu, Hotuiti. Te Pikinga was sent to persuade her kin to withdraw. They refused and a number of the defenders were killed as a result of a successful Ngāti Toa ruse. According to some accounts Te Rauparaha and his forces then went on to successfully attack three hapu of Ngati Apa at the mouth of the Rangitikei River, who had previously assisted him,.[49]

The battle of Waiorua followed; a massed attack by the gathered Kuruhaupo tribes (including Whanganui, Ngāti Apa, Muaupoko, Rangitane, and Ngon Kahungunu) on the migrants now living on Kapiti Island and which Ballara has described as a 'resounding loss of mana and morale for various tangata whenua peoples living on both sides of the strait.'[50]

2.3.1 Te Whatanui and the peace with Muaūpoko

This was the turbulent situation into which the largest migration of Ngāti Raukawa and allied hapū arrived, as part of Heke Whirinui, led by Te Whatanui in about 1828-29. Ballara points out that although no pitched battles were fought, the arrival was not entirely without casualties among the tangata whenua.[51] Most importantly, however, Te Whatanui refused to become involved in the harassment of Muaupoko. Te Rauparaha is said to have invited Ngāti Raukawa to settle at Otaki, warning them of their hostility, but Te Whatanui responded that he intended to live in peace.[52] En route to the Manawatu, he captured several women but sent some of them back to Muaūpoko with an invitation to come to him. Taueki accepted while Turangapito refused fearing to be enslaved and planning utu against the newcomers for those whom they had killed. The attack failed but Te Whatanui, true to his word, released two more prisoners as a token of his intentions to live in peace, That offer was accepted by Taueki and most of the tangata whenua chiefs Turangapito excepted).

In its *Horowhenua* report, the Tribunal records that '[s]ome] Muaūpoko claimants disputed any notion that the relationship between Te Whatanui and Taueki was based upon the protection that Te Whatanui afforded Muaūpoko'.[53] Such a view, these claimants argued, is 'based upon the flawed belief that Muaūpoko were unable to defend themselves'.[54] Nor, they insisted, was there 'any element of subjugation or control in the relationship'—'Muaūpoko . . . were

[48] Ballara, Taua, pp 328-9.
[49] Evidence of Wirihana Hunia, *AJHR*, 1898, G-2A, p 72.
[50] Ballara, *Taua,* p 337.
[51] Ballara, *Taua,* p 342.
[52] Hunia Te Hakeke, Otaki minute book, 1D, pp515=517; see Nallara, *Taua*, p 343.
[53] Waitangi Tribunal, *Horowhenua*, p 99.
[54] Waitangi Tribunal, *Horowhenua*, 2017, p 99.

never slaves to, or otherwise subjugated by, Te Whatanui'.[55] However, as the Tribunal acknowledges, Ngāti Raukawa 'have a different history of these events'.[56] The question then is what, exactly, was the nature of the relationship between Te Whatanui (and Ngāti Raukawa) and Taueki (and Muaūpoko)?

To answer this question it is not, in fact, necessary to demonstrate that Te Whatanui subjugated Muaūpoko or enslaved them (indeed, such a claim is not being advanced here). In our view, all that is necessary is to show that when Te Whatanui offered his protection to Muaūpoko, it was gratefully received, which it was because it was needed. Taueki was conceding that Muaūpoko could not defend themselves effectively against Te Rauparaha's forces. Stirling in his report, 'Muaupoko Customary Interests' suggests as much. According to Stirling, Te Whatanui 'extended his protection over Muaupoko'.[57] This is why Kāwana Hunia later stated that Te Whatanui 'was living between Muaupoko and Ngati Awa and Ngati Toa'.[58] It is also why, as Stirling notes, Te Whatanui was described in various accounts as a 'sheltering rata' for Muaūpoko.[59] The idea of the 'sheltering rata', as Stirling observes, is a classical Māori image, used to refer to a rangatira who is 'a protector of the people'.[60] And so, the 'protection Te Whatanui offered was real, and it was welcome'.[61] In return, Taueki 'gifted Te Whatanui some land at Raumatangi, beside the outlet of the lake, so he could live beside them at Horowhenua and share in the bounty of this most favoured spot'.[62]

This, then, was the nature of the relationship between Te Whatanui and Taueki—it was not, necessarily, one in which it makes sense to speak of subservience or slavery, but certainly it was one in which the one party (Te Whatanui) held considerably more power than the other (Taueki). And that this was the case makes sense given the historical context (the arrival of the various heke at Kāpiti, the consequent upheaval and the struggles of the various iwi, either to establish or maintain themselves, and, in particular, the profound enmity between Ngāti Toa and Muaūpoko). The suggestion that the relationship was otherwise is difficult to reconcile in light of this historical context. And the accounts given many years after the events in question by various interested parties, from all sides, have to be treated with great caution, both because of the amount of time that had passed (and the fallibility of memory) and because the adversarial forums in which the evidence was heard encouraged partisan recollections of the past.

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[55] Waitangi Tribunal, *Horowhenua*, p 99.
[56] Waitangi Tribunal, *Horowhenua*, p 98.
[57] B Stirling, 'Muaupoko Customary Interests', Wai 2200, #A182, September 2015, p 44.
[58] Kāwana Hunia, 23 November 1872, Otaki MB No. 1, p 72, cited in Stirling, 'Muaupoko Customary Interests', p 44.
[59] Stirling, 'Muaupoko Customary Interests', p 44.
[60] Elsdon Best, *Forest Lore of the Maori*, Wellington, 1977, p 108, cited in Stirling, 'Muaupoko Customary Interests', p 44.
[61] Stirling, 'Muaupoko Customary Interests', p 45.
[62] Stirling, 'Muaupoko Customary Interests', p 48.

2.4 Early population estimates and identification of tribal occupation, 1840–1850

Various estimates and observations of population in the region at the point of colonisation are available to us. An estimate by the first European observers (the missionaries) placed the population of an area described as 'Entry Island and its vicinity, Kapiti (or Waikanae District)' at 3,000 and identified Ngāti Toa and Ngāti Raukawa as the local tribes. Raeburn Lange comments that probably a larger region was meant because 'other early figures for the southern Horowhenua are much smaller than this'.[63]

In 1839, William Wakefield concluded from 'evidence collected on the spot and upon which I can rely' that there were 1,000 'Ngātirokowa' at Ōtaki and 100 'Kafia at Manawetu'.[64] New Zealand Company employee, the naturalist, Karl Ernst Dieffenbach, put these figures at 600 Ngāti Raukawa at Ōtaki and the Manawatu River, and 60 Ngāti Apa at the Rangitīkei River.[65] Edmund Halswell, another of its officials, sent in a figure to the Company of 3,400 Māori living between (but excluding) Port Nicholson and Wanganui in 1841.[66]

In 1845, Governor FitzRoy gave 'an estimate of the probable number' of Māori in Ōtaki and Manawatu (and possibly Rangitīkei, which was not listed separately) of 5,000.[67] However, the more detailed figures of S E Grimstone (a colonial official) of the same year suggest a much smaller population. His estimate was that 1,877 Ngāti Raukawa were living between Porirua and Wanganui; 533 at Ōtaki, 116 at Waikawa, 219 at Ohau, 93 at Horowhenua, and 65 at Wairarapa.[68] Another 360 Ngāti Apa were also based at Manawatu and 490 at Rangitīkei.[69] According to Lange, 'higher and more precise figures are found in Church Missionary Society registers'. These shows there to be 948 men and 762 women of Ngāti Raukawa living between Ōtaki and Manawatu, and 50 men and 42 women of Muaūpoko at Horowhenua in the mid-1840s. Settlements were identified at Ōtaki, Wairarapa, Ohau, Waikawa, Muhunoa, Te Rewarewa, Kaiwhītikitiki, Ōpiki, Puketōtara, Te Maire, and Tokomaru.[70]

The first official enumeration was undertaken by H T Kemp, who toured the region in 1850. He recorded a total Māori population of some 2550 persons, distributed as follows: Ōtaki (664), Waikawa (229), Ohau (235), Horowhenua (122), Poroutawhao (129), Te Awahou (127), Te Taita (188), Te Rewarewa

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[63] Lange, 'Social Impact of Colonisation and Land Loss', p 21.
[64] W Wakefield, Third Despatch, October-December 1839, cited Lange, 'Social Impact of Colonisation and Land Loss', p 21.
[65] E Deiffenbach, *Travels in New Zealand*, London, 1844, vol 1, p 195.
[66] Halswell to Secretary of NZ Company, 11 November 1841, Appendix to 12th Report of the Directors of NZ Company, London, 1844, G-46, p 79.
[67] *British Parliamentary Papers* (*BPP*), vol 5, 1846-47, p 207.
[68] This is the Wairarapa block in Horowhenua near Otaki forks, on the plain.
[69] S E Grimstone, *The Southern Settlements of New Zealand*, Wellington, 1847, pp 33-44.
[70] Lange, 'Social Impact of Colonisation and Land Loss', p 22.

(339), Puketōtara (161), and Oroua (62). Another 259 persons were living along the Rangitīkei River in the settlements of Parewanui (105), Maramaihoea (95), and Te Awahou (60). Thirty or forty Ngāti Apa were stated to be resident at Turakina and Whangaehu.[71] Kemp called his numbers a 'very close approximation', given the migratory patterns of Māori occupation. Indeed, all these estimates are open to challenge, although there was a clear and widely shared perception that Ngāti Raukawa were the most numerous of the iwi occupying the region.

2.5 The signing of Te Tiriti

By 1840, there had been limited contact between the hapū who were living in the region of Ōtaki northwards from Kukutauaki to Rangitīkei and extending upriver to the Tararua ranges. Whalers had established a place for themselves on Kapiti Island and, as we discuss later in the chapter, the Church Missionary Society [CMS] at Waikanae and Ōtaki in 1839. We begin our analysis, however, with te Tiriti and its signatories in the Cook Strait region before returning to the establishment of the mission station, the exposure to concepts of 'property' and 'sale', and the early experience of colonisation.

2.5.1 The 'Cook Strait sheet'

We know less about the signings of Te Tiriti on the Kapiti Coast and what was discussed there than in any other district of New Zealand. It is clear, however, that as far as Hobson was concerned, the Treaty was already in place after his signature-gathering exercise in Northland. On Hobson falling ill, Henry Williams, the 'translator' of the Treaty, had offered to assist in negotiating with the principal chiefs of the west coast for their consent and was duly authorised to do so.[72] The following month, Major Bunbury was also instructed to gather further signatures among the southern tribes 'with a view of displaying the dignity and importance of the Crown in a more ostensible form than would be done by private individuals'. Essentially, however, at least as far as Hobson was concerned, these proceedings – with the possible exception of obtaining Te Rauparaha's signature – were window dressing. His belief was that the Treaty signed by the 52 chiefs at Waitangi, 26 of whom were of the Confederation and had earlier approved He Whakaputanga or the Declaration of Independence was '*de facto* the Treaty, and all the signatures that [were] subsequently obtained [were] merely testimonials of adherence to the terms of that original document'.[73] Nonetheless, Bunbury was instructed to visit Port Nicholson, at some stage in his journey, to see 'the principal chiefs of that quarter, especially Rauparaha', whom Hobson believed to

[71] H T Kemp, 'Final Report', *BPP,* vol 7, 1851, pp 240-243.
[72] Hobson to Henry Williams, 23 March 1840, *BPP,* vol 3*,* 1835-1842, p 139.
[73] Hobson to Bunbury, 25 April 1840, *BPP*, vol 3, 1835-1842, p 139.

'exercise absolute authority over all the Southern parts of this island, and whose adherence [would] secure to Her Majesty the undisputed right of sovereignty over all the Southern districts'. [74]

Henry Williams departed from the Bay of Islands with two Māori language versions on 2 April 1840. Leaving one with his brother, William Williams, at Tūranga, he carried the other (the 'Cook Strait sheet') to Port Nicholson, where after 10 days' persuasion, 39 rangatira signed. Another 34 signed at Queen Charlotte Sound and Rangitoto (D'Urville Island). On returning to the North Island, he was joined by Octavius Hadfield, who witnessed the signatures in place of the captain of the *Ariel*, the schooner on which Williams was travelling. Hadfield, however, apparently took no part in the discussions that followed at a variety of locations, preferring to 'have nothing to do with the government'.[75] Hadfield seems to have had little to say about the signings either in reports or personal correspondence, although he later strongly invoked the treaty in his criticism of the Crown's handling of land rights at Waitara (see discussion at chapter 5).

2.5.2 Ngā tohu and signatories

On 14 May, four rangatira on Kapiti Island signed Williams' copy of Te Tiriti: Te Rauparaha and Katu (Tāmihana Te Rauparaha) from Ngāti Kimihia; Te Wiwi (Hēnare Mātene Te Whiwhi) from Ngāti Huia, Ngāti Kikopiri, and Rangi Topeora (Kuini Wikitoria) from Ngāti Kimihia, Ngāti Te Maunu. Another 18 rangatira signified their consent (most of them identified as Te Ati Awa) at Waikanae on 16 May. Included among these signatories was Hohepa Matahau of Ngāti Raukawa who had been taken to the Bay of Islands as a captive in his youth, where he received missionary training from Williams before returning to Ōtaki and Waikanae. His was the only written signature while the others set down their tohu.[76]

Seven senior rangatira based in the Manawatu signified their consent on 19 May, probably at Ōtaki. One (Ihakara) signed; the others added their tohu against their names, which had been written down by Williams. They were:

- [Aperahama] Te Ruru from Ngāti Huia
- Matia [Matenga] from Ngāti Raukawa [Ngāti Pare]
- [Te Moroati] Kiharoa from Ngāti Pare, Ngāti Tūranga

[74] Hobson to Bunbury, 25 April 1840, *BPP*, vol 3, 1835-1842, p 139.
[75] Octavius Hadfield to George Hadfield, 6 July 1840, Hadfield Papers, vol 1, qMS-0897; see also C Orange, *Treaty of Waitangi*, Wellington, 1987, p 73.
[76] 'Matahau' URL:http://nzhistory.net.nz.

- [Hōri Kīngi] Te Puke from Ngāti Pare, Ngāti Waihurihia
- [Horomona] Toremi from Ngāti Raukawa, Rangitāne
- [Kingi] Te Ahoaho from Ngāti Raukawa
- Ihakara Tahurangi
- [Te] Kehu [Te Whetū o te ao] from Te Ati Awa? [77]

Ngāti Apa rangatira, Kāwana Te Hakeke and Hamuera Taumaru, signed at Tāwhirihoe on 21 May, and five rangatira at Whanganui two days later.

Returning south, the *Ariel* stopped at the Manawatu where another seven rangatira placed their tohu on the sheet on 26 May. These signatories were a mix of Ngāti Raukawa, Rangitāne, Te Upokoiri, and Muaūpoko. Two rangatira were identified as 'Ngāti Raukawa': Witiopai and Te Whetu. The others were Wiremu Te Ota (Rangitāne, Ngāti Kahunungu), Rawiri Paturoa and Te Tohe of Te Upokoiri, and Tauheke (identified as Ngāti Apa but now generally regarded as Muaūpoko).

Williams and Hadfield visited Wanganui a second time, when (on 31 May) four more rangatira of Te Ati-Haunui-a-Paparangi lineage signified their consent. Then two more Ngāti Toa and Te Ati Awa marks were added at Moutungārara (a small island to the south of Kapiti Island) on 4 June. These were the last to be added. It had been Williams' intention to proceed to the South Island to obtain the signatures of the 'whole of the tribes' but on learning that Major Bunbury had been appointed to undertake that task, he returned to Waimate North, accompanied by Wiremu Kingi. By this stage he had collected 132 tohu and signatures.

His report to Hobson was brief. On his arrival at Port Nicholson he had encountered 'some opposition, from the influence of Europeans at that place, and it was not until the expiration of ten days that the chiefs were disposed to come forward, when they unanimously signed the treaty'. It seems that he found his task easier thereafter:

> The chiefs of Queen Charlotte's Sound and Rangitoto, in the neighbourhood of Port Hardy on the south side of the Straits, as also those chiefs on the north side of the Straits with whom I communicated, as far as Wanganui, signed the Treaty with much satisfaction, and appeared much gratified that a check was put to the importunities of the

[77] Small sketches of a number of these rangatira may be found at appendix 1.http://www.aucklandlibraries.govt.nz/EN/Māori/treatyofwaitangi/ninetreaties/Pages/henrywilliamstreaty.aspx.

> Europeans to the purchase of their lands, and that protection was now afforded to them in common with Her Majesty's subjects.[78]

As instructed by Hobson, Bunbury also sought out the principal chiefs of the Cook Strait region and most especially Te Rauparaha, who was to sign a second time. We briefly mention, here, the involvement of a number of 'Ngāti Toa chiefs' with whom Ngāti Raukawa had close connections. In mid-June at Cloudy Bay, Nohorua (Te Rauparaha's brother), his nephew, and several other rangatira at first refused to sign, believing that their lands would be taken if they did so.[79] Bunbury thought that this belief derived from recent unsuccessful attempts by speculators to acquire land in the district. The following day, Nohorua changed his mind, agreeing to attach his signature provided his son-in-law, the Pakeha whaler Joseph Toms, witnessed it, so that 'should his grandchildren lose their land, their father might share the blame'.[80] Nohorua's nephew continued in his refusal. (We note that on this occasion, Bunbury declined the signature of a high-ranking woman – the daughter of Te Pēhi – who appeared 'very angry' at the slight.[81])

Having proclaimed the Queen's authority over the South Island as the 'most effectual means of preventing further dissensions amongst the natives and Europeans', Bunbury moved on to Kapiti Island. Te Rauparaha came on board the *Herald*, informing Bunbury that he had already signed the Treaty brought by Williams. Followed by a flotilla of waka, he then accompanied Bunbury to Mana Island in search of Rangihaeata and Te Pehi's son. Te Hiko was found to be on the mainland but Rangihaeata came on board and signed alongside Te Rauparaha.

It seems possible, that the signatories in the Kapiti region – like the rangatira of Waitangi and at the top of the South Island – were motivated in large part by their desire for greater Crown control of disorderly and ill-intentioned Europeans. Bunbury commented that they were 'tormented by the over officious zeal of some European sailors, who appear to be a drunken set of lawless vagabonds belonging to different whaling establishments in the vicinity'. When complaints were made that Rangihaeata and other rangatira had taken goods of a deceased European married to a local woman (distributed at the tangi), the chief had shown Bunbury various testimonials of good conduct. Bunbury had then expressed his gratification upon reading them, and he trusted 'under the Queen's Government, he would continue to equally deserve them; that he would find the Government a just one, and even-handed, and that punishment would follow evil-doers, whether they were natives, or Europeans, equally'. According to Bunbury, Rangihaeata had expressed satisfaction at this: 'Capai! Capai!'[82]

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[78] Henry Williams to Hobson, 11 June 1840, *BPP*, vol 3, 1835-1842, p 227.
[79] Bunbury to Hobson, 28 June 1840, *BPP*, vol 3, 1835-1842, p 230.
[80] Bunbury to Hobson, 28 June 1840, *BPP*, vol 3, 1835-1842, p 230.
[81] Bunbury to Hobson, 28 June 1840, *BPP*, vol 3, 1835-1842, p 230.
[82] Bunbury to Hobson, 28 June 1840, *BPP*, vol 3, 1835-1842, p 231.

We have uncovered little more about the discussions with Ngāti Raukawa and those iwi with whom they were connected. An examination of Octavius Hadfield's papers held at the Turnbull Library has revealed, thus far, no record of what he had observed (or heard) as he accompanied Henry Williams along the Kapiti Coast, beyond that Māori had been 'very civil'.[83] Two years later, however, he did comment on the increasingly divergent views of Māori and settlers on the Treaty's intent and significance, and hinted at what Māori expectations had been. By this stage, Hadfield was fearful of a collision between the races as settlers grew in confidence and became more cavalier in their attitudes to Māori and their land rights. In 1842, he warned that:

> [T]he natives are easily managed but the impetuosity of some settlers will probably act as a fire-brand and cause a general conflagration and should such a thing happen soon the settlers (though they do not think so) must be the sufferers. I do not think that there is fairplay here – for instance, on the arrival of the Lieutenant-Governor, it was stated that he came to make a treaty with the NZ chiefs; in this treaty all their lands and rights were guaranteed to the latter who allowed the Governor to take quiet possession. This treaty that the Governor made with them they looked upon as a bona fide act & they understood that lands which should be taken possession of by settlers were to be purchased from them; but now that a footing has been established here, a different ground is taken, & it is broadly hinted that the treaty was not a bona-fide act, but a mere blind to deceive foreign powers; the Queen takes possession of the soil, the natives are looked upon as nonentities, & what the result must be requires not any extraordinary measure of foresight to discover.[84]

2.6 The establishment of the mission station at Ōtaki, 1839–1843

There were already Europeans settled at Ōtaki and elsewhere on the Kapiti Coast – whalers who lived on the mainland with their Māori wives, out of season – before the founding of the mission station at Ōtaki in 1839, but this was a pivotal event in the development of the Ngāti Raukawa relationship with settlers and influenced their attitudes to the Crown, colonial government, a range of institutions, and to land sale. Octavius Hadfield was to be an important conduit of information between Māori and Crown officials (FitzRoy and Grey) as well as instrumental in the development of education and, initially at least, the technological and agricultural advancement of the local Māori communities at Ōtaki and Waikanae. He was on friendly terms with Te Rauparaha and more particularly, with Wiremu Kingi, and he was to be a strong critic of the policy of Grey's successor, Gore Browne, in the Taranaki. His relationship with rangatira at Ōtaki was, however, not without difficulty, and he was to fall out with Tāmihana Te Rauparaha over questions of promotion within the church and the idea of a Māori King. Nor did his influence operate unchallenged, being countered by the Reverend Duncan at Awahou and, closer still, by the Roman

[83] Octavius Hadfield to George Hadfield, 6 July 1840, Hadfield Papers, vol 1, qMS-0897.
[84] Hadfield to Mrs J Hadfield [mother], 27 January 1842, Hadfield Papers, 1814-1904, vol 1, qMS-0897.

Catholic bishop who had been allocated land at Pukekaraka by Ngāti Kapumanawawhiti and Ngāti Tukorehe. (We note in passing that the Hadfield family also would acquire extensive lands by direct purchase in the Muaupoko, Ngāwhakangutu and Pukehou blocks. in the 1880s and 1890s.)

The relationship formed between Māori leaders based at Ōtaki and the Williams family would be equally vital to Ngāti Raukawa engagement with Crown and settlement. Samuel Williams was stationed there with his wife, Mary, from 1847 onwards and his brother, T C Williams, would be closely involved in the advocacy of their claims at Rangitīkei-Manawatu.

Te Rauparaha had sought out a missionary to come to live with his people on the Kapiti Coast but when Hadfield, accompanied by Henry Williams, eventually arrived in 1839, they found that a degree of literacy and knowledge of the gospel had preceded them. The role of 'native teachers' in preparing the ground for the spread of Christianiiy has been remarked upon by a number of historians and acknowledged, at the time, by the Reverend William Williams, on whose account we, like others, largely rely.[85] Matahau, who was later baptised Hōhepa Ripahau, had been taken to the Bay of Islands as a slave but, as noted earlier, was eventually to sign Te Tiriti when it was brought to the Kapiti Coast communities. Matahau was 'at large' when his master died. He had lived with William Williams at Paihia, studying at the mission school, although there 'was no reason to think that he had become a Christian' at that stage.[86] During the course of a Ngapuhi taua in combination with Rotorua tribes against Tauranga, Matahau had joined a southern-bound party in order to reunite with his Ngāti Raukawa relatives. The iwi was then living both in the central North Island and on the Kapiti Coast. According to Williams' account, nothing more was heard from Matahau until two years later, when a letter was received by Mr Chapman at Rotorua, in which he 'applied for some books, saying that he was living in the Cook's Straits and that there were numbers of people there who wished for instruction'. The letter had been sent on to the mission at Paihia, and shortly after, a 'deputation' – Tāmihana Te Rauparaha and Mātene Te Whiwhi – had arrived expressly for the purpose of obtaining a missionary. As Williams himself put it, word had reached the region that 'changes of extraordinary character were going on at the north, the effects of which were productive of good to the people', and 'having now some flax traders located among his people, [Te Rauparaha] thought that it would be well to have a missionary also'.[87]

[85] William Williams, *Christianity among the New Zealanders*, London, 1867. For a recent account, see J Belich, *Making Peoples*, Penguin, 1996, pp 168-9. For a more specialised account of the work of missionaries and 'native teachers' in New Zealand, see Keith Newman, *Bible and Treaty, Missionaries among the Māori: A New Perspective*, Penguin, 2010.
[86] Williams, *Christianity among the New Zealanders*, p 269.
[87] Williams, *Christianity among the New Zealanders*, p 269.

The rangatira had previously sent a letter requesting a missionary, but there had been none available at the time as the Church Missionary Society was concentrating on expanding its mission into Rotorua. The two young rangatira now explained that Matahau:

> … first went to Otaki among his own relations and talked to them time to time about the teaching of the missionaries, and read to them from his own book various passages in confirmation of what he told them. A few of the people paid attention to him and this encouraged him to take up the work in a more systematic manner. … They obtained a little paper from the whaling stations which were near, and upon small slips of this Ripihau copied texts of Scripture, and selections from the prayers, every syllable of which was soon spelled over and committed to memory. At length there came a party from Rotorua, bringing with them a few fragments of books, which were at once caught up as a great prize.[88]

One of those fragments was the Gospel of St Luke, printed at Paihia, and part of the spoils of a taua. Part had been torn up for cartridges while the rest had been brought on to Ōtaki. It was from these precious scraps that Tāmihana and Matene were taught how to read.

The scripture was viewed with initial suspicion, but Matahau's new-found skills and knowledge attracted the interest of the upcoming generation of leadership. He had made his way to Waikanae where he met 'with a much more cordial reception than at Ōtaki, and remained there for some time until Rauparaha's son induced him to return to him by a present of a shirt and some tobacco'.[89] When Ngāti Raukawa threatened to burn their books, they moved to Kapiti Island and after six months of enthusiastic study they had acquired the rudiments and could read slowly. 'Sometimes we went to sleep upon the book, then woke up and read again,' Tāmihana later recalled.[90]

With such promising signs of interest, it was decided that Octavius Hadfield, though in poor health, should travel south, accompanied by Henry Williams, to establish the mission. On arrival on the Kapiti coast (in the company of Tāmihana and Te Whiwhi) in November 1839, they found many eager for instruction and, as Belich comments, began 'reaping the harvest of souls already sewn by Matahau'.[91] Williams commented that their work was thus much changed; instead of the early indifference of Ngapuhi, as the first tribe whom they encountered, 'here was a people all ready to receive instruction'.[92]

On arrival, the two missionaries also found inter-tribal tensions running high, as the battle at Kuititanga had been fought just two weeks earlier. The Port Nicholson settlers informed them, as well, that the New Zealand Company had

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[88] Williams, *Christianity among the New Zealanders*, p 269.
[89] Williams, *Christianity among the New Zealanders*, p 271.
[90] Cited Newman, *Bible and Treaty*, p 125.
[91] Belich, *Making Peoples*, p 168.
[92] Williams, *Christianity among the New Zealanders*, p 272.

purchased all the land 'to the skyline'; and by the Māori who boarded their schooner that they wanted to keep some land for themselves, but that the Europeans wanted it all. According to his biographer, Williams was enraged; linking the outbreak of fighting with the Company's activities, he immediately attempted to seek out Wakefield for an explanation, and subsequently arranged to purchase land 'in trust' near Pipitea pa.[93]

The missionaries travelled up the coast, meeting with Te Rauparaha, who received them 'graciously and entered fully into conversation upon policies and the necessity of laying aside his evil ways'. He said that he had sent two letters at different times requesting Williams to come down and, latterly, 'his two sons', and that he had 'done well to come to him'. He then presented the missionaries with a 'splendid pig'.[94] On 23 November, Williams and Hadfield set off north again, now accompanied by an expanded party of Māori. When they reached Whatanui's pa at Ōhau, they found a large church already built and some 300 Māori gathered for a service.

They had assembled, however, not just for worship but to debate whether to attack the pa at Waikanae in retaliation for Kuititanga, or to plant potatoes as a gesture of peace. Several days later, Williams accompanied them to Waikanae in the hope of promoting a peaceful resolution of the incipient conflict. Going ahead with some 50 members of the party, they were met with 'much kindness', and Matahau mediated and confirmed the accord, although Hadfield gave the credit entirely to Williams in his report to the Church Missionary Society.[95] William Williams' assessment was that both sides were 'no doubt glad to have the intervention of a third party, which opened the way for reconciliation, without a compromise of their native dignity'.[96]

The peacemaking was almost broken by the question of whose community should have Hadfield as their pakeha.[97] Te Rauparaha, whom Williams described as having come off the loser at Kuititanga, now expected to have the 'sole advantage' of the missionary whom he had specifically invited to come, but Matahau's instruction had been received more enthusiastically at Waikanae than at Ōtaki, where 'the leading men of Rauparaha's party had been very indifferent'. A compromise was required, and Hadfield reported:

> I found it absolutely necessary in order to put a stop to the war, as well as to have "a door of utterance opened" to both tribes for the preaching of the Gospel, to have a house in both tribes, which are situated within about twelve miles of each other, the one at

[93] H Carleton, *The Life of Henry Williams*, Auckland, 1874, pp 26, 284=8..
[94] Carleton, *Life of Henry Williams,* p 268.
[95] Newman, *Bible and Treaty*, p 132; Hadfield, Annual Reports and Letters to CMS, 22 July 1840, qMS-0895.
[96] Williams, *Christianity among the New Zealanders*, p 273.
[97] Newman, *Bible and Treaty*, p 132.

> Waikanae the other at Ōtaki. My usual practice is to remain about a week at a time at each place.[98]

There was no wish on the part of the Church Missionary Society for a repeat of their experience in the north of dependence on one chief backed by his hapū. Nonetheless, a difficult time followed for Hadfield as Te Rauparaha attempted to monopolise his skills and the goods he brought, threatening to withdraw his support for the gospel unless his demands were met; a tactic which caused the missionary distrust and 'much disgust', although he had to remain 'civil to him on account of his great influence'.[99]

Also, the indifference with which Matahau's message (as opposed to its medium of writing) had been met continued to be shown to Hadfield's teachings. He reported the year following his arrival and four months after the Treaty had been brought to the Kapiti Coast communities that:

> From the Ngātiraukawa … I have or rather the gospel has met with a … determined opposition from all the chiefs and leading men. Their argument is this "Why did you not come here before, you allowed your countrymen to teach us the use of guns, powder, balls and rum etc. and then you come and tell us to leave them all for your book". Without the slightest intention of casting a reflection on any body I cannot but regret that the natives of this part of the land were not visited earlier. … I must however gratefully acknowledge that many of the young people attend as well as many slaves, and at Ōtaki, with attending to the villages around I sometimes have two hundred on the Lord's Day at Divine Service. The School also goes on well.[100]

By early 1841, the missionary was reporting 'a rapid and yet a steady progress' of the gospel, and that 'ancient superstitions [were] fast vanishing'. He also credited Christianity with establishing peace, noting that as a result 'the chiefs of either tribe visit the opposite one without fear or suspicion'.[101]

Within two years (by July 1843), 'the remnant of the heathen party, living at Ōtaki, and in the neighbourhood' who had been staunchly opposed to Hadfield and his Christian converts had 'turn[ed] from their former ways and come to the house of God'. [102] This did not include Te Rangihaeata, however, and the 'improvement in character and conduct' was put at risk by the Wairau affair. 'Even now,' Hadfield was to lament in December, 'the missionary is accused of having persuaded them to lay aside their arms, in order to facilitate the occupation of the soil by his own countrymen; and is looked upon with suspicion as an emissary of the settler.'[103]

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[98] Hadfield, Annual Reports and Letters to CMS, 22 July 1840, qMS-0895.
[99] Cited Christopher Lethbridge, *The wounded lion: Octavius Hadfield 1814-1904: pioneer missionary, friend of the Maori, and primate of New Zealand*, Christchurch, 1993, p 66.
[100] Hadfield, Annual Reports and Letters to CMS, 22 July 1840, qMS-0895.
[101] Hadfield, Annual Reports and Letters to CMS, 1 February 1841, qMS-0895.
[102] Hadfield, Annual Reports and Letters to CMS, 1 July 1843, qMS-0895.
[103] Hadfield, Annual Reports and Letters to CMS, 22 December 1843, qMS-0895.

2.6.1 Other missionaries arrive in region

The arrival of a Roman Catholic priest, Father Jean Baptiste Comte, at Ōtaki in May 1844 was to cause Hadfield almost as much angst.[104] He was invited onto land at Pukekaraka by Tonihi and Ngāti Kapumanawawhiti and Ngāti Tukorehe, whose territory extended north of Ōtaki to the forest lakes.[105] Initially, the church was erected on top of the hill, but this was a temporary building, and Comte left in 1854 before its replacement could be funded. In the meantime, a prosperous community had grown around the church. (When the church was re-established between 1858 and 1859, it was constructed at the foot of Pukekaraka.) Although, the impact on Hadfield's adherents was limited, at first, ultimately Catholicism was to prove attractive to those among Ngāti Raukawa and the heke confederation who were opposed to the government.

The Reverend Duncan established a mission at the Manawatū River at Te Awahou in 1848. Relations with Hadfield were far from cordial and in the following decades, they criticised each other, including their different approaches to Māori and land issues, in their correspondence with McLean and other officials. Duncan, along with a few early settlers who based their claims on a mix of arrangements with local Māori and New Zealand Company land orders (as we discuss in the following section), formed a small trading entrepôt on the Manawatu River at Te Awahou (present-day Foxton). The relationship formed with Taikapurua and Ihakara Tukumaru acted as a counterweight to the influence exerted by the mission at Ōtaki and was to play a crucial role in the history of the region.

2.6.2 Other early contact

Preceding the missionaries were the whalers, who sojourned on the mainland, and a handful who decided to turn to trade, marrying into the local Mori community, who supplied land, resources, labour and other services. David Hamer has argued that the basic pattern of European settlement in New Zealand was the establishment of 'beach-heads' at sites along the coast, followed by the slow opening up of their hinterlands and the development of connections between them. Ōtaki was one such site, located in land adjacent to Kapiti Island and at the centre of intensive whaling activity in the 1830s and early 1840s.[106]

Jack Duff located himself on the Manawatu River and is described by Buick as a trader who was 'probably the first European to see the Manawatū Gorge' guided

[104] Hadfield, Annual Reports and Letters to CMS, 1 May and 30 June 1844, qMS-0895.
[105] Patricia Adams, 'For the Salvation of the Māoris; The Catholic Mission at Pukekaraka', in J Wilson, ed, *The Past Today*, New Zealand Historic Places Trust, 1987, p 28.
[106] D Hamer, 'The Settlement of the Otaki District in a New Zealand Perspective', *Otaki Historical Society Journal*, 1978, p 4.

there by Māori in about 1830.[107] Hector Macdonald, who had established a whaling station on Kapiti Island in 1832, married Te Kopi (a niece of Te Rauparaha) and set up a store at Ōtaki in 1840, running two schooners to the new Port Nicholson settlement, supplying it with Māori-grown produce.[108] It was natural, too, that settlement should develop first at river crossings and where breaks in a journey had to occur. Ferries and waka were needed to take travellers across the river – and stock, as the leasing economy developed. This meant accommodation houses, stables, and yards. Hamer points out that Ōtaki was a 'natural staging post for travellers where the coast-land began to widen out after the then very arduous journey north up the coast from Wellington and before they tackled the traversing of the rivers and swamps of the Manawatū region'.[109] Ōtaki, as far as Europeans were concerned, retained this character for many years. For Māori, however, it was a different matter. Engagement in agriculture, milling, and local transportation was dominated by Māori endeavours in the early years of contact, at least until the late 1850s and even to the 1870s, when the first large-scale transfer of core Ngāti Raukawa, Ngāti Kauwhata lands resulted in domination of the economy by Europeans.

We return to these developments and the changes wrought by colonial contact later in the report. First we examine the role played by the Crown in the initial attempts to expand settlement into the area and, in particular, the New Zealand Company transaction that gave European settlers their first foothold on the Manawatu River.

2.7 The New Zealand Company's 'purchase' of Manawatū-Horowhenua

Before we turn to the particulars of the transaction upon which the New Zealand Company based its claim to Manawatu-Horowhenua lands, we give a brief synopsis of the arrangements between the Company and the British Crown based on the Waitangi Tribunal's discussion in the Te Tau Ihu inquiry district. By the time the Company attempted to purchase land along the Manawatū River for the expansion of its settlement at Port Nicholson, in late 1841, and that transaction had been investigated and reported upon by the Spain Commission (1843 to 1845), the Crown had also entered into obligations by Treaty with Māori, while at the same time making various adjustments in its initial policy in the Company's favour.

[107] T L Buick, *Old Manawatu*, Palmerston North, 1903, pp 119-120.
[108] McDonald began leasing land between Ōhau River and Poroutāwhao from Ngāti Raukawa and Muaupoko in the early 1850s. Anthony Dreaver, 'McDonald, Agnes and Hector', https://teara.govt.nz/em/biographies.
[109] Hamer, 'Settlement of the Ōtaki District', p 4.

2.7.1 Crown-Company arrangements

During the late 1830s, the Imperial Government and the New Zealand Company shared an interest in the idea of an organised colonisation, but the relationship between the two entities was to fluctuate greatly over the ensuing years. The influence of the Company and its predecessor, the New Zealand Association, waxed and waned with changes in government ministry. Lord Glenelg, Secretary of State for the Colonies, and a member of Lord Melbourne's Whig administration, indicated that the Crown would grant it a charter, but his successor, Lord Normanby, who was less inclined to favour the Company's scheme, failed to follow through and, famously, the Company set off to New Zealand to pursue its principles of systematic settlement without official sanction.[110]

The Crown's assertion of its powers of pre-emption, introduced by proclamation on 30 January 1840 and confirmed by the Treaty of Waitangi, immediately threw the New Zealand Company's large-scale purchases into doubt. The Crown, of course, had also stated some core obligations to Māori in addition to its commitments under the Treaty, notably, that no land should be purchased from Māori 'the retention of which by them would be essential, or highly conducive, to their own comfort, safety, or subsistence' – although there was no guidance as to what this meant exactly.[111] Notwithstanding these commitments, the Crown was under pressure to facilitate the Company's title to lands in the Cook Strait region. Lord John Russell, the next Secretary of State, was generally more sympathetic to the Company than Normanby had been.[112] In November 1840, he drew up an agreement which strengthened the Company's claim and committed the British government and the colonial administration to assisting in its settlement objectives, including the implementation of its reserves scheme. The agreement established the means by which the Company's entitlement to a Crown grant would be determined by the amount of money expended on colonisation, ultimately set at a grant of four acres for every one pound sterling. The underlying assumption was that the Company's purchases were valid and it would receive a Crown grant irrespective of what the Spain Commission (see below) might decide about whether a bona fide purchase had been made. The corollary was that the Company waived its claim over the more than 10 million acres (including the Manawatu) it considered it had purchased in return for the certainty of Crown grants based on the 'four acres to £1' formula. This meant also that the Company would need to renegotiate its purchase of a hinterland for the expansion of its settlements at Port Nicholson, Nelson, and New Plymouth.

This was the high point in the relationship between the Crown and the Company. The Tribunal in the Te Tau Ihu inquiry has commented that:

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[110] Waitangi Tribunal, *Te Tau Ihu o te Waka Maui*, *Report on the Northern South Island*, vol 1, Wellington, 2008, p 181.
[111] Normanby to Hobson, 14 August 1839, *BPP*, 1835-1842, vol 3, pp 85-90.
[112] Waitangi Tribunal, *Te Tau Ihu*, p 181.

> A change to a Tory government in Britain in 1841 resulted in a waning of Crown support for the company, especially from its Colonial Secretary, Lord Stanley. The relationship was especially acrimonious during the early Spain commission inquiries and did not recover the same level of closeness until a further Whig Ministry assumed office.[113]

Despite this deterioration, both the British and the local government entered into a series of engagements between 1841 and 1843 which were intended to assist the Company in placing settlers on the land and which had a significant role to play in the case of Manawatū.

A variation to the terms of the original November 1840 agreement, in April 1841, permitted the grant of land outside the area encompassed within the Company's original three deeds.[114] On 6 September 1841, Hobson wrote to Colonel Wakefield stating that 'in order to enable you to fulfil the engagement which the Company have entered into with the public', the local government would 'sanction any equitable arrangement you may make to induce those natives who reside within the limits referred to in the accompanying schedule to yield up possession of their habitations', but that 'no force or compulsory measure for their removal [would] be permitted'. This communication was made privately 'lest profligate or disaffected persons … might prompt the natives to make exorbitant demand'.[115]

As we discuss further below, it was upon the strength of this permission that the Company proceeded to attempt a purchase of land at Manawatū and Horowhenua. And although Spain was to reject the resulting transaction as a basis for the Company's claim which, he argued, was well in excess of what Hobson had intended to sanction, yet another concession would be made to the interests of the Company settlers in January 1843.

Upon it becoming apparent that Spain intended a thorough inquiry into the Company's claims rather than rubber-stamp them, Wakefield had suggested that the Company be allowed to perfect its title by payment of compensation to Māori. Under this arrangement, Wakefield and George Clarke junior (Protector of Aborigines) were appointed as referees to decide upon the amount to be paid, while Spain would act as arbiter in case of dispute.[116] The Te Tau Ihu tribunal has commented that Spain had adopted the proposal 'with enthusiasm.'[117] As we discuss in more detail later in the chapter, he saw it as enabling him to arbitrate in the Manawatū case, but in the event of that arbitration failing, as able only to make a very limited grant in the Company's favour.

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[113] Waitangi Tribunal, *Te Tau Ihu*, pp 181-2.
[114] Waitangi Tribunal, *Te Tau Ihu*, p 182.
115 Hobson to Colonel Wakefield. 6 September 1841, enclosure 11 in no 6, Manawatu, *BPP*, vol 5, 1846-47, p 113.
116 Waitangi Tribunal, *Te Tau Ihu*, p 186.
[117] Waitangi Tribunal, *Te Tau Ihu*, p 186.

2.7.2 The arrangements between Māori and the New Zealand Company at Manawatū

Like the Church Missionary Society missionaries, the New Zealand Company settlers were specifically invited into the community living along the Manawatū River, but on this occasion by Ngāti Raukawa rangatira without the sanction of Te Rauparaha and Te Rangihaeata, or indeed, with the agreement of all those occupying those lands and exercising rights in the river and estuary.

Jerningham Wakefield first visited the Manawatū in August 1840, to explore and to inspect a vessel that a whaler named Lewis was building on the river bank.[118] As he paddled upriver, he encountered "Tai Kapurua", who was sitting on a log and who ordered him away when he attempted to land.[119] Other rangatira proved more welcoming, however: willing to engage with Wakefield and expand on their trade, although Taikapurua subsequently refused to sanction their arrangements with the Company settlers.

Wakefield gave a colourful account of his travels back and forth to Wanganui and his exploration of the interior, including along the Rangitīkei and Oroua Rivers. He met Taratoa, whom he knew to be closely allied by marriage to Te Whatanui, with a large party of Ngāti Parewahawaha at their pa at the mouth of the Manawatu. Wakefield related his negotiations for payment for ferrying him across the river, since the European (unnamed) who was providing that service further upriver was engaged on a trading expedition.[120] Wakefield's party next forded the Ōhau River at half-tide – with water up to their chins – before reaching Ōtaki, where Wakefield 'remained two or three days in the house of Sam Taylor, a European who had long resided in these parts; and commenced an acquaintance with the Ngātiraukawa people.'[121] He noted that: 'The increased traffic of White people along the beach had induced two whalers to fit up houses at Waikanae and "Te Uruhi" and Toms had built a new wooden house and an hotel … at Porirua', from which point the track and bridging made the going easier.[122]

In September 1841, Te Whatanui sent a letter to Wakefield, and later in the year, a delegation of Ngāti Raukawa rangatira identified as 'Te Hao, Roka, Hauwa, Wakahora and Te Ahu' travelled to Port Nicholson to invite Wakefield to send Europeans to live among them, and offering land for a settlement in exchange for a payment of cash and goods, including guns, blankets, and tobacco.[123] They were

[118] Buick, *Old Manawatu*, p 120.
[119] E J Wakefield, *Adventure in New Zealand*, London, 1845, voi i2, pp 138-40.
[120] Wakefield, *Adventure in New Zealand*, vol 2, pp 138-141.
[121] Wakefield, *Adventure in New Zealand*, vol 2, p 141.
[122] Wakefield, *Adventure in New Zealand*, vol 2, pp 142-143.
[123] New Zealand Company, 12th report, appendix E p 138, cited in P Burns, *Fatal Success*, *A History of the New Zealand Company*, Auckland, 1989, p 115; Minutes of Commissioner's Proceedings at Manawatu, 31 March 1843, encl 13 in no 6, Manawatu, *BPP*, vol 5, 1846-47, p

accompanied by Amos Burr who was acting as interpreter for the Company. The exact role of Burr in actively facilitating the offer is unclear. Although he accompanied the delegation to Wellington, he did not attend the meeting with Wakefield.[124] Spain thought it was Burr who did most of the explaining to Māori in the arrangements that followed. Certainly, he entered into his own personal engagements with Whatanui and was married into the community (to the daughter of Raotea with whom he would live at Papangaio, until her death in about 1850.)[125]

Details of the offer and the arrangements that followed were later outlined by various witnesses before the Spain Commission in 1843.

According to Burr, 'the whole of the Manawatū' was offered for 'sale'.[126]All witnesses – including Ngāti Raukawa – were recorded as describing their offer and the arrangements that ensued in terms of a 'sale' but this is hardly surprising. The cultural framework, in which European participants and Spain, in reviewing their claim, viewed the sprawl of events surrounding the deed signing, ensured that this would be the case. Most of the Māori who took part acknowledged that they had received a portion of the Company's trade goods for 'Manawatu and Horowhenua', but the area which was to go to the settlers was far more limited than Wakefield and his companions at first assumed. As we discuss further below, Spain's investigation was drawn out and there was increasing reluctance among many hapū to consent to a more substantial and permanent transaction. Spain blamed the interference of Te Rauparaha and Te Rangihaeata. Certainly, the two rangatira strenuously opposed Ngāti Raukawa's transaction but there were other factors at play as well. The advice received by the Ōtaki community from the Church Missionary Society missionaries was to lease only, and there was growing awareness of the greediness of settlers when it came to land.

Burr recounted that Te Whatanui had talked of his desire to 'sell some of the land about Manawatū to the Europeans, so that he might be able to trade for things that he wanted'.[127] If Burr's account is to believed, though, the offer was prompted by customary considerations beyond those of trade; specifically the death of Korotea, who drowned about six miles beyond the Rangitīkei River:

> Watanui and others of his party went to take the body, and to complain to the natives of Rangitīkei, because they had taken a part of the boat in which he was wrecked. They then brought the body to the heads of the Manawatu, and Watanui addressed the different chiefs who were present, Karo, Ahu, Taratoa, and others whose names I do not recollect, and advised them to sell the land to Colonel Wakefield; and after a discussion

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114; Amos Burr identified the members of the delegation as Ahu, Billy Watanui, Ware, Hoa, and Horohau.

[124] *BPP*, vol 5, 1846-47, p 108.

[125] Foxton Historical Society, *Pioneers of Foxton*, Book one, 1988, pp 6-9.

[126] *BPP*, vol 5, 1846-47, p 108.

[127] *BPP*, vol 5, 1846-47, pp 107-8.

> they agreed to take Watanui's advice. I then went on to Ōtaki, Watanui, Karu, Ahu, Taratoa, and the others accompanying me. On their arrival at Ōtaki a great meeting took place, – Puka, Ōtaki, Hau, Matin, Kiharoa, and several other members of the Ngātiraukawa tribe. Watanui explained to them that it was necessary to sell Manawatu; and after they had talked the matter over, they assented to the sale, and appointed Ahu, Billy Watanui, Ware, Hoa, and Horohau, to accompany me to Port Nicholson to offer the land to Colonel Wakefield.[128]

It has been suggested, as well, that the offer was prompted, in large part, by a desire to assert their mana over the land and independence from Ngāti Toa.[129] We discuss this further in the context of the Spain Commission at sections 2.8 and 2.6.1.

The arrangements underpinning Wakefield's 'purchase' took place in several stages over the course of December 1841 to early February 1842. He was delighted with the seeming offer to sell a vast area known to contain a good deal of fertile land as well as other important resources, notably flax and river access. On the supposed permission of Hobson's letter of 6 September 1841 that allowed the Company to make equitable arrangements with Māori in order to fulfill its commitment to settlers, Wakefield, accompanied by a Protector of Aborigines (Halswell), Captain Smith (the Company's Surveyor General), and several Wellington settlers (including Burr and Kebbell[130]) proceeded to the Manawatu, in December, to examine the district and negotiate a purchase.

According to Māori who later assembled at Warangi in March 1843 to give their version of events:

> [T]hey showed him [Wakefield] a piece of land at a place called Ruamatangi, where they put in a stick down to the waterside at a place called Parekauwau, and Colonel Wakefield would not take it, but went himself and picked out such land as he wanted; and he pointed further up the river, and requested some good stiff land; and went up to a place called Rewarewa, and saw a man named Kaharoa; and when we heard that he had agreed to sell Colonel Wakefield the land we quarreled; Colonel Wakefield then returned to this place, and went away to Wanganui.[131]

Not only was there dispute about what land was to be given over, but also dissatisfaction with the items that Wakefield had brought to seal the bargain. The goods were landed, and Captain Smith instructed to arrange the distribution, but according to Spain's report, 'the natives … who came in great numbers to inspect it, declared there was not sufficient payment'. A list had been drawn up of what

[128] *BPP*, vol 5, 1846-47, pp 107-8.
[129] Burns, *Te Rauparaha: new perspective*, Wellington, 1980, p 126.
[130] The Kebbell brothers set up a flax mill at Paiaka on the Manawatu River in 1842.
[131] Minutes of Commissioner's Proceedings at Manawatu, 31 March 1843, encl 13 in no 6, Manawatu, *BPP*, vol 5, 1846-47, p 114.

else was required by the negotiating chiefs. Matui, however, demanded payment in money, stating that, then, Smith could have as much land as he wished.[132]

As noted earlier, Richard Davis acted as Interpreter for the Company, but it seems that it was Amos Burr who attempted to explain the deed to the assembled hapū, Thirty-six signatures were attached to the deed, apparently without dispute among those present. The signatories were as follows: Watanui, Roha, Maka, Newa, Tutawa, Rewa, Paki, Warane, Tuainaku, Patukino, Ahi, Wara, Turaha, Huia, Kara, Nawa, Nara, Upa, Mata, Taratoa, Kaitangata, Maru, Tehuruhuru, Tepotaua, Tehuakiwi, Kohuru, Te Waranui, Kairoiwa, Ngapaki, Ngawanga, Te Rarahie, Parera, Ngawaka, Te Watuite, Putarahia, and Ngarinua.[133]

The effectiveness of Halswell's presence as a Protector of Aborigines seems doubtful. He had been the Company's commissioner of native reserves and although Buick later stressed that the Manawatū sale had been conducted in his presence, Burn tells us that he was ineffective, with a 'regrettable' and unfounded belief in his knowledge of and power over Māori: 'With all his posturing and self-importance, he was no more than any other settler, anxious to protect his own and the company's investment.'[134]

Captain Smith was left on-shore while Wakefield returned to Wellington to arrange the further cargo of trade goods at an outlay of some £1000 but did not return to the Manawatū until late January. Captain Smith then called the chiefs together and told them that he would distribute the goods on 2 February. An estimated 300 Māori gathered to take part in the distribution, participating from both sides of the Manawatū River; other leaders known to have interests – notably Taikapurua – failed to appear.

Smith subsequently testified before the Spain Commission that Whatanui and Taratoa had pointed out the boundaries to him, in the presence of 20 or 30 of the 'principal chiefs'. The Company's intention to make reserves for Māori use had supposedly been explained as well, and Smith had agreed to a request by Whatanui for a piece of land in the vicinity of his pa. However, Smith's evidence also suggests that the distribution of goods was seriously flawed:

> On the morning of the 2nd February finding that some of the chiefs were absent, a division of the goods was made. Some were given to Watanui and Taratoa for their people and others who attended the distribution, amongst whom were some from Otaki: the remainder of the goods were reserved for those who were absent, who I expected would arrive afterwards. Taratoa and Watanui took possession of some of the cases of guns, bales of blankets, and tobacco, to secure them for the parties who were absent; the rest of the articles remained at the temporary storehouse built for their reception – when,

[132] Minutes of Commissioner's Proceedings at Manawatu, 31 March 1843, encl 13 in no 6, Manawatu, *BPP*, vol 5, 1846-47, p 114.
[133] Deed of conveyance, 25 April 1844, in *BPP,* vol 5, 1846-7, p 116.
[134] Burns, *Fatal Success*, p 221.

> almost immediately after the distribution of the most valuable parts of the utu, a large number of natives amounting to from 200 to 300 rushed upon the pa, pulled down its fence which formed one side of the store, and carried off the whole of the remainder of the property.[135]

Smith maintained that the 'most valuable portion' of the goods had been reserved for any absentees and given to a chief from Ōtaki for distribution among those who had agreed to the sale (as he saw it).

Wakefield believed that he had now acquired a far more substantial area than was to be ever acknowledged by Ngāti Raukawa – some 25,000 acres of land extending from Kererū in the north to Horowhenua in the south. A survey party was set to work under Charles Kettle with the sanction of Te Ahukaramū, who also showed him the route through the Manawatū Gorge into the Wairarapa, later in the year, although Te Rangihaeata continued to express his displeasure.[136] We note the report of Halswell to Wakefield in June 1842 that:

> Agreeable to notice, I attended at the office of the Company's principal surveyor on the 7th of April last, the day appointed for the selection of lands recently surveyed in the districts of Manuwatu, Orewenua, and other places. With the information derived from personal inspection of the country, and from other sources, I was enabled to select for the natives, according to the order of choice, a portion of the reserved lots which remained unchosen of the preliminary country sections. The lands selected are 300 acres on the Porerua Harbour, 200 in the Ohario Valley … 300 on the Manuwatu River, and 3,400 acres on the Urewenua.[137]

[135] *BPP*, vol 5, 1846-47, p 107.
[136] Buick, *Old Manawatu*, pp 131-2.
[137] Halswell to Wakefield, 4 June 1842, *BPP*, Vol. 2, Reports from the [1844] Select Committee on New Zealand, Appendix No. 26, G, No. 51, pp. 677-679.

Halswell reported that he had 'carefully attended, whenever possible' to their wishes, and his 'attention [was] … particularly drawn to their own clearings and pahs' while he had 'secured for them as much water frontage as possible'. He then noted their keen interest in retaining their land at Horowhenua within the Company's scheme:

> It was their particular wish to occupy the country in the neighbourhood of the Oriwenua, a considerable inland lake lying between the Manuwatu and the Ōtaki rivers. I have accordingly obtained for them so much of the country round this water as has been already surveyed; it is remarkably fine land, part pasture; the country in places is heavily timbered, and a considerable quantity cleared by the natives, and contains several pahs; such portions as would not be required by the natives themselves might be very advantageously let to Europeans.[138]

[138] Halswell to Wakefield, 4 June 1842, *BPP*, Vol. 2, Reports from the [1844] Select Committee on New Zealand, Appendix No. 26, G, No. 51, pp. 677-679.

A number of settlers took up land orders for the Manawatu area – where they would have the responsibility of satisfying outstanding Māori claims themselves in the selections made.[139] Among these were traders who had arrived at Paiaka where a company town was supposed to be laid out to serve the wider Manawatu area.[140] Notable among this group was Thomas Uppadine Cook, who married Meretini Te Akau. However, further European settlement quickly came to a halt. Disputes were emerging over the Company's title at Port Nicholson, Whanganui, and Nelson, with dissatisfaction soon spreading to the Manawatū. According to a later summary prepared for the Minister of Justice, the Company had surveyed 746 sections of 100 acres each; 280 of these had been selected seven by resident claimants,[141]

2.8 The Spain Commission

The proclamation of 30 January 1840 that future land acquisitions from Māori would be illegal unless derived from the Crown was accompanied by a statement that commissioners would be appointed to investigate the validity of the purchases that had supposedly been made, including those of the New Zealand Company. On 9 June 1841, Hobson enacted a land claims ordinance providing for the appointment of commissioners to undertake that task. They were to investigate and report on the manner in which land had been acquired prior to the 1840 proclamation and on the location and extent of those claims. The inquiry was to be conducted with a view to 'the real justice and good conscience of the case without regard to the legal forms' and if satisfied that a claim was sound, recommend that the Governor issue a Crown grant. The payment for purchases was to be four to eight shillings per acre, and grants were not to exceed 2,500 acres, unless authorised by the Governor with the advice of the Executive Council. The Waitangi Tribunal has pointed out that the proclamation did not sit easily with the Company's claims of extensive purchase or its arrangements with the Imperial Government.[142]

William Spain was appointed special commissioner to inquire into the New Zealand Company claims in January 1841, although he did not receive instructions on how to conduct his investigation until March of the following year. These reiterated the need to be guided by good conscience and real justice rather than strict legalities and required him to ensure that a Protector of

[139] Wakefield, *Adventure in New Zealand*, vol 2, p 321.
[140] Buick, *Old Manawatu*, p 140.
[141] 157 of the sections would be exchanged for government scrip.or thrown up. This left 72 sections still claimed: 7 by residents and 31 by absentees who had agents in the colony.. There were also 20- unselected orders at Otaki and Waikanae where no survey had been made. Lewis to Minister of Justice, 6 October 1870, MA 13/75b
[142] Waitangi Tribunal, *Te Tau Ihu*, p 184.

Aborigines was present at the hearings and to apply the 'four acres to £1' formula set by the November 1840 agreement, although a change of the law would mean that, ultimately, he was not bound by that requirement.[143]

He began his Port Nicholson inquiry in May 1842, intent on requiring the Company to prove its purchase there, as demanded by the 'spirit of the Treaty of Waitangi' and subsequent assurances given to Māori of justice and protection.[144] Spain had to decide whether the rangatira who had conducted the different transactions with Colonel Wakefield had the right to do so and whether they had the full knowledge and consent of all right-holders (with attention to natural justice rather than legal form); and he also investigated what Buick describes as 'all the mushroom claims which had sprung up in every direction…'[145]

In August 1842, Spain took evidence regarding four claims for lands on the Kapiti Coast:

- Cooper, Halt, and Rhodes for the area lying between Ōtaki and Waikanae based on a deed signed by, and payment of goods to, certain chiefs of Te Ati Awa, who were centred at the latter community and led by Tuaimine. A deed had been signed by them on 5 November 1839 at Waikanae purporting to sell their lands as far as the mouth of the 'Ōtaki River'; on 31 March 1845, Spain recommended a grant to 727 acres on the mainland in addition to 680½ acres at Kapiti Island (on a deed signed 31 October 1839).[146]

- Francis Robinson for land at Parikawau. According to A H McLintock, he was the first of several settlers to take up residence of Te Awahou, where he set up a shop and hotel in early 1842. There appears to be no record of a grant ever issuing for this site, and he seems to have moved elsewhere in the district leasing land directly from Māori.

- Thomas Kebbell for land at Haumiaroa (eventually surveyed at some 365 acres); according to Massey's history of the estuary, the Kebbells set up a flax mill at Paiaka in 1842, and a small trading centre was established there by 1844 (abandoned after the 1855 earthquake).[147]

[143] For discussion of the ordinances affecting Spain's inquiry see Waitangi Tribunal, *Te Tau Ihu*, p 185.
[144] Report of Commissioner Spain, 12 September 1843, *BPP*, vol 2, Reports from the [1844] Select Committee on New Zealand, p 294.
[145] Buick, *Old Manawatu*, p 137.
[146] Cooper, Holt, and Rhodes re land claims, 31 March 1848, NM 8 13 1846/588.
[147] Fitzgerald to Colonial Secretary, 14 February 1852, NM 8 53[95] 1852/256; Manawatu Estuary Trust – A History of the Estuary, www.massey.ac.nz.

- Amos Burr at Whirokino, where he was ultimately granted 100 acres.[148]

In March 1843, Spain turned his attention to the New Zealand Company claim to Manawatū lands. His determination proved to be long drawn-out proceedings, with disruptions caused by Wakefield's uncooperative attitude; and the rapidly deteriorating relationship of Company settlers at the top of the South Island and in the Hutt Valley with Te Rangihaeata and Te Rauparaha and the hapū that adhered to them. This necessarily affected the attitudes of hapū within Ngāti Raukawa on whose loyalty and assistance those two rangatira could call.

It was Spain's view that the claim of the New Zealand Company went well beyond the variation of arrangement between government and Company conveyed in Hobson's letter of 6 September 1841. This had given sanction to 'any equitable arrangement' to induce Māori living within certain limits – including the Manawatū – to 'yield up possession of their "habitations"'. In Spain's opinion even the most generous interpretation of 'habitation' could mean only 'their pas and the enclosed grounds around them, but certainly would not authorize fresh purchases to be made of the natives, comprising thousands of acres of land, as was the case at Manawatu'.[149] However, as noted earlier, he also saw Wakefield's proposal of January 1843 to remedy any defects in the Company's deeds by paying 'further compensation' to Māori as enabling him to proceed. In effect, this meant that his role changed from investigation to arbitration and determining the amount of compensation payable rather than whether the correct owners had been identified and whether their consent to the sale had been willing and fully informed.

The first meeting between Spain and Ngāti Raukawa took place, at their request, before he began formal proceedings. On his journey from Port Nicholson to Wanganui, where he was to examine Wakefield and others about that New Zealand Company claim, he was met by Māori at Manawatu who 'expressed a very strong desire to meet and confer with [him] on the subject of the alleged sale of their lands there to Colonel Wakefield'. Although Spain promised to return, accompanied by Wakefield, to inquire into the Company's dealings, they appeared to be 'so desirous of having a *korero* with me on the subject, that I yielded to their wishes'. At that meeting, on 21 March, Spain 'took no evidence, but merely gathered from the mouths of those who spoke the general sentiments of those present as to the sale of the district'.[150] Minutes were taken, however, and enclosed by Spain with his official report, being persuaded that what was said on that occasion was:

> … entitled … to quite as much credence as any sworn native testimony (when taken singly, and when no other witnesses interested in the enquiry [were] present), being

[148] Fitzgerald to Colonial Secretary, 14 February 1852, NM 8 53[95] 1852/256.
[149] *BPP*, vol 5, 1846-47, p 109.
[150] Report of Commissioner Spain, *BPP*, vol 5, 1846-47, p 109.

> made by one or more spokesmen in the presence of numbers of the tribe, who confirmed, corrected, or denied almost everything that was said by any one of the chiefs.[151]

The names of chiefs present were not specifically recorded although Matui, Taikapurua, and Waikaupa were mentioned as speaking to particular issues. 'Watanui, Taikapurua, Parekawa, Wairaka, Tara, Aocata and Taratoa' were identified as the 'principal chiefs' of the district, while Te Rauparaha was acknowledged as 'a great chief, equal to any of the chiefs before mentioned' but as having 'no right to sell the place, because he had given it to us'.[152] They made it clear, too, that they had not participated in any way in his pre-Treaty deeds.[153] Te Rauparaha was not present at this initial discussion with Spain.

The minutes of that assembly reveal serious problems in the way Wakefield had conducted his transaction at Manawatū. All the senior rangatira present (with the exception of Taikapurua) had agreed, initially, to Wakefield having land from Raumatangi, where they had placed a stick, down to Parikawau on the coast, though what Māori thought that entailed was not really revealed. It is clear, however, that they considered their arrangements to pertain to a limited area only, and confusion and disagreement was almost immediately expressed. The chosen site was rejected by Wakefield, who wanting 'good stiff land' further upriver went to Rewarewa 'and saw a man named Kaharoa; and when we heard that he had agreed to sell Colonel Wakefield the land, we quarrelled'. Subsequently, after the additional trade goods had been arranged and a distribution undertaken, each chief had given Wakefield a piece of land according to the proportion of payment received. Asked to describe these sites, Spain was told:

> Watanui gave … a place called Heretangata, it joins onto Parekauwau; and then there is a place that belongs to a man that had nothing to do with it; we left that, and went on again to Parekauwau; Rahu gave … Paikakanui; Taratoa gave Colonel Wakefield a piece of ground at Kerikeri on both sides of the river.[154]

One of those involved, Wakaupa had given his part of the goods back to Whatanui, Taratoa, and his younger brother, Rahu, but said that he had agreed to Paikakanui being given over. Taikapurua, however, had quarrelled with Wakefield and maintained that he had refused to take any part in these arrangements.[155] Spain's minutes suggest that the Māori participants had a very close recall of the goods received and these were enumerated in some detail as:

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[151] Report of Commissioner Spain, *BPP*, vol 5, 1846-47, p 109.
[152] Minutes of Commissioner's Proceedings at Manawatu, 31 March 1843, encl 13 in no 6, Manawatu, *BPP*, vol 5, 1846-47, p 114.
[153] Minutes of Commissioner's Proceedings at Manawatu, 31 March 1843, encl 13 in no 6, Manawatu, *BPP*, vol 5, 1846-47, p 114.
[154] Minutes of Commissioner's Proceedings at Manawatu, 31 March 1843, encl 13 in no 6, Manawatu, *BPP*, vol 5, 1846-47, p 114.
[155] Minutes of Commissioner's Proceedings at Manawatu, 31 March 1843, encl 13 in no 6, Manawatu, *BPP*, vol 5, 1846-47, p 114.

> [S]cissors, knives, cloaks, ball moulds, umbrellas, soap, handkerchiefs, shawls, calico, shirts, axes, powder, tomahawks, spades, three casks of tobacco, adzes, powder-horns, shot, hair-combs, powder-flasks, percussion-caps, leather-belts, trousers, flannels, red caps, iron pots, pipes, petticoats, razors, ribbons, coats, shooting-jackets, blankets (five bales), 10 single percussion fowling-pieces, five cases of double-barrelled guns, each containing 10.[156]

Wakefield failed to appear at Wanganui, and Spain had closed his court within three days.[157] Returning down the coast in no very good mood, and unaccompanied by the promised Wakefield, Spain stopped at Ōtaki, where he took the evidence of Ngāti Raukawa chiefs (who again were not named) before going on to Porirua, where he intended to question Te Rauparaha. Still no appearance by Wakefield, nor by any company agent, although Spain was to remain there for two weeks,

Spain detected a change in atmosphere at Ōtaki from the earlier informal proceedings which he attributed to the presence of Te Rauparaha and Rangihaeata. Spain subsequently complained that it was clear that 'every witness then examined was more or less under the influence of those two chiefs'. He singled out Whatanui, whom he described as 'one of the best disposed and most strait forward chiefs' for comment. His evidence, denying any sale, in front of Te Rauparaha and Rangihaeata, was reported by Spain as widely divergent with that later volunteered at his own place of residence at Horowhenua.[158] Te Ahukaramū seems to have been the one rangatira who remained resolute in his support for the Manawatū arrangements. Spain put some weight on his evidence, describing him as 'the chief of a district named Ohau, between Horowenua and Manawatu'. In his view, 'Ahu' was the only witness who 'gave anything like a statement of what occurred between Colonel Wakefield and the Manawatu natives on the subject of the sale'. Spain's general assessment was that Ahu's testimony, which he described as 'very minute' in detail, confirmed that of Captain Smith and Burr, but differed, 'as the native testimony in this case generally does, as to what lands and the boundaries of the lands the natives agreed to sell'.[159] Without Wakefield's appearance and co-operation, Spain could not discuss the question of compensation to complete the company's title.

At the close of his court in Porirua on 12 May, Te Rauparaha and Te Rangihaeata had asked Spain to go directly to Cloudy Bay to settle the Company's claim at Wairau, but the Commissioner had already advertised his court opening in Wellington. He examined Captain Smith and Wakefield there in May.[160]

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[156] Minutes of Commissioner's Proceedings at Manawatu, 31 March 1843, encl 13 in no 6, Manawatu, *BPP*, vol 5, 1846-47, p 114.
[157] Wakefield, *Adventure in New Zealand*, vol 2, p 341.
[158] Report of Commissioner Spain, *BPP*, vol 5, 1846-47, p 109.
[159] Report of Commissioner Spain, *BPP*, vol 5, 1846-47, p 109.
[160] Report of Commissioner Spain, *BPP*, vol 5, 1846-47, pp 108–9.

Using the pretext that he had to wait for instructions from the Company directors, Wakefield continued to delay, and Spain later complained that he had 'pursued one undeviating system of opposition and annoyance, and … he has done everything in his power to retard, and thrown everything in the way of my proceedings'.[161]

Then, in June, violence broke out at Wairau over the question of the Company's 'purchase' there. A special meeting of Wellington magistrates passed a resolution requesting Spain to visit the tribes along the Kapiti Coast in order to allay tensions, if possible; a request to which he responded – somewhat reluctantly – in August 1843.[162] We discuss this in the context of the impact of the Hutt conflict in the following chapter.

On 29 January 1844, a meeting took place between the Governor and Wakefield at Wellington, resulting in the renewal of Spain's court and the beginning of his 'arbitration' – or really negotiations for 'compensation' for the land at Manawatū. Taikapurua, Burr, and Kebble were examined at Ōtaki later in the year. Spain read over Smith's evidence to the chief, who denied any knowledge of the original meeting at Ōtaki, or the delegation that had been sent to Wellington to invite settlers to come, until after they had departed on their mission. Spain summarised Taikapurua's evidence as:

> [H]e told Mr. Halswell and Davis who visited him up the river, that he would not consent, and would not sell his land, and that he reiterated this determination to Captain Smith, adding, that he then said that "the only inducement which would make him part with his land would be a heap of goods as high as Tararua." "From which remark," says Taikoporua, "it has been said that I consented to sell my land." He also declares that he again repeated his determination not to sell any (land), though he should be pressed to do so by both natives and Europeans.[163]

Taikapurua's version of events was largely substantiated by both Burr and Kebble, and Spain concluded that Richard Davis, who had interpreted the conversation and had a very imperfect knowledge of te reo, had misled Smith as to the meaning of the chief's statement.[164]

2.8.1 Spain's arbitration and finding

In March 1844, Spain, accompanied by George Clarke junior and Thomas Forsaith (Protectors of Aborigines and interpreter to Commissioner) and Wakefield travelled up the coast, taking with them the sum of £3000 in order to pay those whom he might decide were entitled to receive further compensation to

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[161] New Zealand Company, 1st Report, 12 September 1843, *BPP*, vol 2, p 291, cited Burns, *Fatal Success*, p 225.
[162] Spain despatch to Shortland, 2 August 1843, cited Carkeek, Kapiti Coast, p 70.
[163] Report of Commissioner Spain, *BPP*, vol 5, 1846-47, p 108
[164] Report of Commissioner Spain, *BPP*, vol 5, 1846-47, p 108

settle their ‘unsatisfied claims’ at ‘Manawatu, Wanganui and Taranaka’ as well as the Hutt Valley, where New Zealand Company claims were coming under challenge from the two Ngāti Toa chiefs and their delegates.[165] As we discuss in the following chapter, he had made up his mind by now that Te Rauparaha and Rangihaeata had no rights in the Hutt valley (or had sold them); nor, for that matter, did they have any in the Manawatu.

Matters did not proceed as smoothly as Wakefield and Spain might have wished. On reaching Ōtaki, Matenga Te Mātia, whom Spain described as the chief of that place, said the Europeans were ‘welcome to the land they (the natives) had sold; but that they had no wish to sell any more, and declined going into the matter at all’. Spain then produced the Company’s plan and asked Māori to point out what portion of the district they admitted they had sold. This, however, they declined to do. Spain then told them that he was on his way to the Manawatū ‘to ascertain the boundaries of the land sold, and to pay the natives who had received no part of the former payment’; and that if they had any claims to land in that district, they must bring them before him there. Matiu replied, however, ‘that none of the people present would accept any payment in compensation’, and that Spain would ‘find the natives of that river of the same mind as those at Ōtaki, and that they would part with no more land than they had already sold’. Spain clearly considered a sale had taken place and attributed this reluctance to complete the transaction entirely to the presence of Te Rauparaha, whom he thought was ‘evidently using all his influence to prevent the natives from attending the Court at Manawatu; and he evinced upon this as well as upon former and subsequent occasions, a fixed determination to prevent the Europeans obtaining possession of any land at the Manawatu’. Horomona Toremi later confirmed that Te Rauparaha had been ‘vexed that his lands [Manawatu and Arapaoa] should have been sold by interfering tribes’ – Ngāti Raukawa and Te Ati Awa, respectively.[166]

Mātenga Te Mātia’s warnings proved correct. Whereas rangatira based at Manawatū-Horowhenua had formerly expressed a wish to have a European settlement, and Ahukaramū, on the party’s first arrival had repeated this application, Te Rauparaha had arrived by the following morning (apparently receiving ‘intelligence of our proceedings by a secret messenger dispatched overnight, unknown to the chief who had offered the land for sale’). According to Spain, he ‘made a long and violent speech, in which in a loud tone and with angry gestures he bade us go on our way to Manawatū, forbade the natives to proceed with the sale, and denounced the whole affair in no measured terms.’ Some of those present had attempted to respond, but ‘under the influence of a power which they felt was irksome, yet could not resist, they told us that any

[165] Spain to George Clarke jnr, 16 April 1844, *BPP* vol 5, 1846–47, p 34.
[166] *Māori Messenger/Te Karere*, 3 August 1860, p 11.

further attempt would be fruitless, and recommended us to pursue our journey to Manawatū'.[167]

The party carried on to Horowhenua, where they met with Te Whatanui, his wife and son (Billy), Ahukaramū, and others. According to Spain's report, Whatanui had changed his stance from that expressed at Ōtaki in front of Te Rauparaha, now acknowledging (in the presence of Clarke) that he had 'sold all his land at Manawatū to Colonel Wakefield'; had accepted and was satisfied with the payment; and 'that the Company might take possession of the land'.[168] Te Whatanui also asked Spain to ratify the sale of a piece of land to one of the Company settlers (a Mr Yule), who had built a house there. Spain agreed to the proposal, the boundaries were pointed out, and Clarke decided on £10 as fair payment. This sum was accepted and paid out, and a deed conveying the land to the New Zealand Company was signed. This stated:

> Kua Homai ki a matou i te rua tekau ma rima o nga ra Aperira i te tau Kotahi mano waru rau wa tekau ma wa, e nga kai Wakariterite o te Wakaminenga o Nui Tireni i Ranana, he mea utu mai o Wiremu Wekepori (William Wakefield) e te kai mahi o tana wakaminenga o taki te taku o nga pauna moni he tino utunga, he tino wakaritenga, he wakamahuetanga rawatanga i to matou papa katoa, i o matou wahi katoa i roto i tēnei wahi wenua, ka korerotia nei, ko te ingoa o tana wahi wenua ko te Taniwa'

In summary, this was 'a full satisfaction and absolute surrender of all [their] title to all [their] claims within the piece of land … Te Taniwa'.[169]

According to Spain, both Whatanui and Ahukaramū were 'excessively anxious to have the sale of the Manawatū to the Company ratified, and to see white men introduced amongst them as settlers, though Taratoa and several others were not so favourably disposed'.[170] Clarke was instructed to visit Māori living on the land claimed by the Company in order to explain the boundaries and to ascertain their views before making any offer on their behalf to Colonel Wakefield as to the amount of compensation they might require. Taikapurua requested that Spain come himself, which he refused to do because it was Clarke who had been appointed to negotiate on their behalf, while his role was one of umpire. However, when discussions between Clarke, Wakefield, Taikapurua, and his hapū failed to produce any result, Spain stepped in, acting more, it would seem, as advocate than arbiter. Meeting with Taikapurua, Spain

> … urged him at once to enter into a negotiation through Mr. Clarke for the sale of his interest in the block of land claimed by the Company. This he most positively refused to do, and ended the conference by saying in a most determined manner, "I will not

[167] Report of Commissioner Spain, *BPP*, vol 5, 1846-7, p 110.
[168] Report of Commissioner Spain, *BPP*, vol 5, 1846-7, p 111.
[169] Deed of conveyance, 25 April 1844, in *BPP,* vol 5, 1846-7, p 116.
[170] Report of Commissioner Spain, *BPP*, vol 5, 1846-7, p 111.

> consent; their surveying the lands was the same as taking them away, and I have already told you that I would not consent."[171]

Spain was forced to admit defeat – a failure for which he blamed the 'insidious counsels and underhand machinations' of Te Rauparaha – although by his own report, Taikapurua, who was resident on the land concerned, had consistently denied any interest in permitting Wakefield to have it. The commissioner subsequently reported:

> Having tried every fair means in my power to effect an amicable arrangement with the aborigines in this district without success, and Messrs. Clarke and Forsaith having both reported to me that there was not the least chance of the natives relaxing in their determined opposition to receiving any further payment, and after having remained one day and a half to give them an opportunity of altering their intentions, I proceeded on my journey to Wanganui.[172]

Faced with this 'determined refusal' Spain could not recommend any Crown Grant of the Manawatu district to the Company either as commissioner, nor as umpire, except for the small portion of land purchased by Colonel Wakefield at Horowehnua from Te Whatanui in his presence. Spain clearly believed this to be an unfortunate outcome since it was an 'extensive and valuable' district which might support a large, industrious European population but which Māori, if 'left to themselves, never would attempt to use or cultivate'. In addition, the Company had intended to set aside 'valuable reserves'.[173] Spain thought, too, that a sale had taken place, 'adding a few observations on this case, which in justice to the New Zealand Company and its Agents' he believed himself 'bound to make': namely, that Whatanui, Ahukaramū, Taratoa, and a considerable number of others had entered into 'a treaty … for a sale … of certain lands at Manawatu'. That area was 'bounded on the North by the river Rangitiki, on the South partly by the river Horowenua, and partly by a line drawn due East (true) from the South end of the lake Horowenua to the hills, on the West by the sea, and on the East by the hills…'[174] Thirty-six Māori had signed the deed and shared in the goods, with a portion retained for those who were absent, although these were seized and carried away in the rush on the store. In Spain's view, this had a 'very unfortunate' effect on the testimony of witnesses who had either been defrauded of their share of the payment, or contrarily, had obtained goods that had never been properly acknowledged; and in both instances, 'would be very likely to deny their knowledge of or participation in the transaction'.[175]

The likelihood of repudiation of the transaction had been increased by the Company's failure to follow through immediately. Spain concluded that:

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[171] Report of Commissioner Spain, *BPP*, vol 5, 1846-7, p 111.
[172] Report of Commissioner Spain, *BPP*, vol 5, 1846-7, p 111.
[173] Report of Commissioner Spain, *BPP,* vol 5, 1846-7, p 112.
[174] Report of Commissioner Spain, *BPP*, vol 5, 1846-7, p 112.
[175] Report of Commissioner Spain, *BPP*, vol 5, 1846-7, p 112.

> I am inclined to think that had the sale been rapidly followed by the arrival on the land of a large body of European residents, with all the appliances of a new settlement, ready to commence immediate mercantile and agricultural operations, the result might have been different; self interest, created by the certainty of benefitting themselves by taking their produce to a European market, would have gone far to remove the discontent which might otherwise have prevailed amongst some of the natives who might have been disappointed in the distribution of the goods.[176]

In these circumstances and the 'present state of the country', Spain concluded that 'it would be worse than futile … to make any further attempt *at this time* to get the natives who did not receive any part of the payment to accept compensation for their claims'.[177] Spain thus recommended an award only for 100 acres transacted by Taratoa at Horowhenua called Te Taniwa. This block was described as commencing at Otawa, going along the banks of the river to Pukahu, then south to Kaitoke, and from there back to Otawa.[178]

Spain also recommended that the New Zealand Company be entitled to the right of pre-emption to the block at Manawatū and that, on future application to the Governor, it should be permitted to complete its purchase by paying, under the supervision of a government officer, Taikapurua and the other right-holders who had not received any part of the goods originally distributed by Captain Smith.[179]

2.9 Conclusion: The significance of Spain's award

Spain did not, in fact, conduct a full investigation into customary title in the Manawatū region.

This criticism has generally been made with reference to his failure to consider the possible claims of Ngāti Apa, Muaūpoko, and Rangitāne, but the same may be said of his inquiry – or lack of it – into how rights were distributed and exercised among Ngāti Raukawa and affiliated iwi and hapū of the heke.[180] His final report focused largely on the issue of whether Taikapurua had agreed to 'sell' or had participated in the allocation of the merchandise. Otherwise, he assumed the capacity of those who signed the deed to sell thousands of acres for the goods landed at the beach at Ōtaki, although his own investigation showed that there was no agreement as to what land had been subject to those arrangements, or who held rights over it, nor full understanding on the part of the Māori involved of what the transaction meant in European terms.[181] The Māori evidence suggests that, at the most, they had agreed that settlers could have a

[176] Report of Commissioner Spain, *BPP*, vol 5, 1846-7, p 112.
[177] Report of Commissioner Spain, *BPP*, vol 5, 1846-7, p 112.
[178] Report of Commissioner Spain, *BPP*, vol 5, 1846-7, p 112.
[179] Report of Commissioner Spain, *BPP*, vol 5, 1846-7, p 112.
[180] See T Hearn, 'One past, many histories: tribal land and politics in the nineteenth century', 2015, Wai 2200, A152, pp 76-78; Luiten and Walker, *Muaupoko Land Alienation and Political Engagement Report*, Wai 2200, A163, pp 38-40.
[181] See Hearn 'One past, many histories' on this point, p 76.

number of small areas located at different points in the large block claimed by the Company. The discrepancy in evidence between Māori and European concerning the boundaries of the transaction appears to have caused the commissioner little concern. Spain merely commented that it differed from that of Wakefield and Smith, 'as the native testimony in this case generally does', without any further inquiry or even speculation as to the inference to be drawn from that fact. [182]

Spain's major focus in terms of customary title was on whether Ngāti Raukawa rangatira were entitled to make arrangements on these lands without the sanction of Te Rauparaha and Te Rangihaeata. By the time he turned his attention to Manawatū, however, he had made up his mind that the two "Ngāti Toa" rangatira had no rights in that area.

The limitations on the award to the Company was a blow to its immediate and more grandiose settlement plans but, nonetheless, a 'varied and voluminous trade' in pigs, potatoes, wheat, and flax developed around the handful of European settlers who had taken up the Company's land orders – and in a number of instances, Māori wives.[183] The Kebbells set up a sawmill and added a grinding plant for wheat cultivated experimentally by Māori, which was shipped in small schooners to Wellington. Māori also supplied the thriving flax and cordage trade. According to Buick, others joined them: rope makers such as Anderson, Bevan, Nash, and several of the men who had been on Kettle's survey party. A small hostelry was built at the river mouth, at Wharangi, by Amos Burr and his wife's hapū. At Waikawa, Thomas Bevan took advantage of the shortages caused by the fighting in the Hutt Valley and established a ropewalk under the authority of Ngāti Wehi Wehi, as described in the 'Reminiscences of an Old Colonist', written by his son. A ferrying business was set up while a mosquito fleet sprang up 'for the trade of the time was not confined to the Manawatū, but all the smaller rivers, such as the Ōtaki and the Waikanae, were being systematically exploited for the sake of Māori commerce'.[184] Visiting the area in 1850, McLean commented that Kebbell's establishment looked to be 'in a thriving state. Quantities of wool lashing and flax ready for shipment; with logs and sawn timber from his mill, laid up in abundance. The exports from this river, in flax alone, are very considerable.'[185]

Ngāti Raukawa's interest in the benefits of European settlement and the knowledge of letters, agriculture, and milling that came with it was largely satisfied by the establishment of the mission station at Ōtaki, which was becoming one of the main centres of Māori commercial development, and the small trading post at Awahou, where they were engaged in flax production. The advice of missionaries, Hadfield and Williams, was to hold onto sufficient lands

[182] Report of Commissioner Spain, *BPP*, vol 5, 1846-7, p 109.
[183] Buick, *Old Manawatu*, pp 140-1.
[184] Buick, *Old Manawatu*, p 141.
185 McLean, 17 September 1850, Diary and notebook, MS_1229, Object #1031441.

for their future expansion and cultivate them according to European agricultural methods for themselves. Of undeniable influence, too, was the growing opposition of Te Rauparaha and Rangihaeata to the New Zealand Company claims. It was increasingly clear that the expansive claims of the Company precluded the sort of relationship envisaged by those who signed deeds with its agents. The Wairau conflict followed by the troubles at the Hutt and at Porirua, the expansion of European settlement, and the transfer of more power into the hands of the colonists made Ngāti Raukawa most reluctant to see through their transaction as their understanding of what it really entailed grew. Before the Crown could take any further action at Manawatū fighting broke out between Ngāti Rangatahi, backed by Rangihaeata (as discussed in the following chapter) and British troops, the Armed Constabulary and their Maori allies. This further disturbed the balance of power among the hapū living at Ōtaki and environs. The land of Ngāti Toa and those who had joined them had gone at Arapaoa, at Heretaunga, and at Porirua, while many of Te Ati Awa based at Waikanae had decided to return to Taranaki. There was reason to doubt the promises of the government and to fear the land greed of the New Zealand Company and other settlers. We discuss these matters in more detail next.

Spain's award was limited in these circumstances, but a vulnerability had been created in the growing determination of a significant section of Ngāti Raukawa not to see any further expansion of European settlement in the region. Most significantly, Spain's recommendation that the Company be given a pre-emptive right at Manawatū had long-term implications. That supposed right continued to be respected by the colonial government long after the Company's charter had expired and would extend over the whole of the region, not just the 20,000 acres that had been originally surveyed.

CHAPTER 3

GREY'S YEARS OF CONTROL, 1845–1853

3.1 Introduction

Grey arrived in Port Nicholson, in November 1845, fresh from his vaunted 'successes' in the north. He had already reversed, or modified a number of FitzRoy's policies. He had also waged a military campaign and was seen as having subdued Hone Heke, Kawiti, and the other Ngapuhi chiefs involved in the attack on the Queen's flag. He had engaged in a major assault on the land grants issued to the missionaries and would abolish the Protectorate Department in 1846.

His arrival was met with general relief by the settlers after the weakness they considered FitzRoy had displayed with reference to what they termed the 'massacre' at Wairau and 'squatting' by Māori on land 'purchased' by the New Zealand Company in the Hutt Valley. By this time even Hadfield thought that Māori needed to be taught that they could not gain advantages by force.[186] Grey proceeded to demonstrate the power of the 'law'. Backed by the troops now at the disposal of New Zealand's governor, and allies from among iwi resident in the region, he took pre-emptive measures against Te Rauparaha and Te Rangihaeata, whom he deemed to be in 'rebellion' – or in imminent danger of it. In the process, he drove Māori – notably Ngāti Rangatahi - off their cultivations in the Hutt Valley, destroying their homes, 'arresting' Te Rauparaha, and violating *habeus corpus*. These measures were accompanied by policies aimed at gaining strategic control of the region; and at 'civilising' Māori, wedding them to the Crown through the introduction of English institutions adapted to New Zealand circumstances and by marks of personal favour.

These developments – in particular, the military action taken against Te Rauparaha and Te Rangihaeata over Heretaunga (the Hutt Valley) and the New Zealand Company's claim to have purchased it – have been fully described in both the Waitangi Tribunal's Port Nicholson and Te Tau Ihu district inquiries and need be only briefly traversed in this report. Yet the impact on the power balance of the Cook Strait region was significant and affected Ngāti Raukawa's internal relationships as well as those with neighbouring iwi and the Crown. These events set the ground rules for the future.

One of the hapū most concerned in the Crown's actions in the Hutt Valley were Ngāti Rangatahi: their cultivations, pa, and their church were destroyed if not by

[186] Keith Sinclair, *Origins of the Māori Wars*, Auckland University Press, 1976, pp 34-35.

troops themselves, with their connivance. They were forced to abandon their homes, punished by denial of promised compensation, and denied too, a place in the Crown's subsequent negotiations (except as an afterthought) at their new home, because of their perceived status as 'rebels' and 'migrants' without real rights under custom. Indeed, this had been the justification for refusing them a say in, or payment for, the Hutt Valley in the first place. The Waitangi Tribunal has commented that the resolution of the Hutt conflict came at a 'heavy price' and that those who 'paid most' were Ngāti Rangatahi.[187] It is particularly important for Ngāti Rangatahi, therefore, that these events, occurring so early in their relationship with the Crown and which so greatly affected them in subsequent years, should be discussed in this report.

Ngāti Huia, Ngāti Parekōhatu, Ngāti Pareraukawa and other closely related hapū - Ngāti Kikopiri, Ngāti Parewahawaha, Ngāti Te Manbea, Ngāti Hikitangi, Ngāti Kāhoro - were also to be directly affected by Grey's actions. Closely connected and loyal to Te Rangihaeata, they joined him at Poroutawhao (a settlement surrounded by low fern hills and flax swamp, located between Horowhenua and Manawatū, about three miles inland from the coast) when he was forced out of the Porirua harbour and Heretaunga region.[188] Other hapū decided not to support his armed stance against government troops and their Te Ati Awa cohorts, setting them down the path that they would follow in their future engagement with their neighbours, settlers, and the Crown; steadfast in their adherence to peace, faith, and friendship.

3.2 A note on the binding whanaungatanga relationships

There were close connections between the people whom European commentators generally referred to as Ngāti Toa and Ngāti Raukawa and that were to be tested severely by settlement and by Governor Grey. Many of the claimants concerned with the matters discussed in this report emphasise the importance of their relationship with Te Rauparaha and Te Rangihaeata, and with Waitohi.[189] Waitohi was the sister of Te Rauparaha and Nohorua, and mother of Te Rangihaeata and Toperoa (herself a notable leader). Although Te Rauparaha and Rangihaeata were usually described as Ngāti Toa, the whakapapa links to a number of Ngāti Raukawa hapū. Ngāti Huia, Ngāti Parewahawaha, and Ngāti Kikopiri (Ngāti Parekōhatu, Ngāti Pareraukawa, Ngāti Hikitanga, and Ngāti Kahoro) were extremely close. Many of these people had come to the region in the major heke

[187] Waitangi Tribunal, *Te Whanganui a Tara me ona Takiwa*, 2003, p 217.
[188] Evidence of Heeni Te Rei and Erenora Tungia cited in Ngati Kikopiri report – Te Hono Raukawa [draft 12.1.16], pp 25-26.
[189] This section is based on nga korero tuku iho evidence and W Carkeek's *The Kapiti Coast* which was especially recommended to the Tribunal in those hearings; as well as any Oral Traditional reports; avai;able in draft form; Te Hono-Ngāti Kikopiri's draft report 17 Jan 2017 and P McBurney's 2013 report for Ngāti Kauwhata and Ngāti Wehi Wehi.

Whirinui, as had Ngāti Tūranga, led by Parakaia Te Pouepa (1826).[190] Although boundaries were established between them (it is said, by Topeora), they shared occupation and use of lands and lagoons at Lake Waiwiri and Waiowiri Stream.[191]

Carkeek explains that Te Rauparaha's mother, Parekōhatu, was a Ngāti Raukawa rangatira of high rank and that 'for this reason as well as position he attained on the death of Hape, he was to a certain extent able to rely on their aid.'[192] Ngāti Parewahawaha also had a particularly close connection to Te Rauparaha because Parekōhatu was the sister of Parewahawaha. Te Rauparaha could call on the leaders of these hapū for assistance and vice versa. Te Paerata, for example, called on Te Rauparaha as well as Te Whatanui to help him avenge the death of Te Momo.[193]

Some oral traditions recount that it had been Waitohi (rather than Te Rauparaha) who had moved Te Ahukaramū to return to Maungatautari, bringing back 'her tribes' of Ngāti Kauwhata, Wehi Wehi, Parewahawaha, and Ngāti Huia to settle 'the land already cleared'.[194] Te Mānahi of Ngāti Huia, who had joined the migration, said later: 'We came at the desire of Waitohi. Had Te Rauparaha called, the people would not have assented. It was at the word of Waitohi.' [195] Although often in Native Land Court evidence, witnesses spoke of the land being allocated or given by Te Rauparaha, this distinction was also threaded through their korero. According to Roera Te Hukiki:

> When her hapūs were eventually brought down from the north a description of the land was then related to them. Waitaheke was given to Ngāti Toa to Ngāti Kauwhata. Waikawa was given to Ngāti Wehiwehi, Rotokare to Te Ahu Karamu, Paetonga to Paia, Poroutawhao to Ngāti Huia, Horowhenua to Te Whatanui. Those are the lands that Waitohi said to bring the tribes here to occupy…[196]

Te Hūkiki recounted how his father, Te Ahukaramū, had replied to Waitohi with the famous whakatauki: 'By the strong back of Pakake.'[197] The interpretation was that Ngāti Raukawa numbers were integral to the success of establishing dominance in the region. In any case, the process of establishing rights at particular sites was far more layered, than an initial allocation, involving other tuku by chiefs such as Tungia, and other acts of setting boundaries.

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[190] Te Pouepa, Himatangi (1868) Otaki MB, 1C, p 200 cited in Ngati Kikopiri report – Te Hono Raukawa [draft 12.1.16], p 15.
[191] Ngati Kikopiri report – Te Hono Raukawa [draft 12.1.16], p 27.
[192] W Carkeek, *The Kapiti Coast*, *Māori History and Place Names*, Wellington, 1966, p 12.
[193] Ngati Kikopiri report – Te Hono Raukawa [draft 12.1.16], p 17.
[194] Te Ahukaramū Royal, ;Indigenous Wilderness: A Comparative Study', Ngati Kikopiri, Te Wananga o Raukawa,2001, p 25, Ngati Kikopiri – Te Hono Raukawa [draft 12.1.16], p 13.
[195] Te Manahi, Otaki MB 2 cited in Ngati Kikopiri report – Te Hono Raukawa [draft 12.1.16], p 14.
[196] Hukiki, Wairarapa hearing, 1874, cited in Carkeek, *Kapiti Coast*, p 23.
[197] Roera Hukiki cited in Ngati Kikopiri report – Te Hono Raukawa [draft 12.1.16], p 14.

Te Rangihaeata, Waitohi's son with Te Rakaherea, was often at the head of Ngāti Huia in battle and took 'a keen interest in their affairs'. Carkeek states that it was under Rangihaeata's authority that Ngāti Huia were placed on land at Te Rāhui (four miles inland of Otaki beach on northern side of river). Mātene Te Whiwhi (in the Wairarapa hearing) recounted that when Te Rangihaeata arrived at Ōtaki, he found other Ngāti Raukawa hapū already in occupation. When they refused to leave, he had ordered his slaves to burn their whare. He had then called a meeting at which Te Rauparaha had exhorted: 'Listen all Raukawa! The boundary is at Otaki. Te Rahui is for Ngāti Huia, extending to the mountain.'[198] According to Te Whiwhi, 'Whatanui, Kihiroa and the others assented.'[199]

Ngati Huia were invited to join Ngāti Toa in their occupation of Porirua Harbour after the battle of Waiorua. According to Puhikaaru of Ngāti Huia:

> [A]t the end of that battle Ngāti Toa came to fetch me, Ngāti Huia to return to settle; I want back to Ohau, when all the Ngāti Raukawa returned to Kapiti they heard that Motuhara, Hongoeka/ Kohotea, Taupo and Onehungawere full of Ngāti Awa. Our three canoes were launched and we drove out Ngāti Awa from Hongoeka. Ngāti Toa were at Kapiti, Mana, Wainui and Paremata where Te Rakaharea and Te Otaoia were. Our three canoes crossed over to Onehanga; there were two canoes of Ngāti Raukawa and one of Ngāti Toa; the reason was the decision of Te Rauparaha and Te Rangihaeata; they went to drive out Ngāti Awa from all the settlements mentioned by me. Their plan was to leave those spaces for Ngāti Raukawa = that is, for Ngāti Huia, and for Ngāti Toa. … Ngāti Huia was raising food at Mana. Ngāti Raukawa raised parties of volunteers. The seed plants were grown at Mana, then they were taken up and carried here for Taupo.[200]

In other words, as Ward comments, the hapū had taken up residence as far south as the Porirua harbour.

As those who had participated in the 'conquest' and allocation of lands dug their toes more deeply into the soil, their authority grew. We have noted Te Ahukaramū's initial defiance of Te Rauparaha and Te Rangihaeata over the matter of Wakefield and land at Manawatu. Te Ahukaramū continued to support the presence of settlers in the district, even though the Company's more grandiose plans had fallen through, and he continued to test his uncle's tolerance. In the korero tuku iho (Otaki) hearings, it was related by Te Ahukaramū Royal how his ancestor had objected when Te Rauparaha had driven off his Pākehā and sheep (to Paekakariki) during his absence in the Wairarapa.[201] Te Rangihaeata

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[198] Te Whiwhi at Wairarapa hearing, 1874, cited in Carkeek, *Kapiti Coast*: p 23.
[199] Te Whiwhi, Ngakaroro hearing, 1874, cited in Carkeek, *Kapiti Coast*, p 23.
[200] Wellington MB, IH, p 239, cited in A Ward, 'Māori Customary Interests in the Port Nicholson District', 1998, Wai 145. doc M1, pp 71-3.
[201] Evidence of Ahukaramū Charles Royal, Kauwhata marae, 18 November 2012, Wai 2200, 4.1.9, pp 178-9.

later tried to drive off Kebbell, also, whom Ahukaramū had placed on the ground..

Wakefield recounted an argument between Te Rauparaha and Te Ahuikaramū about rights at Ōhau and the placement there of a settler (White). Returning to the Kapiti Coast after the fighting at Wairau, Te Rauparaha interfered. Te Ahukaramū spoke of his own conquest of the region and the strengthening of his own authority thereafter; he had chosen the district 'out of Rauparaha's conquest in order to sit upon' and 'while peace lasted, nobody had thought of Rauparaha's supreme control. They had learned to consider the land their own.' When confronted by Te Rauparaha's anger, Te Ahuikaramū acknowledged his claim, but tried to persuade him to let White come north with a herd of cattle to settle at the site where he had built a house for him. He reminded Te Rauparaha of the decision to bring Ngāti Raukawa south, the spilling of Ngāti Raukawa blood, and the sacrifices they had made. As related in the Ngāti Kikopiri report:

> He threatened to return to Taupo and Maungatautari, where they did not have to beg to be allowed to have the white people amongst them. But Te Rauparaha called his bluff, told them he didn't care if they went: "Leave my land without men. When you are gone, I will stay and fight the soldiers with my own hands. I do not beg you. Rauparaha is not afraid! ... You are all my children, and Rauparaha is your head chief and patriarch."[202]

Ngāti Kikopiri comments: 'As Te Ahukaramū and his people did not depart, and from the comments reported by Wakefield, it seems likely that they eventually accepted Te Rauparaha's authority in this matter, and allowed him to prevent White coming north at that time.'[203] The growing hostility of Te Rauparaha and Te Ranbgihaeata to land-hungry settlers clearly had an impact on Ngāti Raukawa's further engagement with the New Zealand Company, but Grey managed to cut the two rangatira off from the full potential support base among Ngāti Raukawa who were increasingly attracted to Christianity and involved in trade, unwilling to see those 'benefits' of European presence threatened, or to be drawn into a conflict with the combined forces of their recent tribal enemies and government forces..

As for Ngāti Rangatahi, it seems that they split into two different sections.[204] Cowan and later historians have tended to look at their links with Te Mamaku (often referred to as Te Karamu) – a well-known Te Ati Haunui participant in the conflict at the Hutt, whose notoriety continued into later years. He is thought to have affiliations with Ngāti Rangatahi based near Taumarunui, where they returned after being driven out of their new home. This is the line of interpretation adopted by Joy Hippolite in her report on Ngāti Rangatahi customary interests in the region.[205] Ngāti Rangatahi claimants in the Whanganui

[202] Ngati Kikopiri report – Te Hono Raukawa [draft 12.1.16], p 24.
[203] Ngati Kikopiri report – Te Hono Raukawa [draft 12.1.16], p 24.
[204] Evidence of Ernest Adams, Tokorangi, 19-20 May 2014, Wai 2200, 2.5.92 (a).
[205] J Hippolite, 'Ngati Rangatahi', 1997, Wai 145, doc H4.

inquiry gave evidence, however, that their section of Ngāti Rangatahi – about seventy people, including Kāparatehau and Ngarupiki - had joined the heke Tatāramoa, because of their relationship to Te Rauparaha whose grandmother, Kimihia, was of their descent line. (In fact, they had intervened at Ongārue on behalf of Ngāti Raukawa when they were attacked by Te Mamaku, even though they were all related to him.[206]) According to other oral traditions, however, most Ngāti Rangatahi who took up occupation at Kākāriki on the Rangitīkei River, after their expulsion from the Hutt Valley, were originally from the Mōkau-Mokauiti-Te Kuiti border with Te Ati Awa. This section of Ngāti Rangatahi had journeyed to the west coast, pushing southwards to Kapiti in association with Te Rauparaha, Te Rangihaeata, and their Ngāti Tama neighbours. They lived first on Kapiti Island where they intermarried closely with Ngāti Toa and had assisted in driving out Ngāti Kahungunu from the Heretaunga valley.[207] According to oral tradition they had supported Te Rangihaeata at Wairau before returning to join their Ngāti Tama kin at Heretaunga (Hutt Valley).[208]

3.3 The impact of Grey's actions against Te Rauparaha and Te Rangihaeata

The conflict at the Hutt Valley in July 1846 – and the measures taken by the Crown against Te Rauparaha, Rangihaeata, Kaparetahau of Ngāti Rangatahi, and others whom it deemed to be in rebellion – resulted in a major change in the balance of power in the Cook Strait region which affected the position of Ngāti Raukawa as well as Ngāti Toa. For Ngāti Rangatahi, the consequences were especially grievous.

The Hutt Valley hostilities and aftermath were the culmination of a series of events dating back several years to the earlier conflict at Wairau, in June 1843.l This conflict had a significant impact on the pattern of relationships at Ōtaki when Te Rauparaha and Te Rangihaeata returned with their followers to the Kapiti Coast while it also contributed to the decision of Te Ati Awa to return to Taranaki.[209] Ngāti Raukawa's interest in having further European settlement in their midst diminished, while their burgeoning trade with Port Nicholson was seriously disrupted. The settlers there, shocked and outraged, feared attack. So did Māori associated with Te Rangihaeata, who perceived the incident as provoked by settlers' greed for land which, as they saw it, had not been acquired by reason of the Kapiti deed. Ultimately, that view was to be supported by Governor FitzRoy to the further outrage of settlers throughout the colony.

In the interim, as we noted in chapter 2, a special meeting of Wellington magistrates passed a resolution requesting Spain to visit the tribes along the

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[206] Evidence of Roger Punia Hapeta (Herbert), Wai 903, doc J7, p 6.
[207] Waitangi Tribunal, *Whanganui a Tara*, p 189.
[208] Evidence of Roger Punia Hapeta (Herbert), Wai 903, doc J7, p 6.
[209] For detailed account see H A & J Mitchell, *Te Tau Ihu o Te Waka: A History of Māori of Nelson and Marlborough*, Wellington, 2004, vol 1, pp 320-330; vol 2, 2007, pp 234-240.

Kapiti Coast in order to allay tensions if possible.[210] Carkeek comments that 'Spain hardly relished the prospect since Te Rauparaha and Rangihaeata were still at Otaki', where Spain had earlier (in April 1843) examined the two chiefs regarding the New Zealand Company South Island claims and where they had returned after the fighting in Wairau. Although Spain regarded it as a 'most unpleasant and difficult duty', he also saw the request as an opportunity to restore Māori confidence in Europeans and to explain that those who had not been present at Wairau could not be held responsible for the actions of their countrymen.[211] Spain informed Shortland (Acting Governor) accordingly:

> I fully determined to effect this without in the slightest degree compromising the Government in the event of its being decided to institute proceedings against any of the parties concerned, an object that in the negotiations with the natives I never lost sight of for one moment.[212]

Accompanied by Hadfield, he set off up the coast in August 1843. On arriving at Waikanae, they found that Te Rauparaha had been there, reportedly trying to persuade Te Ati Awa to join him in attacking Wellington and although he had not succeeded, according to Spain, he was determined to continue in those efforts.[213] The chief followed them to Ōtaki where two further meetings were held with the same results, except that Ngāti Raukawa were more well-disposed to Te Rauparaha and Rangihaeata than Te Ati Awa had been. Spain reported that:

> They gave me to understand that if there was an attempt made by the Government to apprehend Rauparaha and Rangihaeata they would not allow them to be taken. … They said that if the Māoris had been in the wrong at first they would not have interfered but as they thought the white people had acted most unjustly they had offered Rauparaha and Rangihaeata due asylum and they would defend them to the last.[214]

There would be no attack, however, unless there was extreme provocation – while Spain promised the same, pending the Governor's decision. Spain reported that many of the Otaki people had also applied to him for permission to resume their trade with Port Nicholson and were assured by him that they could do so 'with perfect safety and that they would be treated as kindly as ever'.[215] Thus reassured, a great many had set out the following morning with pigs for the Port Nicholson market. These same countervailing factors – support for the leadership with whom they had traditionally allied themselves and desire for a good trading relationship with Port Nicholson settlers – were to characterise Ngāti Raukawa response to events (and more particularly, the directives of Te Rangihaeata) in 1846 and 1847.

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[210] Spain despatch to Shortland, 2 August 1843, G 30/4.
[211] Carkeek, *Kapiti Coast*, p 70.
[212] Spain despatch to Shortland, 2 August 1843, G 30/4.
[213] Carkeek, *Kapiti Coast*, p 73.
[214] Cited Carkeek, *The Kapiti Coast*, p 73.
[215] Cited Carkeek, *The Kapiti Coast*, p 73.

3.3.1 Crisis in the Hutt Valley, 1846–1847

Like the Wairau affray, the outbreak of hostilities in the Hutt Valley had its cause in the land purchase activities of the New Zealand Company, heightened by evidence of armed government support for settlers; the building of a series of redoubts and stockades, manned by local militia and imperial troops; and by the more hard-line attitude of Grey. Again, the events leading up to the outbreak of hostilities are not germane to this report except in so far as they pertain to issues of general government policy and the particular impact on Ngāti Rangatahi. They have been discussed in detail by the Waitangi Tribunal (in its Te Whanganui a Tara report) and need not be given in detail here.

The background to the conflict may be briefly stated. The settlers of Port Nicholson were eager to expand their holdings and farming activities. Wakefield had obtained what he thought of as 'ratification' of the Port Nicholson purchase from Te Rauparaha and other Ngāti Toa rangatira by means of the Kapiti deed, in October 1839. This purported to purchase some 20 million acres of land in both the North and South Islands, including the area covered by the earlier Port Nicholson deed transacted with Te Ati Awa and allied hapū.[216] The Tribunal has commented that Te Rauparaha did this in response to the Te Ati Awa transaction, to have Ngāti Toa's rights over Port Nicholson acknowledged.[217] While Ngāti Toa did not object to the settlement of the lands around the harbour, efforts to build houses at Porirua (in 1842) had been swiftly and decisively rebuffed. Settler demands for retaliation and punishment were denied until Commissioner Spain could make findings on the ownership of those lands. The Wairau affray followed (as noted above), entrenching the opposing positions: each side saw the other as a danger to the other's rights and interests, with Crown officials sitting uncomfortably between the two.[218]

After the outbreak of armed fighting at Wairau, Te Rauparaha had made it very clear that he did not consider the upper Hutt Valley had been sold and that he would not relinquish his claims there unless fairly compensated. The land was occupied; it was used for waka construction, and was being cultivated.[219] A meeting had been held between Grey's predecessor (FitzRoy), Spain, two sub-protectors (Forsaith and Clarke junior), Te Rauparaha, and Rangihaeata in February 1844. Both sides were anxious that the violence at Wairau should not be repeated, and FitzRoy reached the conclusion that Māori had been 'hurried into crime' by the actions of the settlers and, therefore, could not be punished.[220]

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[216] Waitangi Tribunal, *Whanganui a Tara*, p 191.
[217] Waitangi Tribunal, *Whanganui a Tara*, p 192.
[218] Waitangi Tribunal, *Whanganui a Tara*, p 193.
[219] Clarke junior to Clarke senior, 16 August 1843, *BPP*, vol 2, Reports from the [1844] Select Committee on New Zealand, appendix 9,p 339.
[220] Waitangi Tribunal, *Whanganui a Tara*, p 194.

Crown officials set about attempting to win consent to the alienation of the Hutt Valley: first of all from Te Rauparaha; and Te Rangihaeata only thereafter, although his was the principal interest; and from Ngāti Rangatahi not at all, even though they were in actual occupation. (Ngāti Tama under the leadership of Taringa Kurī or Te Kaeaea were also occupying the valley but their part of the story does not concern us here.[221]) As we discuss further below, this ordering of negotiating priorities reflects the Crown's misapprehension of the nature of Māori customary usage. A meeting convened at Porirua (attended by Spain, Forsaith, Clarke, and other Europeans; Te Rauparaha, Te Rangihaeata, Pūaha, and about 200 other Māori) on 8 and 9 March 1844 was significant. The Waitangi Tribunal has commented that it is apparent that Spain's mind was 'firmly made up' from the first day. Despite Te Rauparaha's protest that he had thought only his claims to the east of Rotokākahi were involved in earlier negotiations with Clarke, Spain insisted that Port Nicholson included the whole of the valley, that the boundaries would not be altered, that the sum of compensation had been set at £300, and although he was willing to award a further amount of £100 for the crops of Ngāti Tama, this was entirely separate from the award for the land; this was, he announced 'my final decision which will never be altered. I now bid you farewell.'[222] The Waitangi Tribunal has remarked that 'no meaningful negotiations occurred' at this meeting. Both Spain and Clarke had arrived with a 'fixed and non-negotiable position' and Te Rangihaeata was not allowed to speak. Spain acted as though the rangatira was of 'no consequence'.[223]

Ngāti Rangatahi's case – and the need for their consent and compensation – was not considered because they were largely perceived as having no rights at any kind. According to Clarke junior, they had taken up occupation only recently, two years after the arrival of the New Zealand Company, at the instigation of Te Rangihaeata; and this was also the view adopted by Spain and later, by Grey[224] Sub-Protector Forsaith thought they and Ngāti Tama (who had begun cutting a line at Rotokākahi) had no rights in the valley because their object in going there was to hold possession for Te Rauparaha.[225] Not all Crown officials agreed with this assessment, however. Notably, Crown Prosecutor, R D Hanson, writing in 1846 in response to the forced expulsion of the hapū (see below), recognised that Ngāti Rangatahi had gained occupation rights in the valley at an earlier date, although they had made little use of it for cultivation, but instead, for paying tribute of canoes, eels, and birds to Te Rauparaha and Te Rangihaeata. At the time of the New Zealand Company's arrival, the valley had been under a rahui, placed there by another rangatira annoyed that he had not received a share. Both Edmund Halswell appointed by the New Zealand Company as Prrotector of

[221] For information on Ngāti Tama, see Waitangi Tribunal, *Whanganui a Tara*, pp 198-200.
[222] 'A true account of the conference with Rauparaha', *BPP*, vol 5, 1846-47, p 39.
[223] Waitangi Tribunal, *Whanganui a Tara*, p 196.
[224] Clarke junior to Clarke senior, 29 June 1844, *BPP*, vol 4, 1843–1845, p 465.
[225] Forsaith to Clarke senior, 8 April 1844, IA 1/1844/1696.

Aborigines and Commissioner for Native Reserves and James Crawford, who gave evidence to the 1844 Select Committee on New Zealand, made comments that support the view that Ngāti Rangatahi had been making use of resources in the valley before 1840.[226] Te Rangihaeata himself told Crown officials, Ngāti Rangatahi had been sent to Heretaunga under 'the direction of Te Rauparaha and himself to hold possession after the expulsion of Ngāti Kahungunu before the arrival of any settlers'.[227] (That account rather than the conclusions of Crown officials wanting to substantiate the Company's claim at Port Nicholson was accepted by the Waitangi Tribunal in its Whanganui a Tara report.[228])

Te Rauparaha's agreement to give up the valley was eventually obtained but not Te Rangihaeata's, because his conditions concerning Ngāti Rangatahi were never met. In November 1844, FitxRoy, accompanied by Clarke junior and carrying with him the promised compensation payment, met with the two younger chiefs, Pūaha and Mātene Te Whiwhi, but Te Rauparaha and Te Rangihaeata refused to accept it. The payment was declined a second time (on 6 November). FitzRoy departed, but Clarke junior stayed on to negotiate further, and paid over the £400 on behalf of the New Zealand Company on 12 November. A receipt was hastily drawn up and supposedly signed, by which the Heretaunga was 'surrendered to the Governor' with no mention of the reservation of pā, cultivations, urupā, and native reserves as otherwise invariably promised, and which Spain had pledged would be secured to them at the March 1844 meeting. The names of Te Rauparaha and Te Rangihaeata were attached, but Te Whiwhi later admitted that he had signed for his uncle (Rangihaeata) without his knowledge.[229] One hundred pounds of this payment was for Ngāti Tama's crops (although this was not explicitly stated) – but again, there was no mention or provision for Ngāti Rangatahi.

By this stage, Ngāti Rangatahi (and Ngāti Tama) were developing rights independently from Ngāti Toa and showed little sign of leaving; indeed, they were being joined by others in their cultivations to supply the Wellington market. As Rangihaeata himself was to explain to officials, they were in legitimate possession under custom and 'could not be dispossessed by any act to which they were not parties'.[230] But this advice did not accord with views of the absolutist nature of chiefly authority commonly held by Europeans at the time; it was also extremely inconvenient and was to be disregarded. Wakefield and the settlers wanted Māori ejected, but the government was in no position to force the issue. In a private letter to FitzRoy, Major Richmond (Superintendent of the Southern

[226] See Waitangi Tribunal, *Whanganui a Tara*, p 190-1.
[227] H Tacy Kemp to Superintendent, 23 July 1845, NM 8/1845/307, cited Waitangi Tribunal, *Whanganui a Tara*, p 191.
[228] Waitangi Tribunal, *Whanganui a Tara*, p 191.
[229] H Tacy Kemp to Superintendent, 23 July 1845, NM 8/1845/307, cited Waitangi Tribunal, *Whanganui a Tara*, pp 201 & 204.
[230] H Tacy Kemp to Superintendent, 23 July 1845, NM 8/1845/307, cited Waitangi Tribunal, *Whanganui a Tara*, p 204.

Division) bemoaned the foolhardy attitude of the colonists: 'the disastrous affair at the Wairau has proved no lesson – on the contrary, they would not hesitate to risk a repetition'. The settlers argued for a demonstration of British military force, but it was hardly likely to be one productive of the result they intended. What use would 50 men be against 300 in heavily wooded country, asked Richmond. In his opinion 'the destruction of Wellington and sacrifice of the inhabitants would in all probability follow'.[231]

Richmond was no champion of Māori rights in the valley and thought that force would be required ultimately, but negotiation seemed the only option at this point. News of a belated and inadequate effort at compromise – arranging with Te Rauparaha to allow the two hapū to stay another three months until their crops were harvested – was met by Ngāti Rangatahi and Ngāti Tama with what Richmond described as 'sullenness' and 'discontent'. Richmond had assured Te Rauparaha that it was not the government's intention 'to enforce any measure that was, or appeared to be, unjust', but he was confident that the extinction of the native title was 'so complete and such right exist[ed] on the side of the Europeans' that nothing remained but to point out to Māori 'their total absence of claim to remain'.[232] Richmond simply did not recognise or understand the autonomous nature of tribal structure and authority, and could not accept that those occupying the Hutt Valley were not bound by arrangements made with others – however senior – in which they had not participated and to which they had not consented. Richmond reported that:

> After the exercise of much patience I left, cautioning them not to deceive themselves, that they might rest assured Your Excellency would not allow your arrangements with the chiefs to be set aside. They must therefore be prepared to move at the time appointed and in the meanwhile the settlers were not to be hindered in their operations, and they must cease from [*indecipherable*] the cultivations.[233]

Contrary to this pronouncement and any accommodation that might have been reached with Te Rauparaha, they began clearing and cultivating more land. When challenged by Forsaith, Kaparetehau (the Ngāti Rangatahi leader) responded:

> We do not intend to leave the Hutt without being paid, as to Rauparaha ordering us off, and saying we are only slaves, we are highly indignant at his conduct, and shall pay no attention to him. If he wants us to go, he must come and drive us.[234]

Furthermore, they retained Te Rangihaeata's support. In March 1845, Rangihaeata accepted payment for his own rights but refused to persuade Ngāti Rangatahi to leave. In the months that followed, he consistently argued that land should be reserved for Ngāti Rangatahi – a position affirmed at the major hui

[231] Richmond to FitzRoy, 24 December 1844, ACFP 8219 NM10/2.
[232] Richmond to FitzRoy, 24 December 1844, ACFP 8219 NM10/2.
[233] Richmond to FitzRoy, 24 December 1844, ACFP 8219 NM10/2.
[234] Forsaith to Richmond, 28 December 1844, MA/W 1/1, pp 77-79, cited Waitangi Tribunal, *Whanganui a Tara*, p 206.

held in Porirua in July 1845 (see below) – but just as consistently refused by Crown officials. By this stage, Forsaith reported, 'several of the Hutt residents appeared to be contemplating a move by disposing of their potatoes in large quantities', but 'many' had started to go to their work armed, saying it was 'better to die there than leave their lands'.[235] Tensions intensified further when news of the sacking of Kororareka reached Wellington later in that month. Te Rauparaha assured officials that he wished to remain at peace, but Te Rangihaeata was rumoured to have promised Māori at the Hutt that he would support them if attacked. Richmond responded by building a series of forts and stockades. FitzRoy sent more troops but instructed that they were to remain on the defensive only.[236] Forsaith made a further attempt to persuade Ngāti Rangatahi to leave, now offering £100 in compensation, but baulked at their insistence that they be able to harvest their crops and receive the money before leaving. Te Rauparaha next made an abortive attempt to persuade Ngāti Tama to leave and Te Rangihaeata to abandon his support. According to Forsaith, Te Rangihaeata declared himself slighted by Te Rauparaha giving up Heretaunga without his agreement and was now determined to maintain it with his life.[237]

At a subsequent five-day hui held at Porirua in July 1845, Rangihaeata again:

> … affirmed in the strongest manner the opposition he made to the sale of the Hutt to the exclusion of the tribe of Ngātirangatahi natives who he stated had been sent there by the direction of Te Rauparaha and himself to hold possession after the expulsion of Ngātikahuhunu [*sic*] before the arrival of any settlers and who therefore in strict observance of their Native Customs could not be dispossessed by any act to which they were not parties. He stated that he declined to accept a share of the money unless a portion of land was guaranteed to the tribe alluded to, and he is still under the impression that His Excellency was willing to entertain his request, although Te Rauparaha objected at the time to their claim being considered and promised to use his influence in removing them to another settlement.[238]

That demand was seen by Richmond as a new one – a view reported to be confirmed by Hadfield who was no supporter of the still unconverted and 'notorious savage' Rangihaeata – and merely a delaying tactic.[239]

It was at this meeting that Te Whiwhi revealed that he had signed for his uncle in the expectation that he would eventually be reconciled and approve the transaction. Despite this evidence, Richmond and other officials persisted in denying that Rangihaeata's title and his concern for the valley's inhabitants were genuine, emphasising, instead, the consent obtained from Te Rauparaha – even

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[235]Richmond to FitzRoy transmitting copy of Forsaith report , 19 March 1845, ACFP 8219 NM 10/2.
[236] Waitangi Tribunal, *Whanganui a Tara*, pp 207-8
[237] Forsaith to Richmond, 17 May 1845, NM8/1845/195.
[238] Kemp to Superintendent, 23 July 1845, NM 8/1845/307, cited Waitangi Tribunal, *Whanganui a Tara*, p 204
[239] Richmond to FitzRoy, 29 July 1845, ACFP 8219 NM 10/2; Hadfield to father, 1 August 1846, Hadfield Papers, vol 1, qMS-0897

though Te Rauparaha himself made it clear that he lacked the authority to alienate land in the Hutt Valley without Te Rangihaeata's sanction.[240] Richmond discounted the revelation that the latter had not signed any agreement:

> [T]hose who are most conversant with his habits attach little importance to it as he, they allege, has invariably refused to affix his name to any document since he learnt he had done so to Deeds which purported that he had alienated such vast tracts to the New Zealand Company, he now hands all [*indecipherable*] to his young men to read and sign.[241]

The superintendent persisted also in characterising Ngāti Rangatahi as 'intruders' and in the belief that 'no individual native or portion' of the hapū could 'substantiate a right to any part of this valley'. This was because there were no ancient pā or cultivations and the 'dense forests remained undisturbed till the axe of the European and European labour and perseverance opened out and displayed the capability of the district'. By this stage, he thought they should be forcibly removed if they would not go willingly.[242] Ian Wards has commented that Richmond 'made no allowance for any rights that Kāparatehau and Taringa Kurī may have accrued, and gave no thoughts to the future location of these chiefs and their people'.[243] The assumption appears to have been that they had plenty of land elsewhere to which they should return.

The other assumption was that only Te Rauparaha (and to a lesser extent, Te Rangihaeata) had any say in the dispute with 'insufficient consideration … given to the possibility that the decisions of these two were limited by circumstance, by custom, and by the little heeded and less comprehended "mana" of all the chiefs concerned.'[244] We note, however, that there were a handful of European commentators who held a different and more informed view. The New Zealand-born Henry Tacy Kemp (appointed a sub-protector in August 1845) was one such exception. As Ngāti Rangatahi continued to cultivate in the upper valley despite a purported change of heart on the part of Rangihaeata (to let Te Rauparaha decide what was to happen there), he reported to Clarke senior: 'They seem to have acquired a right in the soil; that makes them very unwilling to surrender and this conduct on the whole is so consistent that they cannot I think be considered an annoyance to the settlers.'[245]

The arrival of Sir George Grey in November 1845 broke the impasse and shattered the uneasy peace. FitzRoy had been reluctant to use force, to expel Māori from the Hutt Valley, but Grey, with more money, military force, and

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[240] Waitangi Tribunal, *Whanganui a Tara*, p 205.
[241] Richmond to FitzRoy, 29 July 1845, ACFP 8219 NM 10/2.
[242] Richmond to FitzRoy, 29 July 1845, ACFP 8219 NM 10/2.
[243] Ian Wards, *The Shadow of the Land: A Study of British Policy and Racial Conflict in New Zealand*, 1832-1852, Wellington, 1968, p 228.
[244] Wards, *Shadow of the Land,* p 228.
[245] Kemp to Clarke senior, 2 November 1845, MA/W 1/1, cited Waitangi Tribunal, *Whanganui a Tara*, p 209.

wide-ranging powers at his disposal, held a very different opinion on how to deal with this challenge to colonisation and the Crown's authority. Te Rauparaha and other Ngāti Toa, Ngāti Raukawa, and Te Ati Awa chiefs wrote to the new governor in January 1846, complaining that they were in 'considerable uncertainty' about his intentions. This had not been the case when their 'friend and guide', Hadfield, had been living among them:

> We used to hear what your (the Governor's) intentions really were; then our minds were free from anxiety; and however frequently it may have been said to us by white persons "Your land will be forced from you, you will be destroyed," … Mr Hadfield used at once to say, "Regard not these expressions," whereupon our irritable feelings became calmed.[246]

They requested that a 'friendly advisor' who understood the customs of both Māori and European, be appointed to 'constantly explain … the laws of the Queen' since they were 'anxious that the laws of the Queen … be firmly and permanently established' so 'that by that means we may be raised to a more enlightened state, for we have already ministers of God teaching us the laws of God'.[247] Whatanui, Te Reinga, and Toremi were amongst those who signed the letter.

Grey, in reply, expressed himself as 'much pleased' by their sentiments and confident that they were of 'sufficient intellect to understand the measures [he] intend[ed] to pursue' and that they would assist him 'in conferring benefits upon their country; and … be glad that they themselves [could] take a share in raising New Zealand to a higher state of civilisation; and in preventing those atrocities which formerly so much disgraced these islands.' He promised that the two races, both subjects of the Queen and living under 'equal laws', would be 'equally protected'. Māori, he assured them, would be safeguarded 'in all their properties and possessions, and no one shall be allowed to take anything away from them or to injure them'.[248] Europeans would be similarly protected, as would Māori from each other, and 'deeds of violence and blood' would be brought to an end. Te Rauparaha replied from Otaki, in turn, expressing his satisfaction and that he 'would hold fast' Grey's word for good.[249]

In the next section we examine the worth of this promise on the part of the Crown. In the Whanganui a Tara report, the Tribunal has commented that it 'did not extend to Ngāti Rangatahi's properties and possessions in the Hutt'.[250] Nor was it to extend to Te Rauparaha's person, nor to the properties of those allied to

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[246] Ngāti Toa, Ngāti Awa and Ngāti Raukawa chiefs to Grey, 19 January 1846, *BPP,* vol 5, 1846-47, p 416.
[247] Ngāti Toa, Ngāti Awa and Ngāti Raukawa chiefs to Grey, 19 January 1846, *BPP*, vol 5, 1846-47, pp 416-417.
[248] Grey to Ngāti Toa, Ngāti Awa and Ngāti Raukawa chiefs, 16 February 1846, *BPP*, vol 5, 1846-47, p 417.
[249] Te Rauparaha to Governor, 17 February 1846, *BPP*, vol 5, 1846-47, p 417.
[250] Waitangi tribunal, *Whanganui a Tara*, p 210.

Te Rangihaeata. who would ultimately be forced to abandon any interests they might have in the Porirua area to take up residence at Otaki and Poroutawhao.

Grey, encouraged by this exchange and the success (as he saw it) of his military operations in the north, informed Lord Stanley (Secretary of State for Colonies) that the dispute was almost settled. He had insisted that Ngāti Tama vacate the valley before they received compensation for their crops and houses. Within the week, only 20 of the 300 men who had been in occupation remained, the rest having removed their families and property. Since the majority of Māori in the district were 'decidedly opposed to any of the intruding natives continuing … to set the laws at defiance', he had 'every hope' that the matter would be set at 'permanent rest' by the following day, and that force would not be required.[251] That hope proved to be as empty as his promises of protection and equality of standing under the law; his actual intent was ensuring their subordination, rather than settler adherence, to it. He drew Stanley's attention to Te Rauparaha's letter and another from Te Ati Awa chiefs as an indication of their 'satisfaction at the determination of the Government to require from the Natives as well as Europeans obedience to our laws'.[252] Grey's mind was already made up as to the rights and wrongs of the matter; on the day of his arrival at Port Nicholson, he had informed Stanley that he foresaw no problem in punishing Māori who were inhabiting the 'undoubted property of Europeans' and who had 'on several occasions insulted the authorities who have recommended them to remove from the land they were unlawfully occupying'.[253]

Grey had not yet spoken to either Ngāti Rangatahi or Te Rangihaeata. The immediate crisis began when he directed police magistrate, Henry St Hill, to put the New Zealand Company settlers in possession of the Hutt sections. Ngāti Rangatahi drove them away, and Grey sent in a military force of 340 men on 24 February. He now attempted to meet with Ngāti Rangatahi leaders, with Reverend Taylor acting as go-between. No agreement could be reached, however. Taylor recorded:

> Paratehau [*sic*] and Te Oro arrived, they were very attentive and again affirmed they had no desire to fight and if paid for their crops would leave. When I went to them Col. Hulme bid me say if they wanted food they should be allowed to come within the lines and dig up potatoes provided they came unarmed they appeared to hesitate I told them I would accompany them, when about 20 men women and boys jumped up and followed me, ongoing out of the wood I met Te Karamu and another native they were also going to make peace if possible. They had just come from the Govr. who had arrived on the ground I spoke to him he said he would not give them anything until they had left that if they quietly abandoned the place he would take their case into consideration and would not suffer them to be losers. I returned bearing the message they again stated let a remuneration be given for their crops and they would immediately get up and leave. Tahana, Te Karamu and another earnestly exhorted them to go. I went again to the Govr.

[251] Grey despatch to Stanley,12 & 17 February 1846, *BPP*, vol 5, 1846-47, pp 413 & 418.
[252] Grey despatch to Stanley,17 February 1846, *BPP*, vol 5, 1846-47, p 418.
[253] Grey despatch to Stanley,12 February 1846, *BPP*, vol 5, 1846-47, p 413.

> who said he had no word but that they should have until noon given them to consider and then if they did not agree he would commence hostilities. Two guns had been got up during the night and a great number of all classes of the settlers had congregated, the natives at my earnest solicitation at last agreed to go, and they rose up and left. I felt much rejoiced at their doing so and so did the Govr. and officers who knowing the difficulties of natives warfare and the blood that must of necessity be shed, were glad to think such would be obviated by their peaceable departure.[254]

On the following day, as Taylor left the valley, he saw 'low Europeans plundering the native houses of everything they thought worth taking as well as their plantations', and that 'some of the worthless miscreants had been into the native chapel and overthrown the pulpit and violated even the sanctity of the Houses of God'.[255] Clearly, troops were nearby (and had failed to halt the depredations), because Te Karamu (Te Mamaku) who was accompanying Taylor north to Otaki, gave him his tomahawk lest he provoke further violence. On the way he 'pointed out 4 canoes which belonged to his friends' and which he wished Taylor to ask the Governor 'to take care of for their owners which the Governor readily promised to do'.[256] This (like Grey's larger assurance that they would not suffer loss) proved an empty promise; Taylor reported the next day that two of the waka plus a 'very large proportion of potatoes' had already been stolen.[257] Unsurprisingly, but to the indignation of many 'foolish people' whom Taylor thought were 'actually … long[ing] for a fight', Te Rangihaeata was reported to have ordered his people back to the valley and a settler's house had been robbed.[258] Further acts of muru followed, with nine houses stripped to the further dismay of settlers who, once anxious for the arrival of troops, now complained that hitherto they had lived on amicable terms with their Māori neighbours.

On 1 March, Taylor moved on to the Ngāti Rangatahi camp, where he was kindly received. Despite the provocations that he perceived to have been suffered, in essence, Taylor shared his countrymen's view of the desirable outcome. He attempted to remonstrate with the hold-outs, but they were determined to stay until they received fair treatment. He recorded in his journal:

> I reproved Kaparatehau for his false dealing he said he had not promised to go, the others had and then broken their word. I then told them of their having profaned the Sabbath in plundering houses they denied having done so I said they did not know the marauding party they told me they had plundered and should continue to do so for the Govr. had taken their lands their crops their pigs and poultry that he had plundered their houses and then burnt them and to crown all had burnt their church and the fences round the graves of their dead that he was determined there should be no more wakapone [*sic*] amongst them and he took me to see the spot where they had reinterred them they said the soldiers might fight with their dead if they liked, (this is a native custom in war). I told them the soldiers only fought with the living I reasoned with them but although very civil were

[254] Taylor journal, vol 3, 25 February 1846, qMS-1987.
[255] Taylor journal, vol 3, 25 February 1846, qMS-1987.
[256] Taylor journal, vol 3, 25 February 1846, qMS-1987.
[257] Taylor journal, vol 3, 26 February 1846, qMS-1987.
[258] Taylor journal, vol 3, 26 & 27 February 1846, qMS-1987.

> very determined not to resign their lands without a struggle I told them my last words were to listen to the Governor and leave.[259]

Grey was obdurate. Returning to Port Nicholson, Taylor found the Governor holding a council of war and concluded that 'these recent outrages appeared to have determined him to take severe measures'. Although the missionary represented to him 'the injuries the natives think they have received and their ignorance of our custom and the danger out-settlers would be in … he said it was no use they must be put down'.[260]

Te Rangihaeata was more prepared for compromise, provided that Ngāti Rangatahi's core rights were respected. When Taylor reached Porirua Harbour he found nearly 150 men and women assembled. When he 'went and sat by this troublesome and wicked old chief', Rangihaeata accused Taylor of being in league with the Governor and as having burned down the church and the grave fences and the two canoes. Taylor had protested 'in vain' that he had acted only as 'an interpreter to the Governor at his wish and … had nothing to do with the words', noting, 'I see I must not act as interpreter again.' Notably, he had (he told Rangihaeata) obtained a promise 'the church should be spared', and that it was 'a pure accident and that the Governor was very sorry for it'.[261] The destruction of the houses, fences, waka, and crops appear to have been a different matter. (This is the conclusion reached by the Waitangi Tribunal; that even if the burning of the church was an accident, the destruction of the pa was a 'deliberate act of war'.[262]) On visiting him a second time, however, Taylor found Te Rangihaeata in a more conciliatory but still determined mood: '… he said he had written an angry letter to Kaporatehau [*sic*] to return all the things stolen, he said if the Governor will give him a piece of land then all will be well otherwise all will rise as far even as Taupo'.[263]

The following day, the missionary was joined by a settler from Port Nicholson who wished to travel north in his company and reported the town to be in 'great confusion' as 'several boat loads of out-settlers' had come in. Grey had intended to declare martial law but the Crown Prosecutor, Hanson:

> … had just sent in a protest declaring martial law to be illegal up the Hutt and that according to the grant made to the Company the very land in question was granted to the natives and strange to say none of the authorities had remembered the terms of the deed.[264]

This legal opinion, that Ngāti Rangatahi were guaranteed their cultivations under FitzRoy's grant to the company, deterred Grey for the moment, from his intention

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[259] Taylor journal, vol 3, 1 March 1846, qMS-1987.
[260] Taylor journal, vol 3, 2 March 1846, qMS-1987.
[261] Taylor journal, vol 3, 2 March 1846, qMS-1987.
[262] Waitangi Tribunal, *Whanganui a Tara*, p 212.
[263] Taylor journal, vol 3, 2 March 1846, qMS-1987.
[264] Taylor journal, vol 3, 3 March 1846, qMS-1987.

of taking this step, although he sent more troops to the Hutt on 2 March.[265] Reverend Taylor met with Te Rangihaeata and again found him ready to compromise but still convinced of the justice of their cause – and unconvinced of the legitimacy of that of the Europeans, or the superiority of their religion:

> I had another long talk with Rangihaeata he again wished me to write to the Governor and say if he would give a piece of the land to Kaporatehau [*sic*] all would be well as they did not wish to fight. I therefore did as he wished me. He called us a murdering people, I said ironically yes his was the good tribe, he said I was a murderer, I replied that he was the good man that we knew the good tree by its fruit. I told him God would judge the murderer he put out his tongue in blasphemous defiance and said what did he care for God, that he was one himself…[266]

As Taylor travelled north, past Rangihaeata's pa, he observed:

> … a large sheet of paper stuck up on a post containing a notice that all pigs passing by that way to Wellington would be turned back, that war was at hand and it was not right to feed the Pakehas that all who went without anything would be suffered to pass but all others would be sent back and if they persisted would pay for their temerity with their bones. This was a notice to all the tribes.[267]

Already, several Māori herders had been turned back.

The growing crisis began to affect the other hapū in the region. Opinion among Ngāti Raukawa and Māori generally was divided but swinging in favour of peace, the new governor, and settlement. Taylor recorded a number of parties from the Manawatu region and the interior as seeking to join Te Rangihaeata and Ngāti Rangatahi, but the Christians as increasingly dominant and anxious to protect the settlers. Te Rauparaha, whom Taylor met next, as he travelled north, told the missionary that he intended to help the new governor. On the other hand, two parties – one at Otaki and the other at Manawatu – were thought by Taylor to be on their way to support Rangihaeata. Then, at Rewarewa, one of Whatanui's sons brought news that there had been fighting and that Te Rauparaha 'had sent word for them all to meet him at Porirua', leading Taylor to conclude that the 'crafty chief [was] playing false with the Europeans'. A congregation gathered to attend evening service, but then, a large party of young men on their way to Heretaunga from Taupo performed a haka – until someone 'bid them give over which they did immediately'.[268] Several of the Christian chiefs assured the missionary that 'if they perceived any real danger' from which they could not defend the settlers living in the vicinity, they would give them 'timely notice'.[269]

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[265] Waitangi Tribunal, *whanganui a Tara*, p 212.
[266] Taylor journal, vol 3, 3 March 1846, qMS-1987.
[267] Taylor journal, vol 3, 3 March 1846, qMS-1987.
[268] Taylor journal, vol 3, 4-6 March 1846, qMS-1987.
[269] Taylor journal, vol 3, 7 March 1846, qMS-1987.

When they heard that a large party from the pa was intending to join Māori at the Hutt, they proposed that a meeting be held in an attempt to dissuade them.[270]

The next morning, 'a council of all the natives' assembled and according to Taylor, 'the principal chiefs made some long and excellent speeches' in favour of peace. He noted that:

> One old man named Paora said if they went they must leave their books behind and give up their ministers and return to their former evil courses. … One chief named Puke made a very long and excellent speech. [I]n a very droll and sarcastic tone he alluded to all the reasons urged by the advocates of war and refuted them, he showed the advantages of living at peace with the English and said they ought not to meddle in this affair of the Hutt for the land had been paid for by the English and therefore justly belonged to them, that when the English were killed at Wairau they were in the wrong and he immediately jumped up and went to offer his services to Rauperaha [*sic*] who told him to return to his place, that the late Governor said his people were then in the wrong and therefore sorry as he was he should not seek any payment, but now the English were in the right and therefore the Governor came to give them the land and he for his part should sit still and recommended them to do so also.[271]

Taylor thought that Ihakara also made a 'very good speech', with only one of the opposing party speaking in favour of joining Rangihaeata, and another seeming 'afraid to avow his desire of war'. He recorded that he was 'much pleased with this meeting' which would have 'a very beneficial effect on the natives of this part. They all said as Christians it was their duty to listen to their ministers and they were determined to do so.'[272]

In the meantime, Grey, having received advice from Justice Chapman more to his liking than that of the Crown prosecutor, and following the sacking of settler homes at Waiwhetū and a skirmish at Boulcott's farm, had proceeded to declare martial law on 2 March. In fact, Ngāti Rangatahi had already withdrawn to Porirua. Grey followed, Te Rangihaeata sent a message that he would not fight unless attacked, and the governor returned to Wellington. An inspection of the Hutt Valley confirmed that it had been abandoned, martial law was lifted on 12 March, and punishment of Ngāti Rangatahi was put on hold until reinforcements could arrive from Sydney.[273] On the other hand, he also gave instructions for the valuation of the lost crops (eventually set by Grey at £301), although he continued to resist the notion that the two resident hapū needed to be paid also for the land itself.[274] There is no evidence, however, that Ngāti Rangatahi (estimated to number 120 men at this point) ever received any of this money, although it may be that a portion had been intended for them. The Waitangi Tribunal has summarised:

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[270] Taylor journal, vol 3, 8 March 1846, qMS-1987.
[271] Taylor journal, vol 3, 9 March 1846, qMS-1987.
[272] Taylor journal, vol 3, 9 March 1846, qMS-1987.
[273] Waitangi Tribunal, *Whanganui a Tara*, pp 212-3.
[274] Waitangi Tribunal, *Whanganui a Tara*, p 213.

> With 340 troops and two cannon at his back, Grey insisted on dictating terms, regardless of Ngāti Rangatahi Treaty-guaranteed right to retain their land or if they wished to sell it, to do so on terms and at a price freely agreed to by them. Kaparatehau refused to accept Grey's terms, and Ngāti Rangatahi were persuaded to leave only under threat of attack by Grey's soldiers. They were then further punished for their 'defiance' by being denied compensation for their crops, their other possessions, and, above all, for their land.[275]

3.3.2 The capture of Te Rauparaha

Instead of being compensated, two Ngāti Rangatahi were arrested and tried for their participation in the muru against settlers at Waiwhetū. This was followed by the killing of two Pākehā (Gillespie and his son) just north of Boulcott's farm, on 2 April. Te Rauparaha and Te Rangihaeata came under immediate suspicion – and pressure to hand over the culprits. Although Te Rangihaeata, by Grey's own admission, had committed 'no overt act of hostility' other than refusing to allow stock to pass along the road, he considered the 'language and demeanour' of the chief to be such as to cause just ground for apprehension'. On the other hand, at first, Te Rauparaha was deemed friendly to the government's cause. He had sent word to the Governor blaming Whanganui Māori for the killings and denying any involvement of his own people. He even invited Grey to send men to Porirua to arrest them, but in the meantime they had escaped into the bush. Grey then came himself. Te Rauparaha assured him that, with the exception of a force of some 180 men, 'the feeling of the whole native population along the coast was in favour of their being given over to justice…' and that measures were being taken by Māori themselves to prevent their escape. He expressed himself as anxious, however, that letters be first sent to Rangihaeata and the 'principal chiefs in insurrection', informing them that the government had 'no intention of injuring those who committed themselves properly'. Grey agreed to this step in order to relieve any anxiety that he intended to 'take indiscriminate revenge', while insisting that the murderers (of the Gillespies) be given up. Te Puke, Te Matia and Kiharoa wrote to the Governor lest he 'misapprehend our intentions or that we have any idea of joining Rangihaeata.' They assured Grey: 'We have no such intention. We have no other views but those of yourself and Mr Hadfield.' They then responded to the Crown's demand that they apprehend the 'murderers' saying that it was unclear whether they would come to the Manawatū, and suggesting that Grey should command his soldiers 'to fight at once' lest they lose credibility in the eyes of Maori who were taunting them.[276]

On report that some of the men who had accompanied Te Rauparaha had received and given shelter to one of the marauding party, Grey concluded that either the chief was not to be trusted, or the section of Ngāti Toa still residing at

[275] Waitangi Tribunal, *Whanganui a Tara*, p 213.
[276] Te Matia, Te Puke and Kiharoa to Governor, Governor's letterbook, n.d., MA7/1.

Porirua professing friendship to the Crown were too weak to withstand Rangihaeata's influence. In either case, Grey considered Porirua to be the key to the whole of the Wellington region and all roads to other settlements passing through it, so he decided to occupy and hold the district with a strong military force.[277] Te Rauparaha returned with messages from the chiefs whom Grey deemed had been protecting the marauders, refusing to intervene on the Crown's behalf and (according to Grey) expressed himself as fully concurring in his plans to take possession of and occupy those parts of Porirua belonging to the 'disaffected natives' as 'the only mode by which … the permanent tranquillity of the district' could be secured.[278] In mid-May, a force of Māori led by the Whanganui chief Te Mamaku, who had links to Ngāti Rangatahi, attacked the military outpost at Boulcott's farm, resulting in casualties on both sides.[279] Again there was no direct evidence of Te Rangihaeata's involvement in the attack, although a bugle taken from the soldiers was later found in the possession of his men. Wards also considers that his support would have been necessary to make up the numbers in Mamuku's force, estimated to be 200 strong.[280]

Te Rangihaeata had consistently supported Ngāti Rangatahi's rights and had refused to demand their expulsion from the Heretaunga; and although promising not to actively oppose the government, had also said he would fight if Māori were attacked. From the first, he was considered to be in 'rebellion'. Over the course of the next three months, Grey convinced himself that Te Rauparaha was also involved and a 'rebel' as well. He was anxious lest government forces found themselves fighting on two fronts and set out to find evidence to support his suspicions. He did not have to look further than information provided by contesting chiefs.

In his despatch of 20 July 1846, Grey enclosed a statement from Ngahupa, and Taowaroro of Patukohuru, based at Manawatu, complaining that they had been prevented from taking four pigs from Thomas Cook to Captain Sharp, being ordered by some of the people at Taupo pā to turn back, since the road had been made 'tapu' by Rangihaeata. On the following day, they had made another attempt, at Te Rauparaha's direction, but were stopped again and driven back by a man wielding 'a big stick'. In their view, this action was directed against them by Rangihaeata because they had failed to assist him in his confrontation with settlers and government. According to the authors of the letter:

> Te Rauparaha told us but once to go on with the pigs; he did not make any effort, as far as we are aware, to secure our coming on. … None of the natives had guns who stopped us. The natives told us that it was tapu by Rangihaeata on Monday last, by calling it his *backbone*, as retaliation for leaving him alone to fight his own battle.

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[277] Lieutenant Governor Grey to Lord Stanley, 7 April 1846, *BPP*, vol 5, 1846-47, p 460.
[278] Lieutenant Governor Grey to Lord Stanley, 7 April 1846, *BPP*, vol 5, 1846-47, p 461.
[279] Waitangi Tribunal, *Whanganui a Tara*, p 215.
[280] Wards, *Shadow of Land*, p 267.

> On Wednesday night, a lad from Pauatahanui came to Taupo to say that the coast road was made tapu by Rangihaeata, and Rauparaha replied by saying that no persons were at Taupo to carry the tapu into effect; but he did not prevent the natives of Taupo from stopping us; all he did was to recommend us to come on with the pigs.[281]

Grey considered this to be a breach of promises made three months earlier when Rangihaeata had first declared the aukati, that they would not upon any future occasion be in any way concerned in such proceedings'.[282] On this rather slight provocation, Grey proceeded north, incensed that 'reputed allies' had connived in blocking the road again, this time in the 'very vicinity' of the British camp.[283] Grey instructed that the pigs should pass through, sending word to Te Rauparaha and the other chiefs that he would not receive them on board the *Driver* until they had complied with his orders. The pigs had already been sent back to the Manawatū, and the interpreter (Servantes) returned on board with Te Rauparaha and some of the other local chiefs, who assured Grey that the affair had been 'somewhat misrepresented' and that there would be no re-occurrence. Grey professed himself as having been entirely satisfied by these assurances; but reported to the new Secretary of State (Gladstone) that since then, he had 'positively ascertained from two important chiefs, upon whom every reliance may be placed, that the pigs were at the very time these statements were made detained in the pah, and that they were telling a deliberate and intentional falsehood'.[284] According to Grey, one of his informants was a 'close relative' of Te Rauparaha. Grey thought that Te Rauparaha was playing a deep game, 'shocked' by Te Rangihaeata's actions, apprehensive that he would be 'ultimately seized and punished', wanting him to desist and retreat into the interior from where he could then negotiate terms with the government, but 'in the meantime, under the guise of assisting us ... doing everything in his power to prevent me from seizing Rangihaeata, and to keep him aware of our movements and supplied with provisions'.[285]

Over the next two months, letters implicating Te Rauparaha came into Grey's hands. One, from Te Mamaku, dated 25 May, had been sent to the chiefs at Wanganui asking that non-Christian Māori be allowed to travel south to 'hear the particulars of the war we are carrying on' and stating that Te Rauparaha had given his consent. The other, dated 9 July, had been intercepted. This had been written by Maketū (Te Rangihaeata) and was addressed to Te Rauparaha himself asking, '… let your influence be shown and soften the determination of the Ngātiawas at Waikanae, and the Ngātiraukawa, so as to allow us to pass through and pay a visit to your children'.[286] A third letter from Wiremu Kingi and other chiefs based at Waikanae alleged that a number of hostile parties had travelled

[281] Grey to Gladstone, 20 July 1846, enclosure in no 28, *BPP*, vol 5, 1846-47, p 494.
[282] Grey to Gladstone, 20 July 1846, *BPP*, vol 5, 1846-47, p 493.
[283] Grey to Gladstone, 20 July 1846, *BPP*, vol 5, 1846-47, p 493.
[284] Grey to Gladstone, 20 July 1846, *BPP*, vol 5, 1846-47, p 492.
[285] Grey to Gladstone, 20 July 1846, *BPP*, vol 5, 1846-47, p 494
[286] Grey to Gladstone, 20 July 1846, enclosures 1 & 2 in no 29, *BPP*, vol 5, 1846-47, p 496

down the coast to join Rangihaeata 'for the purpose of killing the white people'. They complained that the road had been made tapu to 'prevent the quiet and well-disposed from bringing down their pigs to Wellington', and claimed that Ngāti Toa were 'aiding or strengthening' the disaffected party at Heretaunga.[287] Te Rauparaha, Grey concluded, was complicit, as evidenced by the fact that hostile Māori were 'unhesitatingly' travelling along the road and addressing themselves to that chief as the person upon whose influence they relied for safe passage. A crisis, so Grey informed Gladstone, was approaching. Not only did he suspect Te Rauparaha's intentions but also decisive action was required to bolster the confidence of the 'friendly natives' in the puissance of the British forces.[288] And from a different perspective, it would 'give the most public and convincing proof to the natives along the coast and throughout the interior, that [he] would carry into effect [his] threats of punishing any chiefs who should assist in forwarding rebellion and disturbances in this country.'[289] In Taylor's opinion, it certainly unsettled them.[290]

In his despatch of the following day (21 July 1846), Grey informed Gladstone that he was travelling up the coast in the *Driver* to attempt to seize Te Rauparaha and disarm the disaffected portion of Ngāti Toa at Taupo pā if he could find fresh cause to confirm his suspicions against the chief. He anticipated that the suddenness of this movement and the size of his force, part of which would be left at Porirua, would prevent Rangihaeata from coming to his uncle's assistance.[291] On reaching Waikanae, he heard the rebels were still encamped about 20 miles to the north. Four 'principal' Te Ati Awa rangatira were taken on board, where they were joined by the six 'principal chiefs' of Ngāti Raukawa at Ōtaki. (They were not named in despatches but, it would seem, included Te Matia, Te Ahu and Te Puke.[292]) On reaching Ōhau, however, the troops could not be landed, and the party returned to Ōtaki.[293] Although the original intention had been to attack hostile parties from Whanganui as they moved down the coast, this proved to be unnecessary since they were stopped at Ōhau by 'friendly natives'.[294]

Grey elaborated on the evidence he had gathered of Te Rauparaha's involvement in Te Rangihaeata's 'rebellion'. During this abortive foray Grey had spoken with several of the chiefs and, he reported, 'the whole of the chiefs . . . declared that these disturbances were to be entirely attributed to the intrigues of Te Rauparaha,

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[287] Enclosure 3 in no 29, Grey to Gladstone, 20 July 1846, *BPP*, vol 5, 1846-47, p 496
[288] Grey to Gladstone, 20 July 1846, *BPP*, vol 5, 1846-47, p 496
[289] Grey to Gladstone, 23 July 1846, no. 79, WO1/526, cited Wards, *Shadow of the Land*, p 279
[290] Taylor to McLean, 10 Novemner 1846, McLean MSS, folio 391, cited Wards, *Shadoiw of the Land*, p 278.
[291] Grey to Gladstone, 21 July 1846, *BPP*, vol 5, 1846-47, p 497.
[292] Te Matia, Te Ahu and Te Puke to Governor, 28 October 1846, Governor's letterbook, MA7/1.
[293] Grey to Gladstone, 23 July 1846, *BPP*, vol 5, 1846-47, p 497.
[294],Grey To Gladstone, 31 August 1846, Major Last to Grey, 4 August 1846, enclosure 2 in no 34, *BPP*, vol 5, 1846-47, p 500.

and some of the chiefs of the pah of Taupo at Porirua'.[295] They told Grey that Te Rauparaha's adherents had been supporting the tapu despite their repeated statements to the contrary, and that the aukati had been established to 'convince the tribes of the interior of the weakness of the Europeans, and the extent of the influence of Rangihaeata', and that it was producing the greatest effect throughout the country.[296] The chiefs he had taken aboard the *Driver* denied any knowledge of, or complicity in, these goings-on:

> I also understand from the chiefs of Otaki, Te Rauparaha's principal place of residence, that that chief had altogether deceived them, and that, instead of fulfilling his promises of joining them for the purpose of preventing parties of rebels passing down the coast to murder European settlers, he was in fact conniving at their so doing.[297]

Thus bolstered in his belief that Te Rauparaha was the 'directing head' of a 'dangerous and extensive conspiracy', Grey sent in the troops. He returned to Porirua to pursue his original intention of sending an armed party on shore to seize him and the other 'principal chiefs who had been concerned in enforcing the tapu'.[298] According to a report in the *Weliington Independent*, a party of police had been left at Ōhau.[299] The landing party comprised a mixed force of some 140 soldiers, sailors, and armed police.[300]

Te Rauparaha and his companions were taken by surprise, greatly outnumbered, and were unsuccessful in their attempts to fight their way free. Te Rauparaha was reported to have 'struggled so violently that his captors were compelled to carry him on board'. [301] Thirty-two muskets, and five full and three half kegs of powder were confiscated from the pā of Te Rauparaha and the 'disaffected natives' at Taupo.[302] According to Carkeek, Te Rauparaha was informed that Grey had ordered that he be taken on board the *Calliope* to be tried for supplying arms, ammunition, and provisions to Te Rangihaeata.[303] That trial never happened. Instead, he was kept on board *Calliope* for ten months and then held at Auckland under house arrest for the next year and a half while the government set about taking advantage of his and Te Rangihaeata's absence to push through the 'purchase' of Wairau and Porirua.

There was no general uprising in support of Te Rauparaha, or Te Rangihaeata, although a number of rangatira and hapū criticised Grey's actions. Topeora wrote

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[295] Grey to Gladstone, 23 July 1846, *BPP*, vol 5, 1846-47, p 497.
[296] Ibid., p 498.
[297] Grey to Gladstone, 23 July 1846, *BPP*, vol 5, 1846-47, p 498.
[298] Grey to Gladstone, 23 July 1846, *BPP*, vol 5, 1846-47, p 498.
[299] *Wellington Independent*, 1 August 1846, p 2.
[300] Grey To Gladstone, 31 August 1846, Major Last to Grey, 4 August 1846, enclosure 2 in no 34, *BPP*, vol 5, 1846-47, p 501.
[301] *Wellington Independent*, 1 August 1846, p 2.
[302] Grey To Gladstone, 31 August 1846, Major Last to Grey, 4 August 1846, enclosure 2 in no 34, *BPP*, vol 5, 1846-47, p 501.
[303] Carkeek, *The Kapiti Coast*, p 78.

to Grey asking for Te Rauparaha's release, as did Te Heuheu. In August, Te Heuheu had visited Wellington to see the Governor, informing Taylor that Grey's accusations were unfounded, and that the Te Rauparaha was being belittled and treated unfairly. He also later accused the Waikanae people of attempting to attack him on his return up the Kapiti Coast, writing to Grey from Putiki:

> This is a grievous thing, to me the way in which you have beaten Te Rauparaha and for this reason you are getting a bad name, but now the natives have seen your evil disposition and they will now be suspicious of your mode of adjusting matters. You are showing your mode of proceeding in taking land and enslaving Te Rauparaha.
>
> Governor, dark are the feelings of all the chiefs of this land, if you do not approve of releasing Te Rauparaha immediately, friend it will not be a good proceeding of yours. You say that the war is at an end, then let him be released.[304]

Te Heuheu blamed the influence of Christianity for the failure of the Otaki-based Ngāti Raukawa to come to the support of the two leaders.[305] Grey assured him that Te Rauparaha's arrest was merited: 'I am sure when you have heard all the evil of Te Raupahara's conduct, you will see that I have acted rightly, and that your thoughts upon this matter will be the same as my thoughts'.[306] As we noted earlier, the Waitangi Tribunal did not come to that view!

In fact, although the Ōtaki community largely refrained from joining Te Rangihaeata (discussed below) they thought the imprisonment of Te Rauparaha unjust. Grey having proved deaf to Ngāti Toa pleas for his release, Hakaraia next wrote to Bishop Selwyn on behalf of the 'elders' at Ōtaki. Ngāti Toa, the letter stated, had 'implored' the Governor to release Te Rauparaha to no avail:

> The Governor said, when in due course the countryside is settled (he can be returned). The Māori people say how can the lands be settled – we believe it must be through Te Rauparaha that it would be peaceful. … Māori people believe the Governor should abandon his notion that Te Rauparaha is a murderer. Māori thinking is this; Pakeha are a people who believe in good government in troubled lands in making them peaceful. Also we believe people must follow the advice of their elders, that way peace will be established. We, including you, are being watched by the people, who say they are giving us strong advice, they completely deny that Te Rauparaha is guilty of any crime. They say that the reason te Rauparaha has been captured is because of the blame for the Wairau.[307]

Ian Wards criticises Grey for his unjustified capture of Te Raupahara, outside 'enunciated policy and established law', and for 'his refusal to distinguish

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[304] Topeora to Governor, 15 August 1846, Governor's letterbook, MA7/1, Te Heuheu Iwikau to Grey, 22 September 1846, cited Carkeek, *The Kapiti Coast*, p 79.

[305] Inglis and Duncan, and Compton, Manawatū, 4 October 1846, portraying to His Honor the Superintendent their peculiar situation, interviews with the Natives, ACFP 8217 NM8/14 – 1846/455A.

[306] Grey, Letter to Te Heuheu Iwikau, n.d., cited Carkeek, Kapiti Coast, p 80.

[307] Ōtaki chiefs to Bishop Selwyn, 11 April 1847, AUL/TPM 1, Selwyn, George A (Māori MSS MP 90/5) 1843-1865; translated by P Walker.

between fomenting rebellion … and defending guaranteed rights and property…' Wards sees this 'lack of good faith in his dealing with Te Rauparaha nourished the feeling of distrust that led to the King Movement and the wars of the following decade.' He is critical, too, of the Colonial Office failure to censure Grey, warning him only of the risk he ran. In Wards' view this 'demonstrated once more that moral considerations, in dealing with Maoris, meant little to the Colonial Office when it came to practical politics'.[308]

3.3.3 The response to Te Rangihaeata's "rebellion"

Grey's pursuit of Te Rangihaeata and those he was supporting met with less success although the rangatira failed to rally the degree of support that European commentators feared. An appeal to the Kāwhia people was, for example, flatly rejected as doomed to fail:

> Your letter asking us to go and look after the death (or capture) of the Rauparaha has come to hand.
>
> We do not wish to go, let your evil rest with yourself and Honi Heke's with himself. You say that Rauparaha is the eye or centre of religion. No he is not, his doings are wrong, he is the eye or centre of lies and treachery. It was both of you that deceived the Europeans supposing that they would be destroyed by you. Can you dry up the waters of the sea, if not neither can you destroy the Europeans. Nor would the Europeans be destroyed by all of us Maories put together, but the Maories could be destroyed if they constantly annoy the Europeans. Therefore we say to you give up fighting with the Europeans, lose no time in making peace that you & your children may live.[309]

The question was debated within Ngati Raukawa also, but most remained neutral, influenced by the Christian message of peace, reluctant to be drawn into conflict with either Te Ati Awa or the government and anxious, in particular, not to threaten their access to trade and European goods. Te Rangihaeata was not welcome near Otaki. On the other hand, his occupation to the north at the Rangitikei River may have been regarded with some anxiety by rangatira who wanted to remain on good terms with Crown and settlers, but was not seriously challenged.

Undoubtedly, some Ngati Raukawa did join Te Rangihaeata in the fighting but it is difficult to know exactly who and how many, since assessments are largely dependent on correspondence of rangatira, declaring their support for the Crown and the often less than reliable judgments of European observers and the government's Maori allies. Ngati Huia and Ngati Whakatere were identified by contemporary sources as supporting the chief, while oral tradition also identifies Ngati Huia as providing Te Rangihaeata the support denied him by the Christians at Otaki (as discussed below).

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[308] Wards, *Shadow of the Land*, p 281.
[309] Letter from Kāwhia, 28 December 1846, qms-1206.

As Professor Boast explores in detail in his report, Christianity played an important role here; certainly, as noted in the preceding section, this was Te Heuheu's conclusion with regard to the failure to rise to protest Te Rauparaha's arrest. According to one account (predating that move on Grey's part) on information supplied by Maori who had allied themselves to the Crown, Te Rangihaeata had received 'a considerable accession to their numbers from the heathen natives of the Ngatiraukawas dwelling at Otaki.'[310]

Te Rangihaeata abandoned his pā at Pāuatahanui. His band, estimated at 200 (including women and children) was outnumbered by at least two-to-one by Government forces who had been joined by 150 Māori drawn from Te Atiawa and Pūaha's section of Ngāti Toa,[311] They pursued him as he retreated up the Horokiri valley (near Battle Hill). Both contemporary sources and oral tradition question how far Rawiri Pūaha's men truly were in pursuit; or were they warning Te Rangihaeata of the approach of the government's forces? This was certainly a suspicion expressed by colonists at the time and seemed to be confirmed by Te Mamaku who later said that the Ngati Toa had supplied them with food and cartridges under cover of night.[312]

Engaging with his warriors at 'Battle Hill' at Paripari, two of the British troops were killed and nine wounded. Te Rangihaeata also sustained losses, with five men reported to have been killed and two wounded, but given the strength of the stockade, and calculating that they were poorly provisioned and would be compelled to abandon their position within days, the commander of the British forces withdrew, leaving their Māori allies to 'carry out their own plans' of cutting off supplies and force a retreat.[313]

Wiremu Kingi and his party captured eight of Rangihaeata's men when they came out of the hills to find supplies. They then pursued his band until they reached Waikanae, at which point they abandoned the chase, it being 'out of their district'.[314] According to the report of Major Richmond, the Te Atiawa contingent considered that they had 'performed their duty' in driving them out off their lands, and Wiremu Kingi that he had fulfilled his promises to the Governor.[315] By this stage, Wards comments, the government's Maori allies were nearly as miserable as the fugitives and they largely abandoned their pursuit even when the

[310] *New Zealand Spectator and Cook's Strait Guardian*, 3 June 1846, p 2.
[311] See Wards, *Shadow of the Land*, p 284; *New Zealand Spectator and Cook's Strait Guardian*, 3 June 1846, p 2.
[312] See for example, journal of Mrs Elizabeth Hollard, cited Wards, *Shadow of the Land*, p 284; King to Richmond, 29 September 1846, NM8/5 46/450.
[313] Grey to Gladstone, 31 August 1846, Major Last to Grey, 10 August 1846, enclosure 3 in no 34, *BPP*, vol 5, 1846-47, p 501.
[314] Grey to Gladstone, 18 September 1846, Major Last to Richmond, 3 September 1846, sub-enclosure in no 38, *BPP*, vol 5, 1846-47, p 508.
[315] Grey to Gladstone, 18 September 1846, Richmond to Colonial Secretary, 1 September 1846, enclosure 1 in no 38, *BPP*, vol 5, 1846-47, p 507.

capture of three women and a child, half dead from hunger, indicated that Rangihaeata's forces were in a similar plight.[316] Wards' assessment is borne out by the discussions held at Ōtaki at the end of August, when Pūaha, accompanied by one of the British officers and an interpreter, attempted to garner further support for the pursuit. They refused, expressing 'their determination not to take any active measures' against Te Rangihaeata, but they did promise to 'oppose any body of natives who might come down with any hostile designs against the Europeans'.[317]

W T Power who was commissariat officer provided a highly coloured and somewhat questionable account of the great "kōrero" at Ōtaki, Power expressed doubt of success in persuading those gathered to assist in the campaign because of the losses already sustained by the pursuing forces. The meeting determined to remain neutral in the matter. He recorded that the participants expressed the 'highest opinion of the absent Governor and the English "rangatiras" present'; although they refused to pursue Rangihaeata, neither were they prepared to join him. According to Power the pleas of Topeora on behalf of her brother were rejected in no uncertain terms:

> Rangihaeata's sister … addressed the meeting in favour of her absent brother, making at the same time, some very unparliamentary remarks on the aggressions of the pakehas, and the want of pluck of the Maories in not resisting them… An old chief requested her to resume her seat, informing her at the same time, that she was the silly sister of a sillier brother, and no better than a dog's daughter. He then put it to the meeting whether pigs and potatoes, warm fires and plenty of tobacco, were not better things than leaden bullets, edges of tomahawk, snow, rain, and empty bellies? All the former , he distinctly stated, were to be enjoyed in the plain; the latter they had had painful experience of in the mountains; and was it to be expected that they … could be such fools and hesitate for a moment? The applause of the old chief's rhetoric was unanimous; and it received no slight help from the timely appearance of a procession bearing the materials for a week's feasting.[318]

Eventually it was agreed that Pūaha and his followers should carry on towards the Manawatū River, where they expected to 'fall in with, or obtain tidings of the enemy, it being supposed that they were making for Rangitīkei' There, Te Rangihaeata would be 'amongst his own friends and allies'.[319] Otherwise, it being found 'impracticable to make the friendly Maories to take to the bush again',

[316] Wards, *Shadow of the Land*, pp 286-7.
[317] Servantes to Major Last, 30 August 1846; Major Last to Richmond, 30 August 1846, *BPP*, vol 5, 1846-47, pp 512-3.
[318] WT Power, *Sketches in New Zealand*, London, 1849, p 34.
[319] Stanley to Grey, 23 August 1846, *BPP*, vol 5, 1846-47, p 512.

Power commented, 'our small force could do nothing' and the militia carried on to Porirua.[320]

It is not certain how accurate Power's unofficial account is; certainly the insult offered to Topeora was colourful and, in fact, she had expressed different sentiments shortly before the meeting, writing to Grey:

> I am here lamenting. I am here in a state of grief on account of his (i.e. Rangihaeata) misdoings. My endeavours to persuade him (against them) have been great, and he did not listen to me. My persuasion was great indeed. I said to him to cease from doing evil but he still persisted.[321]

At the same time, she maintained her plea for the release of Te Rauparaha.[322]

Over the next two months, the Christian leadership of Ngāti Raukawa based at Ōtaki whose plantations were being raided by Rangihaeata's people, and realising that the tide had turned, had little interest in being identified with 'heathens' and 'rebels'. On 1 September, Richmond reported that Mātene had travelled to Port Nicholson to inform him that the 'Otaki natives also intend to proceed as far as the Manawatu, to ascertain if possible, the direction the rebels have taken, and to prevent any of them establishing themselves in their neighbourhood.'[323] Rangihaeata was asked to move on. Hakaraia Te Reinga wrote from Otaki, informing Richmond a few days later:

> Rangihaeata has been here, and the old men (Chiefs) have been to see him, with the view of persuading him to go from hence, but he is stubborn – perhaps he may listen. It is not yet clearly ascertained whether he intends to remain or go. If they persist in remaining it will be a cause of grief to us. It was with a view to discourage Rangihaeata's proceedings that our Chiefs visited him. We were firm in urging him to remove a distance. I never met with a man who had become reckless or given over to mischief as Rangihaeata; he is endeavouring to bring trouble here. But let us hope for the best. [324]

Taratoa also wrote, reporting to Richmond, that they had 'strongly urged' Karamu to go to 'his own place of residence' at Whanganui which he had done. Rangihaeata was another matter, however. He had 'left Otaki, Waikawa, Ohau' and was now at Poroutawhao. They were 'anxious' about his intentions, which they had been unable to ascertain, and how they might affect their relationship to the Crown. 'Nevertheless,' he asked Richmond, 'be sincere in your attachment to us.'[325] Te Puke, Te Matia and Te Ahu who had visited Hadfield and Richmond

[320] Power, *Sketches in New Zealand*, p 34.
[321] Topeora to Grey 15 August 1846, Governor's letterbook, MA7/1.
[322] Topeora to Grey 15 August 1846, Governor's letterbook, MA7/1.
[323] Grey to Gladstone, 18 September 1846, Richmond to Colonial Secretary, 1 September 1846, enclosure 1 in no 38, *BPP*, vol 5, 1846-47, p 508.
[324] Hakaraiah Te Reinga, 4 September 1846, Governor's letterbook, MA7/1.
[325] Taratoa to Richmond, 19 September 1846, Governor's letterbook, MA7/1.

similarly assured Grey of their 'fulfilment' of his wishes and the 'promises' they had made when on the steamer prior to the capture of Te Rauparaha. They had 'determined to request or urge' Rangihaeata to move 'further off' from Ōtaki while Karamu had been gone 'for some time' but that they could not guarantee the disposition of those chiefs since 'the thoughts of the heart are concealed from the eye.'[326] Two letters had also been sent in by the lay teacher, Rīwai Te Ahu, reporting on their efforts to persuade Rangihaeata to leave Pakakutu (part of the Ōtaki pa) where he had 'made an appearance', sitting down near the church; that they were fortifying Waikanae as a precaution; and thanking the Governor for his kindness to the community there and, at Ōtaki, in sending mills, coats and a writing desk containing paper, pens, a seal and wax.[327]

In early October, local missionaries, Duncan and Inglis, confirmed that Te Rangihaeata and his party had arrived at Poroutawhao, where they had allies. According to Duncan:

> Te Ahi the principal Chief in that Settlement is well known for almost everything [but] his good. It is said that on the capture of Te Rauperaha [*sic*] he proposed making an attack on the Settlers on the Manawatu, but was prevented by the friendly natives. He lent all the assistance in his power to Maketu and the Wanganui Natives, and all along he has made no secret that Rangihaeata & he are one in heart.[328]

Apparently, 'Ahi' (or Te Ahiaho) had retreated upriver when a party of military and 'friendly natives' were reported as approaching. Once his pursuers had abandoned the chase, Te Rangihaeata had immediately set about trying to gather support among the hapū resident in the area but he met with a mixed response. At Parewanui, 'the feeling [was] decidedly against him'; but at Te Awahou, it was 'more in favour of Rangihaeata, Karamu and all that party'.[329] Duncan suggested:

> Rangihaeata on his arrival at Poroutawao sent small parties of his men up the Manawatu to invite all the natives who were friendly to him to meet with him there. Taratoa, Taikaporua, Mark & their people and the natives at Te Rewa Rewa & Pukatotara are all grieved at his approach, but the heathen portion of the Ngātiwakatere Tribe, residing a little above Te Maire, comprising between 30 and 40 fighting men, the Chiefs of whom are Nga Ahi [E] [popa] & Tamarua went all to visit him, ostensibly to hold a tangi, but evidently to supply him with food, and consult as to his future movements. The same party harbored [*sic*] Maketu and his followers and supplied Karamu and his men with

[326] Te Mātia, Te Ahu and Te Puke (written by Zachariah) to Grey, 26 October 1846, Governor's letterbook, MA7/1.
[327] Rīwai Te Ahu to Grey, 15 & 26 September 1846, Governor's letterbook, MA7/1.
[328] Inglis and Duncan, and Compton, Manawatu, 4 October 1846, portraying to His Honor the Superintendent their peculiar situation, interviews with the Natives, ACFP 8217 NM8/14 – 1846/455A.
[329] Inglis and Duncan, and Compton, Manawatu, 4 October 1846, portraying to His Honor the Superintendent their peculiar situation, interviews with the Natives, ACFP 8217 NM8/14 – 1846/455A.

> provisions while they remained at the mouth of this river, and they have made tapu a quantity of Potatoes at present for Rangihaeata. [*Underlines in original*][330]

A letter from George Compton, advocating a pre-emptive strike against Te Rangihaeata's kāinga and pleading for military protection of the scattered settler population, put the number of Ngāti Whakatere, 'before neutral' but who were now joining Rangihaeata, at seventy, while 'about half the Rangitikei tribe [had] declared in his favour'.[331] On this information, Richmond concluded that should Rangihaeata be attacked, he could rally at least 200 men from local tribes but could not command that extent of support if he attempted to attack southwards towards Wellington.[332] As Wards points out, Grey 'refused to be drawn into the wilderness of the Foxton swamps, and the real nature of this tribal association was never tested.'[333]

It is apparent that Taratoa of Ngāti Parewahawaha, then based at Maramaihoea (opposite Parewanui), remained aloof. Later in the month, the *New Zealand Spectator and Cook's Strait Guardian* reported that Rangihaeata, who was described as the 'head of a depressed but still dangerous and not to be despised party', had attempted to persuade Taratoa to order all Europeans out of the district. Accompanied by Kebbell, Compton, and Thomas Cook – Taratoa had met with Rangihaeata, who had threatened to kill Cook for his alleged role in Te Rauparaha's capture. He claimed that people were coming from 'Rangitikei and all parts' to join him.[334] Fear that this might, indeed, be the case, and that Māori from the interior might join Rangihaeata in the occupation of land at the Rangitīkei River, would prompt the Crown to undertake purchase negotiations with the well-disposed Ngāti Apa (see chapter 4). Hearn remarks of this incident that it was an 'early indication of the complexities McLean would encounter when he embarked upon the acquisition of Rangitikei-Turakina'.[335]

Those purchase negotiations would also reveal the fate of Ngāti Rangatahi. As the Tribunal has pointed out in its Whanganui a Tara report, Grey's 'pacification' of the Wellington district meant they were unable to return to their homes at Heretaunga. One section of Ngāti Rangatahi returned to the upper Whanganui where they had to gift a barrel of gunpowder to Taonui Hīkaka of Ngāti Rora for

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[330] Inglis and Duncan, and Compton, Manawatu, 4 October 1846, portraying to His Honor the Superintendent their peculiar situation, interviews with the Natives, ACFP 8217 NM8/14 – 1846/455A.
[331] Inglis and Duncan, and Compton, Manawatu, 4 October 1846, portraying to His Honor the Superintendent their peculiar situation, interviews with the Natives, ACFP 8217 NM8/14 – 1846/455A.
[332] Richmond to Colonial Secretary, 14 October 1846, NM 10/4.
[333] Wards, *Shadow of the Land*, p 288.
[334] *New Zealand Spectator and Cook Strait Guardian*, 14 October 1846, p 2 & 31 October 1846, p 2.
[335] Hearn, 'One past, many histories', p 80.

the return of their 'estranged lands'.[336] Many of those who had occupied the valley, however, had come from Mōkau-Mōkauiti-Te Kuiti and, associated with Te Rangihaeata, accompanied that chief to his refuge at Poroutāwhao and were subsequently placed by him on land at Kākāriki on the Rangitīkei River. As we discuss later in the report, Crown agents did not include them in their purchase negotiations at either Rangitīkei-Turakina or Rangitikei-Manawatū because they were seen as an intruding and itinerant tribe who had no rights to the land they were occupying. Their subsequent protests did, however, eventually win them a small reserve at Te Reureu (discussed at chapter 8).

3.3.4 What was the impact?

After this demonstration of force, the introduction of a rudimentary machinery of law (discussed in the following section) and having won greater strategic control by redoubt and road-building and by alliance with Te Ati Awa against their recent rivals, Grey did not push the matter further. Martial law was lifted from the Southern District in March 1847 and the instructions that military posts were to be extended north of Paremata were withdrawn the following month.[337] Wards argues, however, that Grey had not abandoned his intention to 'conquer the Manawatu' and link the settlements of Wanganui and Wellington by European occupation. As we discuss in the following section, by this time, British law had been extended physically into the district by means of a police post at Ōtaki under the charge of Major Durie. The station would be vacated, however, when fighting broke out at Whanganui and Grey was forced to discard any plan he might have had of a military occupation of the Manawatū in the absence of the reinforcements he required.[338] Grey and Te Rangihaeata entered into compromise neither insisting on full concurrence with their authority. Although Te Rangihaeata was suspected of colluding with the upper Whanganui tribes in their attack on the Gilfillans – a suspicion apparently given some substance by his raid on Kapiti Island to seize gunpowder on the same day (in April 1847) - Grey chose to believe otherwise. Te Rangihaeata had sent him the money some among his party had seized along with the gunpowder and Grey concluded that the 'outrage indicated neither disaffection nor malice.'[339]

Te Rauparaha was finally released in January 1848, being dropped off by the Governor, at Ōtaki.[340] According to a report in the *New Zealander*, a 'great gathering of the tribe took place' several days later at which Te Rauparaha rebuked Ngāti Raukawa for their failure to avenge his disgrace. He avowed his intention to seek payment for the indignity, calling on 'his children' to take up his

[336] G Young and M Belgrave, 'Northern Whanganui Cluster- Oral and Tradtional History Report', Wai 903, A114, p 41.
[337] See Wards, *Shadow of the La*nd, p 289.
[338] Grey to McCleverty, 6 May 1847, WO1/528, p 45, cited in Wards, *Shadow of the Land*, p 289.
[339] Wards, *Shadow of the Land*, p 290.
[340] *New Zealander*, 16 February 1848, p 2.

cause. At the same time, he made clear that it was Te Atiawa not the Pākehā that any retribution would be sought: 'let the white people remain. I will have the Ngatiawas.'[341]

A meeting took place between Te Rangihaeata and Grey in September 1848 with more than a thousand Maori present. It was reported:

> He [Rangihaeata] said that he stood before the Governor free, that he had never been conquered, and that his own inclinations were still the same; but that he had grown tired of fighting because he saw no further good to be obtained by it; other customs were now prevailing, the Maories were gradually adopting the ways of the Pakeha which were not his ways, and therefore he should not further trouble the Pakehas unless they first injured him.[342]

He reluctantly agreed to surrender "Petomi" who was accused of murder. At the same time he also 'showed a reluctance to allow any more land to be sold between Porirua and Wangaehu'. However, the *New Zealand Spectator* was optimistic that 'his opposition to negotiations for the further sales of land by the natives to the Government [would] not be very serious.'[343]

The Waitangi Tribunal has strongly condemned the Crown's 'abduction' of Te Rauparaha and its actions in the Hutt Valley which had incited Te Rangihaeata's armed opposition. The decision to seize Te Rauparaha might have been prompted by pressing military concerns, but 'the falsity of Grey's suspicions that Te Rauparaha was 'treacherously' aiding Te Rangihaeata's supposed 'rebellion' is fully apparent from his subsequent failure to press charges against the rangatira from want of evidence'.[344] It also concluded that the 'ongoing detention … long after any immediate military fears had subsided pointed to Grey's underlying concern to impose substantive Crown control over the Cook Strait region.'[345]

W Carkeek argues that the capture of Te Rauparaha had caused 'mixed feelings' among Māori in most of the Te Ati Awa settlements in Wellington Province, and agrees with Wards that 'elsewhere particularly among the Ngāti Raukawa and Ngāti Toa it was regarded as a stealthy and somewhat underhand move by the Governor'.[346] Be that as it may, Te Rangihaeata and Te Rauparaha had failed to win the armed backing of all Ngāti Raukawa hapū and leaders. It is doubtful, of course, that they ever exercised such a capacity, but the question of the degree to which Grey had undermined their ability to influence the actions of those hapū is key to discussion of the Rangitīkei-Turakina purchase.

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[341] *New Zealander*, 16 February 1848, p 2.
[342] *New Xealand Spectator and Cook's Strait Guardian*, 13 September 1848, p 2.
[343] *New Xealand Spectator and Cook's Strait Guardian*, 13 September 1848, p 2
[344] Waitangi Tribunal, *Te Tau Ihu*, p 313.
[345] Waitangi Tribunal, *Te Tau Ihu*, p 313.
[346] Carkeek, *Kapiti Coast*, p 79.

The expulsion of Te Rangihaeata from the Porirua-Hutt area meant there was a direct down-flow effect on Ngāti Huia, Ngāti Whakatere, and other hapū allied to, or within, Ngāti Raukawa. Te Rangihaeata had been made unwelcome at the Christian-dominated Ōtaki but his occupation of Poroutāwhao was unchallenged and would serve its own strategic purpose. He continued to prevent Europeans driving stock from Ōtaki onto unsold land and discouraged European penetration of the Manawatū.

In the following chapter, we explore the further engagement of Ngāti Raukawa with the Crown, the pressure to allow an expansion of European settlement in the region and the role of Te Rauparaha and Te Rangihaeata in those developments as power and attitudes among Māori shifted. The dangers of settlement were apparent, as were the advantages that might come with a friendly relationship with the Governor and other important Crown officials –if they could be trusted to honour the promises made personally and contai9ned within the Treaty.

3.4 The 'law': armed police, resident magistrates, and assessors

Should Māori live under their own laws, in their own districts, or should European laws be applied to all the peoples of New Zealand and in all circumstances? At first, there was some acknowledgement in official circles that Māori customs would continue for the meantime and that some accommodation of their right to continue living according to their own laws and social arrangements had to be made. Over the course of the nineteenth century, there was discussion of possible Crown response to the question, including the recognition of separate powers of government and 'exceptionalist' laws for Māori. The prevailing assumption among officials and legislators was, however, that Māori would inevitably give up their customary usages for the superior European model whether concerning land ownership, property rights, or punishment of crime.

Normanby's Instructions to Hobson, on 14 August 1839, under which he was to obtain a cession of sovereignty from Māori had charged him to carefully defend Māori customs 'as far as these [were] compatible with the universal maxims of humanity and morals' until they could be brought within the 'pale of civilisation'. Cannibalism, human sacrifice, infanticide and, by further clarification, inter-tribal warfare, were to be 'interdicted'.[347] In addition, Māori were not to be subjected to any special disabilities or restrictions that did not apply also to Europeans.[348] Lord Russell's later instructions (9 December 1840) assumed the law of England to prevail but reiterated that Māori customs, with the exceptions already noted, should be allowed to continue until 'gradually overcome by the benignant influence of example, instruction and encouragement than by legal penalties.' A

[347] Normanby to Hobson, 14 August 1839, *BPP*, 1841, vol 3, pp 85-90.
[348] See Wai 1040, doc 3.3.402, p 42

positive declaratory ordinance to that effect (tolerating custom with those exceptions) was to be enacted. The Protectors were also to make themselves conversant with such customs and where necessary, arbitrate in disputes between Māori and European which were to be determined with due regard to Māori usages.[349]

Recognition that Māori did not fully understand English laws and institutions only went so far. The first Attorney-General, William Swainson, concluded with regard to the Wairau affair that neither Te Rauparaha nor Te Rangihaeata could be considered to have given 'their intelligent consent' to the Treaty although they had signed it (more than once), and 'in common with many others … had not the most remote intention of giving up their rights and powers of dealing, according to their law and customs, with the members of their own tribes, or of consenting to be dealt with according to our laws.'[350] Paul McHugh has argued, however, that while the Colonial Office accepted that Māori custom should be allowed to evolve, it rejected any suggestion that the Crown had failed to acquire sovereignty because 'intelligent consent' had not been given.[351]

Chief Protector Clarke designed a declaratory measure as directed by Lord Russell which would enable, also, the formal though limited involvement of Māori in the administration of law. The resulting Native Exemption Ordinance was issued by FitzRoy, in 1844, freeing Māori 'in certain cases from the ordinary operation of the law'. No action was to be taken in the case of crimes involving only Māori unless on the information of two rangatira. With regard to cases involving Europeans, if the offender lived outside of the towns, the warrant, issued by a protector, was to be sent to two chiefs who would be paid a reward if they made the arrest. In the case of theft, the convicted offender could also make restitution by paying a monetary penalty rather than going to gaol. Otherwise, there was no attempt to modify European legal concepts in order to adapt them to Māori customs and precepts. In fact, both settlers and the Colonial Office were critical of a measure that was seen as biased in favour of Māori and encouraging them to stand outside the English law. Grey was directed to amend the ordinance so that its application would be confined as far as possible to matters involving Māori only and to make no concession to law enforcement, short of provoking armed violence; or which, as it was phrased by Stanley, could be 'avoided by any means consistent with public safety'.[352]

In response, Grey passed the Constabulary Ordinance for the recruitment of armed police (including a number of Māori) and the Resident Magistrates Courts

[349] Russell to Hobson, 9 December 1840, *BPP,* 1841, vol 3, at pp 156-164.
[350] Swainson opinion, 13 July 1843, encl in Shortland to Stanley, 13 July 1843 (no 2), CO 209/22, cited in P McHugh, 'Brief of Evidence', 16 April 2010, Crown Law Office, Wai 1040, A21, pp 74-5.
[351] McHugh, 'Brief of Evidence', pp 75-6.
[352] Stanley to Grey, 14 August 1845, CO 209/29 cited A Ward, *A Show of Justice*, Auckland University Press, 1978, p 71.

Ordinance, in 1846, both measures intended to extend the reach of the English law over Māori but which also continued to incorporate them into its administration at least in a limited way. Alan Ward has commented that: 'The Resident Magistrate and his associated machinery were to become the most important institution mediating European law and administration to the Māori.'[353] It would seem that Grey had been thinking along these lines since his dealings with Ngapuhi dissatisfaction with government and the early impact of European settlement. Grey's ordinance gave the Resident Magistrate summary jurisdiction in disputes between Māori and Pakeha. In cases involving Māori only, he was empowered to constitute , a Court of Arbitration with two chiefs appointed as assessors. All three members of the court had to agree before any judgement could be carried into effect. Māori assessors were to assist in the control of their own people, delivering to resident magistrates those guilty of serious offences against settlers and report regularly on the state of their districts.[354] Like FitzRoy's earlier Native Exemption Ordinance, Māori convicted of theft could avoid gaol by paying to the court, four times the amount of the property stolen for compensation of the victim. No Māori was to be arrested outside towns except on warrant, issued now by the resident magistrate rather than a protector.

Grey appointed Major D S Durie as Inspector of Armed Police in Wellington – a force that included a number of Te Ati Awa in April 1846.[355] Durie led the constabulary force that participated in the 'arrest' of Te Rauparaha in July of that year and in the ensuing skirmishes along the coast. In early 1847, he was appointed a Justice of Peace and Resident Magistrate and stationed at Waikanae, which had been opened as a 'Port of Entry' for livestock, for which he acted as customs officer as well.[356] The latter appointment authorised Durie to examine shipping trading along the coast, or calling at Kapiti Island and to ensure that the excise had been paid on incoming tobacco and spirits. However, the position was abolished two years later owing to a decline in the coastal trade.[357] Over the ensuing years, he was involved in various matters from civil disputes about cattle trespass; to the prosecution of Skipworth [Skipwith] under the Native Land Purchase Ordinance 1846, which prohibited the direct lease of land by Europeans from Māori; to escorting the large monetary payments for Ngāti Apa's 1850 sale of Rangitikei-Turakina. Unfortunately, the records are sparse of details on most matters. Certainly, he was to report on what he considered to be provocative statements by Te Rauparaha at Waikanae with reference to the road going through their territory in 1848. He thought that little attention had been paid to the chief's warnings and that his influence was much reduced.[358] On the other

[353] Ward, *Show of Justice*, p 74.
[354] Ward, *Show of Justice*, p 74.
[355] A total of 16 Te Atiawa were employed as armed police out of a force of 70 men in 1846. See Wards, *Shadow of the Land*, p 292.
[356] Superintendent to Colonial Secretary, 25 March 1847, ACFP 8217 NM 8/16 1847/174.
[357] B Maysmor, *By His Excellency's Command: The Adventurous Life of David Stark Durie*, Porirua, 3002, pp 79-80.
[358] Durie report on korero of Natives at Waikanae, 26 April 1848, ACFP 8217 NM 8/29 1848/429.

hand, his own powers to control the actions of Europeans in breach of ordinances could be regarded with some scepticism by Māori. When an illegal squatter failed to remove himself from the district on Durie's orders, Ihakara queried:

> Mr. McLean and Major Durie have ordered this man away and he takes no notice of it. Mr. McLean often tells us that the Magistrates have power and the Europeans here often threaten to apply to a Magistrate but when we see your own people disobey how can you expect the Natives to pay attention to the orders of the Magistrate?[359]

As the threat posed by Te Rauparaha and Te Rangihaeata declined, the size of Durie's armed police force at Waikanae (which included Te Rangihiwinui) was reduced by a cash-strapped administration.[360] Durie himself remained stationed at Waikanae only until 1851, when he was transferred to Wanganui. He conducted a circuit court to Rangitikei from that location but there was no replacement in the Manawatu until the appointment of Walter Buller in the early 1860s. A number of assessors were appointed from among Ngāti Raukawa and their allied leadership strengthening their attachment to the Crown and their support in both its land and law operations. After Durie's departure, McLean reported to the Governor that the European and Māori residents at Manawatū had 'expressed a wish that an assessor should be appointed for their district to aid the Magistrate in assisting native disputes', and that 'Ihakara of the Ngātiraukawa tribe at Awahou [was] a most eligible person to perform the duties of such an officer'.[361] Tamihana Te Rauparaha was appointed at Otaki in 1853; Matene Te Whiwhi also in the 1850s.[362] Paraone and Wiremu Te Tauri ('a most exemplary and deserving chief' from Taupo) were mentioned by McLean as assessors to whom he would allocate a reserve out of the purchase of Rangitikei-Turakina, to 'ensure their cooperation in preventing aggression by the Taupo or any other tribes passing to and from the interior'.[363]

According to R A Joseph:

> Māori assessors were critical to the success of the system. Their working with the Resident Magistrate helped identify [him] as part of the local community, particularly where magistrates involved themselves sympathetically with the people and treated the assessors as responsible lieutenants. This measure reinforced group cohesion by not appearing to Māori as an appeal outside.[364] .

Joseph suggests, too, that assessors frequently heard cases on their own, but we have found no evidence of this happening in the Manawatū region. It seems

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[359] Letter enclosed in Best to McLean,. 26 October 1850, MS-Papers-0032-0161.
[360] Richard Hill, *Policing the Colonial Frontier*, vol 1, Wellington, 1986, p 299; Maysmor, *By His Excellency's Command*, pp 85 & 87.
[361] McLean to Governor, 21 October 1852, ACIH 16057 MA 24/8/16.
[362] *New Zealand Spectator and Cook's Strait Guardian*, 20 August 1853, p 4.
[363] McLean to Civil Secretary, 26 June 1852, ACIH 16057 MA 24/8/16.
[364] RA Joseph, 'Colonial Bi-cultralism', Universiy of Waikato, FRST project, 1998, p 10.

3.5 Grey takes measures against the leasehold economy

Brad Patterson has pointed out that the New Zealand Company settlement at Port Nicholson formed a 'bridgehead' in which settlers 'impatiently milled in the 1840s, awaiting delivery of sections already long paid for in Britain'.[365] Enterprising and frustrated colonists soon began to enter into leasing arrangements with Māori right-holders in Manawatū as elsewhere in the country rather than waiting for the Crown negotiation of purchases under its pre-emptive regime. Grazing was transient in the area south of the Manawatu River, but several large and stable ventures were established on the north bank from the mid-1840s, where 'fortunate holders' enjoyed 'relatively undisturbed possession for more than two decades'.[366] Latecomers had no choice but to move further north, where they came into conflict with Company settlers on the newly acquired Rangitikei lands in 1849 and 1850.[367]

Patterson describes these arrangements as 'based in Māori custom, lightly wrapped in the trappings of English Common Law'. After lengthy discussion, terms were agreed upon, and the customary owners walked the boundaries with the pastoralists (or other lessees concerned), with natural features being chosen as markers wherever possible. Then the terms of occupancy were recorded in a European-style deed of lease and signed.[368] Hadfield, we note, translated one such document into Māori for William White after he had arranged for the lease of several hundred acres at Muhunoa in 1842.[369] That arrangement was, however, rejected by Te Rauparaha.

Francis Skipworth, a member of the British gentry and a New Zealand Company settler, following the adventures of Edward Jerningham Wakefield, also decided to explore the grazing potential of the lands between Horowhenua and Manawatū for himself. In 1844, he met and entered into leasing arrangements at Rangiuru with Mātenga Te Matia, with the approval of Te Whatanui. Skipworth was provided an escort so that he could visit and discuss the matter with Ngāti Huia and other hapū and almost immediately, he was married into their community, having six children with Hinenuitepō, the daughter of Mātenga and Paranihia Whāwhā, niece to Te Whatanui in whose kāinga, Kipa (the eldest of the sons) would be raised.[370] With these arrangements in place, Skipworth also began running stock on the lands between the Manawatu and Horowhenua Rivers, seemingly tolerated by Te Rangihaeata – although this changed when he

[365] B Patterson 'The White Man's Right: Alienation of Māori lands in the asouthern North Island districts, 1840-1876', in J McConchie, B Winchester, R Willis (eds), *Dynamic Wellington: A Contemporary Synthesis and Explanation*, VUW, 2000, p 161.
[366] B Patterson, 'Laagers in the Wilderness: The Origins of Pastoralism in the Southern North Island Districts, 1840-55', *Stout Centre Review*, 1 (3), p 8.
[367] B Patterson, 'Laagers in the Wilderness', p 8.
[368] B Patterson, 'Laagers in the Wilderness', p 8.
[369] C Lethbridge, *The Wounded Lion*, Christchurch, 1993, pp 91-2.
[370] Paranihia was the niece of Te Whatanui. See 'Kipa Te Whatanui – the Skipwiths', *Otaki Historical Journal*, 2013, p 15.

attempted to expand his operations, and the relationship between Te Rangihaeata and the Crown deteriorated. (See below.)

Crown officials condemned direct leasing from Māori as an impediment to settlement and an endangerment to the peace of the colony. Māori retention of land under customary tenure, modified by leasing arrangements which allowed them to acquire European goods, threatened the supply of Crown land and the colonising mechanism of the land fund. The principle of the land fund may be loosely summarised as to buy cheap from Māori, sell dearer to settlers, and use the profit to fund government and infrastructure. Māori would not suffer, it was argued, because they would benefit from the enhanced value of their remaining lands as well as the civilising benefits of settlers living among them and the introduction of key institutions such as schools and hospitals.

The 1841 Land Claims Ordinance had required all land transactions, including leases, to be based on a Crown grant to be legal. There was, however, no penalty for leasing land directly from Māori, and many squatters were prepared to take the risk, believing (with some justification) that neither Māori nor officials had any interest in evicting them from their run-holdings. Leases were extra-legal rather than illegal. Grey, however, sought to bring the practice under greater control. In 1846, he strengthened the government's hand by passing the Native Land Purchase Ordinance providing for the prevention by summary proceeding of unauthorised purchases and leases of land. The preamble of the ordinance stated that Crown control of the disposal of land was essential to the peace and prosperity of the colony, and 'to that end, the right of pre-emption in and over all lands … [had] been obtained by Treaty'. Grey thought the measure would benefit both settlers and Māori. It would provide security for capital investment so that 'an individual who had leased land and cut roads ... or perhaps erected a mill should not be turned off at the caprice of a parcel of savages…'[371] At the same time, it would prevent 'unsupervised' dealing in land still under native title, which was seen as leading to Māori degradation and 'habits of indolence', resulting ultimately in conflict between Māori 'haves' and 'have-nots' and between Māori and Pākehā.

On the ground, Crown officials continued to turn a blind eye to the practice, provided that there was no opposition from Māori, danger to the peace, or interference in their purchase operations. For example Durie was only instructed to undertake proceedings against Skipworth when Te Rangihaeata was provoked by his attempt to expand his grazing operations at Ngāti Raukawa invitation into driving his slock completely out of their territory, down to Waikanae. At the same time, Māori detained some cattle being driven along the beach by another colonist (Caverhill). A notice was issued in the Government Gazette, in July 1848, empowering Durie to take proceedings under the ordinance, and in August

[371] Cited in Waitangi Tribunal, *Wairarapa ki Tararua Report*, vol 1, 2010, p 51.

he was instructed to enforce its provisions against squatters north of Waikanae.[372] Durie ordered Skipworth out of the district, although he was given until the end of the year to make alternative arrangements and so that his sheep could have their lambs. On Skipworth's appeal to the Governor, Durie was instructed to let the stock remain between the Manawatu and Kukutauaki Rivers for the short-term. However, 'Skipworth must keep his sheep in such places as to avoid inciting the complaints of the Natives…' Should Māori require their removal at any time, the Government would have no alternative but to enforce the law.[373] Despite this warning, early in the new year, Durie reported that Skipworth had arranged with 'some of the Natives on the Manawatū river, between Bukkatotere [*sic* – Puketotara] and Te Rewe Rewe [*sic* – Rewa Rewa]' for the depasturing of stock. This already had caused 'much excitement with some of the Natives in that District'. Since this was a fresh breach of the Native Land Purchase Ordinance and 'interfere[d] with the contemplated purchase of the District', Durie asked whether he was to act under his earlier instructions, adding that he 'should be sorry again to commence proceedings without being allowed to carry them out'.[374] He was authorised, accordingly, 'to proceed at once against Mr Skipworth' to point out that there was plenty of room within purchased lands to which he could remove, and that 'if any other settlers with stock go anywhere between Porirua and Whangaehu', he was to take the same course.[375]

Ultimately, with greater success and speed in purchasing 'native land', the government would be able to offer a more secure Crown-derived title – either the freehold or by Crown licence – and direct leases became less attractive for settlers.[376] Even so, informal leasing continued in the Manawatū, despite legal prohibition. Patterson points out that pastoralists wielded considerable influence in provincial politics and were too powerful to be easily dislodged.[377] As a result, Ngāti Raukawa continued to run grass leases and to allocate among hapū those monies which formed an essential part of their income in the 1850s; they were a source of mana as well as enabling them to avoid the necessity of sale. Yet, being illegal, they were vulnerable to greater government intervention at its convenience when grass monies were blamed for tribal fighting and were condemned as interfering with its capacity to acquire the land from reluctant vendors. The ability of Crown officials to put pressure on graziers who held illegal leases would prove a powerful tool in future negotiations for native land as we discuss further in chapter 6..

[372] Eyre to Durie, 29 July & 5 August 1848, ACFP 8217 NM8/32 1848/833 & 876.
[373] Eyre to Domett, file note on Skipworth to Eyre, 19 September 1848, ACFP 8217 NM 8/35 1849/219.
[374] Durie to Colonial-Secretary, 24 February 1849, ACFP 8217 NM 8/35 1849/219.
[375] Eyre to Domett, File Note 6 March 1849, on Durie's letter, 24 February 1849, ACFP 8217 NM 8/35 1849/219.
[376] For discussion of this system see Patterson, 'Laagers in the Wilderness', pp 9-10.
[377] B Patterson, 'Laagers in the Wilderness', p 9.

3.6 Grey's land policy: response to the 'wastelands instructions'

Grey's military action in the Hutt Valley was followed by his 'purchase' of Porirua (discussed in the Waitangi Tribunal, Port Nicholson report) and of Rangitīkei-Turakina, which we discuss in full in chapter 4. He made a push, too, to settle the New Zealand Company claims in the Manawatū where Ngāti Raukawa were under pressure to 'honour' their bargain.

In the early years of the colony, there were two contrasting views held in Britain and by those involved in colonisation about the nature, and thus, the extent of Māori land rights and the necessity for their extinguishment. As a number of Waitangi Tribunal reports have discussed, on the one side were arraigned the Aborigines Protection Society, the Church Missionary Society, and the report of the influential 1837 House of Commons Committee on Aborigines in British Settlements which supported the view that Māori held valid property rights to all lands to which they laid claim. This proved to extend to the whole of New Zealand. As FitzRoy, who had briefly visited New Zealand in 1835 expressed it, Māori owned every acre of land in New Zealand. The countervailing view – and one that was widely held – was that Māori only owned the lands they were actively occupying and cultivating. The remainder was 'wasteland' that could be rightfully claimed by the Crown without the need to first extinguish native title.[378]

Normanby's Instructions and the Treaty itself showed that the former view had prevailed in the Colonial Office. Lord Normanby had instructed Hobson when obtaining a cession of sovereignty, to ensure that the interests of Māori were safeguarded by the Crown's pre-emptive right of purchase and a Protectorate Department which would scrutinise the Crown's acquisition of lands. Further, Māori were to be prevented from becoming the unwitting authors of injuries to themselves, and no land essential to Māori ongoing welfare was to be purchased. But at the same time that Normanby was instructing Hobson to enter into 'fair and equal contracts', he was also anticipating that land could be purchased cheaply and then on-sold at a handsome profit in order to finance government administration and the colony's infrastructure. This would mean (he thought) that only a small initial outlay would be required and that the colony would soon be self-financing, with the Crown able to take advantage of its monopoly position in the land market.[379] Nor would Māori be disadvantaged by such a system since he believed much of Māori land was of little value and would become useful only in the hands of settlers. The real price received by Māori would be in the manifold advantages of an industrious settler population living among them, the rising value of the lands they retained, and the benefits of civilisation. A number of Tribunals have noted that the idea was never communicated to Māori that pre-emption might mean more than the right of first refusal and would be used to pay for colonisation, or that it might apply to leases as well as sales of land. The

[378] See Waitangi Tribunal, *The Mohaka ki Ahuriri Report*, 2004, pp 64-68.
[379] Waitangi Tribunal, *Mohaka ki Ahuriri*, p 64.

Crown's ability to apply or remove pre-emptive powers to its own advantage would remain an important issue for Māori and especially Māori in the Manawatū-Rangitīkei region throughout the nineteenth century.

The position of Māori in the consideration of early policy makers declined as a result of hardening attitudes to the ownership of their 'wastelands'. Normanby's successor as Secretary of State for the Colonies expressed the view that imperial policy towards New Zealand should accord with the theories of de Vattel – namely, that European nations had the right to assume ownership of all lands in the 'New World' not settled or cultivated by the indigenous inhabitants. The New Zealand Company's ongoing complaint that the Treaty was a mistake and that Māori owned no more than 'a few patches of potato-ground and rude dwelling places' also had its effect. Emboldened by the Wairau crisis, the Company succeeded, in 1844, in having a parliamentary select committee investigate its case. The committee condemned the Treaty and found that the acknowledgement of Māori rights over New Zealand 'wild lands' had been an error.[380] News of the select committee findings may well hardened Hone Heke and Kawiti in their resolve to take armed action in the north, but how it was received in Wellington is not known.

Lord Stanley resisted these attacks on the principle underlying the Treaty guarantee of rangatiratanga over land and in a key speech to parliament in 1845, affirmed that Māori law and custom would still be respected, even when it conflicted with European precepts of land ownership and use:

> These laws, these customs, and the right arising from them, on the part of the Crown, we have guaranteed when we accepted the sovereignty of the islands; and be the amount at stake, smaller or larger, so far as native title is proven, – be the land waste or occupied, barren or enjoyed, – these rights and titles the Crown of England is bound in honour to maintain, and the interpretation of the treaty of Waitangi, with regard to these rights is, that except in the case of the intelligent consent of the natives, the Crown has no right to take possession of land, and having no right to take possession of land itself…[381]

However, Lord Howick, who had been chairman of the 1844 select committee and now elevated to the title of Earl Grey, had been appointed to the office of Secretary of State for the Colonies (succeeding Gladstone), and had very different ideas. He informed the Governor, Grey, that he did not believe that Māori owned the whole of New Zealand and that when British sovereignty had been declared in 1840, all areas not actively occupied by Māori should have been considered to be the property of the Crown. Although he conceded that it would not be practicable to overturn the Treaty, he famously instructed Grey that the

[380] Report from Select Committee on New Zealand, 29 July 1844, *BPP*, vol 2, Reports from the [1844] Select Committee on New Zealand, p 13.
[381] Stanley to Grey, 15 August 1845, *BPP*, 1845-46, vol 5, p 253, cited Waitangi Tribunal, *Te Tau Ihu*, pp 295-6.

concept of wastelands should be the 'foundation of the policy which, so far as in your power, you are to pursue'.[382]

Grey, who had identified land transactions as the source of much of the troubles resulting in the Northern War, instead of supporting investigation by the Protectorate Department, abolished it, attacking Clarke and the missionaries over their claims.[383] He knew all too well that it would not be possible for the Crown to confiscate all land it might regard as ;unoccupied' and 'waste' and, in 1848, proposed his 'nearly allied principle' as an alternative purchase strategy; keeping purchases so far ahead of settlement that Māori would not be aware of the potential value of their lands. Large tracts, he anticipated, could thus be acquired for a 'trifling consideration'.[384] Māori would keep extensive reserves, including for mahinga kai; the value of their remaining lands would increase with settlement; and they would be directly benefited by the development of towns, schools, and the provision of medical services.

3.7 Collateral benefits of settlement

The benefits held out to Māori during Grey's governorship included two notable institutions established at Ōtaki – the school and the township itself – as he assisted the missionaries in their educational endeavours and sought to win Ngāti Raukawa more firmly to the side of the Crown. Grey reinforced the message by his own personal mana, correspondence with chiefs, visits to the district, and small marks of his favour. Medical services would be provided, too, funded out of the civil list for native purposes, which remained under the Governor's control after the introduction of responsible general and provincial government in 1852. Such services were first delivered in the district in1856 with the appointment of Dr Hewson.[385]

3.7.1 Otaki township

It is not entirely clear who first suggested the idea of building a village at Ōtaki – whether it was Hadfield, Governor Grey, or Māori themselves. According to Mātene Te Whiwhi, at the Native Land Court in its first standard sittings to ascertain title in 1867, 'at the suggestion of the Bishop of New Zealand and others we (the people of Ōtaki) set apart a piece of land as a township'. Tāmihana Te Rauparaha later suggested that much of the initiative was his and Mātene's, they having asked Thomas Bernard Collinson of the Royal Engineers to plan it.[386]

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[382] Cited Waitangi Tribunal, *Mohaka ki Ahuriri*, p 66.
[383] A Ward, *National Overview*, Waitangi Tribunal Rangahaua Whanui series, vol II, 1997, pp 48-9.
[384] Cited Waitangi Tribuynal, *Mohaka ki Ahuriri*, p 67.
[385] Lange, 'Social Impact of Colonisation and Land Loss', p 48.
[386] Otaki minute book, 3 July 1867, p 16.

Collinson himself thought that the missionaries had influenced the two young rangatira, and, indeed, the village was briefly known by the name of Hadfield town.[387] Collinson had met the two chiefs at St John's College in Auckland, in 1846, and, in February the following year, had been stationed in Wellington, where he was engaged in building the barracks and assessing the road to Porirua and the Hutt Valley before moving on to fortify Wanganui. *The Spectator* reported, at the time, that: 'The Ōtaki natives have resolved to abandon their pa, and to build on a more eligible site about a mile and a quarter from their present locality, and nearer to their cultivations, a village...'[388] Collinson had 'kindly offered to assist', laying the town out on 'a regular plan, with streets on the principle of an English village and a square reserved at the end of the principal street on which the native village church will raise its spire'.[389]

How instrumental Grey was in this decision is unclear, but he certainly endorsed the project and actively facilitated it. The concept fitted well with his views on the advantages of the small village as a basis for Māori social organisation and with his 'civilising' agenda. Early on, he had given Ngāti Raukawa, while still based at Rangiuru, some steel mills to thresh and grind the corn they were now cultivating, and the surplus of which was being sold to Pakeha. They had purchased others for themselves and, in February 1847, a committee comprising Te Reinga, Tāmihana Te Rauparaha, Mātene Te Whiwhi, and Āperahama Te Ruru had organised, with Pakeha assistance, a water mill to be constructed on Haruatai Stream.

According to Te Whiwhi, the village had been 'marked off and subdivided into ¼ acre allotments by Mr Fitzgerald [surveyor] who was sent by the Government at our request'. Each person considered to have rights had been allocated different allotments as 'individuals or as representatives or as both of their special hapū'. Tāmihana Te Rauparaha, who described himself to the court as 'partly Ngāti Raukawa and partly Ngāti Toa', explained how that process had worked: 'The assent of all the Otaki natives had been given to the laying out of the township.' Each person 'interested' had a selection and in Mātene's case, four lots had been chosen. The decision had been approved by a committee of chiefs: 'Kiharoa Te Ao, Te Kingi, Hanita Te Ra Waraki, Mohi Te Wharewhiti, Hukiki – these were the old chiefs. The younger chiefs were myself. Matene, Hakaraia, Karanama Pairoroku, Te Mahia, Te Mahauariki, Te Whatanui, all assented to the arrangement and the choice of the allotments was agreed to by all' under the general oversight of Samuel Williams.[390] In an undated diary entry from early 1849, McLean commented that many disturbances had to be resolved at Otaki when subdividing the original native right among different parties who may have

[387] *Jan Harris, 'The Town of Otaki',* Otaki Historical Society Journal*,* 2009, p 4.
[388] *NZ Spectator and Cook's Strait Guardian*, 17 February 1847, p 2.
[389] *NZ Spectator and Cook's Strait Guardian*, 17 February 1847, p 2.
[390] Otaki MB 1, 3 July 1867, p 24.

had 'no rights within the space allotted for a town'.[391] As part of this process, allotments were set aside for the school and the courthouse. The allocation of "Mangapouri" for the latter purpose was later challenged, unsuccessfully, and how exactly that land ended up in government legal ownership may require further research.[392]

Special towns laid out on European principles became part of the Crown's negotiating strategy along the Kapiti Coast and a benefit in which there was considerable Māori interest. One was constructed at Pūtiki (and allocated by komiti) under Reverend Taylor's supervision, and McLean had assured 'Kingi Hori, the Rangitikei Chief, that the Government should wish him to expend the money he received for his land, judiciously, and establish himself and his tribe between the Wangaehu and Turakina rivers, where they might form a happy small community, and have a town like Otaki'.[393] The Governor had instructed McLean 'to ascertain and report what are the wishes of the natives respecting the sites and extents of such villages', and the surveyor working at Te Rewarewa was asked whether 'the Manawatū natives' had expressed a wish to have any other village laid out in that neighbourhood. If so, Scroggs (the surveyor) was to state their names and the place where a village was desired and this information conveyed to the governor before any fresh survey was undertaken. According to Scroggs' report back:

> … when at Taita, I was informed by Henry, the Native Teacher at that place, that the natives there wished to have a Village for themselves, and also to have allotments in the Village at Paneiri. Mr. Duncan informed me that he had understood from His Excellency the Lieutenant Governor that there was to be one at Awahou. I was told also by Wilson the Native Teacher at Paneiri that the Natives at Puketotara wished to have a Village for themselves.[394]

3.7.2 Ōtaki mission school

In the development of Ōtaki, the construction of the church took priority. This was located on land that had 'partly belonged to Te Rauparaha, who had agreed to give it up for that especial purpose'.[395] Not only was the land gifted but so, too, was the labour, Hadfield commenting that the whole had been 'gratuitous on the part of all who have worked at it'; a contribution estimated by the Surveyor-General to amount to £2,500 if paid at government works' rates.[396] According to the local press, the church stood at the epicentre of a complex of 'different institutions established for the civilization and welfare of the native race'.[397]

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[391] McLean diary, [early 1849], object #1032034, MS-1225.
[392] See Ōtaki minute book, 1B, 12 July 1867, p 77.
[393] McLean diary, 1 March 1849, object #1032831, MS-1224.
[394] Scroggs to McLean, 31 March 1849, object #1026680, MS-Papers-0032-0562.
[395] *New Zealand Spectator and Cook's Strait Guardian*, 24 September 1853, p 3.
[396] Hadfield to Secretary CMS, 28 March 1850, Annual Reports and Letters to CMS, qMS-0895.
[397] *New Zealand Spectator and Cook's Strait Guardian*, 24 September 1853, p 3.

Education and spiritual and moral improvement were regarded as intimately linked and Grey preferred to assist the missions' existing educational work, which he considered 'extensive and really admirable' rather than set up an entirely new system.[398]

As noted earlier, the missionaries, on their arrival, found young local leaders already engaging with literacy and one of Hadfield's first actions had been to set up a school. He reported to the Church Missionary Society [CMS], in 1851, that it had been:

> … regularly attended by the children of his place and some of the neighbouring villages. There has been an average attendance of about one hundred; there have been also about ten boarders. For the last two years we have received money from the colonial government enabling us to carry it on without any expense to the Society. The children have received religious instruction; and have also been instructed in the English language, writing and arithmetic and the boarders have been employed in raising food etc. for their own support.[399]

A visitor to the school saw girls and boys being taught to read and write in te reo, and the girls being taught how to sew by Mary Williams and Ruta (Tāmihana Te Rauparaha's wife and a friend of Lady Grey).[400] At Te Awahou a school was also operating under Reverend Duncan.[401] H T Kemp noted small mission schools under Māori teachers at Waikawa, Ōhau, Horowhenua ('being taught by an intelligent young man'), and Poroutāwhao. By 1850, more than 23 per cent of local Māori, by Kemp's calculation, could read and write.[402] According to J F Lloyd, who visited Ōtaki at this time, most of the adults living there also could read and write well.[403]

Grey took a particular interest in education which he saw as one of the most important and tangible benefits of colonisation. He visited the Church Missionary Society school set up by Hadfield on a number of occasions and observing that 'the children were regular in their attendance and were making progress in their education', proposed that a school of 'a more comprehensive kind, and on a more permanent basis' be established, provided Māori could demonstrate the proper element of self-help. Hadfield noted:

> In the first place the Governor thought it essential that a portion of land should be given by the natives of this place for the support of the school and for the development of the

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[398] Lange, 'Social Impact of Colonisation and Land Loss', p 50.
[399] Hadfield, 10 September 1851, Annual Reports and Letters to CMS, qMS-0895.
[400] R Beamish, 'Journal of an excursion from Wellington to Manawatu', *Notes on NZ being extracts of letters from the settlers in the colony,* no 2 (sept) 1849, p 18.
[401] Kemp Report, 10 March 1850, *BPP,* vol 7, 1851, p 237.
[402] Kemp Report, 10 March 1850 & Final Report, 15 June 1850, *BPP*, vol 7, 1851, p 235 & 241-3.
[403] J F Lloyd, Letter to the Editor, *New Zealand Sp;ectator and Cook's Strait Guardian*, 3 November 1849, p 2.

> industrial system. To this they readily acceded, and have consequently given about two hundred acres of the very best land. [404]

This was surveyed and then granted to the Church Missionary Society for education of children of all races and classes (see below). Over the following two years, several more gifts of land were requested, encouraged by Grey, agreed to, and then Crown grants issued to the Church Missionary Society. Hadfield reported to the Society:

> The Governor suggested to me that I ought to obtain more land than the 200 acres originally given by the natives; I consequently made further enquiries of the natives as to their willingness to cede what the Governor thought necessary to the success of the institutions; and they immediately agreed to give nearly 300 acres or more, so that we now have 396 acres in one block adjoining the school, and 70 acres in another block within a few hundred yards of it. This land is all of excellent quality.[405]

He had assured Grey that 'when the C.M. Society should cease to carry on its operations in New Zealand it would not abuse this trust, but would hand it over to whatever party was the properly qualified one to continue the management of a church of England establishment', and a grant duly followed. A third wholly unconditional grant was also issued in 1852 for 'a portion of land containing 20 acres (also given by the natives) on which the church, mission-house, and school house now stand, and on which the buildings to be erected will stand'. This adjoined the larger block.[406] The first two grants for the school – 'for the education of children of our subjects of all races, and of children of other poor and destitute persons being inhabitants of islands in the Pacific Ocean' – were issued on 6 February 1852; the third for 24 acres for the maintenance of the mission station on 22 February 1852. A well-satisfied Hadfield reported to the CMS that:

> … the readiness with which they gave up the very best land they had in the near vicinity of their dwellings, which they had at that time under cultivation, and on which there were most bountiful crops was a sufficient guarantee to us that they were earnest in their co-operation, and that they felt that their children had already derived benefit from the school.[407]

Two further gifts of land, of 33 acres and 62 acres, were made for the school the following year, with grants issued on 18 June 1853 and 16 July 1853, respectively.[408]An official return of grants to religious bodies tabled in 1866 lists five separate pieces of land, 'ceded by Native chiefs' for no payment, being granted to the Church Missionary Society at Otaki and acknowledged as:

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[404] Hadfield, 10 September 1851, Annual Reports and Letters to CMS, qMS-0895.
[405] Hadfield, 2 March 1852, Annual Reports and Letters to CMS, qMS-0895.
[406] Hadfield, 2 March 1852, Annual Reports and Letters to CMS, qMS-0895.
[407] Hadfield to CMS, 10 September 1852, cited in Lange, 'Social impact of colonisation and land loss', p 51.
[408] Return of Grants of Land to Religious Bodies in Province of Wellington, *AJHR*, 1866, D-17, pp 5-7,10-11.

> 396.2.30 acres of agricultural and grazing land for the general education of children of all classes and races. 68.2.35 acres of agricultural and grazing land for the general education of children of all classes and races. 24.1.16 acres of land for 'building, agricultural &c' towards the maintenance and support of the mission. 33.3.0 acres of agricultural and grazing land for the general education of children of all classes and races. 62.0.0 acres of agricultural and grazing land for the general education of children of all classes and races.[409]

The fate of these lands and any addition to them will be described in a separately commissioned report on reserves.

The point to note here is that the mission schoolhouse would play a key role in the development of Ngāti Raukawa attitudes to the government and to settlement in the years that ensued, strongly influencing the direction and nature of their political engagement; attempts to reserve land to farm for themselves; petitions and the publication of letters and tracts; the election of their men to parliament; and appeal to the law.

Lange comments that the early high literacy rates indicated that 'western style education of Māori in this region had been given a good start'.[410] At first, all agreed that the effect was positive. Even Te Rangihaeata came to view the school as beneficial to his hapū although he remained opposed to land sale. The *New Zealand Spectator* reported, in 1853, that:

> On his late visit to Otaki to see the Governor, Rangihaeata went over the school for the first time, and was so pleased with it, particularly with the singing, that he said whatever questions might arise in negotiations for the sale of land, there should never be any difficulty in obtaining land that might be wanted for schools.[411].

Funding of the school would continue for several years after Grey's departure in early 1854, even though Māori interest in it waned, receiving government financial assistance to the tune of £1872 between 1854 and 1857.[412] In the early years of operation, as a government-assisted institution, the boarding school had an average of 31 pupils who were given lessons in reading, spelling, and writing in both te reo and English, arithmetic, geography, singing, agriculture, and religion, while a number of girls were taught separately. Agricultural training included subjects such as 'use of the plough, threshing machine, &c, in draining land, in the management of horses, bullocks, cows, sheep, &c'.[413]

The numbers in attendance had declined considerably by 1856. Hadfield blamed the difficulty of retaining good teachers, the disruption caused by a measles epidemic, and discontent over the level of corporal punishment and the way in

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[409] Return of Grants of Land to Religious Bodies in Province of Wellington, *AJHR*, 1866, D-17, pp 3-4.
[410] Lange, 'Social Impact of colonisation and land loss', p 51.
[411] *New Zealand Spectator and Cook's Strait Guardian*, 24 September 1853, p 3.
[412] Lange, 'Social Impact of colonisation and land loss', p 51.
[413] Hadfield, Reports of Otaki Industrial School, 1855, *AJHR*, 1858, E-1, p 33.

which pupils were expected to contribute their labour to the upkeep and maintenance of the school.[414] Not only had the hapū made a generous gift of almost 600 acres of land but, now, their sons had to break it in and their daughters do housework. Hadfield admitted that it would have been better to have brought the land into production before, rather than after, pupils were admitted; not only did they have to raise sufficient crops for the school's immediate support but also the heavy work of extending its operations. The optimistic tone of a few years earlier had been replaced by criticism of the indifference of parents and their unwillingness to have their children living outside their kāinga. He argued that with the increase in prosperity there was no longer the same incentive for Māori to send their children to the school where they would be fed and clothed. Their produce was achieving higher prices, and there were now two shops in Ōtaki where articles of clothing could be purchased. Parents wanted to keep their children at home to help with their 'newly acquired property, such as cattle and horses…'[415] Nonetheless, Hadfield argued, many boys had returned to their homes better for a grounding in academic, religious, and agricultural studies.[416] He advocated patience above all, arguing that the expense and effort would produce results beneficial to both Māori and the colony:

> The expense of these institutions is doubtless an important question for the consideration of the Government. But when it is remembered that there is an early prospect of their being self-supporting – that they are intended to be so many centres from which education and a civilising influence should be imparted to the Native population generally, – that there are so few systematic means of doing this, – and that it becomes daily more important from the rapid increase of the English population among whom they live that that this should be accomplished; – and further , that the operation, carried on in these, have, even now, a collateral influence very beneficial on the surrounding Natives; it can be scarcely said that the money expended is not promoting the objects aimed at, or that there is not a reasonable prospect of its eventually producing very adequate and satisfactory results.[417]

Government financial assistance was, however, discontinued in 1857 when the roll for the school dropped to boarders of seven boys and six girls plus a number of day pupils, while the boarding school struggled on without government aid through the difficult war years until it was forced to close from lack of funds. The industrial school carried on but only as a day school. Major Edwards, who was Resident Magistrate at Otaki during the 1860s, blamed the King movement, which he thought had destroyed Māori confidence in the mission and the school, along with their dissatisfaction with the level of learning and 'acquisition of civilised habits'.[418] Lange notes that after 1871, the trust lands were leased to

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[414] Hadfield, Reports of Otaki Industrial School, 1856-57, *AJHR*, 1858, E-1, pp 33-35, 42.
[415] Hadfield, Reports of Otaki Industrial School, 1855, *AJHR*, 1858, E-1, p 33.
[416] Hadfield, Reports of Otaki Industrial School, 1855, *AJHR*, 1858, E-1, p 33.
[417] Hadfield, Reports of Otaki Industrial School, 1856, *AJHR*, 1858, E-1, p 35.
[418] Minutes of Evidence, Commission of Inquiry into … Trust Estates for Religious, Charitable and Educational Purposes *AJHR* 1870, A-3, pp 5-6.

Pakeha farmers. He observes that the effectiveness of the school had been undermined by its financial problems and 'doubts among the people of the area that the institution was exactly what they wanted …. The promising future indicated by the early spread of literacy had not eventuated and only a minority of the people were educationally ready for the testing times to come.'[419]

3.8 Honouring the 'sale' at Manawatū-Horowhenua

After Grey's sharp military response to the situation in the Hutt Valley, the Crown entered into a new arrangement with the financially troubled New Zealand Company to assist in meeting its obligations to settlers who had purchased land orders. Under the Loan Act 1847, demesne lands of the Crown in New Munster were to be vested in trust in the Company for three years to promote its colonisation activities. The Treasury was to advance the Company up to £136,000 in addition to the £100,000 it had already received. At the end of three years, the Company could withdraw from the operation at which point, it would be wound up and its assets and liabilities transferred to the Crown. (This, in fact, did happen in 1850.)[420]

The responsibility of assisting the Company in obtaining land for its settlers fell to McLean but it was not until 1849 that he was able to turn his attention to the Company's claim in the Manawatu and, then, only in the course of his more important negotiations on its behalf at Rangitīkei-Turakina. McLean's perambulations as he travelled up and down the Kapiti coast were seemingly matched by the divergent and (as McLean saw it) wavering attitudes among various Ngāti Raukawa hapū as to whether to permit more Europeans into the district. That issue, which was to cause so much tension between hapū, was initially contested over the New Zealand Company arrangements. At first, it seemed that the transfer of land in satisfaction of the goods paid for Manawatū lands would be easily arranged now that Te Rangihaeata and Te Rauparaha had been out-manoeuvred, and despite the rumoured opposition of Hadfield. It was reported that the missionary had advised that Spain's award meant that no land would have to be given over for the merchandise received some six years earlier. Hadfield himself denied this, and it seems likely that Māori teachers were putting their own twist on his words.[421] Although mission-educated young rangatira like Te Whiwhi and Te Rauparaha, and lay teachers such as Hakaraia, cleaved to Church and Crown, they had their own ideas about the shape of the Māori future.

On 21 February 1849, McLean recorded that Whatanui's son, who was accompanying him as he sought out Rangihaeata to discuss the proposed sale of land by Ngāti Apa, had pointed out 'a tract of land he intended to give up as

[419] Lange, 'Social Impact of colonisation and land loss', p 53.
[420] Waitangi Tribunal, *Te Tau Ihu*, p 350.
[421] McLean diary, 12 & 19 January 1849, object #1032831, MS-1224.

payment for the goods his father received from the New Zealand Company, which is of considerable extent'. McLean noted that a 'good – or at least, a better feeling – about the disposal of land, and dealing justly according to the principles I pointed out for the natives to adopt, is evidently gaining ground.' Likely he was referring to the idea that rightful owners would be duly paid for land 'sold'.[422] Consequently, he thought Ngāti Raukawa were 'more conscious of the propriety' of honouring their earlier transaction. At the same time, he grumbled that:

> Tamihana and one or two other [*indecipherable*] natives at Otaki have been secretly influencing the natives against the sale of their land and misrepresenting the object of Govt, so as to create jealously on the part of some of the old chiefs otherwise inclined to be favourable. I have not as yet directly noticed the ungrateful conduct of the young men further than by correcting such of their false assertions as have found circulation among the natives, considering it best on the present occasion to treat them with silent indifference.[423]

A large meeting took place on 13 March 1849, also attended by Mr. Thomas, Auditor-General; Mr. Ormond, Private Secretary; and Major Durie. Excitement over the 'proposed relinquishment of land at Manawatu for the goods paid by the Company' threatened to swamp the matter at hand, with McLean insisting that Rangitīkei be decided first, and 'then we should attend to the Manawatu question'.[424] Te Rauparaha, Māka, Taratoa, Paora, Taikaporua, and others were present, with Rangihaeata joining them for tea at the house of Reverend. Duncan, who had moved his Presbyterian mission to Te Awahou in March 1848.[425]

Eyre pressed McLean on his progress in the Manawatū but McLean was far from optimistic about the Crown's prospects except for the 'prior claim' of the New Zealand Company; otherwise, the communities at Ōtaki and Manawatū and along the southern banks and inland reaches of the Rangītikei River, had showed no disposition during negotiations to enter into any alienation of land to Europeans whatsoever. He informed Eyre:

> I am most desirous to carry out your views respecting the acquisition of more land on this coast, especially at Manawatu and shall visit that river in the course of a fortnight to ascertain what terms can be made with the natives. If a purchase can be advantageously effected I shall go on at once with preparations in that quarter. If not, I will let you know what can be done although I am not very sanguine that there is a genuine disposition on the part of the natives to dispose of much land there beyond what they consider themselves indebted to the Company for the goods originally paid for that district.
>
> I have told the chiefs of Manawatu that they are in honor [*sic*] bound to restore an equivalent in land for those goods and they seem convinced of the propriety of doing so.

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[422] McLean diary, 21 February 1849. object #1032831, MS-1224.
[423] McLean to Lt. Governor. Rangitīkei, 28 February 1849, qms-1211.
[424] McLean diary, 13 March 1849, object #1032831, MS-1224.
[425] Duncan had established his mission first at Kapahaka (near Shannon) in June 1844 where he had been offered land by Taikapurua and Ihakara Tukumaru, much to the annoyance of Hadfield, and had moved to Te Maire later in the year. See G S Parsonson, 'Duncan, James', Dictionary of NZ Biography, URL:http://www.TeAra.govt.nz.

> A claim is therefore already established which I shall endeavour to turn to the best advantage, but should I foresee at Manawatu that considerable time would be occupied in carrying out the necessary details and arrangements, I should be inclined to make only a preliminary conversation(?) and let that district stand over for a time, say till next summer and endeavouring in the meantime to acquire land at Taranaki. Even at Taranaki I do not discern that in the district there are such favourable prospects of purchasing land…[426]

In July, McLean set off from Wanganui for Manawatu via Turakina and Parewanui where he met Hori Kingi, who seemed well disposed to having Europeans on the lands that had been transacted – but was warned that Hadfield had advised Ngāti Raukawa not to part with their land, a 'second time'.[427] He met with no success in making any land arrangements, and in September, advised Eyre that he was turning his attention to Wairarapa where, also, he anticipated being able to complete several purchases with comparative ease and where, also, squatting posed a more urgent problem.[428]

McLean acted as magistrate during his negotiations along the Kapiti Coast. In August 1850, a case was referred to him, alongside Major Durie respecting the 'erection of a ferry house by a European named Hart', whom he reported to be 'living with a native woman through whom and her relatives he claims a right to the site on which the house is erected.' In his view, the dispute as to who held authority over the growing business of ferrying people and goods across the river presented the government with an opportunity to make progress on the Company claim. The challenge of Ngāpaki to Taratoa's exclusive authority was linked to his support for land going to the Company should be encouraged. Given the importance of these issues, McLean asked Grey what he should do:

> Taratoa and his party entirely oppose the right of any Europeans to ferry on the Manawatu and threatens if the Government do not interfere that they will burn down any house erected for that purpose. Major Durie has written to Taratoa that the European shall be removed. The party supporting the European deny Taratoa's exclusive right to monopolise the proceeds of the ferry which from the constant traffic to Rangitikei and Wanganui is becoming considerable. They also urge in addition to their own claim that the rights of the English for goods paid by them for that river are not extinct, and that if Taratoa attempts to destroy the house, they will rebuild it, maintain possession and conclude the sale of the land to the Government.
>
> I gathered the latter statement from a message sent to me by a chief named Ngapaki, a brother of Te Wahanui's who took a prominent part in the sale of the Manawatu. As the chief himself did not appear and as I considered his argument and reasons entitled to consideration I requested Taratoa's party to take no further steps in the matter till all the natives concerned were present. As this question has reference to the future management of the ferry and invokes the claims of a section of the Manawatu tribe who honestly

[426] McLean to Eyre, Wanganui, 5 June 1849, qms-1210.
[427] McLean, diary and Maori notes, 28 July 1849, object 1031416, MS-1226.
[428] McLean to Lieut. Governor, 25 October 1849, Object 1021840, MS-Papers-0032-0003.

> recognise the right of the English, I should wish to be advised by the Government as to whether or what further steps should be taken in the matter.[429]

It seems that Durie had agreed to do as Taratoa demanded and removed a European whose presence was likely to cause trouble, before Grey responded and the opportunity was lost. McLean subsequently reported to Eyre that he had 'visited the Manawatu to decide some cases of dispute among the natives, and to ascertain how far some of the chiefs on this river may be disposed either now or at some future period to favour an adjustment of the land question.' He had an 'appointment to meet some chiefs up the river who have proposals to make on the subject…'[430] He noted in his diary that it was:

> … almost a pity that Major should have agreed for Hart's immediate removal, until he has heard both sides of the question, as it reflects on the acts of our most friendly natives, who cannot easily comprehend the law, by which we expel unlicensed occupants from their lands.[431]

He met with Ngāpaki the following day, describing him as the 'Chief who favours the sale of Manawatu' though reluctant to 'disclose his sentiments, from a fear of offending Rangihaeata, Taratoa, and other Chiefs'. McLean suggested that:

> If one had the courage and determination to come forward openly, and sell, the rest would follow like a flock of sheep. Several conceal their sentiments about the land. Others feel distracted so much about it, that they would gladly see it sold, although they profess differently.[432]

He then met up with Kebbell, who complained about the 'small space of land' he had. E Taki, who owned the adjoining area, refused to give it up. Kebbell, it seems, had offended the chief by giving Taratoa permission to fish eels in an area previously promised to him. This prompted McLean to remark, disparagingly:

> How little excites the jealousies of these people! A simple remark of Hanson's prevents Paora Takapurua from selling Manawatu. The Ngātiraukawas are a proud, jealous, superstitious, high-minded race, easily managed when they are befriended; but when opposed, of an obstinate, unyielding character.[433]

Taratoa was apparently willing to let Kebbell have the land but it was not his to dispose of.[434]

Before leaving the Manawatū for the Rangitīkei River, McLean also noted a conversation with T. U. Cook about getting a grant of land on behalf of his wife

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[429] McLean to Colonial Secretary, 24 August 1850, qms-1212.
[430] McLean to Colonial Secretary, 18 September 1850, qms-1212.
[431] McLean, diary and notebook, 16 September 1850, object #1031441. MS–1229.
[432] McLean, diary and notebook, 17 September 1850, object #1031441, MS–1229.
[433] McLean, diary and notebook, 17 September 1850, object #1031441, MS–1229.
[434] McLean, diary and notebook, 21 September 1850, object #1031441, MS–1229.

and children and said that he would 'apply to Sir George Grey for his views in reference to half-caste children'.[435] (We have not pursued this issue in this report.)

In October 1850**,** Grey instructed that McLean was to continue negotiating for land in the Manawatū and Wairarapa, 'but not definitely to conclude agreements for the payment of any sums of money for the purchase of land until the Governor had approved.' This was notwithstanding that the New Zealand Company's Agent had requested that all further negotiations on its behalf should cease (as discussed further in chapter 4). McLean was to turn his attention to the matter as soon as possible. McLean was also informed of the Governor's 'entire approval' of his proceedings as detailed in his letters of 23 and 24 August.[436]

The settlers whom Spain had recommended should receive grants continued to live on this land, bringing them into production even though they had not yet had them confirmed. In early 1851, Amos Burr sought Crown support for a grant of the land he was occupying, but it transpired that the area was on the wrong side of the river and not part of any arrangements with the New Zealand Company. He petitioned the Governor, stating that he had accompanied Captain Smith at the time of the Manawatū purchase and:

> At its successful termination your Memorialist remained on the banks of the Manawatu in possession of one hundred acres under the sanction of the late Colonel Wakefield. Your Memorialist has ever since been in quiet possession of the same both from the Natives and Europeans. Your Memorialist has expended by his own industry and with assistance from Colonel Wakefield about Two hundred and Eighty pounds in buildings and draining the land which at the time he first took possession was quite uninhabitable (?) being covered with water. Your Memorialist has drained about Twenty acres and brought the same to the highest state of cultivation. They are now under crop and by the means of flood gates at the mouth of the ditches the water is at all times unable to flow over the land. Your Memorialist has lived upon the most amicable terms with the native Chief Rangihaiata [*sic*] who lives within four miles of your Memorialist's dwelling and who at all times has been most willing to show him any attention.
>
> Owing to the death of Colonel Wakefield your Memorialist is left without any security for the land which he has always considered his own property.
>
> Your Memorialist ventures to hope that Your Excellency will take a favorable view of the foregoing circumstances and will consider that your Memorialist is entitled to a Grant to the land in question.[437]

The matter was first referred to Wellington Resident Magistrate, Henry St Hill, who responded that Burr:

> … must be under a misapprehension that the late Colonel Wakefield sanctioned his squatting upon land to which the New Zealand Company never claimed to have

[435] McLean, diary and notebook, 17 September 1850, object #1031441, MS–1229.
[436] Lt Governor to McLean, 4 October 1850, ACFP 8217 NM8/42/[85] 1850/967; Grey to McLean, 12 November 1851, ACFP 8217, NM 8/51/[17] 1851/1535.
[437] Memorial of Amos Burr, Manawatū, 3 March 1851, ACFP 8217, NM8/45/[68] 1851/304.

> purchased from the Natives. The Company's alleged purchase is on the Southern Bank of the Manawatu, the land referred to by [the] Memorialist is on the Northern Bank.[438]

Domett (Colonial Secretary) questioned Burr's character and 'the effect of his influence' relative to his 'friend Rangihaeata in the [*indecipherable*] disturbance', directing that Major Durie investigate further.[439] Durie duly reported back that Burr 'certainly possesses a good deal of influence with the natives of the Manawatu District, and which he applies to his own advantage, but I am not aware of him at any time making use of that influence to oppose the Government'. In Durie's view, he was of 'industrious habit' and apparently on good terms with local Māori from whom he had received assistance in 'draining about 80 acres of swamp on the north side of the Manawatu' and 'to whom he is much indebted for his present position'.[440] However, the land fell outside any arrangements that had been recognised by the Crown and Grey declined to sanction the claim, noting that: 'The Government can take no steps in reference to this case so long as the land remains the property of the Natives.'[441]

The Governor was determined, nonetheless, to make progress on European settlement of the Manawatū. As noted earlier, in addition to facilitating the survey of the town at Ōtaki, he had instructed that any other villages that the 'natives' might desire should be laid out on similar lines and supported the school at Ōtaki – as Taylor described it, a 'government school invested in the hands of churchmen'[442] – reflecting the importance Grey placed on education within his native policy, and schools as centres from which civilisation could spread. There were small material gifts, too. In November 1851, he authorised:

> … the purchase of a really good cart or dray, and set of double lamps, and also two good ploughs, to be given as a present to the native Chiefs of Otaki, as a reward for their hitherto excellent conduct, and as an inducement to them to make still further advances in civilization.[443]

Ihakara Tukumaru, who would prove a major friend to the Crown in the following decade, seems to have been a major beneficiary of Grey's largesse and was an early advocate of abandoning the old customary ways for new English technologies and systems.[444] Although the question continued to divide opinion, there were already some Māori based at Otaki who thought that the land should

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[438] Domett note, March 7/5, on Memorial of Amos Burr, Manawatū, 3 March 1851, ACFP 8217, NM8/45/[68] 1851/304.
[439] Domett note, March 7/5, on Memorial of Amos Burr, Manawatu, 3 March 1851, ACFP 8217, NM8/45/[68] 1851/304.
[440] Durie report, 10 March 1851, on Memorial of Amos Burr, Manawatu, 3 March 1851, ACFP 8217, NM8/45/[68] 1851/304.
[441] Grey note,17 March 1851. on Memorial of Amos Burr, Manawatu, 3 March 1851, ACFP 8217, NM8/45/[68] 1851/304.
[442] Taylor to Grey, 12 July 1852, GLNZ T5a.7, Grey New Zealand letters, APL.
[443] Grey to Domett, 11 November 1851, ACFP 8217 NM8/51/[17] 1851/1535.
[444] Cook to McLean, 14 December 1851, object #1021106, MS-Papers-0032-0225; see further discussion in chapter 5.

be given over to the 'Queen's process' They informed Grey, 'We have seen that our form of title to land is faulty, our own Maori title has become insecure' and they wanted to have their lands 'come under the Queen's system, so we can retain them, they will not be held under Maori title. Maori title is based on stories, and eternal vigilance against loss, but this is an established system where there is less need for vigilance.' Let the 'authority of the Queen cover it all], and they would be willing to share with the Pakeha.[445]

The gift of a cart and agricultural equipment was followed by a visit by Grey in person, apparently promising to allow Māori to lease rather than sell their lands in the future, in spite of the supposed prohibition of the practice under the Native Land Purchase Ordinance 1846. T. U. Cook referred to the meeting, informing both Domett and McLean that the visit had been a great success; if they were 'to see the natives here just now' the government 'would succeed in obtaining from them a portion of land to satisfy the Company's claims, as they appear very anxious to extinguish those claims, especially as his Excellency promised to sanction their leasing their land, in the event of their complying with his request'.[446] Robinson and Kebbell also urged the government to act at once, as Domett informed Grey:

> The natives, as His Excellency is aware, are willing to part with this land & a meeting has lately been held at Otaki confirming their intentions. Messrs. Robinson & Kebble are anxious that someone should be sent, if possible, to conclude the affair at once, lest the natives should change their minds. Perhaps Mr Maclean [*sic*] could be spared for a few days. Mr Fitzgerald might while up the coast survey the blocks. The affair was finally settled by the natives on Friday last.[447]

Grey approved this step:

> I have already ordered Mr McLean to proceed to Manawatu for this purpose with as little delay as practicable. Will you take care and hurry him on, as it is important that not a day should be lost in adjusting this business. Mr Fitzgerald should as you suggest be ordered to attend Mr McLean, and to complete the necessary surveys before Mr McLean leaves the place.[448]

Burr now produced a deed, dated 8 January 1842, along with a letter signed by Te Naihi in May 1851, authorising him to occupy his site at Whirokino, within the river's loop. The deed stated: 'It was then my father Te Whatanui gave this land to Te Paa (Burr), while he was alive. What he said verbally was never given effect to, it has only just been effected properly, I, the son, have seen to it.'[449] The

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[445] Wirihana, Hetariki and Ropata Te Waeriki to Grey, 7 January 1852, GNZMA [657], Sir George Grey Special Collectio9n – Maori letters. translation by Piriripi Walkjer.
[446] Cook to McLean, 14 December 1851, object #1021106, MS-Papers-0032-0225.
[447] Domett to Grey, 31 December 1851, ACFP 8217 NM 8/52 1852/25.
[448] Grey minute, 2 January1852, on Domett to Grey, 31 December 1851, ACFP 8217 NM 8/52 1852/25.
[449] Bell to Colonial Secretary, 12 January 1852, ACFP 8217 NM8 52/[97] 1852/65 – translation by P Walker.

later letter confirmed those arrangements and affirmed the right of Te Whatanui and his heirs to make them, stating:

> It was I Paiaka te Whatanui who gave this land to Paa (Burr). The Southern boundary is the bay at Papaheke, and the northern boundary is the river at home of Ngāpaki in Manawa-kiekie. The inland boundary is the entrance to Papahīkaka. The reason for this written document was because there may be future protests by my relatives, but only Whatanui could make objections over this land. And in current times if my relations have anything to say over this land it will have absolutely no justification, not now or ever. The persons who witnessed the signing of this statement were Te Ngako, Te Whatanui, Rangiwero, and Paa (Burr), it is solemnly yours for ever and ever amen. Te Naihi, Te Ngāpaki, Te Whata.[450]

This information was also passed on to McLean who, on 22 January 1852, signed a deed with 'the chiefs and people of Ngāti Toa and of Ngātiraukawa' for a 'piece of land ... Whirokino' on which Amos Burr was residing: 'the last piece of land we are to give up for the goods paid to us by Colonel Wakefield some time ago for the Manawatu'. The translated deed is reproduced below:

> Listen all people, who hear or see this paper, transferring land written on this day, on the 22nd. of the days of January 1852.
>
> Now we, the Chiefs and people of Ngātitoa, and of Ngātiraukawa, do fully consent, at this our Meeting, to entirely and for ever give up the piece of land on which Amos Burr resides, as a sure and certain transfer of land from us to Victoria the Queen of England, or to the Kings or Queens who may succeed her for ever and ever as a payment from us to the Queen for the goods paid to us by Colonel Wakefield some time ago for the Manawatu.
>
> Now the likeness of this piece of land, of Whirokino, is shewn on the margin or side of this paper, and contains from one to two hundred acres. Now this is the last piece of land that we are to give up for the goods paid to us by Colonel Wakefield some time ago for the Manawatu
>
> And having consented to all the conditions in this paper, we hereunto sign our names and marks.
>
> And the Governor-in-Chief of New Zealand, on behalf of the Queen of England, having consented to all the conditions in this paper, Mr. McLean, the Land Commissioner, hereunto signs his name.[451]

This was signed by a number of senior chiefs who were living both in the immediate vicinity and from outside the region; by Mātene te Whiwhi, Hakariah Kiharoa, Taratoa, Karaitiana, Te Ahu Karamu, Horomona Toremi, Te Hipana, Ngāpaki, Te Wereta, Te Watuiti, Rangimaru, Henare Harawira te Herekau, Te Wana, Ropata te Whatanui, Te Pakaru, Paratene Wiritana, Hinerau, Whareroa, Te Ngaihi and Te Teira as well as by Mōkau te Rangihaeata. According to Kingi Hori Te Puke, the arrangements 'to sort out the dealings of Wakefield' had been reached by decision of 'te runanga I whakaoti o Ngāti Raukawa' (of the council

[450] Bell to Colonial Secretary, 12 January 1852, ACFP 8217 NM8 52/[97] 1852/65 – translation by P Walker.
[451] Deed, 22 January 1852, object #1022042, MS-Papers-0032-0004.

of chiefs of Ngāti Raukawa) and would stand permanently.[452]A few days later, McLean sent the deeds to the Colonial Secretary, reporting that, in compliance with Grey's instructions, he had:

> … finally arranged with Rangihaeata and the Ngātiraukawa Chiefs for the undisturbed occupations by the European settlers of the following lands on that river
>
> 1. F. Robinson Esquire, about 300 acres
> 2. T & T Kebbell Esquires, about 200 acres
> 3. Mr A Burr, about 100 acres.[453]

According to McLean, Māori had surrendered these lands at the Governor's request for the goods paid by the New Zealand Company and 'under a distinct and public assurance from the Government which [he] was desired by Sir George Grey to make that no further claim of any kind should be hereafter sanctioned or adduced by the Govt for the said goods'.[454] Fitzgerald, who had accompanied McLean to the Manawatū, was instructed to make corrected surveys of the blocks according to the boundaries that had been pointed out by 'the principal chiefs'.[455] Compensation of £7 16s 6d had also been awarded 'to Pakau [or Pakaru?] for relinquishing his Village and cultivations' for the Kebbells.[456]

Another two days later, McLean forwarded a letter from Te Rangihaeata approving two of the arrangements but complaining about Kingi Te Ahoaho's intention to sell additional land to the Kebbells:[457]

> I am quite agreeable or fully consent to this giving up of land by the Ngātiraukawa as compensation for the goods paid by Colonel Wakefield, three pieces are settled, the Raumatangi for Mr J Kebbel, and Whirokino for Mutu or Burr. One place is wrong to my mind, that is Kingi's, my thought or wish is that you should not consent to it. I will strongly oppose it. Listen to my word it is for payment Kingi wishes to sell. All the natives are against this, agree to my word that this talk may end – do not say hereafter that I cause the evil or strife. I will not consent to the Kingi's proposals, this is all my word. Let me hear from you by letter.[458]

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[452] Te Puke to Governor Grey, 5 April 1852, GNZMA 549, Grey NZ Maori letters – Nga reta Maori, APL

[453] McLean to Colonial Secretary, 27 January 1852, Native Land Purchase Commissioner, Outward letters, MA24/8/16.

[454] McLean to Colonial Secretary, 27 January 1852, Native Land Purchase Commissioner, Outward letters, MA24/8/16.

[455] McLean to Colonial Secretary, 27 January 1852, Native Land Purchase Commissioner, Outward letters, MA24/8/16.

[456] Ibid.

[457] Kingi Te Ahoaho to Governor, 29 December 1851, GNZMA 417, Grey NZ Maori letters – nga reta Maori, APL McLean to Wodehouse, 29 January 1852, Native Land Purchase Commissioner, Outward letters, MA24/8/16.

[458] Te Rangihaeata to Governor, January 1852, GNZMA 359, Grey NZ Maori letters – Nga reta Maori, APL.

However, the survey proceeded without interruption: 365 acres for the Kebbells at Haumiaroa; 356 acres at Parikawau for Robinson; 100 acres at Whirokino for Burr with a 'residue' of 150 acres nearby making for a total of 971 acres.[459] It is apparent that Te Ahoaho's attempt to sell a further piece of land to the Kebbells did not proceed in face of the opposition of Rangihaeata 'and other chiefs'.[460]The land selected by them was considered to be only in part fulfilment of their right to 400 acres, under their original land orders and that:

> … whenever the natives shall agree to surrender to the Crown the piece of land lying between the South boundary of the Messrs. Kebbell's present block and the Manawatu river, the Messrs Kebbell will be enabled to select the same (it being understood to contain about 30 acres) in order to complete the 400 acres to which the Company land order entitles them.[461]

(Native title to that portion was extinguished in 1866.[462])

Later, in February 1852, T U Cook was also informed that he could select a maximum of 100 acres at the Manawatu for his wife and children.[463]

Horomona later recalled the way in which they had finally come to these arrangements in order to satisfy Grey, stating at the Kohimarama conference that:

> Hukiki and Taikaporua had received payment but withheld the land. Paora had refused to give it up to Spain. … Governor Grey arrived. He asked, "where is the consideration for the property of the Pakeha?' I then gave over the land upon which Mr Burr now resides. That claim was satisfied.[464]

Hukiki also gave Grey credit for persuading Ngāti Raukawa to acknowledge that their acceptance of the goods left at the beach in 1842 constituted a sale on their part:

> Afterwards Governor Grey arrived. He visited Otaki. Governor Grey spoke on many subjects. This Manawatu affair was then arranged. All the people agreed to the arrangement made by Governor Grey. I at that time repeated what I have already said. I thought of the blankets and guns which had been taken by the people, but it was then arranged and settled amicably.[465]

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[459] McLean to Civil Secretary, 19 February 1852 and Fitzgerald to McLean, 14 February 1952, Native Land Purchase Commissioner, Outward Letters, MA24/8/16.
[460] McLean note, 27 January 1852 on Te Ahoaho to Governor, 29 December 1851, GNZMA 417, Grey NZ Maori letters – nga reta Maori, APL.
[461] Bell minute, Robinson and Kebbell Grant, 11 September 1852, LS-W2/1/1852/111.
[462] Lewis to Kebbell, 30 November 1866, LS-W2/24/1873/627.
[463] McLean to Cook, 20 February 1852, Native Land Purchase Commissioner, Outward Letters, MA24/8/16.
[464] *Māori Messenger/Te Karere*, 3 August 1860, p 11.
[465] *Māori Messenger/Te Karere*, 3 August 1860, p 45.

The Grants remained unsurveyed and in the case of Robinson was never to be finalised.

The importance of these transactions, the negotiations surrounding them, and the unsatisfied land orders held by the New Zealand Company settlers in Wellington extended well beyond these limited acreages. The early negotiations with the Company and the acceptance of payment undermined the persuasiveness of Ngāti Raukawa's subsequent anti-selling stance among their neighbours and provided the 'thin edge of the wedge' in the Crown's efforts to get Ngāti Raukawa to transact more of their lands. Most importantly, as we see in chapter 6, the Wellington politicians would also use the New Zealand Company's 'unsatisfied' claims as a pretext for excluding the whole of the Manawatu from the Native Land Court's jurisdiction on the grounds that there were existing sale arrangements in place. While the New Zealand Company never had any other than a pre-emptive right in the Manawatu block, an equitable right was supposed to exist in the holders of the Land Orders to their original selection and would be extended over the whole of the Manawatu.

In the meantime, McLean had been pursuing Grey's large-scale purchase policy at Rangitikei-Turakina with a new set of tribal allies based to the north of Ngāti Raukawa. These negotiations were crucial to their developing relationship-with the Crown and are discussed separately in the next chapter.

3.9 Grey's departure

In late 1853, Grey announced his departure from New Zealand. In September, a large assembly of some 300 Māori gathered at the new schoolhouse at Otaki, anxious to make a presentation to the governor before he left. Included among those present were Rangihaeata, Taratoa, Rāwiri Pūaha, Te Ahu, Mātene Te Whiwhi, Tāmihana Te Rauparaha, Te Mātia, Kingi Te Ahoaho, Āperahama Te Ruru, and Ihakara Tukumaru. Tāmihana then read an address to Grey on behalf of the tribes of the southern part of New Zealand, calling him their 'kind and faithful friend' and expressing their 'sorrow and regret' at his departure. They asked:

> Go to thy Sovereign and to ours, the Queen. Forget us not … frequently look back upon us all, and in kindness remember us; and if, O Governor, Benefactor, and Friend, it should be thy determination to remain in thy Native land, use thine influence, so that in the appointment of a Governor as thy successor, one may be sent, who like thee in acts of love, may preside over us the Natives, as well as Europeans living in New Zealand.[466]

272 signatures were attached to the document.

[466] *New Zealand Spectator and Cook's Strait Guardian*, 21 September 1853, p 3.

A waiata followed and Ranguira, the wife of Rangihaeta, was led forward by several people, and a pounamu earring named 'Kaitangata' removed. Te Rangihaeata pressed it to his nose, passing it over his face in token of farewell. The other rangatira followed suit. The same ceremony was then performed with reference to a patu paraoa named after Hine Te Ao and 'a very old heirloom of Taratoa's Tribe' before both taonga were handed to Grey.[467]

The Governor then read out his address in reply:

> MY CHILDREN, — It was not originally any arrangement of mine that I should come to New Zealand, to a people unknown to me, and whose language I did not then understand, so that when they came to me with complaints, I could make no kind reply to them. But troubles had fallen upon the land, race strove with race. Then our Queen, and the rulers of our great Empire sent to me, and directed me to proceed without delay to New Zealand, to strive to allay the dissensions, and troubles in this land.[468]

Grey went on to emphasise law, peace, unity, partnership, and prosperity. Their two races had worked together with the result that 'churches and schools have been raised, men have abandoned false Gods, peace has been established, lands have been ploughed, mills have been built, great roads have been made, abundance prevails everywhere.' Looking to the future, the Governor thought that New Zealand would be a great nation and that later generations would be able to say that 'these things were done, not by our European ancestors alone, but partly also, by our ancestors who were the original native inhabitants of these islands…' According to the *New Zealand Spectator*, he was 'listened to with the utmost attention, and the whole assembly of Natives seemed really to feel that they were losing a very sincere and tried friend'. At the conclusion of Grey's address, Tāmihana and Te Ahu told their people, 'That it was true they were going to lose the Governor, but that this record [a copy of Grey's address] would remain to them for ever.'[469]

The *New Zealand Spectator and Cook's Strait Guardian* enthused:

> No one could have witnessed this scene without feeling deeply impressed with the fact, that some really good influence must have been at work to cause so great and beneficial a change in the minds and habits of the Native Race. A peaceful disposition seemed to pervade both old and young, let us hope then, that this beneficial change now apparently established on so firm a basis may long continue and contribute to the welfare and prosperity of this colony, that the two races may become more and more united, and that this policy which has effected so wonderful a change may be carried out by our future Governor in the same spirit and with the same success.[470]

Behind the scenes, however, there was far less accord. Just as they had opposed Ngāti Apa selling at their very doorstep to the north (discussed in the following

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[467] *New Zealand Spectator and Cook's Strait Guardian*, 24 September 1853, p 3.
[468] *New Zealand Spectator and Cook's Strait Guardian*, 24 September 1853, p 3.
[469] *New Zealand Spectator and Cook's Strait Guardian*, 21 September 1853, p 3.
[470] *New Zealand Spectator and Cook's Strait Guardian*, 24 September 1853, p 3.

chapter), so too did Ngāti Raukawa oppose the sale of Waikanae by their erstwhile adversaries of Te Ati Awa – to the general indignation of Crown officials, who saw them as having no rights in the matter. A government purchase, there, had been contemplated for some time. It was thought, by this stage, that negotiations were sufficiently progressed that they might be completed with a little encouragement from the governor. The *New Zealand Spectator* reported that 'upwards of three hundred natives, including Rangihaeata and the principal chiefs of the district, assembled in the large schoolroom, to talk over with the Governor the sale of the land'. A second meeting was held three days later in the open 'where there was some very earnest discussion on the part of the natives' but without the result desired by Grey or the success he was to achieve at his poroporoaki in Wairarapa.[471] Grey complained to McLean:

> The Ngātiraukawa have been behaving very badly about Waikanae, threatening to turn the Ngātiawa off the land by force. They came up to present an address to me, but I refused to receive it, until they conducted themselves better. This has covered them with shame, and they hardly know what to do to make amends for their conduct. It is very disheartening to see men for whom one has done so much, conduct themselves so badly. Thompson behaved, I fear, with great duplicity, in this business.[472]

The matter of government land purchase at Waikanae had to be deferred.

3.10 Conclusion

Lord Stanley who was Secretary of State when Governor Grey first took office had instructed him to 'honourably and scrupulously fulfil the conditions of the Treaty of Waitangi'. Arriving in Wellington, Grey took immediate action against the chiefs who were accused by most officials of repudiating a fairly negotiated sale - and by their regional tribal adversaries of asserting a claim to lands over which they had no rights. Acting completely outside the law, he had 'arrested' Te Rauparaha, clipping his wings, and launched military operations against Te Rangihaeata. Calling on the Crown's Māori allies – people with whom Ngāti Raukawa had so recently been fighting - and utilising ship, cannon, troops, and his armed constabulary; he forced Te Rangihaeata out of Heretaunga, where Ngāti Rangatahi had been establishing rights and from Porirua-Paremata to his kāinga at Poroutāwhao where Te Ati Awa were not prepared to follow. Some Europeans urged Grey to attack what was a poorly defended position but, as in the Bay of Islands, having administered his lesson on the Crown's military might, Grey chose the path of reconciliation. With the younger generation seeming to be firmly within his compass and the embrace of the church, and with the peaceful assurances from the people at Ōtaki, further harassment of Te Rangihaeata and Te Rauparaha was unnecessary and likely to be counterproductive. Grey wished to avoid exposing the underlying weakness of the Crown's position. Control of

[471] *New Zealand Spectator and Cook's Strait Guardian*, 21 September 1853, p 3; see Waitangi Tribunal, Wairarapa ki Tararua, vol 1, pp 121-2.
[472] Grey to McLean, 17 September 1853, object #1002546, Ms-Papers-032-0302.

the region was strategic, not absolute. When fighting later broke out to the north at Whanganui, he chose to ignore evidence of Te Rangihaeata's possible complicity in the trouble. The Crown and the colonists still could not afford to be fighting a war on two fronts...

Grey's actions had undermined the capacity of those leaders to halt settlement but not destroyed it altogether. Te Rangihaeata himself came to share the view of his hapū and was reconciled to government and settlement by the initial success of the school, the many discussions with McLean, as well as the receipt of marks of favour from Grey. There were gifts of tobacco and so forth, but there would also be a direct appeal to him for assistance in finalising land boundaries of transactions he and Te Rauparaha had initially opposed. While McLean often remarked that the two rangatira had lost their territorial control and could no longer command the obedience of Ngāti Raukawa leaders, he well knew that their consent would be crucial in the long-term. They might not be able to stop others from land selling but they could still make life for incoming settlers very difficult indeed. We explore this – and the impact of Grey's land purchase policy as negotiated by McLean –in the following chapter where we discuss the government's only major acquisition in the region in this period (the Rangitikei-Turakina block).

Te Rangihaeata was not the only beneficiary of Grey's 'flour and sugar' policy in these years. A particularly warm relationship had developed between the Governor's family and that of Te Rauparaha, while Ihakara Tukumaru was encouraged to confirm the allocation of land to New Zealand Company settlers, and in his ambitions to emulate European farming and transport methods, by the gift of horse, cart and plough. On a grander scale, Grey successfully linked the provision of planned townships and the opportunity for schooling, agricultural training, and 'improvement' with the Crown's beneficence. This was all the more remarkable considering that the endeavour was based largely on Māori land and labour.

At the same time, Grey took the opportunity provided by his military intervention to introduce an embryonic apparatus of civil and criminal 'law', winning Māori approval by giving them a role and incorporating elements of custom within it. Crown control of the region had been reinforced in other ways as well. Unbeknownst to Māori until it suited the Crown to invoke its powers, Grey had strengthened its hand against the capacity of settlers to enter into their own direct arrangements with Māori in the leasing of land. Most importantly, Maori were becoming persuaded of the benefits of the Queen's system of holding land as providing greater security of tenure than custom did

Yet for all that, he and McLean had been able to make only limited headway in opening up lands in Ngāti Raukawa's core lands in the Manawatū (south of the Rangitikei River) and had run into customary complications at Waikanae as well.

A mission education and friendship with Grey did not necessarily mean endorsement of the government's plans for them. For Māori there were danger signs too. Were they to be the equals of Europeans in this new society and economy, as they were being promised, or were they to be ploughmen and housemaids?

CHAPTER 4

RANGITĪKEI-TURAKINA CROWN PURCHASE AND TRIBAL ARRANGEMENTS, 1849

4.1 Introduction

Between 1849 and 1850, the Crown undertook the purchase of a large block of land between the Rangitīkei and Turakina Rivers that extended well into the interior. In doing so it was fulfilling its undertakings with the New Zealand Company and Governor Grey's overall strategy of securing control of the country by acquiring large blocks of land for settlement, enabling the construction of roads, and – as importantly as placing Europeans in possession of their landed properties – preventing the migration of hapū into 'unoccupied' territories. Pursuing those goals, Grey and McLean practised a mix of diplomacy, incentives in various forms, hard talking, and deployment of rangatira who had been already won to their side to persuade others to join them.

As Hearn has pointed out, the acquisition of land, generally, from Māori was intimately bound up with the Crown's desire to establish British hegemony throughout the colony.[473] The west coast lands were particularly desirable, linking the two already existing European settlements of Port Nicholson and Wanganui and, McLean emphasised, pre-empting the possibility of Māori migration to that area and the kind of instability witnessed when many Te Ati Awa, formerly located at Waikanae, decided to return to Taranaki. Of particular concern was the prospect of large and powerful tribes uniting in their opposition to European settlement, under the leadership of senior rangatira. As McLean noted on completing his transaction at Rangitīkei-Turakina with Ngāti Apa, having the people of that area 'bound up with us will be as good security for the tranquillity of the district as a body of soldiers'.[474] We shall see that setting up reserves for 'friendly natives' at key locations was part of McLean's overall strategy. Spurring the government on was the need to forestall European leasing especially when many Māori – notably, Te Rangihaeata and almost all Ngāti Raukawa leaders – were advocating that, in combination with their own agricultural expansion, as the way ahead for their hapū.

Having undermined the authority of Te Rangihaeata and Te Rauparaha over the matter of Wairau, Porirua, and the Hutt Valley, the government was in a much better position to purchase land, despite the objections of those rangatira. As we discuss below, Rangihaeata was on a number of occasions reported to be fearful of attack by government forces although he (and Te Rauparaha) were to be

[473] Hearn, 'One past, many histories', p 83.
[474] McLean to Colonial Secretary, 17 August 1850, *BPP*, 1851, vol 7, p 45.

wooed as well. Grey and McLean would successfully position themselves as peace-makers between contending tribes. This chapter will argue that the appellation was largely undeserved, although the idea was approved by the very many Māori who wanted a peaceful resolution of territorial disputes. The issue (which McLean worked tirelessly to resolve in the government's favour) was not who had the authority to decide what happened to lands between the Manawatū and Whangeuhu Rivers and the right of Ngāti Apa to 'sell' them – that was largely undisputed by the end of the 1840s – but the wisdom of allowing more Europeans into the region at all. For Ngāti Raukawa, the arrangements regarding Rangitīkei-Turakina were something more than a straightforward commercial transaction between a neighbouring tribe and the Crown. Rather the sale, there, following the adjustment of tribal boundaries to the south, in 1847, in response to Te Ati Awa's migration back to Taranaki, expressed a wider consensus reached in open discussion of assembled hapū and their leaders on a matter of regional importance. At the time, Ngāti Raukawa acknowledged Ngāti Apa's authority to give land north of the Rangitīkei River into the hands of settlers, but not south of it. The existence of Ngāti Apa interests south of the river was also acknowledged but not their wider authority to control it. McLean wisely left that matter largely to one side during his negotiations - as he did any open and frank discussion of the Crown's attitude to the question. The government's belief that occupation automatically conferred a right to sell was far from clear and the intention to purchase those lands from Ngāti Apa at some date in the immediate future never openly expressed. Nor was there any proper investigation of right-holding at that time to ascertain and confirm ownership in law. As Hadfield commented:

> The British Government seems to colonise in a very empirical way: there is no investigation of the laws, usages, and customs of the natives – no attempt made to suit any laws to their peculiar conditions; how they can expect to succeed is to me marvellous.[475]

The following chapter will argue that existence of these unresolved issues was further disguised by the Crown's different approach to the question of purchase of the coastal part of the block as opposed to inland, where all Ngāti Apa rights were deemed to be extinguished, whatever their nature and extent. The report as a whole will argue that a proper investigation of the laws, usages, and customs of Māori also never took place until severely compromised by earlier Crown and settler activity, and in a forum that was concerned with making land purchase easier rather than in establishing or supporting Māori rights under custom.

Ngāti Raukawa (it will be argued below) accepted Ngāti Apa's transaction to the north of the Rangitīkei as tika but on the understanding that they (Ngāti Raukawa leadership) would keep the lands south of the river out of the hands of Europeans for the use and occupation of all Māori living there. They warned Ngāti Apa not to sell any of their lands as that was likely to result in their impoverishment. We shall see that the record is ambiguous on the question of whether Ngāti Apa's

[475] Hadfield to CMS, 18 May 1847, Annual Reports and Letters to CMS, qMS-0895.

right to sell south of the Rangitīkei River over the objections of other iwi was openly discussed in the presence of their gathered assembly at the crucial Te Awahou hui in March 1849. McLean recorded discussions between himself and Ngāti Apa on the matter and private exchanges between contending Ngāti Apa and Ngāti Raukawa rangatira (Kāwana Hunia and Nepia Taratoa, respectively) but no whaikōrero on the matter. Witnesses before the Native Land Court later recalled, however, that it had been decided that the land was to be held under the authority of Taratoa, described by McLean as the chief 'possessing most influence for good or evil on the river'.[476] McLean, it would seem, knew that under customary law, Ngāti Apa likely could not sell without Taratoa's permission, but assumed that European laws would prevail and he let the matter stand until that time came. He was similarly silent on the decision taken 18 months later when a party of armed Ngāti Apa threatened to sell south of the Rangitīkei River despite Ngāti Raukawa objections, resulting in another large multi-iwi meeting confirming that the land should be held under Taratoa's authority.

4.2 McLean's negotiations

The negotiations for the Rangitīkei lands were part of the arrangements between the British government and the New Zealand Company. Under the Loan Act 1847, demesne lands of the Crown in New Munster were to be vested in trust in the company for three years to promote its colonisation activities. The Treasury was to advance the company up to £136,000 in addition to the £100,000 already advanced. At the end of three years the company could withdraw from the operation, at which point it would be wound up and its assets and liabilities transferred to the Crown. (This, in fact, did happen in 1850.)[477] In practice, this arrangement meant that the government undertook negotiations on the company's behalf, to which end McLean was appointed as a special commissioner.[478]

McLean opened purchase negotiations in March 1848, meeting with Ngāti Apa at Turakina to discuss their offer to sell their lands along the west coast.[479] Before beginning his substantive negotiations, however, he made some preliminary inquiries as to the different iwi living in the region.[480] These left him in no doubt that Ngāti Apa had been previously 'conquered', but with the clipping of Te Rauparaha's wings, the expulsion of Rangihaeata from Porirua and the Hutt Valley, and the death of Te Whatanui, the realpolitik had changed. Ngāti Raukawa had on occasion asserted rights as far north as Whangaehu, but now, McLean was to conclude, they were prepared to acknowledge the rights of Ngāti

[476] McLean diary, 6 March 1849, object 1032831, MS-1224.
[477] Waitangi Tribunal, *Te Tau Ihu*, p 350.
[478] Eyre to Domett, 3 July 1850, object 1016819, Ms-Papers-0032-0003A,
[479] McLean to Eyre, July 1848, qms-1208,
[480] See D Armstrong, '"A Sure and Certain Possession": The 1849 Rangitikei/Turakina Transaction and its Aftermath', CFRT, 2004, p 62.

Apa to the bulk of the lands they claimed. There was wide agreement that those rights extended to a few miles south of the Rangitīkei River to Omarupāpaka but whether they included the authority to dispose of those lands without the consent and, indeed, against the expressed wishes of Ngāti Raukawa was doubtful and not to be ever properly investigated – at least not until the decisions that would be made were compromised by war and by Crown purchase activity.

McLean noted at the time:

> The line of coast claimed by this tribe extends from Wangaehu to some miles south of Rangitīkei but I have not been able … to ascertain the exact termination of what is agreed between them and the Manawatū natives to be their southern boundary further than it is said to be halfway between Rangitīkei and Manawatū.
>
> The right of the Ngāti Apa tribe to dispose of their landed property has not until very recently been admitted to by Te Rauparaha and the other chiefs who conquered that part of the country. One of these chiefs, Te Whatanui who died two years ago claimed as far as the Turakina River where he erected a boundary post to designate that his share of the conquered country extended so far.[481]

McLean thought, however, that both Te Whatanui's son and Te Rauparaha had accepted that they could no longer enforce their control so far north and would not press a claim to 'the Ngātiapa territory'.[482]

Intensive negotiations followed. Among McLean's first operations, he described them fully in his diaries and reports, providing valuable insight into his thinking and methods at this point in a developing Crown purchase policy. He met with different tribal groups several times over the following year as he went up and down the coast. Although he thought Ngāti Raukawa had no real rights in much of the territory under offer, any longer, he knew that their consent was essential if settlers were to be put in peaceful possession. He began talking with Ngāti Raukawa leaders on this (and other matters), visiting Nepia Taratoa, Te Ahukaramu, and other chiefs in May 1848. According to McLean's initial report, they indicated that they would accept Ngāti Apa's right to alienate the land north of the Rangitīkei River even though there was a settlement of Ngāti Raukawa at Poutu. Taratoa informed McLean that he did 'not dispute the Ngātiapa's claim to the district, but he should expect to be consulted if a sale took place that he might previously remove the natives of his tribe who are residing there'.[483] According to Dr Best, who had been given a lease at Tāwhirihoe by senior Ngāti Apa rangatira, Te Hakeke, that would not have been possible a few years earlier ('it is only within the last year and a half that Hakeke has had a voice in the land'), but

[481] McLean to Governor, 18 April 1848, object #1012934, MS-Papers-0032-0123.
[482] McLean to Eyre, 18 April 1848, qms-1208.
[483] McLean to Eyre, 10 May 1848, qms-1208.

now the Ngāti Apa boundary was acknowledged to come within four miles of Manawatū.[484]

Both Te Rauparaha and Te Rangihaeata, who were living with their Ngāti Raukawa kin at Ōtaki, Poroutāwhao, and Maramaihoea, remained opposed to Ngāti Apa's proposed transaction, and as McLean saw it, were urging both Ngāti Raukawa and leaders from further afield to oppose Pākehā settlement. Their objections, as recorded in McLean's papers, were based on custom and their rights vis-à-vis Ngāti Apa, but focused primarily on the wider impact of a sale and the consequent expansion of European territorial control. Preeminent among their concerns was the right that would be conferred on the government to build roads. In May 1848, Te Rauparaha advised Te Ati Awa who remained at Waikanae against selling any of their lands:

> … and also against allowing new lines of road through their district, remarking that the Europeans had already a sufficiency of land and that road making was viewed by some of the Waikato chiefs with great jealousy from an apprehension that their lands generally and especially in the vicinity of such roads would be taken possession of by the Europeans.[485]

Then, in July 1848, Te Rangihaeata, and Taratoa, so Ngāti Apa alleged, plus a party of sixty persons, burned down Best's whare.[486] This was a pointed demonstration of their authority over all matters pertaining to Māori in the general district.[487] As McLean recorded:

> Rangihaeata with about sixty followers came in the early part of last week to a station which has been formed by Dr Best at Rangitīkei and having removed the goods out of the house he burnt it down, stating to the European in charge that all his goods should be saved, but that the planks or boarding which the European endeavoured to save were not from England, but grown in New Zealand, therefore he should set them on fire with the rest of the New Zealand materials of which the house was built – with the exception of an axe and tinderbox that was either taken or lost. I have not heard that any further depredation than the burning of the house was actually committed by Rangihaeata, but I believe that he was obliged to keep his party under some restraint as two of them were making off with a horse which he obliged them to return, he however threatened on leaving the station that if more houses were erected there, he should return and burn them down as he had done in this instance.[488]

McLean was nonetheless determined to push ahead to effect a purchase in the teeth of Te Rangihaeata's opposition and any attempt by his people, or indeed, any other Māori, to occupy this sparsely populated part of the region for themselves. In a letter to Eyre, McLean described the land at Rangitīkei as 'in dispute being claimed by Rangihaeata … to prevent Europeans from living there and being an extensive fertile unoccupied district except for the weak remnant of

[484] McLean diary, MS-1220, cited Hearn, 'One past, many histories', p 85.
[485] McLean to Eyre, 10 May 1848, qms-1208.
[486] Hakeke to McLean, 3 July 1848, McLean to Eyre, 5 July 1848, qms-1208.
[487] McLean to Eyre, 5 July 1848, qms-1208.
[488] McLean to Eyre, 5 July 1848, qms-1208.

the Ngāti Apa tribe'. Disturbingly, Te Rangihaeata was reported to be inviting 'hordes of natives from different parts of the country' to join him in occupying the area which might otherwise be peacefully settled by Europeans. He might succeed, McLean suggested, 'if something is not done towards purchasing the district even if it lies unproductive … as … there is a disposition on part of some of the Taupo natives to live in that part of the country'.[489] McLean thought Te Heuheu was giving Rangihaeata encouragement, was worried about the consequences of a possible combination by these two powerful rangatira against further European settlement; and he was clearly anxious that Taratoa not join in. He reported to Eyre:

> It appears also from information I have at different times received that … Te Heuheu, the chief of Taupo, is encouraging Rangihaeata in preventing a sale of the district to Europeans, and I am aware that many of the Taupo natives have long entertained a desire to live on that part of the coast. It is also suspected by the Ngātiapa and Wanganui natives that Taratoa, the chief of Manawatū, is favouring Rangihaeata's proceedings, although he does not openly acknowledge having any intercourse or connexion with that chief.[490]

Certainly, Te Heuheu later wrote to McLean warning him not to attempt to buy land 'close to Mokau', who was 'lamenting for his land at Arapaoa … at Mana at Porirua at Kapiti at Te Orei Te Mahi at Otaki … All these lands were allocated as compensation for Rauparaha.' Now his kainga at Manawatū and Rangitīkei were under threat but this land, though previously the territory of Ngāti Apa, 'this day … belongs to Mokau and Te Rauparaha. This also is mine … mine is that river Rangitīkei, belonging to Tongariro.'[491]

Te Rangihaeata and his supporters were represented by McLean as trading on the weakness of Ngāti Apa to prevent them from gaining advantages by a sale of their own free will of land, which Taratoa and others freely admitted was their property.[492] The chief, despite Grey's efforts, was far from isolated. Although he had been forced from Taupō pā, and European commentators liked to think of him as skulking in a useless swampy terrain, Poroutāwhao was rich in resources, and he was supported by the powerful hapū of Ngāti Huia Ngāti Parekōhatu, Ngāti Pareraukawa, Ngāti Kikopiri, Ngāti Parewahawaha, Ngāti Te Manea, Ngāti Hikitangi, Ngāti Kāhor and others. Recognising that it would be very difficult to persuade Ngāti Raukawa (and the numerous adherents to Te Rangihaeata's anti-selling views among them) to accept any alienation by Ngāti Apa of the full extent of the territory they had formerly occupied, and more particularly those lands south of the Rangitīkei River where Ngāti Raukawa continued to assert the primacy of their rights, McLean did not attempt to incorporate that area within his purchase negotiations. McLean informed William Fox (then a New Zealand Company agent) that he did not know of 'any desire on the part of the Natives to

[489] McLean to Eyre, 5 July 1848, qms-1208.
[490] McLean to Eyre, 5 July 1848, qms-1208.
[491] McLean papers, qms-1209, cited in Armstrong, 'Sure and certain possession', p 56.
[492] McLean to Eyre, 5 July 1848, qms-1208.

sell Manawatū'.[493] There had been some talk between McLean and Ngāti Apa about selling lands south of the Rangitīkei River, excising the pieces occupied by Taratoa.[494] However, the view that Ngāti Apa could sell at the Manawatū without the sanction of Taratoa as the senior rangatira of the district was not openly debated with Ngāti Raukawa and was not seriously contemplated by him at this stage of purchase negotiations.

In early 1849, as well as adjudicating on a variety of civil matters such as stock trespass, McLean embarked upon three months of intensive negotiation, talking to leaders, privately, and also with different communities living along the west coast, and collecting information from the handful of missionaries and settlers who had established themselves in the area. He was accompanied at various stages of his travels by groups of Māori, by the Lieutenant Governor, Major Durie, one or other of the missionaries, or by a local settler. His diary reports a number of matters pertaining to land, including the claim of Nicholson to an area at north Kapiti on 'behalf of his wife and children', the claims of Te Ati Awa at Taranaki, and the need for 'care' to be taken at Oroua. There was also the important question of what was to be given up for the New Zealand Company's goods handed over at Ōtaki, but McLean's primary focus in this period was on guiding Ngāti Apa's offer to sell their lands through to completion. Once the purchase north of the Rangitīkei of an area largely uncontested and where the iwi with primary rights wanted European settlers was completed, and the example of payment and reserves set, the Government could turn to the question of Manawatū (beginning with settling the Company claim), where there was much more opposition to letting in more Europeans and seeing more power go to the Crown. McLean was careful, indeed, not to push forward too fast, although he was convinced that European settlement would be greatly to Māori benefit. He spent a good deal of energy in allaying concerns about the Government's intentions. Importantly, he emphasised the necessity of conducting negotiations in the open light of day and of settling major questions at large inter-tribal hui. Although Crown officials gave support to potential vendors, under this model (to be departed from in subsequent years) no signatures were collected for the deed until opponents and supporters had assembled together and come to agreement in the vicinity of the land concerned. Yet McLean's papers make it clear, too, that he obfuscated certain key matters, namely the Crown's intent to purchase much more land along the west coast, to build roads, and to prevent Māori migratory movements onto their previously 'unoccupied' lands. This negotiating procedure was less clear-cut – and recognised standards of conduct less strictly adhered to – in the case of the inland portion of the block (as discussed in section 4.6).

On 1 January 1849, accompanied by Eyre and Samuel Williams, he met with an assembly of some 600 Māori at Te Rewarewa at Otaki. McLean recorded of that meeting that:

[493] McLean diary, MS-1222, cited Hearn, 'One past, many histories', p 87.
[494] See Armstrong, 'Sure and certain possession', p 75.

> [T]he Lt. Gov. told the Natives through me that he had merely come there to see them as a visitor not to talk about their land but if they desired to dispose of the lands they did not require for their own use that I was fully empowered to negotiate for them. He should be glad to see them at Wellington and to answer any question they might have to ask him respecting the intentions of the Govt. I then told them that I intended proceeding with the Rangitīkei purchase and gave them this notice that they might not afterwards say it was done without their knowledge.[495]

It would seem, however, that Nepia Taratoa had reconsidered his earlier purported acceptance of Ngāti Apa's right to sell. Now expressing himself as opposed to all land sales in the region, he stated that he would 'clasp the land in his arms and not part with it'.[496] Similar sentiments were voiced by others present. Taikapurua proposed that he and Taratoa should hold the two sides of the river between them. Unsurprisingly, McLean blamed Te Rangihaeata's influence, recording in his diary: 'Others followed in the same strain evidently opposed to the sale of any land whatever and apparently under some of Rangihaeata's influence who is strongly opposed to the introduction of Pakehas.'[497] There was more discussion after the government party left, the assembly agreeing unanimously to retain their lands, and to commit that determination to paper – to be 'printed and retained by themselves as a lasting covenant of their intentions' with a copy to go to the Bishop of Wellington.[498] In a letter subsequently addressed to McLean, it was stated:

> This is our word to you be cautious of the words of your people, of the Ngātiapas, who persist in selling Rangitīkei, and on to Manawatū. That is the boundary they desire to sell. … Friend Mr. McLean, if you consent to what they say, give them your money, but the land shall not be given up to you. Listen: if you wish to purchase let it be the other side of Rangitīkei do not consent to buy this side it will not be given up, all the people (the natives) have determined to hold the land the boundary is Rangitīkei our boundary is Kukutauaki, that boundary shall be ours. Presently the Europeans may say the evils arise from us from the natives.[499]

At Ōtaki, Eyre had declared himself as not there to talk about land, but at Rangitīkei, where the government party went next, he told Ngāti Apa that he 'considered their claims were just' and promised that he would send McLean back to negotiate with them.[500] The Lieutenant Governor departed for the interior two days later. McLean, meanwhile, went on to Turakina, where he discussed land matters before returning to the Rangitīkei River with an expanded party,

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[495] McLean diary, 1 January 1849, MS-1222.
[496] McLean diary, 1 January 1849, MS-1222.
[497] McLean diary, 1 January 1849, MS-1222.
[498] McLean diary, 16 January 1849, object #1032841, MS-1224; see also McLean's later despatch stating that Hakaraia and Tāmihana had drawn up an agreement for the signature of the whole tribe and any others who might join them in which they embodied resolutions passed at their meeting to the effect that neither they nor their descendants would dispose of their lands to Europeans except by annual lease, while some of them 'even spoke with a view to the more sacred observance of their promise … to have copies of it affixed to the new Testaments.' CS 1/1 1849/75, cited Armstrong, 'Sure and certain possession', p 80.
[499] Hakaraia to McLean, 20 January 1849, Object #1032121, MS-Papers-0032-0673A-02.
[500] McLean diary, 2 January 1849, MS-1222.

which now included the young Kāwana Hūnia nattily attired in a British army redcoat.[501] At the gathering of some 115 men, women, and children, McLean told them that they had:

> …all had a full opportunity of considering what they intended to do with their land. The advantage of having Europeans among them, the riches they would thereby acquire, the peace it would establish and the propriety of having our proceedings openly discussed with all the surrounding tribes who were opposed to the sale of the land; that the sun of heaven was reflecting on all of us at this assembly and that [he] did not desire to have any of our meetings or boundaries defined in darkness.[502]

McLean further encouraged them to carefully consider their future needs and not entirely dispossess themselves of their lands in their 'present excitement'.[503] Kāwana opened the discussion for Ngāti Apa, stating that the boundary with Ngāti Raukawa had to be settled before the division of land with Europeans could begin. McLean recorded the speakers as all favouring the sale; two as speaking of Ōmarupāpaka as their boundary and one as acknowledging Taratoa as having rights on the north bank at Poutū. This was expressed as wishing to be friendly with Taratoa and letting him have some land there.[504]

McLean drafted a letter to Rangihaeata reassuring him that, should he hear rumours of Ngāti Apa selling land, it was not the government's intention to exclude him 'in any way from the assemblies in these parts. I most certainly do not want anything relating to land to be done in secret; in my view, it must be discussed in full daylight, as is custom, so each and every interested person may hear.'[505] Apparently, this was not sent, although McLean was to seek out Rangihaeata in an attempt to win his endorsement of the transaction being contemplated. He then set out with 20 Ngāti Apa, who were determined to meet, as he phrased it, 'a powerful tribe opposed to them in the sale of their land, and to assert their right at whatever hazard'.[506] He considered this meeting to be 'only preliminary' and likely to be attended just by Taratoa and those who were opposed to the alienation. This meant, in effect, most of Ngāti Raukawa. According to McLean:

> Taratoa came by invitation, from his place up the river, to talk about the land offered for sale by the Ngātiapas. I went to see them at the Pah, and told this Chief, and the natives assembled, the object of the Meeting; that it was desirable they should talk the matter over freely and openly; so that no after difficulties that would now be obviated, should arise. The case of Title and its merits I left wholly for them to decide. As the natives interested were not all present, I should defer entering fully with my own views on the

[501] McLean papers, MS-Copy-Micro-0664-003, cited Armstrong, 'Sure and certain possession', p 64.
[502] McLean diary, 10 January 1849, MS-1222.
[503] McLean diary, 10 January 1849, MS-1222.
[504] McLean diary, 10 January 1849, MS-1222.
[505] McLean to Rangihaeata,12 January 1849, qms-1210; translation by Piripi Walker.
[506] McLean diary, 12 January 1849, MS-1224.

> subject till some future day when more would be present. However, it was desirable they should conduct their speeches in an orderly and peaceable manner.[507]

Taratoa cautioned McLean against proceeding, foreseeing that it 'would lead to evil and disasters'. This position was adopted also by Taikapurua while Ihakara acknowledged the earlier alienation to Wakefield, but advocated lease, henceforth, since this meant the land would be retained.[508] At the same time, Ngāti Apa were described by McLean as 'speaking with cool determination' of their intention to sell and their speeches as 'forcible as those of the more powerful and haughty Ngātiraukawa chiefs'.[509] McLean attempted to allay Ngāti Raukawa concerns regarding Europeans, telling them that their misapprehensions were unfounded and that:

> … the Ngātiapas were doing well in inducing some to come and live in their country; and something – cautiously worded – as to their having a right to do what they liked with their own; that they were acting according to my wishes, and were also acting most openly and candidly in the affair, in submitting their intentions to the Ngātiraukawas.[510]

He noted, too, that Taratoa did not 'display any passionate feeling' of opposition to Ngāti Apa's claims other than a general aversion to disposal of land he considered Māori required for their own use.[511] As the meeting drew to a close, however, McLean suffered a setback. A letter was brought by Hakariah, the teacher at Otaki, urging them not to sell their land and stating, also, that since the Spain Commission had found against the New Zealand Company's claim at Manawatū, Hadfield considered that they need not give up land there – a representation of the missionary's view that McLean thought doubtful.[512]

McLean continued to explain the Government's intentions to those Māori who called on him, at the Reverend Duncan's house, reassuring them, in particular, that it would pay for, rather than take their land.[513] Accompanied by Ihakara and another chief plus two Whanganui settlers, he then proceeded to visit Te Rangihaeata at Poroutāwhao, where he was received 'kindly'. The settlement, itself, he described in complimentary terms as providing plenty of food with large plantations, one being of 10 acres and cropped with maize and potatoes.[514] Although Te Rangihaeata argued that Ngāti Apa had no right to sell (as they were 'slaves' who had been spared by Taratoa – and he expressed his regret at not having killed them all, 'eat[ing] till [he] was full of their flesh and blood'), this was because, then, they would not have been in a position to have 'occasioned trouble in these days by selling land about the very doors of the Ngāti Raukawa

[507] McLean diary, 12 January 1849, MS-1224.
[508] McLean diary, 13 January 1849, MS-1224.
[509] McLean diary, 13 January 1849, MS-1224.
[510] McLean diary, 13 January 1849, MS-1224.
[511] McLean diary, 13 January 1849, MS-1224.
[512] McLean diary, 15 January 1849, MS-1224.
[513] McLean diary, 16 January 1849, MS-1224.
[514] McLean diary, 18 January 1849, MS-1224.

tribe'.[515] As noted earlier, his main concern was for the effects of colonisation on rangatiratanga rather than the resurgence of Ngāti Apa:

> He had an understanding with Governor Grey that from Porirua to Wangaehu should be for the Maoris. "If you buy the land, the natives will quarrel amongst themselves, and we shall take possession of the land. All the natives along this coast, joined by my brother Iwikau of Taupo, are strongly against the Ngātiapas selling the country. The natives will be enslaved by you. I do not like natives living in amongst the Europeans on small patches of land. Then you will bind us by the hands, and place us in the "whare here here." New laws were very bad for the Maoris…"[516]

The chief referred to Te Rauparaha and his imprisonment in disparaging terms and criticised Christianity as a 'mere pretence' to prevent them from harming Europeans while they were induced to part with their lands. The money they received, he told McLean, was soon back in European hands, the land gone, and the benefit little.[517]

McLean travelled next to the settlement of Whatanui's son, where he again met with Taratoa and discussed Ngāti Apa's offer to sell and 'the desire of the Government to settle disputed boundaries, and place all quarrels about land on a proper footing to restore or preserve peace'. According to McLean, Taratoa 'agreed to the propriety of that, and asked about the treatment of the natives of Port Jackson and America by the English'. McLean then offered apparent confirmation of the Crown's fair intentions, beyond his words to that effect. Although he had no formal magisterial powers in Wellington, he 'adjusted' a stock trespass case between the local squatter (Simmons) and Whatanui's son: 10 shillings was offered in compensation, with more to be paid 'if deemed just by a Committee composed of Europeans and natives'.[518]

This informal magisterial work was followed by further discussions with Ihakara, Taikapurua, and others about government policy, McLean believing that a 'great deal more' was to be achieved 'in explaining these matters, as occasion offer[ed] than by pressing them too much at once'.[519] On 20 January, Ngāti Raukawa wrote to McLean, wishing to have their thoughts set down for all time, again telling him to be 'cautious' of any Ngāti Apa claims to have the right to sell south of the river and advising him to confine his purchase activities to the other side.[520]

Retracing his steps, McLean met next with Te Rauparaha at Ōtaki – the first time the matter of the government's intentions with reference to Ngāti Apa claims had

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[515] McLean diary, 17 January 1849, MS-1224.
[516] McLean diary, 17 January 1849, MS-1224.
[517] McLean diary, 17 January 1849, MS-1224.
[518] McLean diary, 18 January 1849, MS-1224; McLean to Colonial Secretary, 16 August 1850, qms-1212.
[519] McLean diary, 18 & 19 January 1849, MS-1224.
[520] Ngati Raukawa to McLean, 20 January 1849, qms-1210.

been broached with him. McLean saw Te Rauparaha as no longer wielding his former authority although he (and Grey) thought it wise to win his cooperation. He referred to the 'old chief' as once having Ngāti Apa 'quite in his power' but now not objecting to their right to sell.[521] He assured Te Rauparaha that the purchase had the Governor's full support and told him of Grey's 'desire he should render every assistance towards facilitating the present negotiations at Rangitīkei'. McLean later reported that the 'old chief seemed proud at being noticed and considered as a supporter of the Govt. and accordingly promised his aid'.[522] He had also reassured Te Rauparaha that the government would pay for all the land it purchased and would buy only if Māori were willing to sell.

A large hui took place the following day with Te Rauparaha, Te Rangihaeata, Mātia, Mātene, Kīngi Hōri, Te Ahu, Aperahama, Hakariah, Whatanui's son, and several others, as well as their followers, in attendance. Te Rauparaha expressed himself as 'quite pleased' with McLean's explanations of the night before: that the land would not be taken without payment and that they could sell, or retain it as they pleased; although he noted, too, that they were 'not all of one mind' on the subject. He acknowledged that it was no longer possible to expel Ngāti Apa by force of arms. They had been left standing, had grown, and although their talk caused trouble, they were now 'large and difficult under the new order of things – Christianity – to cut down'. Others such as Kīngi Hōri and Te Ahu spoke firmly against sale and referred to the Rangitīkei River as the boundary for the Crown to purchase. Te Ahu stated that the land had been vacated by Ngāti Apa when the heke arrived and that their talk was new. Te Rangihaeata also proposed Rangitīkei as the boundary and that a meeting of all the tribes be held there for 'what [was] the use of talking when Ngāti Apa [were] not present?' This met with the approval of McLean, who thought that 'allowing the boundary to come so far [was] a great concession on the part of this old Chief'.[523] McLean also recorded that neither Rangitāne nor Muaupoko wanted to sell land, nor had been 'empowered' to do so.[524] McLean noted his satisfaction at the moderating attitude to sale and predicted that once the question of Rangitīkei had been settled, the Manawatū would soon follow.[525]

Some further details of the discussions were provided by Samuel Williams. In his later testimony before the Native Land Court, Williams stated that Te Rauparaha had spoken 'indignantly at the idea of the commissioner proposing to buy of Ngāti Apa'. McLean had then pointed out that this had not yet happened; that he 'had come to consult with them' and 'had no intention of buying it without their consent'. Williams said that he had himself advised Te Rauparaha to show consideration 'to the conquered tribes living on the land' and urged him to

[521] McLean diary, 22 January 1849, MS-1224.
[522] McLean to Governor, 24 January 1849, qms-1210.
[523] McLean diary, 23 January 1849, MS-1224.
[524] McLean diary, 24 January 1849, MS-1224.
[525] McLean diary, 18 January 1849, MS-1224.

consent to the transaction. Ultimately, 'the moderate ones were listened to, who proposed that the land be sold to Rangitīkei'. Williams confirmed that Ngāti Raukawa advised Ngāti Apa to keep the land.[526] He is reported as recounting to the court that they said: 'By your selling the land, you expect to gain wealth; in our opinion you will be reduced to poverty; you will be glad to come to us who have retained the land for consideration and support; you will then find that it is the wisest way to retain possession of the land.'"[527] Williams himself had advised Te Rauparaha and Te Rangihaeata that it was 'folly' to hold waste land where there were many desirous of settling on it.'[528]

At Waikanae, the discussions focused on Te Ati Awa rights in Taranaki, although Te Rauparaha had accompanied McLean and now sought public assurances from him that Governor Grey approved of his present purchase negotiations.[529] McLean reported to the Governor that:

> Finding the natives of Manawatū were labouring under false impressions of the intentions of Govt. respecting their lands, I made every endeavour to explain to the chiefs and parties interested that there was no desire as they supposed to deprive them of the whole of their territory, that the Govt. had a … paternal interest in their welfare and desired to see them amply provided for, not only as regarded their present wants but with a view to futurity.[530]

McLean arrived back in Wellington on 30 January, but less than two weeks later he was instructed to again 'hasten along the coast to see the natives'.[531] Eyre had also returned by this stage and provided Grey with a lengthy justification of his tour into the Manawatū and Rangitīkei districts, which he saw as best suited for settlement 'from position, from political considerations and from other circumstances'. He had also deemed it necessary to visit the upper Whanganui and Taupō regions because they were 'intimately connected' with the hapū residing in the Rangitīkei and Manawatū and because they exercised considerable influence 'in connection with the land question'.[532] He repeated McLean's fears about Te Rangihaeata's influence, not only on Ngāti Raukawa, but also on Te Heuheu, whose own rights in the interior portions of the district he dismissed as non-existent.[533] He had visited Te Rangihaeata at Poroutāwhao on his return. Reverend Richard Taylor, who had accompanied Eyre on part of his journey,

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[526] Otaki MB 1C, pp 249-251, cited Armstrong, 'Sure and certain possession', p 71.
[527] *Evening Post*, 19 March 1868, p 2.
[528] *Evening Post*, 19 March 1868, p 2.
[529] McLean diary, 24 January 1849, MS-1224.
[530] McLean to Governor, 24 January 1849, qms-1210.
[531] McLean diary, 12 February 1849, MS-1224.
[532] G7/4, cited Armstrong, 'Sure and certain possession', p 65.
[533] G7/4, cited Armstrong, 'Sure and certain possession', p 66.

recorded of the meeting that the Lieutenant-Governor had told the rangatira that he was visiting him to 'show his desire of forgetting what had past, and of living in peace with him'. To this Te Rangihaeata had replied that he, too, was desirous of peace and that 'the only thing likely to interrupt it was the Govt purchasing Rangitīkei'. He protested that:

> He had been driven from the Wairau, Arapawa [*sic*], Heretaunga and Porirua, and now they were seeking to drive him from the Manawatu and Rangitikei as well, but this he could not submit to, neither was it the feeling of himself alone, but that of Natives in general.[534]

Eyre, according to Taylor, had replied that there was enough land for both races 'to dwell together and that this would be to their mutual advantage as it would enable them to acquire wealth'.[535]

While in Wellington, McLean received a letter from Taylor urging him to attend a large meeting of Ngāti Toa and Ngāti Raukawa that was about to take place, at which he anticipated they would try to intimidate Ngāti Apa into not selling.[536] He set off again, meeting with Te Rauparaha at Ōtaki, along with 'Waikato natives and Pumipi from Harehare'. According to McLean's notes, they were all in favour of allowing Ngāti Apa's sale to proceed. The decision was taken to hold a large meeting of all those iwi with interests in the lands under offer and to reach tribal-wide agreement as to where their boundaries lay. As McLean later explained to Eyre, this way all disputed boundaries would be settled from the outset rather than causing problems at a later date.[537] McLean was encouraged by the tenor of these latest discussions, believing that his negotiating strategy was having the desired result. There was, however an alternative course should it prove, ultimately, to be ineffective in procuring further transfer of territory:

> Taratoa and all the natives on the river are decidedly less opposed to the Rangitikei purchase than they were some little time ago. Te Rauparaha's late favourable speech to me at Otaki makes a good impression; which was explained to the natives by Watanui. If I find any obstinate opposition in buying Manawatu, I will treat with the Chiefs separately; and by this means bring the majority to terms, and so arrange matters satisfactorily.[538]

It was, in fact, this strategy that the Crown was to use so effectively in subsequent years.

Ngāti Apa rangatira professed anxiety about the intentions of Ngāti Raukawa, calling their runanga a 'bad committee' whose intention of holding onto the land

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[534] Richard Taylor Journals, vol 5, 12 January 1849, qms-1990.
[535] Richard Taylor Journals, vol 5, 12 January 1849, qms-1990.
[536] McLean papers, MS-Copy-Micro-0664-003, cited Armstrong,'Sure and certain possession', p 77.
[537] McLean to Lt-Gov[?] 6 March 1849, qms -1211.
[538] McLean diary, 21 February 1849, MS-1224.

was 'misguided'.[539] Āperahama Tīpae informed McLean that he would not attend a hui at Manawatū for that reason, and was critical of Ngāti Raukawa for their 'stubbornness' in holding onto the land. He urged McLean:

> [to] come here [Whangaehu] for us all to consider it. … The part of the land that lies unrestrained, survey that. That part that lies in dispute, you must just take the payments for the land being withheld. Be quick about it, give the payments so the people can benefit. Be quick, don't let it bother you, I am not bothered. They have a view about the payments, don't give it to them, but be quick with my money.[540]

After inspecting Ōmarupāpaka with Reverend Duncan, McLean travelled on to Te Awahou on the Rangitīkei River, meeting with Ngāti Apa at Chamberlain's house, and explaining to them the opposition he had met in supporting their claims. He told them of the large hui that was proposed where the matter could be finally settled, and forwarded letters to the chiefs of Whanganui and Whangaehu inviting them to attend as 'neutral' parties, as McLean phrased it – although, in fact, they were most likely to support the transaction and their Kurahaupō kin and eventually would receive part of the payment.[541] This was a tactic that was to be often repeated by Crown agents over ensuing years. Armstrong calls it 'something of a masterstroke.'[542] McLean later noted his satisfaction at the alacrity with which the two chiefs and a large number of their kin and hapū responded to his summons for assistance.[543]

In his report to Eyre, McLean noted that Ngāti Raukawa seemed 'more conscious of the propriety of repaying the Company for the goods expended on that river' and his intention of investigating those claims once the Rangi transaction was completed. At this stage, doubtless influenced by missionary advice, Tāmihana Te Rauparaha and several other young chiefs based at Otaki were actively working against any sale of their core territory; as McLean put it, 'secretly influencing the natives … and misrepresenting the intentions of the government, so as to create jealousy on the part of some of the old chiefs otherwise inclined to be favourable': an act which he condemned as 'ungrateful conduct'.[544]

4.3 Te Awahou hui, 15–16 March 1849

The negotiations at Te Awahou reflected the approach being undertaken by the Crown at that time but soon to be abandoned. In essence, it was a region-wide gathering of chiefs and hapū with interest in the peaceful adjustment of

[539] McLean papers, MS-Copy-Micro-0535, Letters in Māori, cited Armstrong, 'Sure and certain possession', p 78.
[540] Aperahama to McLean, 21 February 1849, Object #1032577, Ms-Papers-0032-0673A-08, translation by Piripi Walker.
[541] McLean diary, 7 February 1849, MS-1224; see also Armstrong, 'Sure and certain possession', p 117.
[542] Armstrong, 'Sure and certain possession', p 88.
[543] McLean diary, 8 March 1849, MS-1224.
[544] McLean to Lieutenant Governor, 28 February 1849, qms-1211.

boundaries entailed in the Crown transaction, openly ventilated on the land, although some key matters remained outstanding. The fullest record takes the form of McLean's 'minutes' but these can only be read as representing the essence of the korero filtered through McLean's concerns and comprehension. Much of what he indicates was confirmed by Māori attendees, years later in the Native Land Court, but there were significant differences as well, particularly as to what was said and decided about the lands on the south bank of the Rangitīkei River.

The regional gathering of chiefs and hapū took place on 15–16 March 1849. Neither Te Rauparaha nor Rangihaeata attended the hui, although the former had despatched messages to the communities at Porirua and Manawatū enjoining them to attend and Te Rangihaeata had been a prime mover of the gathering.[545] They had travelled as far as Manawatū, then refused to go further, Te Rauparaha pleading deafness and cold and deputising the younger men to act in their absence, it having been 'unanimously agreed' that the boundary of the land to be sold was the Rangitīkei River.[546] McLean interpreted this as a tacit recognition by the two chiefs that their authority extended only to the Manawatū and not to Rangitīkei matters, and taunted them that they dare not set foot there.[547] This was entirely in line with McLean's approach. He generally portrayed the power and authority of the two leaders as being much diminished while seeking to bring them to the Crown's side and, in particular, to isolate Rangihaeata from potential supporters. Among senior 'Ngāti Raukawa' rangatira in attendance were, Taratoa, Kīngi Hōri Te Puke, Te Ahukaramū, Pohotīraha, Kingi Te Ahoaho, and Paora attended; while 'younger chiefs' Tāmihana Te Rauparaha, Mātene Te Whiwhi, Whatanui; Hakariah, Te Werumotu, and Ihakara were also there, along with 'about one hundred men, comprising the most influential members' of their hapū. Leading the 200 men, women, and children of Ngāti Apa who had gathered were Kingi Hori Te Hanea, Kāwana Hūnia, Āperahama Tīpae, and Te Whaitere. Also present were Te Ānaua and Āperahama (the two Whanganui rangatira invited by McLean on the Governor's direction), joined by Hoani Wiremu Hīpango, Āperahama Ruke, Kāwana Paipai, and Nikorima. The names of Pumipi and Taniora of the 'Kawia tribe' and Matiu Te Rongomaiwhiti of Te Upokoiri were also recorded. The European attendees were the Godfrey Thomas (Auditor General Southern Province), Major Durie, Ormond (Private Secretary to the Lieutenant Governor), and Chamberlain, along with McLean himself.[548]

Kawana Hunia spoke first: 'With you, Ngātiraukawas, are all the words. We have little to say. By too much talk I may break faith with Taratoa, respecting our words spoken together in the house at night.'[549] The youthful Hunia clearly

[545] McLean to Lieutenant Governor, 28 February 1849, qms-1211.
[546] McLean to Eyre[?], Manawatū, 21 March 1849, qms-1211.
[547] See Armstrong, 'Sure and certain possession', p 89.
[548] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.
[549] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.

struggled with the fact that he was unable to exercise Ngāti Apa authority over the full extent of territory occupied by them before the arrival of Ngāti Raukawa. (We return to this discussion later in the chapter.) Hāmuera, who spoke next, referred to the 'marriage to the Europeans to my land'.[550] This metaphor, repeated by other Ngāti Apa speakers, reflected Crown rhetoric and promises of an ongoing beneficial relationship and Ngāti Apa anticipation of enjoying the fruits of European presence among them. McLean later described Ngāti Apa rangatira as vying with each other to claim various settlers as their own particular Pākehā.[551]

Ngāti Raukawa speakers followed, acknowledging the right of Ngāti Apa to dispose of their lands to Europeans, but insisting on keeping the area south of the river, squeezed as they were by the establishment of European settlement and dominance of Port Nicholson, Porirua and Wanganui, which would now extend to Rangitīkei from the north. Their first speaker, Te Huruhuru, was recorded as stating: 'All the words we have spoken is that we shall keep this side of Rangitīkei up to Taupo.' Kīngi Te Ahoaho, based at Ōtaki, later expanded on this core message, recorded by McLean as: 'It is well for the Europeans to have the North side of Rangitīkei. This side of the river is for ourselves.' A whakataukī followed, in which all Ngāti Raukawa joined, recorded by McLean as, 'Ka apu te wenua, Ka haere, Ka haere nga tangata Kei hea. Era ai moke purutia, Tawai Kia ita a, ita, ita, ita', and translated by him as, 'When the land goes Where are the people to live, or go to? Ngātiraukawas, let us hold it fast, Let us hold it fast.'[552]

In the whaikōrero that ensued, Te Tewe (Ngāti Raukawa) acknowledged the passing of Te Hakeke and the rangatira's act of mercy towards him during the fighting before 1840, when his life had been spared. Kāwana, in response, spoke of his father's friendly treatment of Te Rauparaha when he came to Waitōtara, arguing that: 'Ngātiapas have been kind and hospitable long enough to natives without gratitude, or any return being made to us.' He maintained that they had been 'hospitable' to Whatanui as well, refraining from attack when it was in their power to have advantageously done so. A rangatira from Whangaehu pointed out that Ngāti Raukawa had first brought Europeans into the district, that three years had passed since Ngāti Apa had made their offer of land, and that they, too, wanted such benefits as Europeans could bring.[553] Hōri Kīngi Te Puke was adamant, however, that Ngāti Apa could not sell land to the south of the river; nor should the Crown attempt to purchase there:

> Talk mouth to mouth, talk about your land, our joint land; have your say, and we shall have our say. Say, our voice is to sell the land on the opposite side, (North) of the Rangitīkei river. We are now crowded on both sides. Wanganui, North of us, is sold to the Europeans. Port Nicholson, South, and Porirua. Now this is Rangitīkei. You may sell

[550] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.
[551] McLean to Colonial Secretary, 6 and 8 August 1849, qms-1210.
[552] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.
[553] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.

> this to the Europeans, but Mr. McLean, do not let the Europeans come on this (South) side.[554]

A number of Ngāti Apa speakers then reiterated their intention to give their lands into McLean's hands to seemingly unanimous assent. In response, Tewe who had previously acknowledged Te Hakeke, now 'spoke violently' against the sale of land to the Europeans, saying: 'Look at the Wairarapa – a few foolish people of that place offered to sell their land; but on consideration afterwards, they would not sell for any amount.'[555] When asked, the assembled Ngāti Raukawa agreed to sell the north side only. Upon Ngāti Apa agreeing "Ae" the land would be given to the Queen, and "Ae', to the Governor, Pānapa stood forward in dissent, stating that he would not give up his land, that 'Your place is England. That is the place of the Pakeha. You have no right here.'[556]

After further korero, Kingi Te Ahoaho spoke again, recorded by McLean as saying:

> It is right you should welcome us. We were friends long ago, before the new tikanga, or new order of things took place. We had also quarrels before then, but we should keep friends. Just look, Mr. McLean, the boundary we claim is the Rangitikei. Your people shall have one side; but our retaining possession of it will not be for ourselves, but for your people also; meaning for the Ngātiapa.[557]

Taratoa now entered the debate:

> All your talk about friendship to me, is correct. This land on this side is mine. I will hold this side, and will never give it up; no, never, I will not give it up for ever. The other side, if I agree to it, will be given up to the Europeans, – but not without. Mr. McLean will not purchase land foolishly.[558]

Timoti of Ngāti Apa agreed that the south bank would not be sold although he claimed rights there: 'The South side of the river is for you, Mr. McLean; for me also; and for the Ngātiraukawa.' Taratoa then reiterated: 'Be mindful of my words, now. Just look at the other side. The other side is for you … but do not come to this side, if you wish to have peace.'[559] He then turned to greet Hori Kingi Te Anaua, who pleaded for the boundaries between them to be amicably settled and the peace to be preserved.

Heavy rain disrupted the meeting, but McLean recorded overhearing Ihakara Tukumaru talking to Ngāti Apa, saying that under custom the boundary between them could have run along the Kōpūtara Stream, but Europeans were involved in the matter, and so 'Rangitīkei had been decided on by us as a boundary for the Europeans'. Thus, in the light of day, there was an understanding among Ngāti

[554] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.
[555] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.
[556] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.
[557] McLean Report on Te Awahou meeting, 15 March 1849, Ms-papers-0032-0003.
[558] McLean Report on Te Awahou meeting, 15 March 1849, Ms-papers-0032-0003.
[559] McLean Report on Te Awahou meeting, 15 March 1849, Ms-papers-0032-0003.

Raukawa and other tangata heke that there would be no more dealing of land in a territory over which Taratoa asserted their general authority and which he and his fellow rangatira considered necessary for their continued security and prosperity. But in McLean's mind, the door was clearly open for further transactions south of the river, given that the existence of some sort of right or interest had been acknowledged to exist although the nature and extent of it was as yet undefined. This possibility was not openly stated, however. Indeed, 'all' of Ngāti Apa rights were said to have been given up. In the minutes of the following day's discussion Ihakara is recorded as agreeing that if the McLean paid Ngāti Apa, he would possess their land but Ngāti Raukawa interests would remain: 'I shall possess it … [W]e will never give up our land and we give you this open warning.'[560]

McLean also recorded that after the open debate of the first day, Ngāti Apa had discussed among themselves whether they agreed that Europeans should be prevented from occupying the south bank. Only a few supported that prohibition with the majority maintaining that 'they had no right to break faith with the Europeans'.[561] They had agreed to give up all their interest to them. Ngāti Raukawa were not privy to that discussion however.

Mātene opened the second day's proceedings, talking of the new law of peace that was an improvement on the old ways, though he referred to various events in the past, including his own capture and the release of Arapeta of Ngāti Apa, to whom he referred as 'his mark'.[562] Rawiri of Ngāti Apa endorsed Matene's expression of peace; saying that they were following Te Hakeke's wishes and giving up all their land to the Europeans so that there was not a single place reserved, since Manawatū had already been given up by Ngāti Raukawa as payment for the New Zealand Company goods.[563] Taratoa then restated his determination to hold the south side.

Next, Kīngi Hōri Te Hania spoke of Ngāti Apa's authority in the region; that he and Taratoa had discussed various land matters on many former occasions but, he implied, had not reached complete accord. Kingi Te Ahoaho repeated that Rangitīkei was the boundary; followed by Te Ahukaramū, who declared that the agreement reached by the assembled chiefs should be respected by all parties, including the Crown:

> Listen! Omurapapako is the cause of this long talk. "E ahu e te one one mau Omarupapako." This is a great Committee or Meeting. The cause of all our previous disturbance has been the want of such Meetings. Mr. McLean, the boundary is Rangitīkei, – a boundary formed or made by God. The other side is for the Queen, is for the Queen, and the Governor of you. If you wish for this side, let us go to the Governor,

[560] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.
[561] McLean papers, MS-Copy-Micro-0664-003, cited Armstrong, 'Sure and certain possession', pp 92.
[562] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.
[563] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.

and declare in open day that we shall fight for it in open daylight, when the sun is shining.[564]

McLean asked Kingi Hori Te Hania, as the senior Ngāti Apa rangatira, to state what their boundaries were; so that they 'should be openly known, and declared at this Meeting, to prevent future differences'.[565]The answer was Ōmarupāpaka and Pukehīnau. 'Matiu joins our boundary there. That is all, – Purakau, Wakaari, Oroua, Koti Awa, Otara, – inland.'[566]

Hori Kingi Te Anaua, Whanganui rangatira, next called for the gathering to give their public assent to the government's purchase. McLean recorded that he turned first to Ngāti Raukawa:

"Do you retain the river?", and with determination they all replied "Ae."

"I know what that determination is. Do you consent that the Ngātiapa should have their own land?"

Reply, – "Ae."

"And that the Pakeha should have the opposite side of the Rangitīkei river?"

Reply, – "Ae."

Turning to the Ngātiapa, "Ngātiapa, – do you agree to the land being yours?"

Reply of the Ngātiapa, "Ae."

"Do you consent that no Europeans should live on this side?"

Ten strangers of the Ngātimaniapoto, sitting on the side of the Ngātiapa, said, – "Ae." – and Ihakara, and either one or two of the Ngātiapa claimants, – "Ae.", with the Ngātimaniapoto. The others firmly objected to consent, from having previously ceded their land to the Government.

Mr McLean: "Ngātiraukawa, - I wish to hear you again repeat your consent now given that the Europeans shall peaceably occupy the land on the North bank of Rangitīkei."

They all replied "Ae."

"That the Ngātiapa shall also possess their own land, as far as they claimed them at this Meeting?"

Assented, – "Ae."

"That you shall not disturb or interfere with the Europeans on the North bank of the river?"

"Not we. We shall not interfere with them. So. We shall not." [567]

[564] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.
[565] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.
[566] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.
[567] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.

4.4 Summary

The gathering had thus acknowledged Ngāti Apa's unchallenged authority as existing only as far as the Rangitīkei. Beyond that, as far as Ngāti Raukawa were concerned, they held the right to decide about the disposal of lands, although Ngāti Apa's claims extended to the south bank and they might continue to reside there. Crucially, Europeans were to go no further south than permitted by the limited arrangements already approved. This represented a compromise on the part of Ngāti Raukawa and the tangata heke. It was a recognition that it would not be possible to maintain the outer limits of their former zone of control and that it was right for Ngāti Apa to enjoy some of the benefits of payments and European presence, although they themselves disapproved of the extensive alienation that was proposed.

Undoubtedly, the presence of Europeans and the introduction of Christianity had changed the dynamic. The engagement with European commerce, religion, and teaching at Otaki seemed to be beneficial, but Grey's 'judicial' actions had also shown the teeth behind the Crown's words, and most historians agree that the authority of Te Rauparaha had been diminished by his earlier capture and confinement. The major concern of Ngāti Raukawa was the protection of their strategic position, their capacity to access the resource-rich swamps and routes into the interior, as well as to enjoy the benefits of stock raising, mills, Christian teachings, and other European innovations and technologies under their own authority.

Significantly, however, Kāwana Hūnia was dissatisfied with the decision reached at the gathering. Again (according to McLean's account), the substance of the challenge was not openly debated before all those gathered. He recorded no response to, or discussion of Ngāti Apa's indication that they had already agreed to sell the south bank to Europeans. The evidence suggests, however, that with the exception of Kāwana, Ngāti Apa accepted Taratoa's authority. Kāwana attempted – but failed – to prevent the dispersal of Ngāti Raukawa as the hui drew to an end, and exchanged angry words with Taratoa. Although McLean 'could not distinctly ascertain what passed between them', he thought it was the subject of the south bank and an accommodation (according to Kāwana) that had been previously reached between Taratoa and Kāwana's father. McLean commented that the young rangatira seemed much affected:

> … as if feeling his want of power to entirely establish the right of his tribe to dispose of all their ancient claims and possessions; a great portion of which are now in the hands of the powerful Ngātiraukawa tribe; before whom he was contending.[568]

[568] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.

As we shall see, that assessment coloured a number of McLean's comments on the actions of Ngāti Apa and their leaders. We shall see also that when the challenge to Ngāti Raukawa's control of lands south of the Rangitīkei River was openly made some 18 months later, the consensus again reached was that Ngāti Apa living there would come under Taratoa's authority (see below). Ultimately, however, the Crown supported the right of Ngāti Apa to dispose of all lands in which they could demonstrate occupation.

McLean assessed the hui as being 'productive of more important results than may be gathered by reading over the minutes'. Namely, Ngāti Raukawa had indeed compromised on their earlier position that their authority extended to Whangaehu and had acknowledged the right of the Ngāti Apa to transact land as far south as Rangitīkei, 'thereby placing the original proprietors and legitimate owners of that district in a more favourable position for the Government to treat with them for claims which had been so long agitated and disputed by Rangihaeata, and the powerful Ngātiraukawa'.[569] There were important implications too, for Ngāti Raukawa's relationship with the Crown and for future transactions. In McLean's view:

> It has also placed the Ngātiraukawas in a position to protect, rather than aid in molesting settlers at Rangitīkei; and has been the means of breaking through a combination on their part, and several other tribes in correspondence with them; who resolved, embodying their resolutions in a written document drawn up at their Public Meetings, to make a stand against the further acquisition of land by the Europeans, excepting by way of annual lease for cattle grazings.[570]

He further anticipated that Ngāti Upokoiri would be soon induced to emulate Ngāti Apa and 'sell' their 'superfluous lands' in the upper Manawatū, Wairarapa, and Hawke's Bay. In fact, McLean was to devote considerable time and energy to purchasing in those regions in the next few years.[571] In his report to the Colonial Secretary, McLean speculated that:

> Rangihaeata who had been for some considerable time preparing large quantities of food for the Ngātitoas and other natives who were invited by him to the meeting was evidently calculating on their cooperation in opposing the right [?] of the Ngātiapas to sell any land south of the Wangaehu river. This chief had also been led to expect that the Ngātiraukawas of Otaki and Manawatū would unite with him in opposing the sale of land as several influential members of the above tribe solicited Rangihaeata's interference in preventing the Ngātiapa sale and requested him and his followers to sign a document embodying their determination to retain possession of all their land.
>
> This disposition was generally and strongly manifested by the natives when I commenced the present negotiations.
>
> In the meantime some of the Ngātitoas were [?] encouraging the Ngātiraukawas to hold the Rangitīkei country, but they were apparently averse to make any open declaration at

[569] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.
[570] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.
[571] McLean Report on Te Awahou meeting, 15 March 1849, Ms-Papers-0032-0003.

> a meeting to this effect and eventually yielded their opposition, objecting to accompany Rangihaeata to Rangitīkei and Rawiri Puaha a chief of that tribe stated to me that their reason for not going to Rangitīkei was that they had no pretension of a claim to that district.[572]

McLean précised the situation at this date: Ngāti Raukawa who had accompanied him to the Awahou hui had 'publicly and unanimously admitted that the Ngātiapas had a perfect right to sell the north banks of the Rangitīkei and that they should not disturb any Europeans who should settle there…' They had also acknowledged 'the right of the Ngātiapas to a portion of the south bank of the river' but they would not yet tolerate it being occupied by Europeans and 'any attempt to do so would be considered by them as equivalent to a declaration of war on the part of the Government with their tribe'.[573]

4.5 Other accounts of the Rangitīkei-Turakina arrangements

We note briefly, here, that the territorial division made during the course of the Te Awahou meeting was recollected by a number of participants and commentators in subsequent years.

For example: at the Kohimaramara Conference held at a time when the non-sellers among Ngāti Raukawa based at Manawatū were coming under increasing pressure, Kurahou challenged the claims of Ngāti Apa, reminding McLean that agreement had been reached on the matter in 1849:

> The word of Ngātiapa is wrong. … namely that the boundary should run from Koputara to Pukehinau and to Moutoa. That land had been paid for with the Governor's money. At the meeting held at Awahou, Ngātiapa insisted that it [the purchase boundary] should be on this side – the Ngātiraukawa, that it should be on the other side of the Rangitīkei. [T]he persons who fixed the boundary were Tahana [of Whanganui], Mr McLean, Nepia, and myself.[574]

When giving evidence before the Native Land Court, several witnesses – mostly young men at the time of the purchase negotiations – also recollected the events that had transpired at Te Awahou.[575]While the general import of this testimony corroborated much of what McLean recorded at the time, there were significant differences as well. Witnesses' evidence did not entirely align, of course, and, in some cases, completely contradicted earlier positions taken. We thus have to weigh the record of McLean at the very time of negotiations, which was potentially compromised by the assumptions he brought to questions of custom and the interests of the Crown, against the subsequent recollections of rangatira, which were potentially compromised by tribal imperatives and the passage of

[572] Mclean to Colonial Secretary, 21 March 1849, qms-1211.
[573] Mclean to Colonial Secretary, 21 March 1849, qms-1211.
[574] *Maori Messenger/Te Karere Maori*, 5 August 1860, p 63.
[575] A number of those accounts have been discussed by Hearn. See 'One past, many histories', pp 104-109.

time. However, there was general agreement among witnesses that a consensus had been reached by collective decision at Te Awahou: while the north bank could be sold, the south bank could not and, further, it would be held under Taratoa's authority for both Ngāti Raukawa and Ngāti Apa. Even Kāwana Hūnia gave evidence that this was the case in spite of his dislike of that decision. This raises the possibility that McLean understated aspects of the discussion that did not suit the Crown's agenda. As we discuss below, this was the situation at a later hui about Ngāti Apa rights on the south bank, which had been attended by Reverend Taylor as well as McLean.

The Te Awahou arrangements were mentioned by a number of witnesses at the two Himatangi hearings in 1868. Ihakara Tukumaru told the Court that the younger men had wanted to go on to the meeting despite Te Rauparaha's wish to turn back, with warnings of possible Ngāti Apa attack. At Te Awahou, Ngāti Raukawa had been completely clear that Europeans and Ngāti Apa must confine themselves to the north side and after '2½ days talking', McLean had finally agreed. According to Ihakara:

> Ngātiapa wished to sell all the land so as to have the pakehas between them and the Ngātiraukawa and wanted to sell the block between Rangitikei and Manawatu. Mr McLean finally assented to go to the other side of Rangitikei. Kingi Hori Te Anaua said, 'E, Ngātiapa! E pai ana koe kia haere atu ki tera taha hoko.' Ngātiapa said, 'Ae.' Hori repeated the question and Ngātiapa again said, 'Ae.' He then turned to us and said 'Ngātiraukawa! E pupuri ana koe mo korua tahi ko Ngātiapa, ne?' 'Ae. – 2nd time – 'Ae.' I heard no Ngātiraukawa voice dissent. I heard only Hunia say 'It is false.' After the sale of north Rangitikei Ngātiapa crossed to Pakapakatea and felled a bush – they did so on the strength of the 'Ae'. I heard no voice dissent. –It was by the consent of Ngātiraukawa that Ngātiapa were able to sell the other side.'[576]

Ngāti Toa witness, Nopera Te Ngiha, corroborated Ihakara's evidence stating that:

> Ngāti Apa did propose to sell on this side of Rangitīkei when the other side was sold – did not sell because the committee settled that it was to be the other side that was to be sold, and after that they wanted to sell this side also. The committee of Ngātiraukawa, Ngātiapa and Whanganui. I heard this side was left for Ngātiraukawa and Ngātiapa.[577]

Whanganui rangatira, Kāwana Paipai, recollected that Te Anaua had asked Ngāti Raukawa whether the boundary lay at Omarupapako and that the majority had agreed. Taratoa had then stood and asked, 'What is the "ahi" of your "tuakana" Aperahama and Kuruho [?] at Maramahoea?' to which Te Anaua had replied, 'Kei a ao te whakaaro.' Kawana Paipai concluded that 'Ngātiapa got the land on this [south] side of the Rangitīkei as far as Omarupāpaka', but made no comment

[576] Otaki minute book, 1E, pp 604-605.
[577] Otaki minute book, 1D, p 397, cited Hearn, 'One past, many histories', p 107.

about land-holding arrangements.[578] On the other hand, Te Herekau emphasised the rights of Nepia Taratoa. According to his evidence:

> Nepia said to Te Anaua – "what about my fires burning here" – Hori Te Anaua said, "E kore e taea o ahi te tinei" then went to McLean and said "cross over to north side you and your people and sell that – to part with our reserve the boundary shall be the river from mouth to Ruahine – Te Ahu spoke to same effect – Te Aho Aho same – all Ngatiraukawa chiefs, same effect – sending Ngati Apa to other side and keeping this side – Hori then asked if all agreed to sale of north side of river – "ae" 2nd and 3rd "ae"[579]

Most significantly, Kāwana Hunia indicated that the collective decision had gone against him. He stated to the court that McLean had assured him that he still held mana over the land despite his father's death, but at the meeting his 'tino kupu' was to Hori Te Anuau to ascertain Ngāti Raukawa's attitude. On Ngāti Raukawa stating that they were determined to hold on to the land, Te Anuau had stated that it was for himself to decide whether Taratoa had the right to hold the area for Ngāti Apa and that it was 'tika'. Kawana continued his account of what happened next. He had stated:

> It is not for him to consent for me to sell my land – nor for him to keep my land – Nepia heard and seeing that I was angry said to Ngātiraukawa 'let us go' – he went out and then I addressed McLean. –I said to McLean 'It is not for any third party to dictate – Poho Tiraha said 'Sell your land and see what lots of eels you will have' – and 'pukana' at me – Hori Kingi named Omarupapaka as the boundary of the land – he said 'Are you holding the land for Ngāti Apa?' and he turned to me and asked if we agreed, and I was angry with Ngātiapa for agreeing.'[580]

Thomas Williams also published his polemic, *The Manawatu Purchase Completed; or The Treaty of Waitangi Broken*, in 1868, which contained a number of letters from both Maori and Pakeha supporting the contention that a tribal accommodation had been reached as a result of the negotiations for the Rangitīkei-Turakina block, followed by those for Awahou and Ahuaturanga (discussed at chapter 5). Rawiri Te Wānui, for example, wrote to Thomas Williams claiming that Ngāti Raukawa:

> … agreed to allow the other side to be sold, on condition that Ngātiapa should abandon all claims to this side, to which Ngātiapa agreed. Ngāti Raukawa did not receive any of the money payment for the land, though it was through them having given consent that the land was sold, and Ngātiapa got the money.[581]

He also told the Native Land Court that the decision to fix the boundary at the Rangitīkei River had been made by Ngāti Raukawa runanga based at Ōtaki over the course of several meetings. The court minutes record

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[578] Otaki minute book 1D, pp 426-427, cited Hearn, 'One past, many histories', p 105.
[579] Otaki minute book, 1C, pp 234-6.
[580] Otaki minute book 1D, pp 529-531.
[581] Rawiri Te Wanui to Thomas Williams, 26 June 1867, in Thomas Williams, *The Manawatu Purchase Completed; or The Treaty of Waitangi Broken*, London, 1868, p 11.

> opinion divided – some said at Whangaehu some Turakina – Rauparaha said let it be at Whangaehu – he and other chiefs – point was not decided – another meeting afterwards and discussion about the boundary Whangaehu and Turakina the young men as myself – Hakaraia and Matene Te Whiwhi wished to follow advice of missionary and take the boundary to Turakina, and after to Rangitikei, proposed to fix Rangitikei as the boundary of Ngati Apa's sale – old men still urged that – Matene and Hakaraia pressed their point and it was at last agreed to – it was then decided that Rangitikei should be the boundary – then they went to Rangitikei to finally fix the boundary.[582]

Rāwiri decribed the boundary as an area for Ngāti Apa.

Much of this was confirmed by Mātene Te Whiwhi who told Williams that 'Ngātiraukawa quietly handed over the other side of the Rangitīkei to Ngātiapa for them to sell to Mr McLean, which made that sale complete.' Ahuataranga was also peacefully settled, being allocated to Rangitāne while 'this side of the Rangitīkei was retained by Ngātiraukawa…'[583] Like Rāwiri he maintained in the Hīmatangi hearings, that it was the new generation of leadership who had been instrumental in persuading Te Rauparaha, Te Rangihaeata and Te Ahu to allow Ngāti Apa to sell land to the Crown down to the Rangitīkei River - but not beyond.[584] He told the court that Nepia Taratoa had gone to McLean, saying that he would not permit occupation of the south bank and that this had been accepted by McLean and at the tribal meeting, although there had been some dissenting voices.[585]

Thomas Williams sought, too, the opinion of Octavius Hadfield and his own brother (Samuel). Hadfield argued that Ngāti Raukawa had been in undisturbed occupation since 1830 and that there had been 'no room' for questioning their title, as it was clear that when they 'consented to forego all claim to the north side of the Rangitīkei, they distinctly and emphatically, in the presence of the Land Purchase Commissioner and others, reasserted their title to the south side, and their determination to retain it'.[586] Corroboration was offered by Samuel Williams who had been present at the initial discussions at Otaki in January 1849 and who also gave evidence before the Native Land Court where he stated that, after much debate, Ngāti Raukawa had 'restored the mana of Ngāti Apa' north of the Rangitīkei River which was then 'fixed as [the] boundary.' It was generally understood that the land would be sold by Ngāti Apa, but, he said, 'it was apparent to me that the mana of the south side was held by Ngāti Raukawa alone, and that they only thought of retaining it in their own hands.'[587] In his letter to

[582] Otaki minute book, 1C, pp 231-3.
[583] Matene Te Whiwhi to Thomas Williams, undated, cited in Williams, *The Manawatū Purchase Completed,* p 12.
[584] Otaki minute book, 1C, pp 231-233.
[585] Otaki minute book, 1C, pp 231-233.
[586] Octavius Hadfield to Thomas Williams, 15 July 1867, in Williams, *The Manawatū Purchase Completed*, appendix, p 42.
[587] *Evening Post*, 19 March 1868, p 2, Otaki minute book, 1C, p 228.

Thomas, he confirmed that Ngāti Raukawa had reached a peaceful adjustment of territorial boundaries. He stated both in the court and in his correspondence that McLean had sought his assistance in winning the agreement of Te Rauparaha and Te Rangihaeata to the sale; and outlined the objections those rangatira had raised and their eventual acceptance of the transaction because the land was under the authority of Ngāti Raukawa, who thus had the right to decide what happened to it. Williams claimed that several Ngāti Apa had acknowledged their debt to Whatanui and the status of Ngāti Raukawa as kaikotikoti whenua. He had himself urged Ngāti Raukawa to allow Ngāti Apa to undertake the transaction – and keep all the purchase price – on the understanding that the lands south of the Rangitīkei River would be retained by them. McLean, he said, was gratified at the 'generous manner in which Ngāti Raukawa had acted, more particularly in not accepting any of the purchase money, of which Ngātiapa had previously expected them to take a large share'. Under cross-examination by Fox and in his letter to his brother, Williams confirmed this arrangement was not considered to preclude Ngāti Apa from occupying portions of the south bank if they wished, nor from receiving a part of the payment for it, but only if Ngāti Raukawa decided to sell.[588]

Mention should be made, however, of the evidence of Tāmihana Te Rauparaha, which put a different gloss on matters. He had, by this time, changed his earlier position on sale and now opposed 'Ngāti Raukawa'. Appearing for the Crown, Tāmihana told the court that Ngāti Raukawa, Ngāti Kauwhata, and Taratoa and Ngāti Parewahawaha had been living as the mōkai of Ngāti Apa since Te Rauparaha had set the limits of his mana at Manawatū. In his account of the Te Awahou meeting given at the Hīmatangi hearing, Ngāti Raukawa and Ngāti Toa had returned the land on the north bank of Rangitīkei and as far south as the Manawatū.[589] Hearn concludes, however, that 'his testimony was not always internally consistent or indeed fully reliable'.[590] In his view, it appears to have been 'carefully crafted to meet the Crown's theory that hapu of Ngāti Raukawa settled on the Rangitīkei-Manawatū lands at the invitation … of Ngāti Apa and at best were entitled only to those scraps of land that they actually occupied'.[591] Certainly, Tāmihana's view of what was agreed at Awahou was not shared by other witnesses.

Finally, we note an exchange between McLean and the non-sellers in the Rangitīkei-Manawatū block in 1870 as he attempted to address the insufficiencies in reserve provision in that flawed purchase (discussed more fully in chapters 6 to 8). Although McLean had been guarded in the years 1848 to 1850 when it came to the question of the Crown's attitude to property rights and its longer-term

[588] Samuel Williams to Thomas Williams, no date, in Williams, *The Manawatū Purchase Completed*, appendix, p 41; *Evening Pos*t, 19 March 1868, p 1.
[589] *Wellington Independent*, 2 April 1868, p 3, cited Hearn, 'One past, many histories', p 108.
[590] Hearn, 'One past, many histories', p 107.
[591] Hearn, 'One past, many histories', fn 316 at p 108.

plans, and kept out of the subsequent controversy, he continued to be well-thought of by Ngāti Raukawa, Ngāti Kauwhata, and the other allied iwi and hapū. The largely open conduct of his negotiations and collective agreement by the different right-holders gathered together on the whenua contrasted sharply with subsequent Crown practice, which had undermined the ability of the iwi to maintain a unified position. During his discussions, McLean had stated: 'I said to you long ago "Give up the other side of Rangitīkei and hold onto this."' Moroati had later responded, '…you told Raukawa to give up that land and cross the river, they did so, and after that the new commissioner came and did not act in accordance therewith'. McLean tacitly agreed: 'I have not forgotten what I said at the time of the first sales on the subject of a fair division of the land to each tribe respectively.'[592] At a subsequent meeting held at Oroua, Hakaraia Pouri also recollected the meeting at Te Awahou, reminding McLean, 'you said, "Leave this side of Rangitīkei, but let me have the other side."'[593] As we shall see in chapter 8, McLean denied any hand in strengthening the claims of Ngāti Apa, suggesting that it was Ngāti Raukawa by their own actions, along with Featherston, who had made their opponents more powerful than they had been formerly.

4.6 Finalising negotiations

In fact, although the Crown had made significant progress towards achieving its object of obtaining a large tract of land for New Zealand Company settlers, there was not yet complete agreement as to the 'sale'. In particular, McLean had left the inland boundary for later consideration and had not been dealing with inland hapū in the same way as he had with those based at Ōtaki, Te Awahou, Turakina, and elsewhere along the coast. For example: Paranihi Te Tau, a senior chief of Ngāti Pikiahu based at Te Reureu, later gave evidence at the Native Land Court, that he had not been present at the crucial Te Awahou meeting, only hearing of it later. He had then gone to see McLean at Parewanui, objecting to any purchase extending as far as Ōtara.[594]

Just as the negotiations for Ngāti Raukawa had been about protecting their strategic control, for McLean, purchasing the area, as well as satisfying the immediate requirements of the New Zealand Company settlers, was about preventing expansion of Māori occupation of the interior. As noted above, a community of Ngāti Rangatahi was living on the south bank near Parewanui and 'Taupo natives' were asserting rights at Ōtara. At the time, McLean saw neither of these groups as having any colour of right, describing them as 'squatters', having 'temporary residence by sufferance'.[595] Also, Pānapa, who was connected with Ngāti Rangatahi and Te Rangihaeata and had signalled his opposition at the

[592] Notes of meeting, 10 November 1870, MA 13/72a.
[593] Notes of meeting, 18-19 November 1870, MA 13/72a.
[594] Otaki minute book, 1C, pp 237-8.
[595] McLean to Colonial Secretary, 6 August 1849. qms-1210; McLean diary, 3 March 1849, MS-1224.

hui, had yet to be dealt with. (Ultimately, in 1853, that chief's on-going refusal to accept British law was to result in his arrest and sentence to transportation but that was in the future and will be discussed later in the report. [596])

McLean undoubtedly knew that he had not achieved complete, fully-informed endorsement of the transaction without the inland boundary negotiated. The failure to get this matter settled before the deed was signed and the first instalment of the purchase price paid derived from Grey's policy of extinguishing all customary rights of an iwi within an area, even though other groups might exercise similar rights in the same lands. This general policy has already been criticised by the Waitangi Tribunal on the grounds that it assumes all right-holders would endorse and wish to participate in the Crown purchase. No consideration was given to the possible effect on the rights of those hapū who wished to retain their interests in such lands or for the need for reserves.[597] McLean's instructions of 12 December 1848 had stated that the Government was 'desirous of purchasing the whole of the Native claims to the country between Porirua and Whangaehu, where the boundaries of their claims upon the coast are marked, the reserves will be ascertained and defined, then the whole claim, however far inland extending, having in every case been purchased…' would extinguish all title, and the reserves would thus constitute the whole of any Māori claim to the district.[598]

Upon being informed, just before the Te Awahou meeting, that 'Ngatipehi tribe of Taupo' had been placing boundary markers at some distance in the interior, McLean took the opportunity to remind his masters that 'it would be most desirable as far as possible to ascertain and decide all differences respecting disputed boundaries between distinct tribes' rather leaving questions open 'which might be provocative of future misunderstandings and contention'.[599] McLean 'fully conformed' to his instructions nonetheless.[600] He recorded no discussion of the interior boundary at the hui other than Pānapa's objections, and the deed was drawn up, deliberately leaving the matter for future decision. It thus stated: 'The boundaries of the land which we now entirely and forever give up are these: The river of Rangitīkei on one side, and the sea on one side, and the river of Turakina on one side, going inland as far as our interior claims extend.'[601] McLean could not be certain, however, as to exactly where Ngāti Apa's rights intersected with those of inland hapū until he visited the area and the parties involved – preferably accompanied by an experienced surveyor (and, as it turned out) a large body of Māori who had already approved the transaction.

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[596] *New Zealand Spectator and Cook's Strait Guardian*, 6 April 1853, p 2.
[597] Waitangi Tribunal, *Te Tau Ihu*. pp 373-4.
[598] Colonial Secretary to McLean, 12 December 1848, *AJHR* 1861, C-1, p 251.
[599] McLean to Eyre [?], 6 March 1849, qms-1211.
[600] McLean to Colonial Secretary, 10 April 1849, Ms-Papers-0032-0003.
[601] Ngati Apa deed, 15 May 1849, Ms-Papers-0032-0003.

Over the next weeks, McLean set about defining the reserves, getting the deed signed, and the first instalment paid – all matters outside the purview of this report. It is worth noting, however, that he immediately encountered difficulties as he travelled upriver, not only from Panapa, who objected outright to sale, but also Ngāti Raukawa rangatira, Pāraone (whom he had previously described as in support of the sale) and E Waka, both of whom wanted particular areas reserved. He recorded on 30 March 1849:

> At Porewhara, sixteen miles from our last stage, we found some native plantations owned by Panapa, a Ngātiapa Chief, a man of most powerful and forbidding countenance, who deserted his tribe and joined Rangihaeata threatening, with that Chief, to use his utmost influence in preventing the sale of the district.
>
> Our reception was not the most friendly. The natives, excepting a few who came up from Parananui to meet me, strongly exclaimed against the sale of their land.
>
> Panapa erected a flag staff that morning, where his claim, which is considerable, commenced; stating that he would die by it, before he would cede his land. His language, which was violent, was evidently borrowed from Rangihaeata, who, I understood, from some of his natives on the journey to Taupo, was very much vexed that the Europeans were acquiring a right to such a large territory in a part of the country where his retreat into the interior might be interrupted, should he, at a future period, find it necessary to take refuge there.
>
> Paroni, a Ngātiraukawa Chief, married to a Ngātiapa woman, stated that he intended to retain some wooded land, claimed in right of his wife.[602]

McLean out-manoeuvred E Waka, who was 'instructing' hapū based upriver to hold fast to their land since he had not, himself, succeeded in inducing McLean 'to agree to his constant demand for Reserves'. According to McLean:

> I had to encounter their united opposition, which ended after a long, persuasive argument on my part, much to E Waka's annoyance, in Panapa's yielding his opposition, and quite agreeing with me that it was improper to intersect the Europeans' district with native Reserves, when ample land was preserved for them elsewhere.[603]

It was on this excursion inland that McLean also learned that the party of Taupo Māori had been in occupation of Ōtara for some time – in fact, the past five years. It was reported, too, that Te Rangihaeata was fearful of an attack on his pa and, disappointed in Ngāti Raukawa's endorsement of the Crown's purchase, was threatening to go back north.[604]

Panapa and Ngāti Rangatahi continued to be a problem for McLean, challenging the right of Ngāti Apa to oversee the placement of Europeans on the land and disgruntled that they had received no part of the payment.[605] Even as the ink dried on the deed, and the first instalment paid out and spent (McLean reported

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[602] McLean to Colonial Secretary, 10 April 1849, Ms-Papers-0032-0003.
[603] McLean to Colonial Secretary, 10 April 1849, Ms-Papers-0032-0003.
[604] McLean to Colonial Secretary, 10 April 1849, Ms-Papers-0032-0003 & McLean to Lt Governor,24 April 1849, qms-1211.
[605] See Armstrong, 'Sure and certain possession', p 147.

most had gone into the hands of Europeans within a day[606]) Panapa moved to take possession of the new European arrivals. It was McLean's assessment that Ngāti Apa had been 'generally under an impression that on Europeans arriving in their district they as the original proprietors of the ceded country should unite themselves with them for mutual protection, & that they should consequently reap every advantage to be derived from the creation of houses & other employments.…' While they were 'disputing among themselves as to who should have the right of claiming the first Pakehas or Europeans who should settle at the Rangitīkei' and receiving their first instalment of the purchase price. Ngāti Rangatahi had moved immediately to assert their own authority over land that had been 'sold' and the first European who had come onto it. McLean later reported:

> While the Ngātiapa were at Wanganui receiving the first instalment of purchase money for their land a European in the employ of Mr John Wade at Porirua arrived at Rangitikei and agreed with a native named Panapa of (?) the Ngātirangatahi, who are a distinct (?) tribe from the Ngātiapa and squatters on the south bank of the Rangitikei since they abandoned the Hutt after the late war, to erect a house for Mr Wade which was accordingly done. The Ngātiapa, on returning to Rangitikei were surprised to find that before they had scarcely handled the "utu" for their land a house was built on it and they naturally doubted the European's authority for such a hasty and ill advised proceeding, informing him at the same time that they objected to the erection of the house till they should ascertain whether he had come there by the sanction of Govt., having been previously informed that no Europeans should lease, squat or hold lands without such sanction. The chief cause however of their annoyance was that a distinct tribe from themselves should step in in their absence to build the house and thus deprive them of the work which they wished to monopolise. On reflecting, however, that they had sold their land, they entirely withdrew their objection to the erection of the houses. The Ngātiapa were anxiously looking forward to the arrival of more Europeans determined that they should take the lead in placing them on the most eligible situations for grazing their stock, in this they were again disappointed by Panapa & the Ngātirangatahi natives who eagerly watched the arrival of Mr Skipworth's overseer of whom they had previous notice and who they conducted with his sheep to some land where Reihana demanded a large reserve as communicated in my report of 10th April, and entirely relinquished by him as notified in my report on the Rangitikei purchase of the 21st May.[607]

Penehamine, whose sister was married to Paraone, then raised various objections to the sale of land containing the 'finest timber and sheep grazing tract in the district' on grounds which McLean dismissed as 'unimportant' but failed to describe. Reassured by recent events that they would enjoy some of the benefits that could come with Europeans, Paraone, Panapa, and several Ngāti Rangatahi intervened, stating that they were:

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[606] McLean to Colonial Secretary, 6 August 1849, qms-1210.

[607] McLean to Colonial Secretary, 6 August 1849, qms-1210. Note that Eyre argued that settlers should employ vendors exclusively as a reward for those who chose to sell and because employment of non-vendors might be misconstrued as an acknowledgement of rights. See Armstrong, 'Sure and certain possession', p 153.

> …quite aware that the land he urged a claim to was distinctly and fairly included in the purchase, therefore they should decisively (?) support the Europeans in taking possession of it. The Rangitikei natives all ridiculed Penehamine's conduct and Reihana afterwards nearly came to blows with him for interfering with land for which he signed a deed and received payment. The most influential of the Rangitikei natives requested me not to notice this squabble which arose on the part of an obstinate inferior native whose feelings of jealously and stubbornness they had frequently trouble in controlling, but which would cease on his part, as well as on that of others who might be similarly disposed whenever more Europeans for which they were so anxiously contending came to reside among them.[608]

Paraone, with whom he had 'had some trouble when adjusting the native claims', now assured McLean that he would not forget his advice, which was to be 'friendly to the Europeans'. He had come to reside with the first Europeans to settle in the district as a demonstration of his good intentions; and 'while he continued to do so they need not, however isolated their position, apprehend the least annoyance from any member of the various tribes with whom he was connected, including those of Taupō, Waikato and Manawatū'. Even Rangihaeata would not be allowed to molest Pākehā who were living under his protection on the Rangitīkei.[609]

Paraone had then asked permission to plant potatoes for the Europeans on a small wooded spot of land on the north banks of the river where he had cultivations. McLean agreed to this as a way of binding him to the Crown's side and continuing good conduct:

> I told him that from the position of the spot he desired which I looked over with Mr Park [the surveyor] that I did not consider there would be any objection to his using it for the purpose he expressed, at least for a few years & if his behaviour during that period was in accordance with what he now professed I have no doubt the Govt. would hereafter make some more permanent provision for him to ensure his residence among the European settlers.[610]

McLean summarised the message he had conveyed to those living near Parewanui:

> I assembled the tribe inviting the Ngātirangatahi from the opposite side of the river to be also present and explained to them that I trusted from the trouble, care and expense incurred by the Govt. in placing them in such independent and comfortable circumstances for furthering their improvement in wealth and civilisation by the purchase of their land under arrangements which provided amply for their own future and present wants, that they should now endeavour to abandon their old offensive customs and prejudices which were rapidly disappearing among the more civilised tribes in the island and which combined with their avaricious and inhospitable disposition frequently exposed the Europeans who came in contact with them in travelling along the

[608] McLean to Colonial Secretary, 6 August 1849, qms-1210.
[609] McLean to Colonial Secretary, 6 August 1849, qms-1210.
[610] McLean to Colonial Secretary, 6 August 1849, qms-1210.

> coast or otherwise to some most disagreeable treatment and impositions which would not now be tolerated.[611]

The party then proceeded to Te Kaukaupa [?] crossing to the south bank to a 'pa occupied by Pānapa and a party of the Ngātirangatahi tribe', but his korero there was not recorded. McLean had intended to go on to Ōtara but, in the interim, had been instructed to commence negotiations at Manawatū to settle the New Zealand Company's claim there. Before returning to the coast, however, he laid out a reserve at Te Kirikiri bush on the road to Taupō. The object of this reserve and of another of a similar description, he reported, 'was to provide land for the future location of friendly natives in such positions as may render them a protection to the settlers who might be subject to annoyances from natives passing to and from Taupo and other parts of the interior'.[612] McLean intended that one of the reserves be 'fix[ed] somewhere between Porirua and Otara', but the exact location could not be decided until he had an opportunity to see the 'Otara natives respecting interior boundaries'. He had sent them an invitation in the care of Pānapa, whom he described as 'now favourably disposed as the bearer of the letter'.[613] On paying a further visit to Ngāti Rangatahi, he found that they were assisting settlers, supplying them with both produce and labour on 'reasonable' terms.[614]

The failure to define the inland boundary was, however, clearly causing anxiety among both neighbouring iwi and prospective settlers. In late August, William Swainson, who had been affected by the outbreak of hostilities in the Hutt valley, had also purchased extensive lands in the Rangitīkei from the New Zealand Company, and now wrote to Domett urging that the boundary be established as soon as possible since the question had given rise to 'hostile feelings' which might result in settlers being driven off their new holdings.[615] He noted that in the case of Otago, purchasers and sellers had walked and marked the boundaries together to prevent misunderstanding and dispute. Fox also feared that the failure to define the inland boundary might result in Māori attempting to repudiate the sale.[616] Domett asked McLean to report on how he would mark the boundary and informed him of Eyre's views on the matter:

> His Excellency observes that in making purchases of this kind … where conflicting claims of rival tribes exist, the prudent course will always be to define exactly the limit of the country which the selling tribe are clearly admitted to have a right to dispose of, and to purchase this tract of country, and the rights of the natives beyond its limits if they have any such, real or supposed. The latter of course cannot be defined, but then, the Government would not appropriate lands beyond the limits of the portion actually marked out, as known and agreed to beyond dispute, until after the interest of the

[611] McLean to Colonial Secretary, 6 August 1849, qms-1210.
[612] McLean to Colonial Secretary, 6 August 1849, qms-1210.
[613] McLean to Colonial Secretary, 6 August 1849, qms-1210.
[614] See Armstrong, 'Sure and certain possession', p 155.
[615] Cited Armstrong, 'Sure and certain possession', p 157.
[616] Cited Armstrong, 'Sure and certain possession', p 159.

> adjoining tribe should, in a similar manner, have been satisfied by some future purchase. I cannot too strongly impress upon Mr. McLean, therefore, that in all purchases it is essential that however far supposed rights acquired in such purchases are supposed to extend, – some distinct and definite boundary must be acknowledged by the natives, and be marked on the ground, as the limits of the land absolutely purchased; and to which the right of the selling parties is undisputed; and this limit or boundary should exist on every side of the purchase, either in the natural features of the country, or in Surveyor's lines.[617]

Up to this point, McLean had been acting as Police Inspector and under instructions to undertake negotiations on behalf of the New Zealand Company, but in April 1850, he was finally appointed as a land purchase commissioner. In this new role, McLean once again turned his attention to the inland boundary. McLean left different versions of his discussions, making the exact sequence of events difficult to determine, but it is apparent that he met first with Te Heuheu at a Whanganui hui. The rangatira had instructed Pānapa to place a pou at Parewai to indicate the limit to Ngāti Apa's rights. According to McLean Te Heuheu's opposition was focused on Ngāti Apa, who were rumoured to have cursed him rather than on the extension of European settlement.[618] The two matters of Ngāti Apa claims and European settlement were, however, inextricably linked. In his official report, McLean stated that Te Heuheu had promised to return with Rangihaeata in the summer to assist in setting the boundary.[619] He did not acknowledge Te Heuheu as having any rights in the Rangitīkei area and attributed his opposition to 'ill-will to the unfortunate natives whose improved circumstances seems to excite the envy and jealousy of himself, Rangihaeata and Taratoa'.[620]

After the second instalment was paid – delayed by the financial difficulties of the Company and causing McLean concern lest it anger Ngāti Apa, endanger peaceful settlement, and set a bad example to Ngāti Raukawa and others who were also reluctant to sell – he arranged for his surveyor and Ngāti Apa to accompany him 'in a body during the summer months to the interior to point out the exact inland termination of their claims'.[621] First, however, McLean wooed Rangihaeata, persuading Hori Kingi to give him a present for the Ngāti Apa claims (although this does not appear to have eventuated) and sending his own gifts of £5 cash, a coat, two blankets, and a shovel on behalf of the government.[622]

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[617] Eyre to Domett, 6 September 1849, object #1017680, Ms-Papers-0032-0003.
[618] See Armstrong, 'Sure and certain possession', pp 163-4.
[619] Armstrong, 'Sure and certain possession', p 166.
[620] McLean to Eyre, qms 1209, cited Armstrong, 'Sure and certain possession', p 166.
[621] McLean to the Colonial Secretary, 1 October 1849, qms-1212. For discussion of delay in payment to Ngati Apa, see Armstrong, 'Sure and certain possession', pp 166-171.
[622] See Armstrong, 'Sure and certain possession', pp 138 and 172.

There was also the matter of the occupation of Ōtara which involved both Whanganui- and Taupo-based hapū whom McLean had earlier described as 'a band … whose claims or right to reside there is disputed by the Ngātiapa, who also object to their receiving any payment for land to which they have not a hereditary or legitimate right'.[623] In part, the occupation was motivated by concerns that each instalment to Ngāti Apa would represent an increase in the land sold as well as an anxiety they shared with Rangihaeata about the potential of a European road threatening access and control of the interior; fears which McLean dismissed, promising to return to treat with them soon.[624] Although McLean had come to distrust the extravagance of some of Ngāti Apa claims, he clearly shared their view that these hapū had no rights there. Travelling on to Taupō, he met with Te Heuheu about his erection of a boundary post 'within a purchase' to which, in McLean's opinion, he could 'not establish the most distant shadow of a claim'.[625] Te Heuheu was reported to be prepared to withdraw his opposition once he had conferred with Grey 'on the subject of his willingness to come back in summer to assist with Rangihaeata and other chiefs in laying down a boundary'.[626] From McLean's point of view, however, there was need for haste in order to stop the situation from deteriorating. He reported from Wanganui that: 'Since then another party of natives' led by Pohe and 'influenced by Heuheu's example came down to establish a claim to the same spot which rendered it necessary to adjust the matter without delaying either for his return or a more favourable season of the year…'[627]

On his return to the coast, McLean sought out Rangihaeata who, receiving him 'very kindly' at Maramahoea, agreed to assist him in adjusting the interior boundary and to direct his principal follower, Ngāwaka, to withdraw his opposition to the sale.[628] Mclean believed that this would deal a serious blow to the disaffected inland hapū attempting to prevent European expansion onto lands to which they (the settlers) had a perfect right and with whom the chief had been in 'constant intercourse' formerly encouraging their obstruction.[629] The following day, a deputation of Ngāti Raukawa (including Taratoa) and Te Upokoiri talked to McLean regarding the sale of land at Moutoa and the erection of a house without their sanction on the Manawatū.[630] They joined McLean as he travelled with Park, his surveyor, to the upper Rangitīkei River to finalise the southern portion of the inland boundary. A suggestion that the party might split, with the bulk travelling by canoe and McLean and Park overland, was rejected; they should 'meet the inland tribes as a body and hear what they said' and McLean be

[623] McLean to Colonial Secretary, 1 October 1849, qms-1212.
[624] McLean diary, 5 August 1850, MS–1229.
[625] McLean to Colonial Secretary, 17 August 1850, qms-1212.
[626] McLean to Colonial Secretary, 17 August 1850, qms-1212.
[627] McLean to Colonial Secretary, 17 August 1850, qms-1212.
[628] McLean diary, 21 August 1850, MS 1229.
[629] Inwards Despatches from Lt Governor Eyre, G7/12, cited Armstrong, 'Sure and certain possession', p 177.
[630] McLean diary, 22 August 1850, MS 1229.

supported by 'all the party'.[631] They referred to the boundary as a 'canoe with its stern and sides completed, but with its bow unfinished, and waves dashing in at the bow, which required a skilful hand or tohunga to finish it so as to keep out the rushing waters, which were compared to the interior tribes coming in to the European country'.[632] The survey party stopped next at Pohue, a settlement occupied by Ngāti Raukawa, Ngāti Pehi, Ngāti Whakatere, and a group of 'Taupo natives' who stated their opposition to any boundary that exceeded Te Heuheu's marker at Parewai, but according to McLean, the news that Rangihaeata now supported the government undermined their continued resistance.[633]

On arriving at Parewai, McLean refused to acknowledge Te Heuheu's pou, while the chiefs of the settlement debated with the visiting party how far European settlement should extend.[634] On the following day, Te Whau Whau was agreed upon as the extent of unchallenged Ngāti Apa right 'as a tribe', in 'the presence of a large body of chiefs and natives from different tribes whose cooperation' McLean had 'deemed it advisable to secure for this important service'.[635] This was a point downriver from a marker set by Ngāwaka at Te Houhou.[636] Since this included 'all the most desirable and available land', McLean thought it was not worth contending for any further area where 'individual' claims intersected with the rights of other hapū or iwi.[637] Rahira challenged McLean's right to fix the boundary without having 'all the chiefs' and especially Rangihaeata and Te Heuheu present. Taratoa, McLean remarked, seemed greatly annoyed at the insult when Rahira referred to him (McLean) as a tipua.[638]

Despite the continuing opposition of those residing at Pohue, the cutting of the boundary at Te Whauwhau proceeded. McLean recorded that:

> The Chiefs have remained at the tents, while we have despatched a party up Te Tahuhu Bluff, to mark the boundary where I have directed; a bottle containing the following note to be placed underground:– "Certified inland boundary (of the Rangitikei purchase) as decided by the natives and myself.
>
> (Signed) Donald McLean."
>
> N.B. [The notice was in both the English and Maori language.]
>
> The foregoing notice was read over and agreed to by the Chiefs, before it was sealed up in the bottle. It was then taken up the hill by the natives to its resting place. I intended to

[631] McLean diary, 2 September 1850, MS-1229.
[632] McLean diary, 2 September 1850, MS-1229.
[633] Mclean to Colonial Secretary, 4 November 1850, AJHR 1861, C-1, pp 255-6.
[634] McLean diary, 3 September1850, MS-1229.
[635] McLean to Colonial Secretary, 17 September 1850, qms-1212.
[636] See Wanganui minute book 6, p 38.
[637] McLean to Colonial Secretary, 17 September 1850, qms-1212.
[638] McLean diary, 5 September 1850, MS-1229.

> place a coin in the bottle, of our Gracious Majesty's reign, Victoria Regina; but the coin would not go in the bottle.[639]

The notice in English named the chiefs who had agreed to the inland boundary for Europeans at Rangitīkei. These included Taratoa, Ihakara Turakape of Ngāti Raukawa, and Wiremu Te Tauri of Taupo, as well as a number of Whanganui and Ngāti Apa rangatira.[640] In McLean's opinion, had the boundary not been settled prior, it would have been disputed every inch of the way. In later land court evidence, Paranihi Te Tau, who lived at Te Reureu and described himself as being Ngāti Pikiahu and Ngāti Raukawa, said that he had not been present at the Te Awahou meeting, but on hearing of it, had visited McLean to discuss the boundary and had objected to Otara; that it should be at Pourewa. He told the court that McLean and Ngāti Raukawa had buried the bottle together and the '"mana" of Ngatiraukawa over the boundary was thus recognised.'[641]

On the return trip, on reaching Pohue, Taratoa, still smarting over Rahira's earlier remark, strongly defended his authority to oversee the boundary with McLean:

> Taratoa said – "Why did my elder brother Rahira, say that I was going with a Tipua? No, I am not. I am going on a just expedition, that will please all tribes. Had the boundary been at Otara, "Ae,"; but as it is, who dares interfere with it! What Chiefs are so much above me, that they will interfere with McLean's boundary and mine? No! Let our boundary stand! What can Rangi do without me? And why should Heu Heu, a friend of the Governor's, interfere? The boundary is at Te Whau Whau, at Te Whau Whau, at Te Whau Whau; and the other, or inland side, is for myself, or the natives."[642]

In effect, the transaction was completed as far as Ngāti Raukawa were concerned and, according to McLean, they intended to return to disinter the bones of their ancestors from the block.[643] Although some amongst Ngāti Apa, including Penihamine, subsequently objected to the inland reserve that had been set aside for Paraone (his Ngāti Raukawa brother-in-law) and Te Tauri, and attempted to interfere in the survey, other Ngāti Apa leaders were critical of this action, and Armstrong states, 'the matter was smoothed over without further ado'.[644] According to Paranihi Te Tau, after the boundary had been marked, 'Hori Te Anaua and Pehi Turoa came – Turoa said the "mana" of Ngatiraukawa should be from Te Houhou to Turakina and north of that - Kaiwhaiki with him – Hori then said to Ngatiraukawa "If you trespass over our boundary we will throw you into the water and if I trespass on your side you throw me into the water".'[645]

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[639] McLean diary, 6 September 1850, MS 1229.
[640] Mclean to Colonial Secretary, 4 November 1850, AJHR 1861, C-1, pp 255-6.
[641] Otaki minute book, 1C, pp 237-8.
[642] McLean diary, 6 September 1850, MS 1229.
[643] McLean diary, 6 September 1850, MS 1229.
[644] Armstrong, 'Sure and certain possession', p 183.
[645] Otaki minute book, 1C, pp 237-8.

4.7 Tribal hui of October 1850

The accommodation which had been reached at Te Awahou and followed by the setting of the inland bounmdary marker was soon challenged by the dissatisfied Kawana Hunia, although those arrangements by rūnanga were again confirmed.

Ngāti Apa were riding high and Kawana Hunia who, as we noted earlier, had been 'angry at Ngāti Apa assenting' when asked whether Taratoa should hold the land for them, began to make more forceful demands to be able to sell land south of the Rangitīkei River without sanction by Taratoa. Their right to do this was again rejected by collective decision of a gathering of leaders with rights and interests in the region. McLean was in attendance but his report on the matter merely noted (inaccurately) that the meeting had ended 'without any particular result'. Certainly, the decision reached did not favour the Crown's position: Ngāti Apa had agreed to 'let Taratoa resume the chieftainship for a time of the place in dispute'.[646] It is thus to Reverend Taylor's observations that we must turn for more detail. In October 1850, an armed party at Parewanui, under Kawana's leadership, declared their intention to sell on the south bank. A meeting was brokered by Reverend Richard Taylor and Te Anaua. Taylor clearly was unconvinced of the wisdom – if not the rights – of this group, describing them as greedy and corrupt (a view largely shared by McLean, even though he thought they had legitimate claims there).[647] Having talked to the Ngāti Apa party, Taylor and Te Anaua met with Ngāti Raukawa, Ngāti Toa and others at Maramaihoea. Ngāti Apa arrived the following day. According to Taylor:

> Both sides were very pakeke in their opinions and some bitter speeches were made on both sides. The Ngātiapa had even taken up arms and determined to maintain their right. Taratoa claimed the sovereignty over them as a conquered people who fled on his first coming to Rangitikei many years ago and did not dare to come back and reside on the land again until he had given them permission to do so.[648]

Eventually, Ihakara proposed that Taylor and Hōri Kīngi Te Anaua should resolve the dispute. They then proposed that Ngāti Apa should acknowledge the overarching right of Taratoa and that he then 'restore the land to them to hold under him'. The assembly agreed to this and the meeting ended with a hymn.[649]

McLean anticipated that 'no doubt their continued disputes will end in the land being acquired by the Govt. which the natives would find much more to their

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[646] McLean diary, 15 October 1850, MS-1230.

[647] See McLean's comment on 11 October 1850: 'The Ngatiapas are a most tricky set full of jealously & cunning invention. No doubt a tribe obliged to seek shelter from their enemies in time of war and resort to every invention for their preservation are more apt to study deceitful practises than open straightforward chiefs & tribes who have never been subdued. The former possess the imaginative and strong feelings of the race sharpened by necessity till deceit becomes a fixed ingredient of their character.' MS-1229.

[648] Richard Taylor Journals, vol 7, 14 October 1850, qMS-1990 .

[649] Richard Taylor Journals, vol 7, 14 October 1850, qMS-1990.

advantage than constantly disputing about it, neither of them gaining any particular benefit from it in its present state.[650]

4.8 Conclusion: Significance of the Rangitīkei-Turakina negotiations

A number of commentators have questioned whether any significance can be placed on the arrangements made at Te Awahou, dismissing the idea that a tribal accord had been reached. Armstrong, in particular, argues that Ngāti Apa would have sold the land south of the Rangitikei except that this would have drawn in Ngāti Toa and Ngāti Raukawa 'with the possible consequence that Ngāti Apa's pre-eminent position (in terms of both the negotiations and the relationships with settlers which would follow might be compromised or attenuated'.[651] Later, he points out, they took a much bolder position. He places considerable emphasis on the acknowledgement of Ngāti Apa's presence at Omarupāpako, as did European observers at the time.

In the years that followed, Ngāti Raukawa would consistently argue that such an arrangement had been made in the presence of McLean – an assertion supported by Williams and which McLean never directly denied – but this was an inconvenience that found no favour with Crown officials intent on further purchase or the land court considering the legitimacy of its activities south of the Rangitikei River. The evidence shows that Kawana's challenge to Taratoa was there, but he did not at this point command the support of the hapū. At Te Awahou, Ngāti Apa were willing to sell south of the Rangitīkei River; Ngāti Raukawa were not. Ngāti Apa's korero on the question was largely outside Ngāti Raukawa's hearing. When Kawana tried to force the issue the following year, he again did not command sufficient support from his own people, let alone from the other iwi of the region. The assembly had agreed that Taratoa had the mana and authority to say what happened to those lands. His control would come under increasing challenge in the decade that followed, including from amongst the Ngāti Raukawa hapū leadership, but he was able to maintain the peace of the district by further accommodation and the distribution of rents. Not until his death at a time of tense political relations would there be a more successful tribal challenge to the authority of Ngāti Raukawa over the wider region.

The standards expected of Crown purchase procedures and the officers undertaking them were understood at the time, and had been publicly articulated not only by Normanby and in the Treaty of Waitangi but by a succession of Secretaries of State and Governors in the early years of the colony. At the core, as the Te Tau Ihu Tribunal noted, was an acknowledgement that: 'Māori customary rights to land were guaranteed by the Treaty and had to be recognised

[650] McLean diary, 15 October. 1850, MS-1230.
[651] Armstrong, 'Sure and Certain Possession', p 58.

and dealt with according to and in terms of their own law and customs.'[652] Although this view did not go unchallenged in official circles, or by colonisers, by the late 1840s it was distinctly understood that all lands had to be paid for and, thus, its owners properly identified and their consent won.

The 'waste land theory' did not prevail, despite its influence on thinking and policy making and in particular, Grey's policy of acquiring large tracts of land in advance of settlement. By the time that instructions had arrived from Earl Grey to register all 'occupied' land and treat the rest as Crown demesne, a month after completing the Porirua deed, the Governor knew that they could not be implemented. Despite his success at driving Māori out of the Hutt Valley and Porirua, those events as well as the military resistance in the Bay of Islands, had also demonstrated to Grey that Maori were no mean military opponents and were prepared to fight to defend their rights in lands. Yet he remained under strong pressure to acquire more land for settlement and his solution was to buy large tracts of territory ahead of the arrival of colonists. Māori would be paid but at minimal prices only. being compensated by the benefits oi settlement and protected into the future by the setting aside of large reserves. At various points, McLean reassured Ngāti Raukawa as to the Crown's intentions and in particular, that it would not take their land; they would be paid for any land they owned and chose to alienate.

There were other standards of conduct as well, that had been articulated by McLean himself and to which McLean and Grey (and their successors) were obliged to adhere, if the Treaty and fundamental principles of British justice were to be satisfied. However, there were tensions between these requirements and Grey's policy. The customary law relating to rights in land had to be fully ascertained, all customary right-holders identified, and their 'free and intelligent consent expressed according to their customary usages'.[653] For that to occur and for a valid purchase to be achieved, the recognised standard was that the land involved should be relatively small and clearly delineated, the title should have been investigated before purchase commenced, all right-holders identified and an agreement reached between them as to the relative distribution of rights, and in event of disagreement, reference made to an arbiter – a register or court.[654]

How far McLean and Grey met those standards has been a key theme for this chapter and that question will be posed again with reference to later officials in their land dealings with Ngāti Raukawa and the other tangata heke. In these early years, McLean's negotiations were painstaking and largely in accord with tikanga. The transaction was led by those with acknowledged primary rights in the land, with the final arrangements made in the full light of day in the gathered presence of all. It also was in accordance with standards of Crown conduct of

[652] Waitangi Tribunal, *Te Tau Ihu*, p 286.
[653] Normanby Instructions, cited Waitangi Tribunal, *Te Tau Ihu*, p 287
[654] Waitangi Tribunal, *Te Tau Ihu*, p 297.

'fully informed' consent, provided that the promises which lay behind the transaction were kept; that there would be peace, on-going prosperity, a marriage between the two races, and that only lands that they were willing to sell would be acquired. Of course, one should weigh also the impact of Grey's deliberate attack on Te Rauparaha and Te Rangihaeata's capacity to prevent the spread of European settlement, but from the viewpoint of the bulk of Ngāti Raukawa leadership, the issues had been fully discussed and the agreement reached was a good one. From their perspective, a basic agreement had been reached as to where rangatiratanga rested, and this had involved accommodation on their part, of rights asserted by Ngāti Apa. They may have 'conquered' but there had never been any determination to exterminate. They acknowledged that Kāwana Te Hakeke had ongoing rights and that there were Ngāti Apa living south of the Rangitīkei River just as there were Ngāti Raukawa livng on the north bank; but just as it was agreed that Ngāti Apa had the right to make disposition of lands north of the river, and control lay with the Kurahaupō people, authority over lands, south, lay with Ngāti Raukawa and their allies. If Ngāti Apa sold all their territory as they argued was likely, they would still have somewhere to occupy under the mana of Taratoa, but they could not sell there without Ngāti Raukawa consent.

The procedures undertaken with reference to the inland boundary were, however, more doubtful, interfering in the rights of hapū more closely linked with Ngāti Maniapoto and Tūwharetoa but which McLean was extremely reluctant to recognise. Enlisting the support of rangatira based downriver, they were presented with a fait accompli, except in so far as some compromise regarding the exact extent of the exercise of rights could be reached. Nor had McLean been all that forthright about the long-term goals of the Crown of securing control of the interior, or its assumption that English property laws would (and must) prevail. His explanations on the rights derived from active occupation were, he acknowledged, carefully worded and would be revealed only when settler control was more fully established. Officials deplored any effort at collectively holding onto tribal lands or to prevent anyone with rights in that land from alienating any part of it. In McLean's view, Māori would be brought to see the advantages of sale; or at least some would be, and then a process could be initiated that would be difficult, if not impossible to stop.

CHAPTER 5

IWI AND CROWN, 1850–1862

5.1 Introduction

European observers of the late 1840s and early 1850s were impressed with the prosperity of the community that was developing around the mission and the township laid out at Ōtaki with the government's assistance, as described in an earlier chapter. That perception extended to other 'Ngāti Raukawa' communities along the Kapiti Coast, and a close connection was assumed between Christian teachings, agricultural production, civilisation, 'lawfulness' and loyalty.[655] Nor did Crown officials and colonists yet doubt their (Ngāti Raukawa) dominance over the territory lying between the Kukutuauki and Rangitīkei Rivers.

Under the influence of Hadfield and Williams, local Māori began moving towards cultivation on an individual basis, although it is apparent that decision-making continued to be exercised collectively. A runanga had agreed on how to apportion allotments at Ōtaki, and lands were set aside for hapū as well as individual rangatira. John Robert Godley observed in 1850:

> Every man in the tribe has his own individual and separate property now, but Mr Hadfield has never known of private land being sold by one individual to another, the whole land … being held to be the collective property of the tribe and allotted to individuals. Public opinion settles these points and all questions of inheritance, dowry, etc., and Mr Hadfield says the decisions of these meetings are generally most equitable and never resisted.[656]

This would change over the next 20 years, as revealed, when these blocks were brought through the Land Court in its first years of operation in the district.

But in 1850, Ōtaki was considered one of the showcase Māori settlements, and the other Māori kāinga in the region, prosperous in general. At the Church Missionary Society village at Ōtaki, both Tāmihana and Mātene had substantial houses. Tyrone Power, lunching with Mātene in the late 1840s, commented on the comfort of his domestic arrangements:

> … with tables, chairs, knives and forks, and pictures of the Queen and Prince Albert over the mantle-piece. Martin and his wife were comfortably dressed in European clothing

[655] See for example the comment that not only had the tribes along the coast been indifferent to Te Rangihaeata's "rebellion" but the activity in cultivating wheat was 'the best pledge they could give of their peaceful intentions … a promising sign of their advancement in civilisation…' *New Zealand Spectator and Cook's Strait Guardian*, 5 September 1846, p 2.
[656] Cited D Hamer, 'Settlement of the Otaki District', p 7.

> and they gave us butter, eggs, tea, bread, and cakes, any one of which articles it would have puzzled us to find here a year ago.[657]

Tāmihana's house was reputed to be especially fine and after his visit to England in 1853, decorated with mahogany sofas, couches, and other luxuries that he had received as presents. A year later, Power discovered that several of the Ōtaki-based rangatira had substantial bank accounts in Wellington and were accustomed to writing out cheques.[658]

Henry Tacy Kemp also described Ōtaki as having an 'air of comfort and good order rarely to be met with in a district inhabited exclusively by natives'.[659] Once the two mills had been built, the inhabitants would be 'in point of comfort and actual wealth, better off than any natives' he knew. Already they possessed a herd of nearly 100 cattle, 'well selected and in good condition', their soil was of good quality and their crops healthy. Much the same was said of the other Ngāti Raukawa settlements that Kemp visited that year: at Waikawa and Ōhau the cultivations were 'in excellent order', and the wheat crop had 'turned out very well'; at Horowhenua the bountiful supplies of eels and flax were noted; at Poroutāwhao the land was 'of the best kind, the crops looked remarkable well'. Flax was being harvested there, as it was at several other locations, and Kemp also mentioned the rearing of pigs for sale, which almost certainly was going on elsewhere too.[660]

Kemp did have some concerns about health matters. The new village at Ōtaki was felt to be damp. The pā at Ōhau was described as wretched and unhealthy. He reported that fever and consumption were prevalent along the Manawatū River, and recommended that a dispensary be established at Awahou, to serve the Ōtaki and Rangitīkei districts, thus avoiding the need to travel to Wellington or Wanganui in the event of illness. (Dr Hewson was appointed as medical officer in 1856.) But Kemp seems to have had no apprehension that Ngāti Raukawa's dominant position within the region was under any threat. They were, he reported, the most powerful tribe in the region, able to field over 1000 fighting men, and he described them as 'industrious, brave and very much united'.[661] They were also, he noted in passing, the undisputed owners of both Kukutauaki and the Manawatū, and overlords of Rangitīkei and of the tribes they had dispossessed.[662]

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[657] Cited Hamer, 'Settlement of the Otaki District', p 6.
[658] Hamer, 'Settlement of the Otaki District', p 6.
[659] H Tacy Kemp, 'Report No 3, Otaki, Manawatu and Rangitikei Districts, 10 March 1850', *BPP*, vol 7, 1851, pp 235-237, 242-243.
[660] H Tacy Kemp, 'Report No 3, Otaki, Manawatu and Rangitikei Districts, 10 March 1850', *BPP*, vol 7, 1851, pp 235-237, 242-243.
[661] H Tacy Kemp, 'Report No 3, Otaki, Manawatu and Rangitikei Districts, 10 March 1850', *BPP*, vol 7, 1851, pp 235-237, 242-243.
[662] H Tacy Kemp, 'Report No 3, Otaki, Manawatu and Rangitikei Districts, 10 March 1850', *BPP*, vol 7, 1851, pp 235-237, 242-243.

At this date, the school at Ōtaki was considered a great success by Māori and European alike. By 1853, a large building, to which the government contributed £300, had been erected to the south of the church.[663] This was described as 'similar in its arrangements to the Thorndon school, but very much larger; … about forty-five feet by 25 feet, and thirty feet high'.[664] It was initially run under the direction of Hadfield and the Reverend S Williams, who had arrived at Ōtaki with his wife in early 1848.[665] According to a report in the *New Zealand Spectator and Cook's Strait Guardian*, the two men had 'devoted themselves to the welfare and improvement of the natives with untiring energy; the results of their labours [being] manifest in the greatly improved condition of the natives who appear fully to appreciate their exertions'. Their wives instructed the girls in reading, writing, and sewing. A school master was appointed, in 1853, as the school expanded.[666]

Next, a boarding house was erected to the west of the church. Boarders were an essential element in Hadfield's programme, the boys being initially domiciled in temporary raupō huts while Mrs Williams received as many girls as possible in the mission house.[667] The boys were used to bring land under cultivation in order to obtain food for support of the establishment while teaching them farming methods and habits of industry. In fact, instruction in reading, writing in the English language, and arithmetic occupied only two hours, the remaining portion of the day (except prayers) being employed under an agricultural instructor. For their part, the girls, when not in the school, were taught 'the ordinary occupations of household life'.[668]

Like Kemp three years earlier, the *New Zealand Spectator*, in 1853, gave a glowing report of the growth of agricultural industry as a result of the gifts of land that had been made (though this was largely ignored by the report, credit being given to the government for the generosity of its grants), the application of Church Missionary Society principles of industrial and religious education, and the labour of the school's pupils:

> The land is level and very fertile, some portions are swampy; about sixty acres have been cleared and thoroughly drained, twenty acres of these are under wheat, and another portion planted with potatoes. ... [T]wo main drains have been cut, each rather more than a quarter of a mile long, into which the smaller drains lead. The school possesses besides about seventy head of cattle, and four iron ploughs, with four team of oxen. With these the cultivation of the school land is carried on; the ordinary operations of agriculture are performed by the lads of the school, who also plough land for any of the natives who may require it, in return for which a portion of the produce, according to an agreed scale, is paid to the schools. A valuable part of the land belonging to the school estate was the

[663] Hadfield, 10 September 1851, Annual Reports and Letters to CMS, qMS-0895.
[664] *New Zealand Spectator and Cook's Strait Guardian*, 24 September 1853, p 2.
[665] Hadfield, 1 March 1848, Annual Reports and Letters to CMS, qms-0895.
[666] *New Zealand Spectator and Cook's Strait Guardian*, 24 September 1853, p 2.
[667] Hadfield, 10 September 1851, Annual Reports and Letters to CMS, qMS-0895.
[668] *New Zealand Spectator and Cook's Strait Guardian*, 24 September 1853, p 2.

> private property of a chief, since dead, named Te Ao, who cheerfully gave it up that it might be applied to so useful an object.[669]

Funds were received from the government in the first years of operation, but ultimately, the school was expected to be self-sufficient.[670] All in all, the *New Zealand Spectator* anticipated: 'In these schools the rising generation of the natives will learn all the habits of civilized life, all that will be useful to them to know, or conduce to their advantage as a settled agricultural population.'[671] Even Te Rangihaeata was reported to have given the school his approval. On a visit to see the Governor, in 1853, he had gone over to the school for the first time, 'and was so pleased with it, particularly the singing, that he said whatever questions might arise in negotiations for the sale of land, there should never be any difficulty in obtaining land that might be wanted for schools'.[672]

In addition to the stock belonging to the school, local Māori now owned as 'private property' about two hundred head of cattle and seventy horses as well as considerable land under cultivation, 'the greater part under wheat, and several wooden barns in different parts surrounding the town'. The mill was the 'most substantial in every respect' and the property of a joint stock company of Māori in shares of £5 each. According to the *New Zealand Spectator*, 'native labour, under the direction of Europeans, has greatly contributed to the execution of the works'. The Roman Catholic section of the community at Pukekaraka, which provided an alternative political space to the mission in these and subsequent years, also possessed a water mill situated about a mile-and-a-half from Rangiatea. They were praised in 1853 not only for the mill, but also for their extensive cultivations and successful schooner trade with Wellington.[673] Other communities, it was noted at the time, were likely to follow the example set at Ōtaki, and two other mills were projected, one at Waikawa and the other at Manawatū.[674]

5.2 Road building

After initial suspicion of, and resistance to, Grey's road building, Māori fully embraced the concept, seeing it as of direct economic benefit; a project that they could undertake themselves and by which their rangatiratanga could be strengthened without challenge to the Crown. For Te Rangihaeata, a turning point had been reached when he met the Governor Grey kanohi ki te kanohi and, it would seem, had been offered gifts in exchange for his sanction of the road. They had 'met and shook hands at Ōtaki', and Grey had asked him 'what feathers of European birds are those you like to wear on your head?' Now, Rangihaeata

[669] *New Zealand Spectator and Cook's Strait Guardian*, 24 September 1853, p 2.
[670] Hadfield, 10 September 1851, Annual Reports and Letters to CMS, qms-0895.
[671] *New Zealand Spectator and Cook's Strait Guardian*, 24 September 1853, p 2.
[672] *New Zealand Spectator and Cook's Strait Guardian*, 24 September 1853, p 2.
[673] *Wanganui Chronicle*, 21 March 1861, p.3.
[674] *New Zealand Spectator and Cook's Strait Guardian*, 24 September 1853, p 2.

reversed his earlier position. He had made the survey of the road 'tapu, or your [Grey's] back bone' and the lands would be 'left clear'. In return, he asked Grey to 'act kindly' to him and give a 'cask of tobacco' and 'blue shirts, trousers. [...] give me a coat, two coats and two trousers, good handsome trousers, I want a bag of sugar...', he wrote.[675]

A few months later, McLean reported on a number of roads that had been constructed by Ngāti Raukawa for themselves, with Poroutāwhao at their hub. The first led to Rangihaeata's fishing village at Te Karangi, passing through swamp and intended to hit the coast at the beach half way between Ōhau and Manawatū. A section of Ngāti Huia 'not directly under Rangihaeata's influence' was constructing a second road inland from Rangihaeata's pa to Uturoa on the Manawatū. Although it had been sanctioned by him, 'in some measure' it represented a 'rival line', the construction much encouraged by Mr Le Compte the Roman Catholic missionary at Ōtaki, who had promised to aid them in erecting a flour mill at a stream near Poroutāwhao 'if they first complete a road to convey their flax, flour, potatoes and other produce to market'. A third line had been started cross country to Horowhenua and Ohau.[676] McLean considered the engineering standards 'excellent' and marvelled at the change in Rangihaeata's political disposition:

> The gradual change in this chief within the last three years is almost incredible; he now proclaims the roads he is making to be the Governor's Iwituaroa or back bone using the term much in the same sense as the great Heuheu of Taupo declared the Tongariro Mountain to be his own back bone…'[677]

McLean reported that Rangihaeata had 'absolutely transferred, according to native custom, the right of Chieftainship to the above roads to His Excellency, and this circumstance will also have the effect of presenting the Natives from hereafter exercising any exclusive privilege over them'. Other roads were also being built at that time by Herewini Te Tupe at Waikanae and by Ngāti Upokoiri in the upper Manawatū.[678] McLean estimated that the cost to the government of putting through the road first described (about six miles in length) would have been at least £240 a mile and he considered that with 'skilful management', good roads could be constructed at a tenth of the cost of those built with European labour. Despite the cut rate, he thought Māori would still benefit greatly.[679]

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[675] Rangihaeata to Governor, June 1852, GNZMA 370, Grey NZ Maori letters – Nga reta Maori, APL

[676] McLean to Civil Secretary, 20 October 1852, Native Land Purchase Commissioner, Outward Letters, MA 24/8/16.

[677] McLean to Civil Secretary, 20 October 1852, Native Land Purchase Commissioner, Outward Letters, MA 24/8/16.

[678] McLean to Civil Secretary, 20 October 1852, Native Land Purchase Commissioner, Outward Letters, MA 24/8/16.

[679] McLean to Civil Secretary, 20 October 1852, Native Land Purchase Commissioner, Outward Letters, MA 24/8/16.

5.3 Ferry crossings

One important matter dealt with in these years was the question of who would take responsibility for, control of, and benefit from ferry crossings. This was a significant issue – and for Māori a major opportunity - in the Manawatū region, traversed as it was by many large rivers that were notoriously difficult to cross during flood. They wished to encourage trade and also to benefit directly from the services that river crossings generated. Ferryman became an early salaried position, the subsequent abolition of which would cause considerable resentment in the late 1870s. While based at Waikanae, Durie had urged the government to assist in providing ferry services on the main rivers on the mail route. [680] He proposed that the government 'pay the natives to have a large canoe and three men always ready' and the Governor subsequently 'actioned the annual salary of £6 per annum or 10 shillings per month to be paid each native' who undertook to keep a waka in readiness for travellers. The salary covered the transportation of the mail, government officers and prisoners, while civilian passengers were charged 6d and 1/- for a horse.[681]

It was also necessary to establish accommodation for travellers. In early 1853, McLean reported that Ngāti Raukawa had agreed to the gift of land at Waikawa as a ferrying place for Europeans but refused to sell it lest further sales follow.[682] The understanding as stated in the deed was that the chiefs and people of Ngāti Raukawa 'fully discussed' the matter 'at a large meeting this day', and that they:

> … fully consent … to give up the piece of land at the junction of the Waikawa and Ohau rivers as a ferrying place for the Europeans and Natives as a sure and certain land from us … to the Government of New Zealand as trustee for the said land for ever and ever… [683]

The land was specifically given as a gift 'for which we shall not either now or hereafter demand any payment'. The land concerned was described as extending from Kaiuaua to the top of the first ridge of sand hills to the Ōhau River. The deed was signed by Paora Taurua, Te Warihi, Raniera, Angiangi, Hoani Meihana, Aporo Mokohiti, Poari Te Mata, Kerehoma Amotaua, Kerehoma Porirua, and Tāmihana Rapene. Clearly, the agreement reached in the presence of Grey and McLean was considered significant: witnessing the signing were Tāmihana Te Rauparaha, Mohi Te Warewiti, Parakaia Te Pouepa, Hoani Wiremu Hīpango, Te Ahu Hūkiki, Hanita Te Wharemakatea, and Samuel Williams.[684] In 1855, however, a sum of £15 was paid for the 'resting place for travellers' at Waikawa,

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[680] BMaysmor, *By His Excellency's Command*, p 89.
[681] Durie to Woon, 5 February 1849, MS-Papers 0032-9254, cited Maysmor, *By His Excellency's Command*, pp 89-90.
[682] McLean to Civil Secretary, , 23 February 1853, ACIH 16057 MA 24/8/16.
[683] H H Turton, *Maori Deeds of Land Purchases in the North Island of New Zealand*, vol 2, Wellington, 1878, deed 329.
[684] Turton, *Maori Deeds*, vol 2, deed 329.

for which a receipt was signed by Paora Taurua and five others.[685] As noted above, the business of river crossings was to remain a point of contention between Māori, the government, and settlers, especially as traffic in people and stock increased and local authorities began to control local affairs. We return to this issue in chapter 11.

5.4 Crown pre-emption remains in place

As we have seen, in 1846, the Colonial Office having wavered on the question of Māori land ownership, reaffirmed the Treaty guarantees and recognition of Māori customary law. This had been acknowledged by Lord Stanley had acknowledged in the British Parliament the preceding year: Māori owners, even of seeming 'wastelands' had to be properly identified and their informed and willing consent to all purchases gained. The Waitangi Tribunal has pointed out in the Wairarapa ki Tararua report, that their ownership was, however, 'not really regarded in the same way as European ownership and their entitlements were differently perceived'.[686] The Crown framed its purchase proposals – and the payments to be made – in terms of future benefits for Māori:

> The message was that Māori could benefit from settlement … only via the sale of their land to the Government. If they said no, they would have to return to the old ways and forgo all the new foods, new goods, new knowledge, and the new way of living.[687]

This was a persuasive tally of advantages that were seen to be within the compass of sale to the Crown. We shall see in the discussion below, that the leading early proponent of land sale in Ngāti Raukawa, Ihakara Tukumaru, was 'exceedingly anxious that we should adopt the good customs of the English people'. Although he had initially protested further expansion of European settlement in the context of the Ngāti Apa negotiations, he now 'disapprove[d] of the land holding system pursued by the Maori chiefs', which like the 'fern root the guana and the Maori rat' should be abandoned for new and better ways.[688]

Access to the benefits of settlement and the enhanced value of reserved lands were thought to be the 'real inducement to Māori to sell to the Government'.[689] Only the Crown, it was argued, could provide security of title and the infrastructure necessary to attract settlers. Officials such as Grey, Eyre, Gore Browne, McLean, and Searancke (land purchase commissioner) regularly expressed and recorded that view. Speaking of road-building in the recently purchased Rangitīkei-Turakina lands, for example, McLean anticipated the result as: 'The resources of their country developed; their circumstances improved;

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[685] These were Timoti Taha, Te Hatete, Tāmihana Pūtiki, Hoani Wharepore, and Meihana Te Kareorehua; Turton, *Maori Deeds*, vol 2, receipt dated 22 September 1855.
[686] Waitangi Tribunal, *Wairarapa ki Tararua Report*, p 99.
[687] Waitangi Tribunal, *Wairarapa ki Tararua Report*, p 100.
[688] Letter of Ihakara Tukumaru, in *Te Karere Maori*, 16 August 1858, p 8.
[689] Cited Waitangi Tribunal, *Wairarapa ki Tararua Report*, p 100.

their various superstitions and jealousies dissipated by more frequent intercourse with the Europeans; their lands brought under a more improved system of cultivations; their civilization more rapidly promoted.'[690]

After Grey's departure, Crown purchase operations were conducted by the Native Land Purchase Department – established in 1854 – with McLean in charge as chief land purchase commissioner. Crown pre-emption remained in place as did its control of native policy despite the introduction of responsible government in 1853. District land purchase commissioners were appointed and were instructed to 'acquire knowledge of the Native tribes of their district, to ascertain the extent and nature of their claims, and to give their undivided energy and attention to the purchase of land'.[691] Patterson points out that despite the department's expansion, it remained 'very much a one-man band', with McLean based in Auckland for most of the 1850s. McLean's focus was elsewhere during these years. Directed by Eyre to expedite matters in the Manawatū if he could, McLean reported back that it was likely to prove 'a tedious operation and one from the conflicting interests of the several tribes concerned that must be handled with delicacy and caution…' (He now summarised those interests as belonging to the 'original Ngātiapa and Rangitāne'; the 'permissive occupation granted by them' in the inland portion of the river to Upokoiri; and 'Rauparaha and Rangihaeata's right of conquest followed up by the possession and occupation by the powerful Ngātiraukawa from Waikato…'[692]) Small tracts might be acquired but, even so, any occupation by Europeans was likely to be disputed, while in the Wairarapa he could 'with comparatively greater ease accomplish several purchases'.[693] In these circumstances, he was largely content to let Rangitīkei-Manawatū wait until the non-sellers saw the error of their ways and he advocated a cautious, steady approach and careful negotiation.[694]

There was a subordinate based in Ahuriri, but no district commissioner specifically appointed for the West Coast district until 1858. This was William Searancke, a surveyor with a somewhat chequered career, who was assisted by Walter Grindell (especially in negotiations for the upper Manawatū). McLean made only occasional visits to the region when he tried to move matters on. According to Patterson, even with a commissioner based in Wellington, the long-distance communication, McLean's insistence that all major decisions go through him and personnel problems impeded purchase progress.[695] McLean remained chief commissioner until 1863 but was largely side-lined after the Fox ministry

[690] McLean to Civil Secretary, 20 October 1852, Native land Purchase Commissioner outward letters, MA 24/8/16.
[691] McLean, Memorandum relative to Organisation of the Native Land Purchase Department, 15 June 1854, in H H Turton, *An Epitome of Official Documents Relative to Native Affairs and Land Purchases in the North Island of New Zealand*, Wellington, 1883, A1, pp 52-53.
[692] McLean to Eyre, 25 October 1849, MS-Papers-0003.
[693] McLean to Eyre, 25 October 1849, MS-Papers-0003.
[694] McLean to Civil Secretary, 12 July 1852, ACIH 16057 MA 24/8/16.
[695] Patterson, 'White Man's Right', p 171.

came to power in mid-1861. In that year, also, Searancke was investigated for 'incompetency and inability to discharge [his] duties as commissioner for the purchase of Native lands'.[696] The department as a whole – and its lack of success in acquiring land connecting Porirua to Rangitīkei – came under increasing criticism from settlers, the Wellington Provincial Government, and the Fox ministry. It was abolished in May 1865 in favour of a new system of native title determination (through the land court) and direct settler purchase.[697]

The cornerstones of Grey's policies remained intact during McLean's years in charge of purchase operations. He continued Grey's policy of pacification by settlement and of buying land in large blocks, while setting aside reserves confirmed to Māori ownership under Crown grant.[698] This was reflected in his instructions to district commissioners to use 'their utmost endeavours to connect and consolidate Crown lands' and to refrain from commencing negotiations 'for the purchase of land unless adjacent to and connected with Crown lands' unless by express permission of the Governor. As Gore Browne, Grey's successor, noted, this was intended to prevent the isolation of settlers in areas remote from government control.[699] The department's men-on-the-spot fully supported and attempted to adhere to that policy. Searancke deprecated efforts to divide and deal with lands in small pieces, arguing that if the Manawatū was to be sold, it should be done in one block.[700]

In McLean's view, it was essential that more land be acquired from Māori to satisfy settler demand – and acquired quickly, before Māori attained a greater knowledge of its monetary value. He continued to advocate also the need for careful survey of boundaries and to that end, personnel from the Surveyor General's Department were assigned to work with the district land commissioners.[701] He instructed that: 'You will take care, before any sums are paid to the Natives, the lands offered for sale by them are in the first instance surveyed, and the Reserves they require for their own present and future welfare, carefully laid off…'[702] His general instructions of 1854 called for reserves to be located near Pākehā settlement so that Māori could participate in and benefit

[696] Memorandum by Searancke in vindication of his conduct, AEBE 18507, LE 1 31 1861/229; see further discussion at section 5.10..
[697] Ward, *National Overview*, vol II, pp 161-2; see further discussion at section 5.10.
[698] Ward, *National Overview*, vol II, p 145.
[699] Gore Browne minute, 4 June 1857, Turton, *Epitomer of Official Dovcuments*, C, p 166, cited Waitangi Tribunal, *Kaipara Report*, 2006, p 52
[700] Searancke to McLean, 26 July 1858, MS-Papers-0032-0565.
[701] Ward, *National Overview*, vol II, p 146.
[702] McLean to Kemp, 6 November 1854, IA3/1854/3651, cited Ward, *National Overview*, vol 11, p 146.

from future economic development.[703] Ward has argued that his instructions to his officers suggested, in fact, 'renewed care about reserves.'[704]

5.5 How to best engage with settlement, by lease or by sale?

The early attempt to completely halt Crown-assisted European expansion had certainly failed, but that expansion had been slowed also. Ngāti Raukawa had compromised on the matter of the sale to the New Zealand Company, acknowledging the 'propriety', as McLean regularly referred to it, of recognising that a sale had taken place and of ceding land for the goods received. At the same time, the extent of that transaction was restricted to the transfer of particular sites for particular persons with whom, they anticipated, their relationships would be ongoing and mutually advantageous. The clear preference among the majority of leadership of Ngāti Raukawa and the hapū of the heke with whom they were allied was for the system of direct leasing, their own agricultural production, involvement in the flax industry, high standards of schooling, and engagement with the developing infrastructure on terms of equality. Having failed to stop Governor Grey's road, Te Rangihaeata and other chiefs saw no reason why they should not be actively involved in their construction (or indeed, in later years, why they should not have their own postal service or a place on road boards). They were, however, willing to share authority with the Crown, even defer to it, if they considered that to be of wider benefit.

Ngāti Raukawa preference for leaseholds had been very clearly expressed during Ngāti Apa's negotiations for the outright sale of Rangitīkei-Turakina, and for many among them, this remained their favoured option during the 1850s and into the 1860s. With right-holders receiving substantial rents from settler occupiers, the development of a flourishing trade with the Australian and Port Nicholson markets, and the prosperity of the community at Ōtaki, there was little incentive to change existing arrangements, or to tolerate disturbance of them. Influenced by their early commercial successes, the advice of the missionary establishment, and the anti-selling principles of their senior leaders, Ngāti Raukawa, Ngāti Kauwhata, and the sections of the heke who had settled this part of the motu were the last among the southern-based tribes to relinquish their hold on their lands.

In July 1852, McLean had reported that a general meeting of the tribes to discuss the sale of land at Manawatū had taken place prior to his arrival; but that they were 'not sufficiently confident of each other's friendship or disposition ... to enter into any discussion' and had dispersed without coming to any agreement. On McLean had remained for several days, on observing 'the anxiety of the Natives that I should devote a few days to consult with the principal chiefs of the

[703] McLean to Colonial Secretary, 26 July 1854, Turton, *Epitome,* D21, cited Ward, *National Overview*, vol II, p 146.
[704] Ward, *National Overview*, vol II, p 146.

different tribes as to the best means of facilitating our adjustment of the various conflicting native claims to the Manawatū'. McLean discussed his proposals (outlined below) first with Ihakara and Taratoa (of the heke confederation) at the Manawatū, followed by Te Hiriwanu Kaimokopuna, Ropata Te Wairiki, and other Rangitāne chiefs at meetings at Rangitīkei. This involved acknowledgement of Ngāti Raukawa's need as 'a numerous powerful conquering tribe' to a 'considerable extent of country', though disputed by the original inhabitants (and, he might have added, although they themselves opposed any further sale of lands to the Crown). McLean thus proposed that:

> … the Ngātiraukawas should possess all the land from the left or South bank of the Manawatu to the Kukutuauki Stream between Otaki and Waikanae as a permanent reserve for themselves excepting the right in favour of the Government of having public roads and ferries, besides all the land they actually occupy on the north or right bank of the Manawatu [giving] up to the Rangitikei tribe from a stream that strikes inland from the beach at a Kaik[hik]atea bush named Omurupapako about two miles north of Manawatu, and that the Rangitikei tribe should have a boundary struck off from the right bank of the Manawatu at or near Puketotara…[705]

The inland area on the right bank of the Manawatū River to Hawkes Bay would be recognised as belonging to Rangitāne, Ngāti Apa, and Te Upokoriri, the latter, in connection with Te Hapūku, being 'anxious to dispose of all the lands they do not require for their own use to the Government'.[706]

McLean's proposals were clearly made with an eye to effecting the purchase of land at Manawatū {the area of Omarupapako), which settlers, Wellington stockholders, and Crown officials were all anxious to acquire as a 'valuable continuation of the Rangitīkei purchase and what [was] still more important it would be the means of connecting the East and West coast'. McLean promised to attempt to further these arrangements but again recommended:

> … considerable caution in carrying out from the numerous [class] of claimants and tribes from the interior and other parts that are flocking for the purposes of trade with the Europeans to the unpurchased parts of the Rangitikei and Manawatu districts.[707]

Although Grey had endorsed the proposal[708], the idea of a permanent reserve did not survive for long; it seems to have been supported by officials as a way of deflecting opposition to sale and a temporary solution to a stalemate. Ngāti Raukawa's interest in the idea was blamed on Hadfield, and the missionary was

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[705] McLean to Civil Secretary, 10 July 1852, Native Land Purchase Commissioner outward letters, MA 24/8/16.
[706] McLean to Civil Secretary, 10 July 1852, Native Land Purchase Commissioner outward letters, MA 24/8/16.
[707] McLean to Civil Secretary, 10 July 1852, Native Land Purchase Commissioner outward letters, MA 24/8/16;
[708] Grey note, 29 July 1852, NA CS1/2 1852/886, cited Hearn, 'One past, many histories', p 146.

widely criticised on that account, although opposition to the sale was, in fact, widespread at that time. Some, McLean believed, would sell if left to their own devices but were deterred by the opposition of their senior men, Rangihaeata and Taratoa, and the 'Otaki natives', whom he described as 'even stronger in their opposition than the former Chiefs'. That view was largely shared by the Reverend Duncan who, taking a contrary approach to that of Hadfield, had 'said a good deal to the natives here [at te Awahou] about the propriety of disposing of at least part of their land…' According to Duncan, '[S]ome of them for a time seemed not at all unwilling to entertain the proposal, but after intercourse with the Otaki natives revived their old feelings and confirmed them in their former resolutions.' He thought there remained a determination 'to hold fast their lands if they possibly can, but it appears they have some misgivings about themselves when they think of the arrival of that terrible, overwhelming Makarini'.[709]

The later accusation was that Ngāti Huia, Ngāti Kauwhata, and other tangata heke had been trying to form a 'land league', which, in the context of escalating tensions, fighting at Taranaki, and the development of the Kingitanga, was vehemently denied by the CMS missionaries. Rather, this had been a temporary measure to allow internal divisions to be settled before undertaking any further land transactions.[710] As we discuss below, during the Crown purchases of Te Ahuaturanga and Te Awahou, leaders and hapū of the heke tribes came to hold very different views on the benefits of land sale, their opinions the product of various interweaving influences, whether in terms of whakapapa, political developments, or the advice of the European living with them. In particular, a leading proponent of sale from the mid-1850s was Ihakara Tukumaru, who had left Hadfield's fold (according to some, voluntarily, to others dismissed from his post as a lay teacher by Hadfield). He subsequently commanded a different power base and set of allegiances, including that with the Reverend Duncan, who observed a change of mood in the middle of the decade. Writing to McLean in 1855, Duncan stated: 'I think you will find things somewhat more prepared, than when you were last here, for negotiating with the natives for their land.' Taratoa and his party seemed disposed to yield to Te Hiriwanu's wishes with reference to a Rangitāne-led sale of Ahuaturanga, while Ihakara 'was surprising some of them a week or two ago by avowing his willingness to dispose of part of what he owns. He says his mind has been changed partly by the numerous deaths that have lately taken place amongst them.'[711] Whether or not he had been prompted by the growing sickness and mortality that was reported in the district, Ihakara had certainly come to the conclusion that the best thing for his people would be to embrace land sale (although not to the exclusion of leasing). We quote his views fully, as published in *Te Karere* in 1858:

[709] Duncan to McLean, 2 January 1854, MS-Papers-0032-0252.
[710] NZ Spectator and Cook's Strait Guardian, 7 November 1860, p 1.
[711] Duncan to McLean, 14 September 1855, MS-Papers-0032-0252.

Maku e korero nga mea kua ngaro o tenei motu; ko te kumara, ko te pohue, ko te aruhe, ko te ngarara tuatete, me te kiore Maori; ko te ahua hoki o nga tangata Maori kua ngaro i te pehanga o te ritenga pai o te Pakeha; heoti, whakaaro ana ahau i konei, ko te ingoa o nga Maori inaianei, he hawhe kaihe, no te mea ko te matua o te tangata, ko te Pakeha. Kua mahue i te tangata Maori tona matua a Hine-i-te-ngaere, ara, hei whatu kakahu; no konei te nui o toku hiahia kia uru ki roto ki nga tikanga papai o te iwi o Ingarani inaianei; Hei aha nga whakaaro tawhito. Ruperupea atu era mea kikino o mua, ara, te hianga, te kanohi kino, te whakatuma tetahi iwi ki tetahi iwi. Tena ko nga whakaaro o nga tangata Maori e wehewehe ana ki a ia ano: E kore ra e tu tona rangatiratanga, kahore hoki he unga mo nga paiaka, no te mea e kaha ana te whiti o te ra o Ingarani, ki te whakamaroke i nga kopura o tenei motu o Nui Tirani, ara, i o tatou nei whakaaro.

E hoa ma, tenei hoki tetahi o aku kupu ki a koutou katoa, he kupu mo to tatou whenua. Kei te whakahe ahau ki nga tikanga pupuri whenua o nga Rangatira Maori. He tikanga tarewa tenei i to ratou nei iwi, ara, i nga hokohoko, kahore he atawhai ki tona iwi e ruha kau nei i te mahinga witi, taewa, kaanga, me te tini noa atu o nga mahi e hiahiatia ana e te ngakau o nga tangata; kaore nei koki e mahia ana aua hiahia, i te kore Pakeha o tenei kainga, o Manawatu, no reira ka mea au, me hoko tetahi wahi o Manawatu kia tae mai ai nga painga o te Pakeha ki a tatou. Ko matou e noho kuare tonu nei ki te ritenga o te hokohoko i te kore Pakeha; no reira ahau i mea ai, kia nui atu he Pākehā ki a tatou, kia nui haere nga hokohoko taonga i tenei ao, i runga i te ora, i te pai o te tinana.

Kahore i tika mo nga Rangatira Maori ki te pupuru tonu i a ratou whenua katoa, engari me tuku tetahi wahi ki nga Pakeha, hei nohoanga mo ratou, kia tata ai ki a tatou, hei whakahaere i nga tikanga pai i roto i a tatou. Me ata whakatuturu marire nga wahi whenua hei mahinga mo o tatou tinana. Ko au i pai ki te tuku i taku whenua; otira, kaore au i pai rawa ki taua mahi maku anake, erangi me uru ki roto ki tenei mahi tika, pai hoki, nga tangata katoa. Kia whakaae mai koutou hei hoa mahi moku, katahi ka pai rawa to tatou ritenga.

I will tell you the things of this island which have been lost; the kumara, convolvolus root, fern root [the edible bracken fern root], the iguana [tuatara], and the Maori rat; in like manner the Maori customs are dying out before the good customs of the Pakeha, and I think that the Maories now should be called half-castes, because the Pakeha is their father. The Maories [have] repudiated [their] parent Hine-i-te ngaere, who taught him to weave garments. I am exceedingly anxious that we should adopt the good customs of the English people. To what purpose shall we maintain our old custom; and ideas. Shake off these evil things of a by gone day, deceit, the evil eye, threats and overbearing on the part of one tribe towards another. Unfortunately the Maories are not agreed among themselves, they are divided and therefore will not prosper as a people; there is nothing upon which the roots may take hold, and the sun of England is shining strongly to burn up the seed tubers of our island of New Zealand; that is, any system of our own.

Friends here is another word of mine to you all, it is a word respecting our land. I disapprove of the land holding system pursued by the Maori Chiefs; it does an injury to their own people and to trade. Have they no feeling for their own people who are wearying themselves in planting wheat, potatoes, corn, and in various other works which the hearts of men prompt them to undertake but which cannot be properly carried out for the want of Pakehas at this place, Manawatu? Therefore I say, let part of the Manawatu be sold, in order that the benefits which are derived from the presence of Europeans may be ours also. We are living in ignorance with respect to commercial matters, because there are no Europeans here, therefore I say – let us have many Europeans, so trade may increase, and that we may live in comfort.

> It is not well for the Maori Chiefs to withhold all their lands; it will be wiser to dispose of a portion to the Europeans to settle upon, that they may dwell near us and carry out [introduce] among us their good system: let us however carefully secure ourselves such land for cultivation as may be required for our subsistence. I am quite willing to part with my land, but I do not feel quite satisfied to pursue this course alone: I would rather that all should unite in doing this, which is perfectly right and proper. If you consent to join me in this work, then success will be ours and all will go well.[712]

Other leaders within Ngāti Raukawa and Ngāti Kauwhata, though they themselves wanted to hold onto lands for their people, acknowledged the right of Ihakara and others of like thinking to enter into their arrangements with the Crown. At both Ahuaturanga and Te Awahou they did so with the intention of retaining the rest. We return to this discussion in the following sections.

5.6 Native Land Purchase and the 'Compact' of 1856

By the mid-1850s, the colony's efforts at purchasing as much Māori land as possible were rapidly grinding to a halt – to the great dismay of the colonists, and indeed to at least some Māori. A vast extent of Māori land in the North Island – it was estimated by Richmond, the Colonial Treasurer, to be upwards of twenty million acres – remained still to be purchased.[713] Yet several seemingly insurmountable hurdles existed.

For one thing, and most pressingly, there were simply not enough funds for the purpose. The Constitution Act of 1852 had provided that revenue from land sales (which comprised the 'Land Fund') would be utilised for two ends: a quarter was to be put towards repayment of the New Zealand Company's debt, while the remainder was to be used for further land purchases.[714] According to Richmond, even allowing for a generous estimation of the annual land revenue at £80,000, this would be insufficient to meet these two 'burthens'.[715] Nor was there anything left over for what Henry Sewell would later call the 'absolute needs' of immigration and public works.[716]

For another thing, while the funds were drying up, Māori were having the temerity to demand ever-increasing prices for their land.[717] It seems they had quickly accustomed themselves to the capitalist mode of exchange, and with the progress of settlement and general improvement to the land, they now believed

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[712] The Māori Messenger – Te Karere Māori, Vol 5, No 16, 16 August 1858.
[713] Richmond to Labouchere, 5 September 1856, *AJHR*, 1858, Sess I, B-5, p 3.
[714] In July 1850, faced with the Company's demise, its directors brought its operations to a halt and surrendered its charters. As a result of an agreement previously entered into, these actions then led to the Crown taking possession of nearly 1.1 million acres (the entirety of the Company's New Zealand estate), in return for which it was obliged to pay £268,000. This debt was to be a first charge on land revenue.
[715] Richmond to Labouchere, 5 September 1856, *AJHR*, 1858, Sess I, B-5, pp.3-4.
[716] Sewell to Secretary of State, 8 May 1857, *AJHR*, 1858, Sess I, B-5, p 13.
[717] Richmond to Labouchere, 5 September 1856, *AJHR*, 1858, Sess I, B-5, p 4.

their own lands to be worth more than they had been earlier. As a result, Richmond lamented, the price Māori were now asking 'threatens to reach the full price of the Land to be obtained on a resale'.[718]

One pernicious consequence of this situation was that the provinces had been put in positions of enmity towards each other. The northern provinces, that of Auckland in particular, refused to contribute anything towards the extinction of the Company's debt, on the grounds that it was nothing to do with them. Those of the South Island, on the other hand, refused to countenance any contributions to land purchases in the North Island, on the same grounds. 'Out of these differences arise struggles of political parties,' said Richmond, 'rendering it scarcely possible to amalgamate the solid interests of the Colony, and concentrate its energies upon objects of common good.'[719] The colony was divided.

A second and equally damaging consequence of the halt to land purchasing was that the colonisers were unable to impose themselves fully on the colonised. As long as Māori 'retain their territorial rights,' Richmond wrote, 'they refuse to recognize British supremacy'.[720] Sewell's formulation of this regrettable situation was even blunter: 'Theoretically there is a plain and inseparable connection between territorial and political Sovereignty', he said, so that 'to govern a people who retain to themselves the paramount seigniory of the soil is simply impossible'.[721]

And thus an impasse had been reached which left the colonial government unable to secure the land it required both for settlement and imposition of its practical authority on Māori. The 'dangerous expedient' now presented itself of 'abandoning the Queen's pre-emption right'.[722] Yet there remained one avenue open which would allow the colony to navigate safely between the Scylla of the impasse on the one hand, and the Charybdis of open-slather private purchasing on the other: the 'Compact' of 1856. This arrangement was, as Sewell emphasised, 'agreed to by a large majority of the House of Representatives, adopted unanimously by the Legislative Council, and recommended individually by the Governor'.[723] It was proposed as a way of resolving not only the question of how to purchase the vast swathes of Māori land yet to be taken up, but also as a way of removing the enmity between the provinces.

The pivot on which the agreement turned was a loan to be raised in England, guaranteed by the Imperial Government, of £500,000. Of this sum, fully £200,000 would be used to pay off the Company's charge to the Land Fund,

[718] Richmond to Labouchere, 5 September 1856, *AJHR*, 1858, Sess I, B-5, p 4.
[719] Richmond to Labouchere, 5 September 1856, *AJHR*, 1858, Sess I, B-5, p 4.
[720] Richmond to Labouchere, 5 September 1856, *AJHR*, 1858, Sess I, B-5, p 4.
[721] Sewell to Secretary of State, 8 May 1857, *AJHR*, 1858, Sess I, B-5, p 13.
[722] Sewell to Secretary of State, 8 May 1857, *AJHR*, 1858, Sess I, B-5, p 13.
[723] Sewell to Secretary of State, 8 May 1857, AJHR, 1858, Sess. I, B.-5, p 13.

while £180,000 would be set aside for the purchasing of Māori land in the North Island.[724] The 'large and certain Capital' the loan would provide was required, Richmond insisted, in place of the 'fluctuating and precarious' Land Fund.[725] And to placate the provinces, those of the South Island would be responsible for repaying the loan monies used to clear the Company's debt, while those of the North Island would meet the expenses of purchasing the lands there. In this way, all the provincial interests would be kept happy. The remaining £120,000 would be applied to paying off 'outstanding liabilities'.[726] All of these measures were then given effect to, by the passing of the New Zealand Loan Act 1856.

The Compact, however, provided more than just a financial solvent. It also stipulated that the provinces would assume responsibility for the administration and on-sale of the colony's wastelands, meaning that whatever money was generated by their sale would become provincial revenue.[727] Furthermore, the provinces would receive three-eighths of all customs revenue.[728] Such monies as were raised could then be applied to the purposes of immigration, public works, education, and land settlement. In short, the provincial governments were to be empowered to become the chief mechanism by which colonisation of the country was to be effected.

Under the terms of the Compact, it was proposed to allocate £54,000 to the Wellington Province for the purchase of Māori land.[729] Featherston (Superintendent of Wellington Province) and his supporters, ever impatient and ever acquisitive, sought to have this amount increased, and repeated an earlier offer to assist the general government in financing the purchases.[730] Featherston also manoeuvred to become Wellington's land purchase commissioner. The latter effort failed for the meantime, but the funding offer was accepted. The terms of the offer were, however, now changed, so that any monies paid out by the province would be as a loan to the general government.

Yet much to Featherston's ire, the general government continued to focus its land-purchasing efforts elsewhere; the North Island's west coast was not considered a priority. In early 1857, Featherston wrote in very strong terms to

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[724] Richmond to Labouchere, 5 September 1856, *AJHR*, 1858, Sess. I, B.-5, p. 3. This amount was, in fact, insufficient to the purpose, but the shortfall would be made up by using the proceeds of land sales as they occurred.
[725] Richmond to Labouchere, 5 September 1856, *AJHR*, 1858, Sess. I, B.-5, p 4.
[726] Richmond to Labouchere, 5 September 1856, *AJHR*, 1858, Sess. I, B.-5, p 3.
[727] *Thames Star*, Vol VI, Issue 1805, 15 October 1874, p 2.
[728] Malcolm McKinnon, 'Colonial and provincial government - Colony and provinces, 1852 to 1863', Te Ara - the Encyclopedia of New Zealand, http://www.TeAra.govt.nz/en/colonial-and-provincial-government/page-2 (accessed 30 November 2016).
[729] Richmond to Labouchere, 5 September 1856, *AJHR*, 1858, Sess. I, B.-5, p 4.
[730] Featherston to Richmond, 24 July 1856, AEBE 18507 LE1/18/1858/226. For the earlier undertaking, see Featherston to McLean, 10 January 1854, *AJHR*, 1861, Sess. I, C-1, p 265.

Richmond to express his frustration (and that of the Wellington community, apparently) with the general government's attitude:

> The whole Community are so indignant at the manner in which this question has been trifled with by the General Government or rather by His Excellency the Governor acting upon the advice of irresponsible advisers in whom the Settlers feel as little confidence as they did in the Protectors under Captain Fitzroy's Government, that the Provincial Council have unanimously memorialised Her Majesty to delegate to Superintendents of Provinces the power of extinguishing the Native Title.[731]

But Richmond remained unmoved. Officers of the Land Purchase Department were not to have direct engagement with any provincial governments. Featherston, in turn, refused to bend and pushed again for the right to engage directly in land purchasing, but the general government would not be bullied, and Featherston was left to do little more than bemoan his own impotence.

Still, Featherston could not accuse the General Government of being entirely obstructive. As an interim measure until the £500,000 loan was approved, the General Assembly passed the New Zealand Debenture Act 1856; an 'expedient to raise a temporary loan for the public service of the Colony of New Zealand'.[732] The Act empowered the Governor to borrow up to £100,000. Of this, £40,000 was to be made available for the colony's land purchasing ventures, and of that amount, £15,000 were ear-marked for the Wellington Province (although a portion of that sum was to be used for departmental expenses).[733]

Within a few months, this amount had been entirely allocated. Some £5735 was to be used to finalise purchases already begun (and for which advances had been paid). A further £7000 was to cover the purchase of lands that were subject to negotiations. This left just £2265 for new purchases. With a view to ensuring that additional purchases might still be effected, Richmond suggested to the Wellington Provincial Government that it provide funds itself as a further interim measure.[734] Featherston, sensing another opening, replied that the provincial government would be delighted to do so, but subject to certain conditions. Among these was the requirement that McLean be instructed to complete the purchase of the blocks Featherston deemed a priority (including the Horowhenua block) 'without any further delay'.[735] And, lest Richmond think the provincial government was being entirely too generous, he made it clear that any money it did advance was to be paid back when the £500,000 loan eventuated.[736]

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[731] Featherston to Richmond, 5 February 1857, AEBE 18507 LE1/18/1858/226.
[732] Preamble, New Zealand Debenture Act 1856 (19 and 20 Victoriae 1856 No 14).
[733] Hearn,'One past, many histories', p 206.
[734] Richmond to Featherston, 2 September 1857, Wellington Provincial Council, *Votes and Proceedings*, Session VI, 1858, Council Paper, pp 1-2.
[735] Featherston to Richmond, 3 September 1857, AEBE 18507 LE1/18/1858/226.
[736] Featherston to Richmond, 3 September 1857, AEBE 18507 LE1/18/1858/226.

In any event, the general government was spared the unpalatable necessity of accepting Featherston's conditions; the granting of the Imperial Guarantee for the £500,000 loan made the need for provincial funding redundant. The general government did, however, accept Featherston's priorities and undertook to make clear its support for these to the Governor (who retained authority over all Māori land purchasing). Perhaps with a view to forestalling yet another bid by Featherston to seize control of the land purchasing operations in the Wellington province, Richmond informed him that the general government denied his claim to be 'the sole depository of local experience respecting the Province of Wellington and the sole person capable of directing land purchases within its limits in such a manner as to render those purchases available for the progress and settlement of the country'.[737] Featherston's *amour propre* must have been sorely bruised.

Still, Featherston was not without allies. Stafford also believed that the purchasing of land on Wellington's west coast ought to be made a priority. The land, he said, was 'eminently suitable for colonization', while the Māori owners had only recently been persuaded to part with it.[738] Any delay in acting on this new willingness to sell could see an opportunity missed. It could also lead, he warned darkly, to 'an irregular and embarrassing occupation' of the Manawatū and Rangitīkei districts.[739]

The General Government was as good as its word. As 1857 drew to a close, McLean received a list of recommendations from the Colonial Treasurer as to which blocks he was to acquire. Among these was the 'Upper Manawatū', as well as '[a]ny blocks on either bank of the Manawatū River or elsewhere on the Straits which the Natives interested may be generally prepared to alienate'.[740] In the event that a purchase involved substantial amounts of money, Māori were to be encouraged to accept 'collateral agreements', whereby part of the purchase price would involve the granting of schools, hospitals, mills, or some other such desirable institution.[741] McLean was also to size up the possibility for individualising tribal titles. Small blocks – those under 25,000 acres – were to be avoided, while purchases were not to be undertaken if 'the existing state of the Native mind may appear to render it impolitic to open negotiations'.[742]

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[737] Richmond to Featherston, 12 December 1857, AEBE 18507 LE1/18/1858/226.
[738] Stafford, Memorandum, 17 November 1857, AEBE 18507 LE1/18/1858/226.
[739] Stafford, Memorandum, 17 November 1857, AEBE 18507 LE1/18/1858/226.
[740] Colonial Treasuer, Memorandum on Purchase of Native Lands, 21 December 1857, Stafford, Memorandum, 17 November 1857, AEBE 18507 LE1/18/1858/226.
[741] Colonial Treasuer, Memorandum on Purchase of Native Lands, 21 December 1857, Stafford, Memorandum, 17 November 1857, AEBE 18507 LE1/18/1858/226.
[742] Colonial Treasuer, Memorandum on Purchase of Native Lands, 21 December 1857, Stafford, Memorandum, 17 November 1857, AEBE 18507 LE1/18/1858/226.

5.7 Searancke's purchase activities

From his appointment as commissioner and surveyor for the Wellington District in late January 1858 through to April 1860, when he called a halt to his negotiations, Searancke maintained a schedule that almost challenged the pace set by McLean himself. We briefly outline his itinerary (as detailed by Searancke in a later memorandum defending his conduct during that period) before turning to a more detailed discussion of the two major Crown purchases he undertook directly affecting the interests of Ngāti Raukawa and Ngāti Kauwhata, Ngāti Wehi Wehi and allied hapū .

- January–March 1858: Wairarapa matters;
- April: receives general instructions from McLean and accompanies him up the west coast, 'when we settled the Ngāti Raukawa claims on lands sold at Waipa also Ngātitoa claims on Lands sold at Aotea and Whaingaroa and on old disputed burial Ground at Whanganui'. Searancke notes that 'large meetings took place … at Manawatū respecting the sale of land there which eventually led to the sale of the Awahou block';[743]
- January: returns to Wellington where he makes arrangements for purchase of Waikanae and Ngaawapurua 'paying small instalments thereon';[744]
- April–July: Wairarapa;
- August: returns to Wellington for 'remainder of the wet season';
- Mid-September: initiates negotiations for the upper Manawatū; 'having received numerous letters from Natives interested in the … Block, known as Te Hiriwanu's land', Searancke proceeds up the west coast 'advancing the negotiations for the purchase of the Waikanae Block a step on my way'. He notes: 'I met and conversed with the Otaki natives who demanded that the payment for the Upper Manawatu should be made to them by right of conquest. Their claims I had to refute in such a way as not to provoke opposition.' He then proceeds on to Manawatū where he 'collected all the Ngātiraukawa Chiefs from Rangitikei and the neighbourhood and in their company proceeded to Raukawa, Te

[743] Searancke to Weld, 5 January 1861, Memorandum by Mr Searancke in vindication of his conduct as Land Purchase Commissioner, 5 July 1861, Le1/1861/229.
[744] Searancke to Weld, 5 January 1861, Memorandum by Mr Searancke in vindication of his conduct as Land Purchase Commissioner, 5 July 1861, Le1/1861/229.

Hiriwanu's settlement'. Te Hiriwanu's sale is given sanction, but negotiations with Rangitāne stall over questions of price and survey;[745]

- On his return downriver, Searancke finds 'the whole of the natives interested in Te Awahou gathered', including the leading opponent of any alienation, Nepia Taratoa; 'after several days of examination of the title of these natives', he pays a first instalment before ill-health compels him to return to Wellington;
- November: returns to Porirua where he 'completes purchase of Whareroa … a portion of Waikanae';
- November–January 1859: Wairarapa matters;
- Mid-February: returns to Wellington where in an 'unguarded moment', he is 'induced' to make 'a small advance' on Hinepuhiawe, the sale of which is immediately repudiated;[746]
- Late February; proceeds to west coast where Stewart's survey has been interrupted. Stopped on the road by an offer to sell land at Wainui, which he accepts. Then 'arrange[s] difficulties' with survey;
- March: goes upriver again to see Hiriwanu, describing him as 'obstinate as ever' and then returning to Te Awahou to 'make the final arrangement to complete that purchase'. Goes on to Rangitīkei, Turakina, and Whanganui where he satisfies himself 'that the Ngātiraukawa claim could not be superseded or overlooked that they as the conquerors of this country and their importance must be first dealt with in any land purchase in this District';[747]
- Late April: returns to Wellington and deals with reserve questions;
- Mid-May: travels with the Governor to Manawatū. While Gore Browne proceeds on to Whanganui, Searancke remains to complete the purchase of the Awahou block with the 'advice and assistance' of Chief Commissioner McLean;
- July–August: goes to and completes purchase of Wainui, including the survey of reserves; Te Upokoiri offer a small piece of land on the south

[745] Searancke to Weld, 5 January 1861, Memorandum by Mr Searancke in vindication of his conduct as Land Purchase Commissioner, 5 July 1861, Le1/1861/229.
[746] Searancke to Weld, 5 January 1861, Memorandum by Mr Searancke in vindication of his conduct as Land Purchase Commissioner, 5 July 1861, Le1/1861/229.
[747] Ibid.

bank of the Manawatū River opposite Moutoa, which Searancke advocates making an advance on, and sees as proof of the breakdown of an agreement to reserve land between that river and Ōtaki;[748]

- September–November: Wairarapa and East Coast purchasing;
- December: he records that while in Wellington, he 'met with some native chiefs from the West Coast to whom I made advances on land which had been previously pointed out to me as their prosperity and their right to sell fully established at meetings at which I had been present'. This seems to refer to advances on 'Whakangahue and Wheraawhanga' blocks;[749]
- January 1860: returns to the Wairarapa;
- March 1860: breaks off purchase negotiations, fearing to stir up political trouble or to provide further means to acquire arms in both Wairarapa and the west coast.

We now turn to a more detailed discussion of Searancke's negotiations with Ngāti Raukawa, Ngāti Kauwhata, and other tangata heke, with reference to Manawatū lands and expand upon the methods he employed, monies paid, and the tactics he employed with certain rangatira. In the following sections, we also explore the diverging attitudes towards these transactions and to land sale, in general, among these iwi and hapū.

5.8 Crown purchase of Ahuaturanga

It is not necessary to discuss this purchase in extensive detail, as it primarily concerns Rangitāne rather than Ngāti Kauwhata and Ngāti Raukawa. There are, however, several issues that need to be traversed, namely their argument that the transaction was part of a wider territorial division initiated with Ngāti Apa's alienation of Rangitīkei-Turakina earlier in the decade and Ngāti Kauwhata's objection to the boundaries as initially proposed. Furthermore, the correspondence pertaining to the block provides some further insight into the concerns and practices of the Native Land Purchase Department, in general, and the newly appointed district land purchase commissioner, W N Searancke.

The authority of the tangata heke was under increasing challenge in this era, from Ngāti Apa's success, and, it seems likely, by Crown officials. In contrast to their anxiety to prevent an alliance between Ngāti Raukawa and tribes such as Tuwharetoa, or their kin still based in the southern Waikato, McLean – and after

[748] Searancke to McLean 24 August 1859, *AJHR*, 1861, C-1, p 287.
[749] Searancke to Weld, 5 January 1861, Memorandum by Mr Searancke in vindication of his conduct as Land Purchase Commissioner, 5 July 1861, Le1/1861/229.

him, Featherston – encouraged the Kuruhaupō iwi to join together to counter-balance the weight of their numbers and their tendencies to land league-ism. From the first, senior Whanganui leaders were specifically invited to important hui about the territorial division of interests between Ngāti Apa and Ngāti Raukawa – as supposed 'neutrals', but really to bolster the selling position of the former. As we discuss further below, Grindell, who was assisting Searancke in his negotiations inland, would also encourage Rangitāne and the other Kuruhaupo iwi to pull together, while relying on 'jealousies' among Ngāti Raukawa and their allies to allow the transaction to go ahead We shall see, too, that Featherston would later get Whanganui signatures first for the sale of Rangitīkei-Manawatū, greatly bolstering the position of Ngāti Apa and placing Ngāti Raukawa, Ngāti Kauwhata and their allies under considerable pressure to follow suit, since they were given to understand the land was already gone.

Te Hiriwanu, described by Searancke as Ngāti Kahungunu, Motuahi (Rangitāne), and Te Upokoiri, led the transaction, travelling to Auckland where he offered to sell land to McLean.[750] There was some debate about the significance of Te Hiriwanu's offer. According to Ngāti Raukawa witnesses before the Native Land Court in 1868, Hiriwanu had first sought Taratoa's permission, and McLean had insisted that Ngāti Raukawa's consent be gained before he would consider the offer. According to Rangitāne, however, McLean had told him to consult with Ngāti Raukawa only because he intended to include Ōtaki and Waikanae in the purchase.[751] The desire, it would seem, was to purchase in one large block from the coast to the Ngāti Kahuungunu boundary.[752]

The Crown's initial foothold in the upper Manawatū was created by its purchase activity in Wairarapa ki Tararua, with Rangitāne holding rights in both districts. Searancke had advanced £100 to Hoani Meihana Te Rangiotu, married to a high-ranking Ngāti Kauwhata woman, Enerata Te One, for Ngawapurua in 70-Mile-Bush. Theirs was an important strategic marriage; a takawaenga. They had three daughters together each entering into important strategic marital alliances in turn: Harikete married Hare Rakena Te Aweawe, Wharawhara married Hoani Taipua, and Hurihia was joined with Robert Te Rama Apakura Durie, living at Aorangi.[753])

In May 1858, James Grindell was sent to assess the Manawatū district and determine the nature of the land, who held rights in it, and their disposition towards Crown purchase. When Grindell reached the settlement of Raukawa, he found Hiriwanu and his section of Rangitāne opposed to Meihana's sale in the Wairarapa but willing to conduct their own transaction for lands on the western side. Grindell recorded that:

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[750] Searancke to McLean, 27 September 1858, *AJHR*, 1861, C-1, p 280.
[751] Ōtaki minute book 1D, p 497b.
[752] Searancke to McLean, 6 August 1858, MS-Papers-0032-0566.
[753] M Durie,'Te Rangiotu, Hoani Meihana', https://teara.govt.nz/en/biographies.

> I found Te Hiriwanu and his people opposed to the sale of the Ngaawapurua block, upon which Mr. Searancke had paid to Hoani Mehana and others of the Rangitāne £100. He said that Hoani Meihana had, most unjustifiably, acted in direct opposition to the expressed desire of the people resident on the land. He did not appear to object to its being sold at a future period, but he thought Hoani had been too precipitant. They were determined not to sell any lands on the East of Tararua (viz., in the 70 mile bush) until they had disposed of all their lands on the west side – supposing, no doubt, that these lands, being nearest to the Ngātiraukawas, were the most likely to be disputed and claimed by them. He said they were now prepared to sell all that tract of country lying to the west of Ruahine and extending to the boundary of Rangitāne, or Hoani Meihana's people, and north of Manawatu to the sources of the Oroua, Mangaone and Puhangina rivers, all tributaries of the Manawatu.[754]

Grindell informed both Te Upokoiri residing on the river between Raukawa and Puketōtara and Ngāti Apa (by letter) that matters affecting their interests were to be discussed, travelled downriver with Hiriwanu to Puketōtara 'for the purpose of discussing with the Rangitāne the Ngaawapurua question, and also to give that tribe and others an opportunity of bringing forward any claims or objections they might have to the Pōhangina block north of Manawatū'.[755] At the ensuing hui, he encouraged them to unite against anticipated Ngāti Raukawa opposition, telling the assembly that:

> I had been sent by Mr. Searancke to ascertain what lands they were willing to sell, with the boundaries, position, &c., and also to enquire into the respective claims of the people occupying such lands. I represented to them that as they were all related together (having descended from one common source) they should endeavour to agree relative to boundaries and claims – that they should "speak with one voice" – that if they were disunited by internal dissension they would be laying themselves open to the attacks of the Ngātiraukawas from whom much opposition was to be expected, and that there would thus be much less chance of coming to an amicable understanding with that tribe.[756]

He also advocated recognition of the rights of people who had migrated from Ahuriri who had been allocated lands along the river.

Grindell wanted the better, drier land on the south bank of the Manawatū as well as the area already offered to the north (Puhangina), which the assembly agreed to alienate after several days of discussion. A portion of the block was also allocated to Te Upokoiri for their disposal. However, he could not fix the western boundary of the purchase at the Oroua River as he had first intended because he discovered that 'Ngāti Raukawa' had rights to its east.[757] No definite arrangement was reached regarding the Ngawapurua block in the Wairarapa that had first prompted the negotiations for Rangitāne rights on the west coast. As to Pōhangina, Grindell recorded:

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[754] Journal of James Grindell, 19 June 1858, *AJHR*, 1861, C-1, p 277.
[755] Journal of James Grindell, 19 June 1858, *AJHR*, 1861, C-1, p 277.
[756] Journal of James Grindell, 19 June 1858, *AJHR*, 1861, C-1, p 277.
[757] Journal of James Grindell, 19 June 1858, *AJHR*, 1861, C-1, p 277.

> I do not expect that the purchase of this block will be effected without some opposition from the Ngātiraukawas, but I am not inclined to think that any very serious obstacles will be raised by them – nothing but what may be got over by judicious management. They are the less likely to make any strenuous opposition, as they are divided amongst themselves on the land question, and they know or will shortly know, that a message has arrived from the Whanganui tribes, encouraging them to persevere in the sale of their lands.[758]

As noted earlier, the unity of Ngāti Raukawa over the wisdom of retaining their lands was beginning to fray. Several small blocks at Ōtaki and Te Awahou on the Manawatū River had been recently offered to the Crown (see below), and Grindell now travelled further downriver to ascertain their reaction to Hiriwanu's offer of the upper Manawatū as well as to these other proposed sales. He anticipated some opposition to Hiriwanu's intended alienation but no serious obstacle because of the softening attitude to sale in general. Grindell reported:

> I found the Ngātiraukawas divided into two distinct parties, the sellers and non-sellers. The latter party is headed by Nepia Taratoa; but I believe his opposition to be mearly (*sic*) a matter of form – merely an assertion of his authority – an up-holding of his dignity, which will die away with the jealousy which occasioned it. Kuruhou, an active supporter of Taratoa, assured me that many of the Chiefs of the Ngātiraukawas had gone over to the land selling side, and that the land would eventually be sold, that it was impossible to resist the "Kawanatanga." The sellers, looking upon Te Hiriwanu as one of their party, appear disposed to support him, whilst the non-sellers say that his intentions of acting independently of them is a piece of assumption.[759]

While he encouraged Rangitāne and the other Kuruhaupo iwi to pull together, he relied on divisions and 'jealousies' among Ngāti Raukawa and their allies to allow the transaction to go ahead, which, if they all were united, might otherwise, be more strongly opposed. As it stood, however, 'not only would the sale be effected' but he anticipated it 'would lead to the acquirement of all the lands in the hands of the Ngātiraukawas'. This would be the thin edge of the wedge:

> … the advocates of land selling in that tribe (and they are numerous) would look upon such an event as a signal for a general action, and their opponents, considering further opposition useless, would confine their attention to those tracts to which their claims were undisputed.[760]

While Grindell was at Ōtaki encouraging the sellers, Taratoa had gone to Puketotara to talk over matters. Finding that branch of Rangitāne determined on their course, he had apparently agreed to an alienation under his own mana:

> [H]e told them to "wait a little while, a very little while," and he would not oppose their desire. He has since declared his intention of selling the whole country between Manawatu and Rangitikei, including a portion of Te Hiriwanu's block. I believe,

[758] Journal of James Grindell, 19 June 1858, *AJHR*, 1861, C-1, p 278.
[759] Journal of James Grindell, 19 June 1858, *AJHR*, 1861, C-1, p 278.
[760] Journal of James Grindell, 19 June 1858, *AJHR*, 1861, C-1, p 278.

> however, he does not object to Te Hiriwanu's receiving the money – he is merely ambitious of the name and anxious to prove his right to sell the whole country.[761]

The matter was, however, far from settled. Searancke wrote to McLean from Ōtaki, in August, stating that he anticipated 'some little trouble perhaps about Te Hiriwanu's land' but that 'a small share of the money [would] settle their claim'.[762] According to later Native Land Court testimony, Hoani Meihana had informed Taratoa of Hiriwanu's intentions. After a runanga at Ōtaki, some forty Ngāti Raukawa – sections of the iwi based to the north at Rangitīkei and the lower Manawatū – had met with Ngāti Kauwhata, Ngāti Te Ihiihi, and the offspring of intermarriage with Rangitāne at Puketōtara to discuss the proposed alienation.[763] According to Parakaia Te Pouepa, he, Taratoa, and Aperahama Te Huruhuru had proposed that a block bounded by the Oroua River be sold jointly by Rangitāne, Ngāti Kauwhata, and Ngāti Te Ihiihi. This suggestion had been rejected, and further negotiations were required. The nature of the relationship between Ngāti Raukawa, Ngāti Kauwhata, Ngāti Ihiihi [Ngāti Wehi Wehi] and Rangitāne was important in this context. At Ōtaki, Tāmihana Te Rauparaha and Mātene Te Whiwhi were to demand inclusion in the payments for the upper Manawatū so that 'Ngāti Raukawa may have the just proceeds'.[764] According to Rangitāne rangatira, Peeti Te Awe Awe, however, 'Ngāti Raukawa had no right. The man who had a right was Tapa Te Whata – he is Ngāti Kauwhata.'[765]

According to the later testimony of Te Pouepa in the Native Land Court, the Ōtaki runanga had decided that Ihakara, Aperahama, Taratoa, and Wi Pukapuka should meet with Hiriwanu, and a letter was sent agreeing to a limited alienation, stating: 'Te whenua! Hei rua mau, hei tahu mau, hei hauhake mau.'[766] In August, Searancke and Grindell, accompanied by a large contingent of senior Ngāti Raukawa leaders, travelled to the settlement of Raukawa, where they met as a runanga. Searancke named Ngāti Raukawa, Ngāti Te Ihiihi, Ngāti Whakatere, Te Upokoiri, Ngāti Apa, Ngāti Motuahi, and Rangitāne as present, and reported to McLean that:

> Te Hiriwanu had mustered all his friends and relations to about the same number I need hardly tell you how pork, eels and other native luxuries flowed in repaid on our part by an unlimited flow of flattering speeches, compliments etc.[767]

At the meeting of about 150 people, Nepia and his party gave 'all right and title to the Land of the Rangitāne's telling the Hiriwanu that they were now friends; to do what he liked, with his Land, if he wished still to sell it, to do so…' He publicly assented to his doing so, at Searancke's request, and 'in fact quite

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[761] Journal of James Grindell, 19 June 1858, *AJHR*, 1861, C-1, p 279.
[762] Searancke to McLean, 6 August 1858, MS-Papers-0032-0566.
[763] Ōtaki minute book, 1C, p 244.
[764] Ōtaki minute book, 1C, pp 244-245.
[765] Ōtaki minute book, 1D, p 498.
[766] Ōtaki minute book, 1C, p 245.
[767] Searancke to McLean, 5 September 1858, MS-Papers-0032-0565, Object #1006418.

surprised all parties by the language (strong) he made use of and clearly signified that as soon as the sales of the upper part of Manawatū was completed he would be prepared to go on with the lower part…'[768]

We do not discuss the negotiations that followed between Rangitāne and the Crown although we note, in passing, that Searancke resisted their request that the boundaries should be walked together – the established best practice – on the grounds that the terrain was too difficult and that he did not want Rangitāne to know exactly how many acres were involved: These negotiations were not finished until July 1864.

The boundary at Oroua River where Rangitāne interests intersected with those of Ngāti Kauwhata and Ngāti Wehi Wehi, is, however, germane to the concerns of this report. Ngāti Kauwhata and 'Ngāti Ihiihi' challenged the boundaries of the sale. According to Hoani Meihana Te Rangiotu, the southern and western boundaries of the block had been fixed at Oroua River by Ngāti Whakatere and Ngāti Kauwhata.[769] This suited the Crown, which wanted to purchase all the way to the river, perceiving this to be the natural boundary. However, there were pā and kāinga belonging to Ngāti Kauwhata on the eastern bank of the Oroua River, at Whitianga and Kai Iwi. Hoani Meihana Te Rangiotu later explained to the Native Land Court that senior leaders of Ngāti Kauwhata who had not been present at the runanga at Raukawa rejected the inclusion of that area and insisted that the boundary be set at the Mangaone River instead.[770] Te Hiriwanu and 'all his tribe' accompanied Searancke to Awahuri where they had been invited by Taratoa – and the matter was settled 'amicably' after several days of discussion.[771] Searancke reported:

> The Ngātikawhata and Ngātiwhiti, giving way to Te Hiriwanu, I found that the West boundary not being defined by any natural features, but merely by certain names of places, the position of which were uncertain, and therefore liable to be moved at the Natives' pleasure, it would be necessary that a line (boundary) should be cut, and I determined, as the weather was indifferent, at once to proceed to Te Awahou, to procure such tools as would enable Mr. Grindell with one party, and myself with another, to do the necessary work expeditiously.[772]

Evidence before the Native Land Court suggests that a subtle adjustment of rights was taking place within the heke tribes rather than between Ngāti Raukawa and Rangitāne. Reverend Williams suggested that the boundary adjustment was 'entirely between Ngāti Raukawa hapūs'; that is, between Ngāti Kauwhata, Ngāti Ihiihi, and Ngāti Raukawa based along the lower reaches of the Manawatū River.[773] This view was supported by Ngāti Kauwhata witnesses, Te Kooro Te

[768] Searancke to McLean, 5 September 1858, MS-Papers-0032-0565, Object #1006418.
[769] Ōtaki minute book, 1C, pp 246 and 252.
[770] Ōtaki minute book, 1C, pp 246 and 252.
[771] Searancke to McLean, 27 September 1858, *AJHR*, 1858, C-1, p 280.
[772] Searancke to McLean, 27 September 1858, *AJHR*, 1858, C-1, p 280.
[773] Ōtaki minute book, 1C, p 252.

One and Te Ara Takana. According to Te One, the boundary at Oroua had never been accepted by his people; they thought of their rights as extending to Mangaone and had reluctantly accepted Rotopiko, between the two rivers, as the dividing line.[774] Tohutohu of Ngāti Wehi Wehi also rejected the Oroua River as the boundary with Rangitāne – and the capacity of Taratoa and Ngāti Raukawa to make that decision. He later told the court that he had protested, 'You must not bring the boundary to Oroua – it is for me and Ngāti Kauwhata to do that, the owners of the land.'[775] But on Mangaone being proposed, Wi Pukapuka had countered: 'If Ngāti Kauwhata insists on Mangaone we shall insist on Oroua.'[776]

It seems likely that it was in the course of these negotiations that agreement was reached that Te Aweawe could recover rights at Tuwhakatupua. McEwan notes the waiata sung by Te Aweawe on the occasion that moved the hearts of Ngāti Raukawa and Ngāti Kauwhata. It concluded:

> Aku manu whakaruru ki te ao nei
>
> Waiho nei ki a au ko nga rurenga nei
>
> Ko Ruhaunga ki te ao nei.
>
> My beloved protectors in this world,
>
> Leave to me these remnants,
>
> Ruhaunga, while I still live.[777]

In later Native Land Court hearings for the block Henare Te Herekau said a joint boundary between Ngāti Kohuru and Ngāti Whakatere had been agreed upon in 1858.[778]

While a compromise was thus reached enabling the sale to proceed unchallenged, the underlying issue of territorial authority remained unresolved. The boundaries at Tuwhakatupua were to be disputed in 1868, on which occasion Te Rangiotu intervened and made peace, but in which Ngāti Kauwhata had to make further concession in face of Te Aweawe's armed assertion as a leader of the Native Contingent.

In Ngāti Raukawa view, the entire interests of Rangitāne on the west coast had been satisfied by the sale. Te Kooro Te One, a rangatira of Ngāti Kauwhata and Ngāti Wehi Wehi, later gave evidence:

> Hiriwanu expressed his gratitude for the concession of Ngātiraukawa in favour of his 'hoko'… Nepia said "Ka hoatu e au tena whenua ki a koe" – I am satisfied; Ngāti Apa is

[774] Ōtaki minute book, 1C, p 254.
[775] Ōtaki minute book, 1C, p 256.
[776] Ōtaki minute book, 1C, p 255.
[777] J McEwan, *Rangitāne: a tribal history*, Wellington, 1986, pp 145, 212-213.
[778] Ōtaki Minute Book, 2, 9 April 1873, p. 57.

> the ‘matua of the land, the other side of the Rangitīkei – and now your wish is gratified “hei mutunga tonu – tanga tena mo to taha” what remains is for me alone.[779]

Taratoa had told Hiriwanu that while he might sell that land ‘If the fire is kindled on any other portion “Ka tineia, mo te hoko tenei”.’[780] In the view of Ngāti Raukawa and allied tribes, this transaction represented a further major territorial division following the recognition of Ngāti Apa authority to the north. Searancke appears, nonetheless, to have assumed the excepted lands at Oroua would be purchased at a later date. Reporting on his meeting with Ngāti Kauwhata and Rangitāne, Searancke said, ‘I also consented, as there appeared to be a complication of difficulties, to cut off a portion of the land on the Orua [*sic*] river and make it a distinct purchase.’[781]

It later became plain enough that the people residing on that land had no intention, at all, of selling it. In December 1865, a meeting was held at Puketōtara between Featherston (Searancke’s successor) and the people of Ngāti Kauwhata and Rangitāne.[782] Te Kooro Te One unambiguously rejected the idea that the Oroua land might be sold:

> All the best land is being sold to the Pakehas, and we shall have none left for our support. I have heard a proposal made by some of the Natives for the sale of the Oroua Reserve. To this I shall never consent.[783]

After Te One, Hoani Meihana, the Rangitāne rangatira, echoed the sentiment:

> I also am opposed to the sale of any land on the other side of Oroua. I am willing that the whole of the disputed block should go, but our title to the other side of the River (Oroua) is disputed by no one. We must keep this as a reserve for our children, and for their children after them.[784]

We shall see, however, that they also wanted the land partitioned so Crown title could be obtained for it and by the time this was done through the Native Land Court, that original intention had been overtaken by pressing economic need and the destructive effects of that process.

When the area was later brought through the Native Land Court as Aorangi block, its ownership was determined to reside with three different tribal entities: Ngāti Kauwhata, Rangitāne, and Ngāti Tauira of Ngāti Apa. Questions also rose later with regard to the survey of Ahuaturanga – which had been run at a straight line instead of following the bends of the river and thus incorporated lands which

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[779] Ōtaki minute book, 1C, p 254.
[780] Ōtaki minute book, 1C, p 246.
[781] Searancke to Chief Commissioner, 12 November 1858, *AJHR*, 1861, Sess. I, C.-1, p 282.
[782] Notes of a Meeting at Puketotara (Manawatu), 6th December, 1865, *AJHR*, 1866, Sess. I, A-4, pp 19–20.
[783] Notes of a Meeting at Puketotara (Manawatu), 6th December, 1865, *AJHR*, 1866, Sess. I, A-4, p 19.
[784] Notes of a Meeting at Puketotara (Manawatu), 6th December, 1865, *AJHR*, 1866, Sess. I, A-4, pp 19-20.

Ngāti Kauwhata and Ngāti Wehi Wehi had intended to retain. We return to our discussion of these matters at chapter 8.

5.9 Crown purchase of Te Awahou

At the same time as Ahuaturanga negotiations were being undertaken, Searancke sought to acquire some smaller blocks: Te Awahou, Wainui, and Whareroa. Searancke considered Te Awahou to be the most important of these and recommended that negotiations for it take priority.[785] It is this purchase that concerns us here.

The transaction was led by Ihakara Tukumaru and only reluctantly accepted by that long-term opponent of sale, Nepia Taratoa. Reverend Duncan observed the latter rangatira as having moved to the area in late 1849 and as intending 'to spend most of his time here in future'.[786] It seems likely that Taratoa's intention was to hold the land on behalf of all those with rights in it and against the claims of Ngāti Apa sellers, but the more immediate danger came from within Ngāti Raukawa. It would prove impossible to maintain a unified anti-selling stance as support gathered for the primacy of the individual's right and the benefits of sale – urged on by others of a like mind and supported by the Crown which would not listen to those advocating the retention of land under customary title.[787] Parakaia Te Pouepa also had opposed the sale, but one by one, hapū joined Ihakara and Patukohuru in wanting to sell.[788]

Purchase officers and European observers repeatedly insisted that those who spoke in favour of holding onto the land were either few, in number, or secretly wanting to sell. This was said of Taratoa in particular. Crown officials consistently questioned his resolution, his motivations, and the integrity of his actions.[789] Yet it is clear that he only reluctantly consented to the sale, undoubtedly to prevent greater fracturing and dissension within the tribe by attempting to satisfy the demands of the selling contingent. As late as October 1857, he was warning McLean not to listen to those who were offering to sell land on the south bank of the Rangitīkei River. In his view, Mclean had agreed that authority over Rangitīkei and Manawatū matters rested with him. He had, to his mind, reached a friendly compromise with Ngāti Apa, but now another problem had arisen, and he advised McLean:

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[785] Searancke to McLean, 31 May 1858, AJHR, 1861, C-1, p 274.
[786] Duncan to McLean, 29 January 1850, MS-Papers-0032-0252.
[787] See Parakaia Pouepa's statements in section 5.14 on Kohimarama Conference.
[788] *Wellington Independent*, 26 March 1868, p 5.
[789] See, for example, comments by McLean during the negotiations for Rangitīkeitīkei-Turakina discussed in chapter 4; Journal of James Grindell , *AJHR*, 1861, C-1, p 278: Searancke, 15 November 1858, *AJHR* 1861, C-1, p 283.

> Be cautious, lest you stoop over the lands that are being protected by me, and by all the tribe. You know the parts that are under the care of myself and of the whole tribe. If any portion of these lands should be offered, my heart, and also the hearts of all the people will be grieved. I therefore tell you to be cautious with the respect of the talk of one man, or two, or three, or four, or five, or six, or any number. If you listen to the talk of such men, then only shall we be confused.[790]

The first open meeting was not held until March 1858, at which time the block was offered in the full light of day. We have found little record of the meeting. McLean, who was present, made scanty notes only, in his diary. Discussions were held for and against the sale at Ōtaki on 26 March: 'on the whole a good meeting'. Then on 30 March, a large meeting was held at Manawatū: 'about 700, 5 against 2 for sale at Manawatū'. On 1 April: 'Agreed to purchase.' A further 'long meeting' took place on 14 April: 'Nepia claiming more time to come to terms. Ihakara anxious to close matters.' [791] Some further details may be gleaned from the later testimony of Parakaia Te Pouepa, although he told the Native Land Court that he had 'no distinct recollection of the meetings which preceded the sale of the Awahou there were so many of them'.[792] He recalled, however, that only a small portion of the block – 'Hurihanga taitoko' – had been offered at first. The *Wellington Independent* reported Parakaia as saying:

> A general meeting on the subject took place. It was attended by Ngāti Raukawa, Ngāti Toa, Rangitāne, Ngāti Apa, and Muaupoko. There was division respecting the sale. Ihakara and his hapū (Te Patukohuru) were in favour of the sale. Ngāti Whakatere and Ngāti Pare demanded the payment. Mr McLean suggested to Tamihana Te Rauparaha and the other chiefs that there should be further discussion in order to prevent future disputes. Nepia Taratoa and the rest of Ngāti Raukawa were opposed to the sale. In consequence of the opposition Mr McLean went away. All subsequently agreed to the sale, and wrote to the Governor and to Mr McLean to that effect.[793]

Grindell, visiting the communities living at Te Awahou and Ōtaki, in July, in order to discuss Hiriwanu's proposed sale of Ahuaturanga and the question of land selling in general, thought that Ihakara's title was 'just, although disputed (for the present) by Nepia Taratoa'. Along with other Crown officials involved in the Manawatū, he underestimated the strength of Nepia's opposition and the integrity of his principles, recording that he was 'pretty certain to come over to the land selling side, as he [was] aware that public opinion is becoming too strong to be resisted'. Grindell, on meeting Taratoa, recorded in his journal that:

> He did not seem to object altogether to the sale of the land, but he said he wished the thing to be duly weighed and considered, and the claim of all parties properly adjusted before any portion of it was sold, otherwise, evil might result. He complained of the rashness and precipitance of the other chiefs, and said he had been strengthened in his

[790] Nepia Taratoa to McLean, 28 August 1857, in *Te Karere Maori*, 15 October 1857.
[791] Entries in McLean diary and notes, 26 March, 30 March, 1 April & 14 April 1858, MS-1245.
[792] *Wellington Independent*, 26 March 1868, p 5.
[793] *Wellington Independent*, 26 March 1868, p 5.

> opposition by their sneers and taunts and threats, to sell the land in spite of him. His mind had evidently undergone a change within the last few days, and I think he now finding the current of public opinion setting too strong against him, wishes to take the lead, and alone have the credit of selling the land, as he before had the credit of withholding it. But the other chiefs, who consider themselves his equals, will not acknowledge his supremacy in the matter. The Ngātihuias heretofore, have been his most staunch supporters – out of respect, chiefly I believe, to the memory of Rangihaeata, the last of the old Ngātitoa chiefs who first invaded the country and assisted in its conquest. When expelled from Porirua by the Government, he settled amongst the Ngātihuias at Porotawhao, and always enjoined them to resist all attempts on the part of the Government to alienate their lands. He was ever jealous of the increasing power of the whites.
>
> But even in this tribe Nepia has his opponents. Several have already openly declared themselves in favour of selling, whilst many others are privately of the same opinion, and, in all probability (if he persist in his opposition longer than they deem necessary to evince his power and importance) will come over to the other side. It was rumoured amongst some of his party that he had a notion of selling the land to private individuals in lots to suit purchasers.[794]

Grindell also dismissed the capacity of the 'tribe' to prevent hapū from selling their part of tribal territory as a political stratagem with no basis in custom, arguing:

> When the Ngātiraukawas first established themselves in the country, each division of the tribe, claimed, and took formal possession of certain tracts, as their share of the conquest, of which they forthwith became the sole proprietors and which they ever afterwards retained possession; but now, when the idea of selling the land is gaining ground amongst them, the opponents of such a step, for the first time, assert that the country is common property, and that no portion of it can be sold without the consent of all.[795]

On the other hand, there was so much jealousy among the chiefs, Grindell thought, 'as to preclude the idea of these conflicting claims ever being so thoroughly harmonized as to admit of the sale of the country without tedious disputes and quarrels amongst the Natives'. Nonetheless, the feeling in favour of sale was spreading so rapidly that the time was 'fast approaching when the country [would] be bought up', although 'much care and circumspection' would be required in conducting negotiations.[796]

Several further meetings took place before the purchase could be pushed through: the district, Searancke complained, was 'like a pot boiling over first on one side then on the other if not continually watched.'[797] Writing in November 1858, he stated:

> [T]he opposition offered by Nepia Taratoa and his friends, though without any feasible grounds, was very strong, and we then, while acknowledging this right of Ihakara to sell

[794] Journal of James Grindell, *AJHR*, 1861, C-1, pp 278-9.
[795] Journal of James Grindell, *AJHR*, 1861, C-1, p 278.
[796] Journal of James Grindell, *AJHR*, 1861, C-1, p 278.
[797] Searancke to McLean, 5 September 1858, MS-Papers-0032-0565.

> the land, deemed it politic at the time to postpone any further discussion till September (last), Nepia promising in the meanwhile to think over it.[798]

But clearly the patience of the government (and possibly of Ihakara as well) was running out. When Searancke returned, he announced the government's intention to proceed despite Taratoa's continuing opposition, reporting that:

> While taking every means to pacify Ihakara and his party, who were still very urgent and anxious that the negotiation should be carried out, I took every opportunity of associating Nepia Taratoa with myself in all the disputes and negotiations pending in the District; this gave me opportunities of frequent private conversations with him, when I informed him of my intention to fulfil the pledges given to Ihakara at the meeting in March. His answers, though dubious, I considered on the whole to be favourable.[799]

It seems that the tide had turned in favour of the sellers backed by the Crown; Taratoa and the anti-selling party finally withdrew their active opposition in November 1858. Samuel Williams, at McLean's request, had again added missionary persuasions, advising the non-sellers (whom he deemed now to be in the minority) to withdraw their opposition in order to maintain the peace, and the sellers to allow opposition to die out naturally rather than force the issue. According to Williams, the non-sellers 'laid great stress on the right of the tribe to prevent any small tribe from selling'. They strongly objected to Ihakara's vaunted intention to bring tribal control and retention of territory to an end by removing his 'plank', and thus wreck the anti-selling position. This was regarded as 'a malicious act towards the tribe' likely to result in 'evil consequences'. Ihakara, when he later appeared in the Native Land Court in support of the Crown's purchase of the much bigger and more desirable Rangitīkei-Manawatū block, confirmed that he had intended his transaction at Te Awahou to undermine tribal opposition to land selling in general:

> I will take out my plank in order that the ship may sink. I took out my plank and the water is running in. [T]e Awahou was my plank … the anti-selling league is the ship I mean. It was 'atawhai' on my part to the people to have a town on Manawatu and to break up the anti-selling league.[800]

At the time, Williams had counselled the non-sellers that 'while they might be afraid of mischief arising from a particular hapū selling its land – I saw clearly that mischief would arise from any body of natives trying to prevent real owners from selling their land'.[801]

The non-sellers, however, also objected that Ihakara had strengthened his position by inviting non-owners to the discussions (a possible reference to the inclusion of Kawana Hunia's people although they were not specifically identified). And certainly, when Searancke returned from the upper Manawatū to

[798] Searancke to McLean, 15 November 1858, *AJHR* 1861, C-1, p 283.
[799] Searancke to McLean, 15 November 1858, *AJHR* 1861, C-1, p 283.
[800] Ōtaki minute book, 1C, p 265.
[801] Ōtaki minute book, 1C, p 267.

attempt the finalising of arrangements, he reported that Ihakara had 'assembled all his friends (who were very much increased in numbers since the meeting in March)…'[802] Ihakara and his hapū had acknowledged rights, nonetheless, and Williams clearly thought that the sale was inevitable, advising Ihakara 'to allow the dying man to die quietly, don't smother or bury him alive'.[803]

The Crown had already promised to purchase the land concerned and, on Searancke's return, Ihakara demanded that the pledges made to him be fulfilled.[804] In the meanwhile, Nepia had 'unknown to the Natives generally' been visiting the settlements between the Manawatū and Ōtaki (presumably trying to rally the non-sellers to his side) and had to be persuaded to return.[805] But when the meeting of some 150 Maori took place in early November, the sellers dominated. Nepia now tried a new tactic. He offered no outright opposition to the alienation, instead attempting to reserve the interests of the non-sellers within it. According to Searancke, the chief:

> … after some time finding that the demands made by the Natives were likely to be acceded to by me, quietly slipped away, and the first thing I heard on the following morning was that Nepia was sending Natives over the whole Block marking out his own and friends' claims which are with one exception very small, and the worst parts of the Block, the whole not amounting to one-third of the whole Block.[806]

Parakaia later explained: 'One of the boundaries encroached upon our land, taking in the Omarupāpaka bush. Nepia's boundary extended from Omarupapako to the sea. The boundary towards Paratene and myself extended from Omarupapako to the Manawatu River.'[807]

Searancke had sent for Nepia, whose tactics he roundly condemned. Although Taratoa had been a resolute opponent of land sale for the past ten years and (as Searancke himself reported) had continued to express reservations even at the most recent meetings, the purchase officer considered that he had promised otherwise. Now finding that the rangatira was 'determined, while preserving an apparently friendly appearance to the Government, to resist the sale of any lands over which he had a claim', Searancke resorted to warnings of loss of face among his own people and covert threats of loss of favour with the Crown:

> I clearly explained to Nepia his present position, how utterly impossible it was for him to resist the general wish of the Natives to sell their waste lands, a wish daily gaining strength; that in the case of Ihakara's sale his conduct would have the effect of creating a distrust in the minds of the Natives generally towards him, and also if any further difficulty took place that I should look to him as the secret author of it, and also that I

[802] Searancke to McLean, 15 November 1858, *AJHR*, 1861, C-1, p 283.
[803] Ōtaki minute book, 1C, p 268a.
[804] Searancke to McLean, 15 November 1858, *AJHR*, 1861, C-1, p 283.
[805] Searancke to McLean, 15 November 1858, *AJHR*, 1861, C-1, p 283.
[806] Searancke to McLean, 15 November 1858, *AJHR*, 1861, C-1, p 283.
[807] *Wellington Independent*, 26 March 1868, p 5.

> should feel it my duty to make the Government aware of his conduct in the matter, and that it was my intention at once to purchase the Block.
>
> I was compelled by the circumstances I was placed in, and the very deceitful way in which Nepia has acted, to speak plainly to him, and I did so the more, that I believe that he and some others, always steady opponents of Land Sales to the Government, have had too much notice taken of them. Nepia then left, declining to make any reply to my remarks.[808]

In Searancke's view, Taratoa was motivated by his support for the Māori King, but at the same time, reluctant to 'relinquish the loaves and fishes' of the government.[809] He also thought the government was justified in pushing ahead without the consent of the rangatira who had been formerly acknowledged as the senior man of the district. His objections were 'without any feasible grounds', his actions deceitful, and his resistance had been tolerated for too long. Searancke wrote to McLean:

> As regards the step I have taken at the Awa hou I depend upon you to justify me with the Govt. it is a bold stroke and one that will I think carry some weight with it in the District, I was compelled to either do what I have done or at once give up any farther chance of purchasing at Manawatu the Deed forwarded is only a temporary affair until the excitement settles down and that double faced old sinner Nepia comes round in his ideas and becomes honest, however I had the satisfaction of giving him a piece of my mind which will I think have the effect of bringing him to his senses.[810]

According to Williams, the non-sellers had finally agreed to allow the sale to proceed, provided that they were not required to signify their consent. Apparently Taratoa had stood and, spreading his arms, had said: 'My son, Ihakara! you have your desire, eat your portion.'[811] (Whether Ihakara had rights in other parts of the lands between Manawatū and Rangitīkei after this transaction was to be disputed in the context of the subsequent alienation of those lands in the 1860s – as was the exact meaning of Taratoa's gesture.) The *Evening Post*'s account of Parakaia's evidence before the Native Land Court added that Nepia had repeated the gesture to the east and north, towards Ahuaturanga and Rangitīkei-Turakina indicating that 'Rangitāne and Ngātiapa had received theirs.' Parakaia told the court: 'It was symbolical of a barrier raised between Ngātiraukawa sellers and non-sellers.'[812]It seems clear that Taratoa and his supporters considered all land-selling to be now at an end. Parakaia later told the court that 'Nepia Taratoa, Aperehama Te Huruhuru, Ngatuna and others declared themselves against any further land sales.'[813] (Te Huruhuru was Ngati Parewahahwaha, Ngatuna of Ngati Turanga, Ngati Rakau, Ngati Te Au. We note that, otherwise, the non-sellers were not identified in either Native Land Court testimony or the correspondence

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[808] Searancke to McLean, 15 November 1858, *AJHR*, 1861, C-1, p 283.
[809] Searancke to McLean, 15 November 1858, *AJHR*, 1861, C-1, p 283; Searancke to McLean, 5 February 1859, MS-Papers-032-0565.
[810] Searancke to McLean, 15 November 1858, MS-Papers-032-0565.
[811] Ōtaki minute book, 1C, p 259.
[812] *Evening Post*, 23 March 1868, p 2.
[813] *Wellington Independent*, 26 March 1868, p 5.

of Crown agents. The setting of the boundary from Whiterea to the sea was intended as a 'barrier' to sale and had been endorsed by the gathered chiefs including Tapa Te Whata, Paratene and Kuraho.[814]Tukumaru did make a brief reference to his 'friends' whom he named as Matenga and Hukiki.[815]Those who wanted reserves set aside are discussed below and in more detail in the Husbands' report.)

Other witnesses in that 1868 court hearing for Himatangi also referred to Nepia's words at the time of the Te Awahou transaction of some ten years earlier. Ihakara's evidence (as reported in the *Wellington Independent*) suggests that Nepia still adhered to the notion that the remaining land would be held under his mana for the benefit of resident Māori. He told the court that Nepia had indicated, 'The land in front of me is all you [Ihakara] have any concern with. The land behind my back [north of Te Awahou] is for Ngāti Raukawa, Ngāti Apa, Rangitāne and Muaupoko, who are sitting at my feet.' He had then taken Rangitāne and Ngāti Apa 'by the hand and led them back.'[816] The tenor – though not the exact details – of this account was confirmed by Amos Burr, who stated that Nepia had:

> … consented only conditionally that the rest of the land should be left to him and his people who were "under the feet" – He spoke to the principal chiefs of Ngātiraukawa – I and many others understood he referred to Ngātiapa as his people – "ana tangata".'[817]

In Burr's view, Nepia was holding the land at Omarupāpaka for Ngāti Parewahawaha and Ngāti Apa.[818]

Searancke proceeded to 'complete' the purchase details. Sixty-seven signatures (including that of Kāwana Hūnia) were attached to the deed for Awahou no 1, dated 12 November 1858. Agreement was reached with the sellers that £2500 should be paid to them in instalments, and £400 was handed over 'on account' to Ihakara and 'his friends' once Taratoa's party had departed. [819] According to Parakaia Te Pouepa and Ihakara in later evidence before the land court, Ihakara made a number of small payments to those 'friends' including members of Ngāti Toa, Ngāti Apa and Muaupoko.[820] Other witnesses, including Kemp, also suggested that Rangitāne and Muaupoko had been included in the disbursement.[821] According to Searancke, a second sum of £50 was paid to Ngāti Apa in December1855 'by desire of Ihakara', that amount to ultimately come out

[814] *Evening Post*, 15 April 1868, p 2 and *Wellington Independent*, 16 April 1868, p 4.
[815] *Evening Post*, 23 March1868, p 2.
[816] *Wellington Independent*, 16 April 1868, p 2.
[817] Ōtaki minute book, 1C, pp 475-6.
[818] Ōtaki minute book, 1D, p 481, cited Hearn, 'One past, many histories', p 167.
[819] Searancke to Chief Commissioner, 12 November 1858, *AJHR*, 1861, C-1, p 283; Ōtaki minute book 1C, p 268.
[820] Parakaia mentioned Ngāti Toa, Ngāti Apa and Muaupoko; Ihakara said he made payments to Ngāti Apa, Muaupoko and Rangitāne; Ōtaki minute book, !C, pp 258-266.
[821] See D Armstrong, 'Muaupoko interests outside the Horowhenua block, doc A185, p 15..

of 'the gross amount agreed upon'.[822] The reserves (promised earlier) remained undefined and yet to be settled.

It would seem Taratoa was justified in his apprehension about the intentions of the government and the larger consequences of this sale, Searancke reporting that:

> This instalment may appear to be large, but I feel that the result will be that many now wavering between selling and holding the land, will consider that any further opposition to the sale of the Manawatu district will be useless. I should mention, that it is in my power at any time to complete the purchase of those portions of the Block belonging to Ihakara and his friends; but before taking such a step, I should like to have your opinion.
>
> Taking into consideration the number of years, and the many difficulties that the Manawatu question has been involved in, I have taken a step which I firmly believe will lead to its solution, at an early period, for this is not a question of the purchase of a few acres, but of the whole District.[823]

As noted above, in a second letter to McLean, five days later, Searancke described his actions as a 'bold stroke' that would 'carry some weight with it in the District'. Asking McLean to 'justify' him with the government, the purchase officer argued that he was 'compelled to either do what [he had] done or at once give up any farther chance of purchasing at Manawatu'.[824]

[822] Searancke to McLean, 30 December 1855 [sic], *AJHR* 1861, C-1, p 285.
[823] Searancke to Chief Commissioner, 12 November 1858, *AJHR*, 1861, C-1, p 283.
[824] Searancke to McLean, 20 November 1858, MS-Papers-0032-0565.

In his eagerness to get signatures on paper, Searancke had left the question of boundaries and reserves unsettled. Problems arose and reports came in that 'dissatisfaction' was being generated 'among the Southern natives in consequence of … having commenced a survey of disputed land at Manawatu'.[825] The problem related to the 'individual claims' of three people who refused to sell: Te Peina, Te Wereta, and Horima. The boundaries had been pointed out by Ihakara, but Te Peina had stopped the survey. Searancke, who was increasingly concerned about the possible 'spread of Taranaki and King fevers' into the district, put the survey on hold until he could make a 'satisfactory arrangement'. He returned to the Manawatū in April 1859, first writing to all the parties concerned as well as to Nepia, Kingi Te Ahoaho, and Hūnia to assist with 'their advice and knowledge of local claims to settle these disputes, but they all without exception on different excuses refused to come'. Searancke instructed the surveyor to proceed as 'quietly as possible … showing the boundaries pointed out by Ihakara and the claims made by the different parties distinctly on the plan, in order that the block might be gazetted, and such portions thrown open at once for sale as are undisputed.[826] At the first sign of trouble, the survey was to stop, but Searancke reported that it had proceeded smoothly.[827] 'Old Wereta', however, continued to hold out refusing to sell at 'any price'.[828]

A second deed named Te Awahou no 2 was signed in May 1859. This incorporated the area previously withheld, fixing the northern boundary at Omarupāpaka, then to Pākingahau on one side and the sea on the other. Signatories to the deed included Nepia Taratoa, Te Huruhuru, Parakaia, Tāmihana, Mātene Te Whiwhi, Kāwana Hūnia, and Hoani Meihana.[829] The remaining purchase monies were handed over, making for a total consideration of £2335. We have found no explanation why this was slightly less than the price of £2500 originally agreed upon. That sum included £400 paid on 12 November 1858 and £50 to Ngāti Apa on 3 December 1858. (We note that O'Malley has suggested that Ngāti Raukawa may have given Ngāti Apa as much as £1400 for what became the site of Foxton. We have not had access to O'Malley's report. Apparently, his speculation was based on the evidence of Ihakara Kereopa in later Native Land Court testimony.[830] We have not found any official record of such a payment.

The plan showed the boundaries of the block 'bought on 14 May 1858' and the reserves made for them at that time, plus:

> … the pieces of land accepted as compensation on behalf of the New Zealand Company, four distinct pieces of land included in the Deed of Sale, but now disputed by some few

[825] Searancke to McLean, 31 May 1860, *AJHR*, 1861, C-1, p 281.
[826] Searancke to McLean, 31 may 1860, *AJHR*, 1861, C-1, pp 291-2.
[827] Searancke to McLean, 31 may 1860, *AJHR*, 1861, C-1, p 292.
[828] Searancke to McLean, 8 July 1859 & 5 August 1859, MS-Papers-0032-0565.
[829] Turton, *Maori Deeds*, pp 174-177; Hearn, 'One past, many histories', p 168.
[830] Hearn, 'One past, many histories', p 168.

> of the vendors. A piece of land given by the Natives to the Rev. James Duncan, and a piece of land made over by Deed of Gift to the half-caste children of T. U. Cooke, Esq., also two pieces of land on the South side of the Manawatu river (without the boundaries) made over to the same half-caste children.[831]

We note that the reference to T U Cooke pertains to the provisions made for the 13 children from his marriage to Meretini Te Akau (daughter of Horohau Te Akau and Hokako), and the niece of Tamihana Te Rauparaha.[832]

Searancke considered this an important and strategic purchase that had been 'disputed inch by inch'.[833] Although a large portion was swampy in character, he pointed to the success of Amos Burr's operation and thought that the land that had been acquired by the Crown could be similarly drained without too much difficulty or expense. Much of the rest was sandy. Nonetheless, he anticipated that Te Awahou would be 'from its position very valuable, being the key to the whole of the fine timbered inland country; also to the rich and fertile district situated between the Oroua and Rangitīkei rivers, known as the Whakaari plains' and its purchase would be eventually considered 'one of the most advantageous and valuable made of late years in this district'.[834] The main value of the purchase lay, however, in demonstrating the diminishing capacity of the non-selling leadership to prevent others from transacting lands in which they had acknowledged rights and interests.

In May 1859, McLean advised the Colonial Treasurer that the 'Lower Manawatū block' had been acquired, noting that earlier ideas about how best to retain the area and protect interests of future generations had changed as a result of on-going tribal disputes that had been fostered by Crown purchase activity and colonisation in general:

> It is probable that the Natives may offer an extensive tract of country between Manawatu and Otaki on a distinct understanding that ample reservation of land is to be made for them in several instances secured to individuals by grants from the Crown … I may state with reference to this land that it was at one time understood between the Natives and the late Governor Sir G. Grey that this block should be reserved expressly for Native purposes, as their increasing stock seemed to point to the necessity for such provision to be made for future requirements. The Natives, however, are now willing, as a means of putting an end to differences amongst themselves, to dispose of the whole of the greater part of their District, provided that the reservations made be granted to them in perpetuity.[835]

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[831] Searancke to Chief Commissioner, 6 August 1861, *AJHR*, 1861, C-1, p 295.
[832] 'Te Akau Meretini', horowhenua.kete.net.nz.
[833] Searancke to Weld, 5 January 1861, Memorandum by Mr Searancke in vindication of his conduct as Land Purchase Commissioner, 5 July 1861, Le1/1861/229.
[834] Searancke to Chief Commissioner, 6 August 1861, *AJHR*, 1861, C-1, p 295.
[835] McLean to Colonial Treasurer, 23 May 1859, *AJHR* 1862, C1, pp 343-4.

However, despite the optimism with which the purchase was met by Crown officials it would be another decade before either Te Awahou or Ahuaturanga would be opened to European settlement. Survey, delayed by war and the tensions at Rangitīkei-Manawatū, was initiated only in 1865, and the land (by resolution of the Provincial Council) on-sold only after it had been mapped and the main district roads laid off.[836] The following year (1866) the townships of Foxton and Palmerston North were proclaimed.[837]

5.10 Mounting political criticism of the Native Land Purchase Department

As the decade drew to a close, there were mounting allegations and criticism of the slow pace of land purchase generally and in the Manawatū region in particular. Control of native policy and native land purchase had been an area of political conflict throughout the decade. As noted earlier, Grey foresaw that a settler-dominated Assembly would be disastrous for Māori and retained control of native policy when the 1852 Constitution Act came into effect, but native land purchase was increasingly contested between the general and provincial governments in the two-tier system that was put in place. According to Patterson, 'With the provincial governments being anxious to control all facets of the Crown land market and the General Government being determined that provincial interests should have no direct influence over purchase policy, the Native Land Purchase Department became a political football.'[838] As we discussed earlier, in 1856, the General Government, dominated by provincialists, passed responsibility for resale of Crown 'wasteland' to the provinces so that they could finance public works and repay debt, but retained the pre-emptive right of purchase and control of the Native Land Purchase Department. 'It was,' Patterson argues, 'indicative of the bitterness aroused that post-1856 Wellington's settler leaders deliberately mounted a campaign of vilification of the Department.'[839] With the aim of taking over its role, Superintendent Featherston – assisted by the local press – impugned the competence of the department and its officers. The *Wellington Independent*, a leading critic of continuing Crown control of native policy, advocated taking advantage of the supposed disposition of Māori to sell before it was too late, and prices increased; or Māori changed their mind. It exaggerated the slowness of purchase and the eagerness of Māori to sell as well as the readiness of the west coast-based hapū to join in fighting against government troops.

Searancke's correspondence with McLean was increasingly defensive. He lamented the change in political fortunes. At Te Awahou, he had taken the

[836] *New Zealand Spectator and Cook's Strait Guardian*, 12 July 1865, p 2.
[837] *Wellington Independent*, 24 May 1866, p 5.
[838] Patterson, 'White Man's Right', p 171.
[839] Patterson, 'White Man's Right', p 171.

dubious step of having a deed drawn up and signed by a section of owners before there was anything nearing consensus among right-holders about the sale, or the reserves had been defined. Patterson argues that 'Faced with complaints that insufficient lands were being purchased, and that many purchases were incomplete, the Native Land Purchase Department permitted its purchase and survey practices to become slipshod to the point of negligence.'[840]

In early 1860, Searancke believed the political situation on the west coast was fragile. He told McLean that it was 'pretty quiet, tho we have been at one time both blacks and whites rather excited'. His 'private opinion' was, however, that 'these natives down here and in the Wairarapa would rise in a moment if the King question [was] brought into the disputes'.[841] As we shall discuss later, that opinion was shared by a number of Wellington provincial politicians but proved baseless. Clearly, however, there was Māori dissatisfaction with the conduct of both the Governor and the land purchase department. Searancke told McLean that he had come in for 'plenty of abuse' in a sermon preached at Parewanui by Hamuera who had had the 'impudence to liken His Excellency and yourself to the two thieves who were hung on either hand of Our Saviour'.[842]

The sale of Te Awahou had been intended by Māori leadership to satisfy the desire of sellers amongst them, and there were few further offers; in May 1860, Searancke reported that Te Roera Hōkiki had been offering a small block of land at Muhunoa but the price he asked was far beyond what Searancke was prepared to pay. Nonetheless, he gave Te Hūkiki an advance of £50, commenting that he would have liked to have completed the purchase as it would have been the 'best proof at this present time that it is not our intention to take their lands as their reports go, by force without purchase'.[843] In fact, any chance of pushing a purchase through was extremely unlikely, even if the price could have been met. Tamihana Te Rauparaha wrote to McLean asking that no survey be attempted because he had 'found Hukiki, Aperahama and others quarrelling' when they heard that one was to be attempted. He asked that it be postponed while political feelings were running so high and the hapū debated whether they would throw their support behind the Kingitanga.[844]

In 1860, the unsettled state of the country resulted in the suspension of further purchase activities. Searancke wrote to McLean that most of the money paid out for land had been spent on arms and in supporting the Māori King (although his view was not shared by others).[845] The personnel of the department were recalled to Auckland and the following year, Searancke was obliged to defend his

[840] Patterson, 'White Man's Right', p 171.
[841] Searancke to McLean, 25 April 1860, , MS-Papers-0032-0565.
[842] Searancke to McLean, 25 April 1860, , MS-Papers-0032-0565.
[843] Searancke to McLean, 10 May 1860, MS-Papers-0032-0565.
[844] Tāmihana Te Rauparaha to McLean, May 1860, MS-Papers-0032-0684.
[845] Searancke to McLean, 18 June 1860, *AJHR* 1861, C-1, p 292.

performance – the small area purchased and the high price paid – before a select committee. Whereas he had previously reported optimistically on the probability of success and the predominance of willing sellers held back only by a few intransigent and devious chiefs, he now 'most emphatically denied that the natives as a body have ever been willing during the past three years to part with a single acre of their land'.[846] He pointed out the many difficulties associated with purchase in the Manawatū and elsewhere in the province, including being obliged to follow in the footsteps of McLean, in whom Māori placed such faith. Like his predecessor, Searancke had covered a lot of ground. Having described how he had to divide his energy during 1858 and 1859 between Wairarapa, the West Coast, and Wellington reserves, he defended his lack of 'progress' in the Manawatū at a time when (according to critics of the department) 'it was practicable and the natives were willing to sell'. This was not so and, in Searancke's view, until all those with rights agreed to the sale of any portion of it, a purchase could not be effected:

> The Awahou purchase was disputed inch by inch and was only completed under considerable difficulty. I am well aware that individual natives have expressed their willingness to sell this land, that is to receive the payment for it, but could they give possession of an acre of it to the Crown – I deny it. It must also be borne in mind that the Manawatū is a conquered country and not inherited from their ancestors, by its present occupants – all therefore have a claim notwithstanding its being portioned off for different tribes or certain individual chiefs – all equally helped to conquer it, and require to be consulted in case of its being offered for sale – add to this, that the Tribe, from whom it was taken, now increased in numbers, lays claim to it as their property.
>
> I have on several occasions [*sic*] when on the West Coast taken every possible means to ascertain the possibility of obtaining any portion of this District, the Manawatū, by purchase and am of opinion that the natives are decidedly opposed from conflicting claims and indirect influences to a cession of any portion of it to the Crown.[847]

In 1865, the Native Land Purchase Department was abolished and the Wellington Provincial Government seized the opportunity to take over all purchasing and sales operations in the district, with Featherston controlling purchase activity in the Manawatū, even as lands were opened up to direct settler purchase in the rest of the country. We turn to these matters in the following chapter.

5.11 Early involvement to the Kingitanga

The southern leadership – Mātene Te Whiwhi, and Tāmihana Te Rauparaha – were early proponents of the need for a Māori King, under whom Māoridom could unite, although they were later to resile from that position. The Kingitanga was never to command the support of the whole – or even the majority – of the

[846] Searancke to Weld, 5 January 1861, Memorandum by Mr Searancke in vindication of his conduct as Land Purchase Commissioner, 5 July 1861, Le1/1861/229.
[847] Searancke to Weld, 5 January 1861, Memorandum by Mr Searancke in vindication of his conduct as Land Purchase Commissioner, 5 July 1861, Le1/1861/229.

hapū who had taken part in the heke, most choosing to remain on the west coast rather than join in the war that followed. McBurney has pointed out that this did not 'preclude them [more particularly Ngāti Kauwhata and Ngāti Wehi Wehi] from joining the Kingitanga',[848] but we shall see in later discussion that the leadership were largely anxious to avoid the stigma and penalties attached to being 'in rebellion'.

During 1851 and 1852, Tāmihana Te Rauparaha spent two years in England, travelling over with William Williams and returning with James Stack, the son of one of the early missionaries. He visited with the Hadfield family and the home committee of the Church Missionary Society, and met Queen Victoria. According to Hadfield's biographer, the CMS were most impressed with this 33-year-old rangatira and saw him as 'proof positive of the success of their New Zealand mission'. The relationship between Hadfield and Tāmihana took a turn for the worse, however. The home committee encouraged Te Rauparaha in his plan to set up a college at Ōtaki and helped him to raise funds for this purpose, but Hadfield disapproved of Tāmihana's ambitions to be its headmaster. He saw Rora Waitoa, ordained by Bishop Selwyn shortly after Tāmihana's return, and Rīwai Te Ahu, training towards the same end, as the new generation of leadership.[849] Tāmihana, for his part, had lost confidence in Hadfield, and arranged for the money he had raised to be sent to Samuel Williams instead. He called a hui on his return to Ōtaki in late 1853, and in Hadfield's absence, informed them that the missionary was out of favour at home because of his High Church tendencies.[850] The division between the two men deepened over the matter of a Māori King and was not repaired until the end of the decade (by which time Tāmihana had repudiated the movement).[851]

On his return to home, Tāmihana had discussed the idea of a king of their own with Te Whiwhi; and along with Wiremu Kingi Te Rangitake and Wiremu Tako Ngatata, they were to the forefront of those promoting the concept, largely as a way of stopping further land sales, but also as part of their ongoing efforts to have fully equal rights to those possessed by Europeans. As we have seen, there had been earlier discussion of reserving a large tract of territory along the coast, and Hearn states that 'the idea of a Māori king was the subject of protracted deliberations at Ōtaki in 1853'.[852] Te Whiwhi had also 'advocated the building of the great house Taipohenui, at Manawapou in Ngāti Ruanui territory, as a place for the discussion of land issues'. A meeting held there in 1854, which resolved to end all further land sales – it was rumoured, on pain of death – was seen by some colonists as the genesis of an anti-land selling league, the roots of which

[848] McBurney, 'Ngati Kauwhata and Ngati Wehi Wehi', p 142.
[849] C Lethbridge, *The wounded Lion: Octavius Hadfield 1814-1903*, Christchurch, 1993, p 161.
[850] Lethbridge, *Wounded Lion*, p 158.
[851] Lethbridge credits Reverend Taylor, who had oversight of Ōtaki while Hadfield was in England, with effecting the reconciliation, see *Wounded Lion,* p 162.
[852] Hearn, 'One past, many histories', p 173.

traced back to Ōtaki.[853] That allegation would be strongly denied by missionaries and local Māori alike. The objectives of Te Whiwhi and Te Rauparaha were essentially defensive and pacific, with a view to keeping Europeans out of the central North Island. They eschewed both the use of force, for which pressure was mounting within the movement, and the taint of disloyalty.[854] O'Malley comments that for Te Whiwhi and Te Rauparaha, 'the kingship was intended to bind Māori together not tear them apart from Pākehā. They could scarcely conceive that it would later come to be considered a direct challenge to Queen Victoria's authority.'[855]

Later that year, a committee of chiefs, including Mātene Te Whiwhi and Tamihana Te Rauparaha, began to look for a suitable candidate for king. Tāmihana is said to have had early ambitions to fill that position himself.[856] The general preference was, however, for a senior rangatira from the large iwi based in the interior.

Hadfield, whose early advice to Māori had been not to sell their land but to cultivate it and engage in other acts of industry for themselves, now advised them not to support the idea of a Māori King but trust in God, the Queen, and the Treaty. In 1856, he gave a detailed assessment of the state of feeling in his district in a paper, specially prepared for Governor Gore Browne at the latter's request. He described a mixture of peaceful disposition but a social structure under pressure, and increasing dissatisfaction with the lack of self-government and with the Crown's land policies of which he was himself critical on account of the failure to properly investigate the customary ownership before making payments. He reported:

> 1. There is at present no hostile feeling towards either Europeans or the Queen's Government, as such, in this part of the country. There appears to be no inclination to provoke war, or create a disturbance.
> 2. There is, however, a certain kind of restlessness among some of the chiefs and leading men, which has manifested itself within the last three or four years by efforts to get up meetings in various places. And I now understand that there is a secret intention of assembling, if possible, most of the leading chiefs of the centre of southern parts of this island in the ensuing summer for the purpose of raising the authority of the chiefs. The very vagueness of the object renders the movement worthy of notice, as it implies some feeling of dissatisfaction apart from any special grievance.
> 3. It is worthy of notice in attempting to estimate the present feeling of the native population, that there are many young men who have grown up in a state of

[853] W H Oliver, 'Te Whiwhi, Henare Matene', https://teara.govt.nz/en/biographies; V O'Malley, *The Great War for New Zealand, Waikato 1800-2000*, Wellington, 2016, p 78.
[854] Oliver, Te Whiwhi, Henare', https://teara.govt.nz/en/biographies.
[855] O'Malley, *Great War for New Zealand*, p 78.
[856] Leslie G Kelly, *Tainui: The Story oi Hoturoa and His Descendants*, Wellington, 1949, p 430; Pei Te Hurinui Jones, 'The Maori King Movement', Eric Ramsden Papers, MS-Papers-0188-56, cited O'Malley, *Great War for New Zealand*, p 78.

ignorance, being neither under the influence of religion, or under subjection to law, who would be quite ready to take part in any disturbance, which might, on the occasion of any accident, arise: – and that a large number of natives, who have been all their lives accustomed to take an active share in the management of the business of their respective tribes, and who have even been accustomed to deliberate and decide on such momentous subjects as the declaration of war or the establishment of peace, are now, in a great measure left without any opportunity of employing their active minds. Should any untoward event, unfortunately, lead to war, it would be much more serious in its consequences than the former disturbances: the communication between the distant tribes has become much more frequent of late years, there would be more unanimity of purpose than there ever was before: there would be more unity of action.

4. The only permanent grievance is that connected with the purchase of land. There is no disinclination on the part of the aborigines to alienate their lands. But there will be immeasurable difficulties in dealing with this subject until some clearly defined principle of ownership is laid down, such a principle as shall be assented to by the natives as well as by the government, and which shall form the basis of negociations [*sic*] for the purchase of lands. There appears to have been an entire absence of any intelligible principle as to ownership of land on the part of those commissioned to make purchases from the natives in this part of the country. A consequence of this has been that sometimes the claim to ownership of those in possession, at other times that of those who were formerly owners, but who have been either conquered or expelled, is set up, as the commissioner may imagine that the one part or the other is the more disposed to sell. There is nothing more likely than this to lessen their respect for law, or to lead to disaffection towards the Government.[857]

He also offered some unsolicited advice on how to conduct native policy in the future, suggesting that 'the primary object of the Government should be to make the whole of the native population amenable to law' by a system of courts presided over by magistrates and Māori assessors. Such a system would 'familiarise all ranks' with the law and accustom them 'to submit to it'. In his view, the future of Māori did not lie in the traditional leadership; he advocated that the Government 'do nothing towards establishing the influence of chiefs, but should rather endeavour to lessen this by every legitimate means, & especially by raising the position of inferior men through the equal action of law.' Above all:

> It is absolutely necessary, if the peace of the country is to be preserved, that all transactions with natives, in reference to the purchase of land, should be entered on with the greatest caution & care: & that those should be entrusted to those only in whom Government has perfect confidence & who are directly amenable to the general government.[858]

Further to this, Hadfield suggested it would be a good idea not to scatter the military forces throughout the country so that they be 'rendered really ineffective

[857] Hadfield re state of feeling between the natives and the government and settlers, 15 April 1856, ACHK 16569 G13 2/13.
[858] Hadfield re. state of feeling between the natives and the government and settlers, 15 April 1856, ACHK 16569 G13 2/13.

on any point: & besides expose the Government to insult at head quarters, which would greatly lower its prestige(?) and encourage any disaffected persons to insubordination or rebellion.' At the same time, the government should give assistance to Māori efforts 'to advance in civilization' by encouraging 'the spread of education' and 'by the employment of the natives as much as possible, on public works'. He concluded his remarks by looking forward to a time when 'the joint action of religion, law & civilization will lead these people to happiness, peace & prosperity'.[859]

Hadfield did not, however, share with Gore Browne the relationship of mutual respect that he had enjoyed with Grey, when he was one of the few educated Pākehā men in contact with a part of the region occupied by a numerous and potentially 'turbulent' tribe. When fighting later broke out at Waitara, involving the rights of Wiremu Kingi and hapū with whom he had a long-term friendship, he strongly criticised Gore Browne's actions. (The letter quoted above was subsequently published in 1861 during Hadfield's war of words with the Governor and settler critics.) But neither did he support the idea of a Māori King or see it as a solution to the 'restlessness', as he called it; Māori would say their clearly stated desire for autonomy.

5.12 Reaction to outbreak of war in Taranaki, 1860

A large assembly was held at Ōtaki when news reached the district that martial law had been proclaimed and the Governor was going to take possession of Waitara, According to Rīwai Te Ahu, the initial reaction was one of support for Wiremu Kīngi, for they 'were all startled … all both small and great were pained and grieved; they did not think that Te Atiawa alone were to … suffer.' Ngāti Raukawa and other tribes 'grieved for the injustice of this proceeding,' he stated, and they feared that they would be served in the same way.[860]

In late March, Hadfield reported that the meeting had drawn up a petition to Her Majesty, which they were intending to send through the Colonial Secretary, praying for the Governor's recall.[861] The English version, addressed to 'Our Beloved Sovereign The Queen', started with assurances of their love, lawfulness, and loyalty, but which they saw Gore Browne as undermining, comparing his policies unfavourably with those of his predecessor despite the earlier conflict in the Hutt Valley:

> We have for many years been living in the enjoyment of peace, and have obeyed your Majesty's laws.

[859] Hadfield re. state of feeling between the natives and the government and settlers, 15 April 1856, ACHK 16569 G13 2/13.
[860] Rīwai Te Ahui to editor, *NZ Spectator and Cook's Strait Guardian,* 17 October 1860, p 1.
[861] Hadfield to Venn, 31 March 1860, Reports and Letters to CMS, qms-0895.

> Governor Grey whom your Majesty appointed to be our Governor found it necessary to use force, and to punish natives; but he punished them justly; and we took no offence at his proceedings; he supported the law; peace followed; the native and the white man lived amicably together until his departure.
>
> But this Governor, Governor Browne has not acted in the same just and considerate manner to natives. And for this reason disaffection has sprung up in a part of this Island.[862]

The Governor, they complained, had 'unjustly taken the land' of Wiremu Kīngi, professing to having bought it from another, made war, and fired upon people who were loyal subjects, 'who had no wish to oppose the law, but simply to retain possession of land inherited from their ancestors, and which they were unwilling to alienate'. All of which filled them with 'grief and consternation,' the petition continued, for:

> We are quite sure that your Majesty has not sanctioned the principle that land is to be forcibly taken away from your Majesty's subjects, many of them widows and orphans. For these reasons we your Majesty's faithful and loyal subjects address your Majesty and pray that this Governor may be recalled that this island may not be involved in war, and that your Majesty will send another Governor who may know how to govern in accordance with the law, and your Majesty's instructions, that we and the white inhabitants may dwell together in peace, and in love to your Majesty. And we will ever pray that your Majesty's sovereignty may prosper.[863]

Five hundred signatures were attached.

Hadfield was widely held to be responsible for the petition and labelled a 'traitor', first by much of the settler press and then by Gore Browne himself. The petition was forwarded to the Secretary of State for Colonies accompanied by letters from Turton (then circuit magistrate), Searancke, and the Reverend Duncan charging Hadfield with having written the petition himself; while Ihakara alleged that the majority of signatures to it – especially those from the Manawatū – were false; attached without regard to their real views or in their absence[864] According to Duncan, Hūkiki Te Ahu and Te Moroati had corroborated Ihakara's contention.[865] The allegation was, however, refuted in another letter signed by 100 Māori and sent to the Governor on 6 June, objecting that Ihakara had 'unwarrantedly cut up our names … that paper was from us all'.[866] Hadfield himself denied having any direct hand in drawing up the petition, or prior knowledge of its contents.[867] He thought that the government was lucky that one man should be seen by Māori as the problem rather than the whole of the government.

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[862] Deed, 30 March 1860, in Hadfield, Reports and Letters to CMS, qms-0895.
[863] Deed, 30 March 1860, in Hadfield, Reports and Letters to CMS, qms-0895.
[864] See *NZ Spectator, and Cook's Strait Guardian*, 22 September 1860, p 2 and 29 September 1860, p 2
[865] Duncan to editor, *NZ Spectator, and Cook's Strait Guardian*, 26 September 1860, p 7.
[866] *NZ Spectator and Cook's Strait Guardian*, 22 September 1860, p 2.
[867] Lethbridge, *Wounded Lion*, p 189.

Whatever the truth of the matter, there is no denying that Hadfield was an outspoken critic of Gore Browne; his anger as expressed in his reports back to the Church Missionary Society was palpable. Hadfield described himself as 'astounded at such an act of injustice' and at the 'folly' of taking military action against a chief who had always been loyal – 'at a time when there [was] much disaffection in the country towards the Government' – and who was 'sure to have the sympathy of all loyal as well as disaffected men'. In his report to the CMS, Hadfield described the 'loyal' faction at Ōtaki as 'properly amazed' and noted that, putting aside any former animosities they might have felt towards Te Ati Awa, they did not now 'conceal their sympathy with the cause he [was] defending'.[868] Tāmihana sent in a letter to the press, reassuring Europeans that no disturbance was being plotted. The decision of the meeting had been to 'leave Ngātiawa at Taranaki to work out their own affairs' and 'to bow to the Queen of England and also of New Zealand'.[869]

Hadfield's biographer discusses how he embarked upon a campaign against the Crown's native policy, persuading the CMS to use its influence in the British Parliament to bring pressure to bear on the Colonial Office. He followed with an open letter to *The Times* addressed to the Duke of Newcastle (Secretary for the Colonies) and entitled 'One of England's Little Wars'. He and Gore Browne then proceeded to battle it out in the press via proxy, their brothers living in London.[870] By the end of the year, both the CMS and *The Times* had swung behind Hadfield's position. Back in New Zealand, he continued to be largely vilified, while Gore Browne accused him of treason for withholding vital information – specifically, three letters written by Wiremu Kingi the previous year. Hadfield was able to show, however, that the chief had also written to the Governor on the same subject before writing to him.[871]

A major refrain in Hadfield's criticism was that the Governor had committed an illegal act in contravention of the Treaty of Waitangi by taking Kingi's land without his consent: He condemned the governor as a 'man of very little ability and no political sagacity, and destitute of that firmness which is the result of a thorough knowledge of the subject'. Hadfield was pleased to say that the 'natives under [his] charge' were 'quiet and peaceably disposed', but he raised the spectre of the tribes combining against the government, 'which will be the case if this Governor continues' and it would be 'impossible to predict what combinations will take place among the various tribes, or what effect may be produced by this in different parts of the island'.

[868] Hadfield to Venn, 31 March 1860, Reports and Letters to CMS, qms-0895.
[869] *Wanganui Chronicle*, 19 April 1860, p 2.
[870] Lethbridge, *Wounded Lion*, pp 189-90.
[871] Lethbridge, *Wounded Lion*, p 191.

Reverend Duncan complained to McLean that the proceedings of his rival, Hadfield, were 'calculated to do a great deal of mischief amongst the natives.…' As for himself, he had been endeavouring:

> … ever since the unhappy outbreak of hostilities at Taranaki to convince the natives here of the necessity and propriety of the course pursued by the Governor, and to assure them of his desire to act justly toward them, and to promote their welfare to the utmost of his ability …[872]

5.13 Whether to raise the King's flag, the hui May–June 1860

While the issue of the petition regarding the Governor's actions at Waitara was still causing ripples, a second 'troublesome issue' had to be decided by local Māori: whether the King's flag should be raised or not. As Tāmihana Te Rauparaha informed McLean: 'We have twice discussed the matter and when Nepia and others arrive from Rangitīkei we will discuss it again, and when I return from Wairarapa we will again discuss it.'[873]

A major hui was held in Ōtaki in May 1860, the first of several within the region to decide whether to support the Kingitanga. Certainly, the fears of the settlers were incited. The local Wellington papers reported that emissaries of the Māori king had arrived at Poroutāwhao, which had been regarded as a centre for anti-government sentiments since Rangihaeata's days, and that they were due to go on to Pukekaraka at Ōtaki. Wi Tako, a leading supporter of the Kīngitanga among Te Ati Awa, was reported to have gone there to meet them, although this does not appear to have taken place until some time later. A conflagration was feared.

Three hundred Māori were reported to have gathered at Ōtaki from different parts of the region, on 4 May, to debate the question of whether the King's flag should be raised. The venue was the Church Missionary Society schoolhouse, and it was Hadfield who opened the discussion by reminding the assembly that for the past twenty years he had tried to support their interests, especially in the matter of their land, which he had always advised them not to sell. Therefore they had no need to look to a Māori King based in the Waikato for help and should rely instead on the Church, the Crown and the Treaty of Waitangi to protect their rights.[874] He ended his speech 'earnestly entreating them not to put up a flag which could only lead to trouble and confusion, and end in the shedding of blood'.[875] It was reported that:

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[872] Duncan to McLean, 31 May 1860, MS-Papers-0032-0252.
[873] Tāmihana Te Rauparaha to McLean, May 1860, MS-Papers-0032-0684.
[874] Lethbridge, *Wounded* Lion, p 191.
[875] *Wanganui Chronicle*, 10 May 1860, p 2.

> Speeches were made by Tamihana Te Rauparaha, Matene, Hukiki, and all the more respectable natives, declaring their hostility to the Maori King's flag being hoisted in Otaki, and their determination to oppose its erection by every means in their power, even by force if necessary; and they referred to the number of years that they had lived quietly and comfortably under the Queen's flag (authority), and protested against a change, which must inevitably lead to trouble, and stating that they were determined to support the Queen's authority with all their influence.[876]

The Kīngitanga supporters at the meeting were identified as consisting principally of Ngāti Huia (who had lived with Rangihaeata at Poroutāwhao) and the 'Roman Catholics'. This was largely Ngāti Kapu, based at Pukekaraka. They had rejected CMS Christianity and Hadfield's influence and interference in tribal matters; they had allocated land beyond the Mangapouri Stream, in 1844, to Father Comte and had then joined the Catholic Mission.[877] Although the Roman Catholic bishop had also advised them not to join the Kīngitanga, Pou o Tainui was built on the northern side of Pukekaraka, and the King's flag would be raised there in June.

Back in May, a final decision on whether the King's flag should fly over Ōtaki had been postponed, supposedly to allow Wi Tako to attend and sanction proceedings. He had procured the flag when at Waikato, sending it south via Mōkau in the care of two men from Ōtaki, 'Eramia and Hapi', who were described as of 'distinguished character', while he himself returned via Taranaki.[878] More likely, Wi Tako's opinion was sought and there were other people to consult as well. A consensus could not be reached at Ōtaki and after a debate 'conducted in the most orderly manner', the assembly broke up, 'each party fixed in their original view'. The *Wanganui Chronicle* reported that the numbers for and against were 'evenly divided' and that Hadfield's nose was out of joint at the result; he was threatening never to offer anything other than spiritual advice in future and to meet with them only in the church. This was a 'consummation' on which the *Chronicle* 'most devoutly congratulate[d] all Europeans'.[879] For the increase in 'feeling' was blamed on the earlier petition for Gore Browne's recall in which Hadfield was held complicit.[880]

From Ōtaki, the King's flag was taken to the Wairarapa, preceded by a letter from Ngāti Raukawa, Ngāti Toa, and Te Ati Awa at Wellington, informing the recipients that Tāmihana Te Rauparaha would visit them to ascertain their thoughts 'about continuing in peace'. Their own thoughts were that Taranaki matters should be left to them to sort out for themselves and they disavowed the

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[876] *Wanganui Chronicle*, 10 May 1860, p 2.
[877] Comte established his church at top of Pukekaraka until it was moved to a new site at its foot in 1863. See.R. M. L., 'The Great Runanga at Tainui, Puke-karaka', *Ōtaki Historical Journal*, vol 4, 1981, p106.
[878] Note that it was also later reported that Wi Tako denied having arranged for the flag to be sent to Ōtaki; *NZ Spectator and Cook's Strait Guardian*, 19 January 1861, p 2.
[879] *Wanganui Chronicle*, 10 May 1860, p 2.
[880] *Nelson Examiner and New Zealand Chronicle*, 26 May 1860, p 3.

murder of Europeans and the 'foolish work' of the Waikato tribes. They wanted the 'abominable flag' that had caused them trouble to be returned to Waikato and Maungatautari. Tāmihana's account of his trip was published in the *Wellington Independent*, in which he recounted meeting with Wi Tako, who had asked him to advise his friends at Ōtaki not to raise the flag there; and that he had met also Taringa Kurī, who greeted him with tears, for they had not met for ten years although 'our love was great for each other'. They discussed the flag. On Tāmihana criticising efforts to bring it into the region, Taringa Kurī agreed that it should be 'buried' but then complained of Europeans saying that Māori would soon all be killed. Tāmihana reassured him that it was 'only low Europeans that would say so.' At Pāpāwai, the matter of the Kingitanga was debated again. According to Tāmihana, the people well-disposed towards a Māori King were those most dissatisfied with the activities of the district commissioners, distressed that so much land should have been taken from them by the Europeans, leaving only 'stony pieces'. Tāmihana spoke strongly in favour of the Kawanatanga, advising Ngāti Kahungunu to go to Auckland to make their concerns clear to the Governor, but 'I wished them never more to mention the name of the Māori King, but to turn to their mother the Queen.'[881] Te Rauparaha continued:

> There was only one thing wrong; it was spoken by a tribe of Ngātiraukawa, but strongly condemned by Ngātikahungunu; …That they wanted me to join the disaffected people, and increase their influence. They spoke of my Father having been taken prisoner; I was angry and said, "You cannot revenge the wrong done to my father; turn your attention to stock and to your cultivations, by which means you will obtain wealth and live in peace; by doing this you will avenge the death of my father, it cannot be revenged by evil."[882]

He reported with some satisfaction that those who had spoken out in this way were 'laughed at and quite ashamed'.[883]

Next, there was a meeting at Waitapu, which resulted in a decision to live under the mana of the Queen, God, and the Church. A letter was sent to Ōtaki addressed (in English translation) to 'the elder and younger chiefs of the runanga at Wellington, Porirua and Ōtaki', which was published in the same issue. It advised leaving the 'the wrong of Taranaki to himself' and continued:

> There is something else we have to say; It is about the flag … – that you should work out (put down) the flag in a friendly and quiet way. Our thoughts are the same as yours, not to hoist the flag; that is the thought of this Runanga; keep it quietly down; lest it be cause of trouble to the Runanga.[884]

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[881] 'Letter addressed to "My European Friends" dated 28 May 1860', *Wellington Independent*, 5 June 1860, p 2.
[882] 'Letter addressed to "My European Friends" dated 28 May 1860', *Wellington Independent*, 5 June 1860, p 2.
[883] 'Letter addressed to "My European Friends" dated 28 May 1860', *Wellington Independent*, 5 June 1860, p 2..
[884] Letter from Waitapu, 24 May 1860, *Wellington Independent*, 5 June 1860, p 3.

However, the matter would not rest there and the question would be debated again in the following year.

5.14 Proceedings of the Kohimarama Conference

As fighting broke out, in March 1860, between Wiremu Kīngi and his supporters and Crown forces seeking to implement the survey of Waitara lands purchased without Kingi's consent, officials and settlers kept an anxious eye on the disposition of Te Ati Awa at Waikanae and Ngāti Raukawa, Ngāti Kauwhata, and the other tribes at Rangitīkei and Manawatū. The district had remained relatively quiet despite the irritants of Crown purchase activities and the connections between Te Ati Awa and Taranaki and the Manawatū-based hapū and their northern kin in the southern Waikato. With shots exchanged, opinions differed as to the danger of an uprising in the district. As we have seen, Searancke worried about the amount of arms and munitions purchased over the preceding two years and asked McLean whether he should continue with his land negotiations. He reported that while everything seemed peaceful enough, although there had been earlier tensions. Both the Governor and McLean had come in for a good deal of criticism during Hamuera's sermon, and Searancke thought was that Māori in his district were ready to rise in support of the Kingitanga if called upon.[885] Others were more sanguine, however. Thomas Cook also reported that all remained quiet thanks to the stabilizing influence of the Christian community at Ōtaki, despite the effort by some members to raise the King's flag:

> I am happy to say that the Natives generally in this part seem peaceably inclined. The only thing creating a little excitement just now is an attempt lately made at Otaki to plant the King's flag but which was opposed by a strong party with Tamihana at their head – another meeting for that object is to be held at Otaki in June next but I do not suppose that anything of importance will result from it. Tamihana is quite determined that it shall never be raised and Mr. Hadfield has brought his powerful interest to bear against it, notwithstanding the part he took in originating the late Petition to the Queen for the recall of the Governor.[886]

In July 1860, rangatira based along the Kapiti Coast had an opportunity to express their views directly to the Governor, McLean, and other officials about the events at Taranaki and other issues of interest to them. Over 200 chiefs were invited from throughout the country to attend the Kohimarama Conference, convened by the Governor largely with the intention of counteracting the

[885] Searancke to McLean, 25 April 1860, MS-Papers-0032-0565.
[886] Cook to McLean, 9 May 1860, MS-Papers-0032-0225.

influence of the Kingitanga, isolating the 'rebels' at Taranaki, and confirming the allegiance to the Crown of as many tribes as possible.[887]

Nepia Taratoa refused to go as did Hiriwanu.[888] However, a number of Ngāti Raukawa leaders based in the Manawatū did attend. Along with Tāmihana Te Rauparaha and Mātene Te Whiwhi (described as Ngāti Toa) they spoke in support of the Treaty and the Pākehā system of settling land disputes in the changed environment of the colony, although not all thought that their lands should be sold. They also approved the idea of an annual conference, seeing it as a long-delayed fruition of the promises of the Treaty. The conference itself was viewed by many as a confirmation of a treaty that had been hitherto regarded as a largely Ngapuhi affair. During the course of the discussions, Gore Browne confirmed that view by promising that the Treaty would be held 'inviolate', while McLean agreed that what was done at Kohimarama 'may be considered as a fuller ratification of that Treaty on your part'.[889]

The recurring, underlying theme in much of the korero of rangatira who attended from the Kapiti Coast was the opportunity the conference represented for attaining equality between Māori and European whether it be in terms of participation in government, the justice system, education, roads, or land tenure. A number of speakers thought it was necessary to abandon the old ways for the new; some thought that land should be surveyed and held by individuals under Crown grant so that there would be no dispute, and then land could to be utilised as each owner thought fit; and others strongly advocated holding onto the tribal estate. As we discuss below, one even took the opportunity to ask the assembly's approval of his offer to sell land to the government then and there. As might be expected, given the object of the conference, most favoured supporting the Queen.

After a message from the Governor had been read out to the assembly, McLean took over proceedings, stating that tribal boundaries were the most important subject for discussion as 'many of the disturbances' among them arose from the subject of land, reflecting 'great errors in the Maori customs.…' He emphasised the benefits of selling land to the government as productive of civilised habits, security of person and property, and prosperity and wealth:

> … that to enjoy land or any property a good and indisputable title is necessary. When your lands are ceded to the Crown, the Queen is enabled to dispose of them to any of her subjects, be they European or Maori, and the confidence which a good title inspires leads to the various improvements which you see in the settled districts. Were it otherwise, and that the land was merely held under a doubtful tenure, no improvements would be made, and the country would still remain in a comparatively wild and unproductive state –

[887] C Orange, 'The Covenant of Kohimarama: A Ratification of the Treaty of Waitangi', *NZJH,* 14, 1, 1980, p 64.
[888] Duncan to McLean, 22 June 1860, MS-Papers-0032-0252.
[889] *Te Karere Maori*, 14 July 1860, p 6 and 3 August 1860, p 36.

> without a numerous people to inhabit it – without law – without Government – without security for life and property – and without wealth.[890]

Tāmihana Te Rauparaha was the first Māori speaker and played a leading role in the proceedings that followed, making several speeches (to the complaint of some that not everybody was getting a fair chance to express their views). He supported the idea of adopting the European land system and considered it indicative of a union of the two races, while he saw the proposed annual conference as enabling Māori to share in the governance of the country and a means of 'adjusting' disputes about land boundaries. Like other speakers, however, he assumed that any final decision required discussion with, and the consent of, their hapū:

> This will be the means of saving the Maori people. The Treaty of Waitangi also is good. The object of these is to unite the Pākehā and the Maori. Let us not say that the Ngapuhi alone are concerned in the Treaty of Waitangi. The plans of the Pākehā are clear; let us adopt them, that the men of Waikato may hear that we have adopted a portion of the Pākehā's plans. Let us return to our homes, and then let each (chief) talk with his tribe on the subject of the land, that there may be one common system. The only thing that retards (the progress of) the Maori is the difficulty about the land. … For this reason, I think that we should share with the Pākehā in the Government. Therefore, I say, let this Conference be made permanent. When we die, our children can carry out these principles. … I say, therefore, that I understand this principle. Let the Conference be the means of adjusting these difficulties.[891]

Tāmihana Te Rauparaha spoke again on several occasions. Later in the proceedings, he referred once more to the Treaty, emphasising the protection it offered, and that he saw the conference as ratifying it rather than the Kingitanga:

> …our old chiefs did agree to the Treaty of Waitangi and to the Sovereignty of the Queen. ['…i whakaaetia ano e o matou kaumatua taua Tiriti o Waitangi me te maru o te Kuini….'] Te Rauparaha did not take exception to it; he signed his name and he took the blanket. I desire that we should ratify this Treaty, that we should hold it fast lest the Queen's protection should be withdrawn from us. Some persons in England wished to do away with that Treaty – it was the Queen who insisted and caused it to continue. Although the Maories may have fought with the Europeans, yet that treaty has not been made void…[892]

He rejected the Kingitanga – the search for a 'parent among the chiefs' rather than the Governor ['He kore matua koia ia te Kawana te haere mai ai ki tena matua, hei atawhai i a ia, i te tangata Maori, i poka ke ai ki te kimi matua mona i nga rangatira Māori'], fearing that it would result in an abandonment of the Treaty. 'Do not consent that that Treaty should be for the Europeans alone,' he pleaded, 'but let us take it for ourselves, and let it be a cover for our heads.'

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[890] *Te Karere Maori*, 3 August 1860, pp 1-2.
[891] *Te Karere Maori*, 3 August 1860, p 3.
[892] *Te Karere Maori*, 3 August 1860, p 32.

['Kaua e whakaaetia ki nga Pākehā anake te Tiriti engari tangohia mai ki runga ki a tatou, me waiho marie hei potae mo tatou.'][893] He argued that:

> If we continue to provoke the pakeha we shall be exterminated and our lands will go into other hands. We shall become slaves. ... The pakehas do not wish to degrade us. They do not wish to trample on the "mana" of the Maori people. Do not advocate the separation of the blackskins from the whiteskins: but rather unite them that both (races) may prosper.
>
> [Kahore he whakatutua a te Pakeha i a tatou. Kahore ana takahi i te mana a te Maori. Aua e mea me wehe te kiri pango i te kiri ma, engari me apiti mai, kia ora tahi ai tatou.][894]

Yet he did not fully condemn Wiremu Kingi, reserving his ire for Ngāti Ruanui.[895]

Tāmihana also highlighted a variety of matters of particular concern to the Ōtaki community: the need for a doctor and for a hostelry to house them when visiting Wellington; the problems of cattle trespass; the desire for pasturage fees and roads that would bear comparison to those of Pākehā (and to which the Ōtaki people had already made financial contributions); and the failure to build a school on land gifted at Porirua, which he wanted so that 'they may receive instruction, whereby the Maori race may prosper and be equal to the pākehā….'[896] He extolled the virtues of the Ōtaki township, exhibiting the plan, explaining that each man held an individual allotment, and asking that Crown grants be given for them.[897] He advocated that Ngāti Toa commence the subdivision of their lands, 'that we may set an example to the other tribes' and repudiate the actions of an older generation of chiefs, including those of his father and Rangihaeata at the Hutt Valley, suggesting that they had been paid for their land.[898]

He strongly advocated for the abandonment of 'old customs' in favour of new ways of dealing with land, inter-tribal rivalries and law, so that the two races could live together on equal footing. In particular, he approved of the idea of European style councils:

> Now I have to speak of the Pakeha Councils. Listen, all of you. Mr. McLean said to me, and to Matene, and to Rawiri Puaha, that he would like to see the Maories take part in the English Councils. In the times of Governor Grey, he (the Governor) had the sole control over the Revenue, over public works, and over all things. Now the system of Governor Grey has been abolished; it is left for the Councils to decide (these matters). For this reason we are most anxious that Maories should take part in the Councils. Now that there are disturbances the Maories suppose that this Conference has been called on that account. But I say, no, for this matter was spoken of years ago. Mr. McLean spoke

[893] *Te Karere Maori*, 3 August 1860. p 32.
[894] *Te Karere Maori*, 3 August 1860. pp 25-6.
[895] *Te Karere Maori*, 3 August 1860. pp 26 and 32.
[896] *Te Karere Maori*, 3 August 1860, pp 20-21 and 25.
[897] *Te Karere Maori*, 3 August 1860, p 20.
[898] *Te Karere Maori*, 3 August 1860, pp 18 and 21.

> on this subject at Manawatu. Matene, Rawiri, and myself were present. It has been carried into effect this year. Let us follow this path that we may be preserved. [899]

He also supported the Governor's proposal that Māori sit on juries: 'It is right that some intelligent Chiefs should take part in the administration of justice, and in the investigation of cases of murder where pākehās and maories are concerned'; and he contrasted this with the old ways when Rangihaeata refused to surrender an accused murderer, 'He said that if this man was given up to the pākehā the power (*mana*) of New Zealand would be lost'. According to Tāmihana, he had 'made proposals but the old men opposed them', and he thought Maori should take part in these new institutions.[900] Māori and Pākehā should 'be treated by the same laws.'[901]

He advocated for 'fixed rules' of land dealing and spoke specifically about the political divisions in Ngāti Raukawa:

> We, the maories, have no fixed rules. Consider this case: the land now belonging to Ngātitoa was taken by them from the original occupants; they gave a portion of it to Ngātiraukawa, and another portion of it to Ngātiawa, and another portion to the Ngātiawa – to the tribes who were always kindling fires (or residing) on that land.
>
> I highly admire the Ngātiraukawa because they have adopted so many of the pākehā customs. Do not curtail the extent of their lands. Let industrious people have plenty of room for their fires … Therefore, I say let them have large reserves. But let those natives who are favourable to the Maori King be sent back to Maungatautari.[902]

In his view:

> … it would be well to define the boundaries of our lands, that each family may have its own portion marked off; these should also be surveyed … that we may have Crown Grants given to us, so that everything may be clear for us, and that we may be like the Europeans. … [W]e should place full confidence in the laws of England, and that there should be no thought to hold back the land; each man should do as he pleases with his own piece.[903]

As the conference drew to a close, Tāmihana returned to the question of the Treaty and whether it should be ratified:

> I say the Treaty of Waitangi was good. Some approve of that Treaty; others object to it. In my opinion there is nothing wrong in it. … That Treaty is like a new road which has just been opened, and which has not been carefully measured off, the brushwood having only just been cut away; and though strife between the Maories and Europeans has been frequent, still the kindly provisions of that Treaty have not been erased. … This second Treaty, the Kohimarama Treaty, is like the buying of the land with gold. … Let us begin

[899] *Te Karere Maori*, 3 August 1860, p 19.
[900] *Te Karere Maori*, 3 August 1860, p 23.
[901] *Te Karere Maori*, 3 August 1860, p 48.
[902] *Te Karere Maori*, 3 August 1860, pp 23-4.
[903] *Te Karere Maori*, 3 August 1860, p 49.

> afresh now and have new thoughts from this time; let our aim be to hold fast the protection of the Queen, and let us strive to follow the customs of the European.[904]

Mātene Te Whiwhi also drew a direct link between the promise of direct Māori Crown-sanctioned participation in the governance of their own affairs on an annual basis and the promises of Te Tiriti. He thought that Māori had adhered to the Treaty even though those who had signed it were now dead, but: 'Only now, after the expiration of twenty years, has the question of union been mooted, and we are offered all the advantages thereof.'[905]

Mātene, who had been instrumental in setting up the King movement, argued that his intention had been to unify the tribes and he saw no necessary conflict between that and the Crown. The important thing was for Māori to pull together:

> As soon as I saw the Europeans, I at once gave them a portion of my land, and I allied myself with the pākehās that I might be safe. Do you hearken, this is the way in which the land may be retained. The Queen below as the foundation, upon or above her, Potatau, above him, Te Heuheu; Turoa above, Tukihamene above, Taraia and Tupaea, and all the Chiefs of this Island above; so only can our Island be kept. But if this tribe goes back and follows its own course, and another tribe takes its own separate course, then our Island will not remain in our possession.[906]

A number of other Ngāti Raukawa rangatira also spoke at the conference although not as extensively and frequently as Tāmihana and Te Whiwhi, Horomona Toremi repeated statements by Te Whiwhi some years earlier that sales to Europeans should not be repudiated; rather they should retain the land not yet transacted.[907] He criticised the Taranaki-based people as 'snapping at each other on their land'.[908] Hūkiki also endorsed Tāmihana's speech, arguing that: 'It was an old agreement that the Pākehā should be our elder brother.'[909] Kuruhou Rangimaru advocated the subdivision of land and individual ownership as promoted by the government, but thought that nothing could be decided until each hapū had the opportunity to make their views known to their leadership:

> Great is the confusion of these speeches. This tribe gets up and that tribe gets up! I say, put an end to such proceedings; let each tribe return home and consider these things. There are other chiefs (besides us) who have remained at home. One thing only has had my attention, namely, the subdivision of the land, that each individual may occupy his own portion. Day after day and night after night they are discussing different subjects. Therefore Mr. McLean, I say send this people back to their homes that they may consider these things. Send us – Ngātitoa and Ngātiraukawa – this tribe and that tribe, to our respective places that we may deliberate (on these subjects).[910]

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[904] *Te Karere Maori*, 3 August 1860, p 48.
[905] *Te Karere Maori*, 3 August 1860, p 4.
[906] *Te Karere Maori*, 3 August 1860, p 40.
[907] *Te Karere Maori*, 3 August 1860, p 12.
[908] *Te Karere Maori*, 3 August 1860, p 12.
[909] *Te Karere Maori*, 3 August 1860. p 13.
[910] *Te Karere Maori*, 3 August 1860, p 16.

Several Ngāti Raukawa rangatira referred to the Treaty while offering different views on issues of land, law, and equality with Pākehā. Ihakara Tukumaru spoke of the Treaty as linked to the new values introduced by missionary teaching:

> My Treaty was from the time of Mr. Williams and Mr. Hadfield. My assent dated from that time down to the first Governor, to the second, to the third, and to the fourth – from that time. It was then I gave up to you my chiefs (those whom I at that time obeyed) viz., hatred, evil speaking and anger. These were my chiefs to excite me, whose promptings I obeyed. [911]

He asked for a magistrate for the Manawatū and to be appointed as his assistant and also that he be paid 'that I may be strong to uphold the laws of the Queen'.[912] Possibly Ihakara had been satisfied by the recent sale of Te Awahou, telling the hui that:

> … one of my chiefs that I will not give up to you. If you come and say to me, Will you not consent to sell your land? I say, No. But if you come to me and say, Will you not agree to lease your land? I would say, I am willing to do so.[913]

Hūkiki Te Ahukaramū also referred to the Treaty, arguing that the Europeans had continued to abide by it despite Māori warfare against them.[914] He supported the Crown rather than the Māori King:

> I have no sympathy with the Maori King movement. When the Governor came to Manawatu a meeting took place in a house at the Awahou. I stood up and asked the Governor, What is your opinion respecting the Maori King the Waikatos are setting up? The Governor replied, Why should we concern ourselves about that childish work; leave them to their child's play. I answered , Ay, be it so. But it has now become large and, attaining to maturity, its teeth are grown.[915]

Hūkiki took the opportunity also to offer the Crown a block of land for £3500 asking the assembly to both approve the transaction and fix the price.[916]

In contrast, Parakaia Te Pouepa spoke against selling and argued for a unified stance about land. He criticised his own people for departing from communal principles and the government for the pressure it constantly exerted for purchase, even though it knew many of those with rights were opposed to the alienation of a given block. Only McLean (largely mistakenly) escaped this criticism. A clearly frustrated Parakaia told the assembly:

> Now, perhaps for the first time, shall I fully enter into the arrangements of the English government; and now, perhaps, for the first time, will what I have to say be heard. As I have now come to this Conference, I will speak about the troubles at our place. A certain individual possesses land, a number of persons flock round to hold back the land. The

[911] *Te Karere Maori*, 3 August 1860, p 34.
[912] *Te Karere Maori*, 3 August 1860, p 34.
[913] *Te Karere Maori*, 3 August 1860, p 34.
[914] *Te Karere Maori*, 3 August 1860, p 34.
[915] *Te Karere Maori*, 3 August 1860, pp 34-5.
[916] *Te Karere Maori*, 3 August 1860, p 50.

> owner wishes to sell it to the Government; a number of persons take up the question, and urge on land selling, saying, Be strong, be strong and sell your land. It is wrong that a number should try to force the desire of the individual owner. It is here that the fault is seen on our side. The fault on the side of the Government is, that they will not listen to our word respecting holding land. Many are the letters written by us, and they are not answered. Mr. McLean alone answers. The payment is not given to the owner of the land. What Mr. McLean said to Nepia is right. Nepia, don't you say that it was you only who held the land; it was you and it was I. That was enough, the land holding was then broken up. It remained only to acquiesce in the desire of those who were anxious to sell.[917]

For Ngāti Raukawa and many of the others who assembled at Kohimarama, the conference was a long-awaited innovation. Many believed that this was the first occasion on which the Crown had provided an opportunity for meaningful participation in the formulation of policies affecting Māori. As Ward comments in *The Show of Justice*, the property franchise requirements had largely denied them the ability to vote for and participate in the General Assembly, and they were increasingly concerned that they were 'losing control of their own destinies, and being subordinated to the political and economic power of the settlers'.[918] The conference offered a forum in which the chiefs could express their views directly to Crown officials. Perhaps, as Parakaia put it, for the first time, they could 'fully enter into the arrangements of the English government'; and now, perhaps, what they had to say would be heard.[919] At the conclusion of the conference, Tāmihana Te Rauparaha presented a petition addressed to the Governor, stating that:

> All the chiefs of this Conference … have united in a request that this Conference of the Maori Chiefs of the Island of New Zealand should be established and made permanent by you, as a means of clearing away evils affecting both Europeans and Natives.[920]

Alan Ward has commented that the chiefs who attended Kohimarama wanted to:

> … remain in allegiance to the Crown and to engage with the European order, but they did not want to do so on terms of subordination and contempt for their values. Rather they wanted to be involved, as responsible and well-intentioned parties, in the machinery of the state and the shaping of laws and institutions appropriate to the emerging bi-racial New Zealand.[921]

The goals of Crown officers were somewhat different. McLean certainly favoured the idea as a means of dealing with land, recognising that Māori themselves were best placed to decide questions of tenure. He advised the Governor accordingly:

> It is abundantly manifest that in the present state of the Colony, the Natives can only be governed through themselves. A conference like the present would prove a powerful lever in the hands of the Government for effecting this object.

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[917] *Te Karere Maori*, 3 August 1860, p 40.
[918] Ward, *Show of Justice*, p 98.
[919] *Te Karere Maori*, 3 August 1860, p 40.
[920] *Te Karere Maori*, 3 August 1860, p 67.
[921] Ward, *Show of Justice*, p 118.

> It might also be made the means of removing many of the difficulties now surrounding the Land Question, and of simplifying the mode of acquiring territory for the purpose of Colonisation.[922]

Later, he described the conference as 'a first step towards Māori taking part in representative institutions'.[923] The General Assembly also saw the potential for 'indirect rule' through the conference, approving Gore Browne's request for a prompt confirmation of funding so that he could announce before the assembly dispersed that the exercise would be repeated the following year.[924] However, Gore Browne's successor, Sir George Grey, did not consider it 'wise to call a number of semi-barbarous Natives together to frame a Constitution for themselves' which he thought likely would challenge the sovereignty of the colonial parliament.[925] His preferred method of indirect rule was based on a more localised model – the 'new institutions' – than that of a national conference of chiefs. No more national assemblies were approved by the Crown, and the next effort to have a parliament-style body was to be Māori -driven. At the time, however, many Māori communities in the Rangitīkei-Manawatū region welcomed Grey's return and his proposals for a runanga-based system which seemed to promise them extensive powers of state-recognised self-government, equality with Pākehā institutions, and considerable control over the pace of settlement, before this model, too, was discarded for the Native Land Court. We return to this discussion later in the chapter.

We note, however, that McLean was 'sorry' that the country had not continued in a system 'for a number of years' whereby chiefs were 'permitted to gather together and debate their affairs in a character of their own, so that they might afterwards send their representatives to this House'. He later credited the conference for its 'large influence in maintaining the peace of the North Island … He knew that meeting did very much to allay those feelings of irritation which then existed between the two races' and thought that the war that had ensued some three years later 'might have been avoided had not the Natives lost that opportunity of making their views heard...'[926]

5.15 Both flags are raised

The Taranaki question continued to perplex the government. In August 1860, Hadfield was invited to speak before the House, where he was closely examined on Waitara and the dispute over land ownership. He was instrumental in convincing an increasing number of members, especially those from Wellington (including Fox, Featherston, and Fitzherbert) that the war was wrong; and, as a

[922] McLean memorandum, 6 August 1860, Le 1/1860/100.
[923] *NZPD*, 1875, vol 19, pp 319-330.
[924] Browne, message to House of Representatives, 7 August 1860, Le 1/1860/100; Minutes of Proceedings of the Kohimarama Conference, 11 August 1860, *AJHR*, 1860, E-9, p 25.
[925] Grey to Newcastle, 30 November 1861, *AJHR*, 1862, E-1, p 34.
[926] *NZPD*, 1875, vol 19, pp 319-330.

consequence, helped to build a new opposition party that would bring down Stafford's first ministry, in July 1861. That month, Gore Browne was also recalled.

In these months, the press continued to publish letters - from Turton, Duncan, Samuel Williams, and Rīwai Te Ahu - about the petition calling for Gore Browne to be replaced, the motivations behind it, and the truth of its assertions.[927] There was a political tussle, too, about a grant to the Church Missionary Society at this time: an attempt to endow 10,000 acres of land for a Native Pastorate was declined because it did not comply with the terms of the Native Reserves Act 1856.[928] As noted earlier, McLean had named Ōtaki as 'the birthplace of the land league' in his evidence before the House in 1860, but Samuel Williams denied the allegation: 'The Ōtaki and Manawatū natives (principally Ngāti Raukawa) entered into an agreement not to sell any more land within certain boundaries over which they had an undoubted control according to native custom. This agreement was however cancelled in 1852.'[929] Hadfield also wrote in to the *New Zealand Spectator* stating that it would be 'absurd and unwarrantable' to call this 'local agreement made for the prevention of further sale of land – until some internal differences and disputes had been adjusted, a league'. There was no link to the formative hui at Manawapou in 1854.[930] A letter from 'fifteen persons of Ngātiawa living at Waikanae and Ōtaki' also challenged McLean's evidence.[931]

Intensive tribal hui continued into 1861. In January, a meeting was reported to have taken place at Ōtaki attended by Wī Tako and Te Ati Awa. The question had been debated as to whether the King's flag should be brought before the gathering. It was reported, at the time, that Wī Tako had attended specifically to refute rumours that he had been involved in bringing the flag down to the district, arguing that it should not be flown.[932] Ngāti Whakauae, 'strong government men', were also reported to be in attendance to assist in bolstering the chiefs at Ōtaki 'in resisting the common class' in their desire to raise it.[933] They would have less sway, however, at Pukekaraka.

The meeting was fully reported in the *Wanganui Chronicle*, which described it as 'looked forward to so long with more than ordinary interest by the natives, as an

[927] See for example, *New Zealand Spectator and Cook's Strait Guardian*, 29 September 1860, p 2, 3 October 1860, p 1, 7 October 1860, p 2 and 17 October 1860, p 1.
[928] New Zealand Spectator and Cook's Strait Guardian, 22 September 1860, p 2; Nelson Examiner and New Zealand Chronicle, 17 October 1860, p 3;.
[929] New Zealand Soectator and Cook Strait's Guardian, 7 October 1860, p 7.
[930] New Zealand Spectator and Cook's Strait Guardian, 7 November 1860, p 1.
[931] New Zealand Spectator and Cook's Strait Guardian, 22 December 1860, p 2.
[932] New Zealand Spectator and Cook's Strait Guardian, 19 January 1861, p 2.
[933] New Zealand Spectator and Cook's Strait Guardian, 9 March 1861, p 3.

occasion on which they might show their independence of the chiefs who sought to control or modify the expression of their opinions…'[934] The account continued:

> On the morning of the 12th March a party of Ngātiawa, 160 strong, armed to the teeth with guns, hatchets, mere mere, and other native implements of war, were marched in procession around the flagstaff three times, and then were drawn up in a body opposite it. At 9 o'clock Heremia and Hape Te whakarawe, the two leading men connected with the movement, took their places in the ring around the flagstaff, with Prayer Book in hand. A few minutes afterwards the different tribes (hapū) were called upon by Heremia to show their allegiance to the King by kneeling and bowing with their heads uncovered. Prayers were then read by Heremia, and afterwards by Hape, all kneeling. The guard of honor [*sic*] were then commanded to load with blank cartridge, and salute the flag by firing three volleys in rapid succession.
>
> The flag was then hoisted with terrific yellings, shoutings, and firing of guns. The flagstaff is 80 feet high, composed of two sticks each 45 feet long, the lower one being two feet thick at the butt. There were three flags run up. The first, "Nuku te whatewha" from Wi Tako, – a white oblong flag, with a black cross, and red star at each extremity of the cross; the second, "Tiki," the king's flag. – a long black pennant, with a white border and red cross and stars; and the third and lowest, the French flag. These flags having been hoisted, there was a war dance (Te wae wae) on a grand scale. The unearthly yells and grimaces, intermingled with cries every now and again of – "Kua ora a Nu Tireni! (New Zealand is saved!)" were frightful in the extreme. Great excitement prevailed at this stage of the proceedings. The chiefs of the different tribes then harangued the meeting, interspersing their speeches with songs (waiata) and war dances.
>
> Heremia addressed the meeting during the day. The import of his speech was, – that he wished to live in peace with the Europeans; he did not wish to fight; if he were desirous of doing so he would go to Taranaki; he did not think he had done any wrong in raising the flag; if any arise from it, it will come from the Governor; his intention in raising the flag was to put a stop to land selling. As it was getting late, the talking was put a stop to for the day, and they proceeded to divide the food amongst the different tribes. This occupied them until sunset, when the flag was lowered with the same ceremony as that used in the raising of it. The meeting was then dispersed to their different encampments for the night.
>
> The second day's (13th March) proceedings were ushered in with similar ceremonies to those of the previous morning. Two flags only were hoisted today – the King's being omitted. At 3 p.m. they held a sham fight and korero. The adherents of the Queen were invited to attend, and they arrived during the day. The numbers on the ground were estimated at 900 to 1000. No speeches of any importance were made to-day, except in one instance, when Heremia te Tuere gave the meeting to understand that he intended raising the flag on the 12th March, 1862.[935]

The *Wanganui Chronicle* commented that Pukekaraka had once been 'remarkably industrious and prosperous', boasting larger cultivations than at Ōtaki, a mill, a rude chapel, and schooner trading to Wellington. By this date, however, that earlier 'prosperity [had] set', and the ground was fertile for new ideas. Thus had 'Heremia, a minister in their church, along with one Hape'

[934] Wanganui Chronicle, 21 March 1861, p.3.
[935] *Wanganui Chronicle*, 21 March 1861, p.3.

brought the flag 'by which to show their feeling toward the government', and 'barbarism [had] resumed its reign'.[936]

In response, Tamihana Te Rauparaha flew the union jack from the flagpole raised in the square opposite the church. 'Taratoa of Manawatū, Manihera of Wairarapa, Mātene, Rauparaha, &c' were reported to be 'opposed' and to have joined Hadfield in arguing strenuously against the King's flag; but Mātene had 'confesse[d] that the chiefs have lost much of their influence'.[937] According to a different account, when Te Whiwhi had questioned the decision, Hapi Te Whakarawe had replied, 'You are a land seller. I am a land-holder.'[938]The *Wanganui Chronicle* reported that the 'fidelity of these chiefs may be relied on', and that there was little immediate danger to Pākehā within the district:

> It was very satisfactory to see the great cordiality and good feeling that prevailed during the meeting between the Europeans and Maoris. Wi Tako did not arrive. The Kingites are constantly keeping a body of armed men to protect the flagstaff from being cut down by the loyal natives – hints having been thrown out that they would do so.[939]

All in all, the meeting had 'passed over in the quietest manner; showing that the notions held by some regarding the vehemently hostile feelings of the tribes between this and Wellington towards Europeans are without foundation'. At the same time, it was evident that 'a majority of them [were] … opposed to the selling of land … and that if they had the power [that] they would use it to dispossess the Europeans of their property [was] possible', but in the *Chronicle*'s view, 'a regard to their own interests prevents them from action just now; and will probably ere long induce them to part with their land as freely as they now hold it firmly'.[940]

The following day, the Kawanatanga faction sent a letter to Featherston denying any intention by either side to take up arms:

> Heremia said, my sign of trouble (aitua) is raised. I have no intention of fighting, here at this place. But, O people, if any man wishes to fight, let him go to Taranaki. Listen Nepia, it is hoisted, it is hoisted, it is hoisted. Now I am going to sleep (he then sang a song. Paritakuihu was the name of it). This is the second thing I have to say. If the Pakeha wishes to fight with me, let him go with me to Taranaki to fight. I do not wish to bring trouble here. No, no, no. My third word is, that on the 12th of next March my flag will be raised again. These are the true words of those tribes, and of Heremia also.[941]

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[936] *Wanganui Chronicle*, 21 March 1861, p.3.
[937] *Wanganui Chronicle*, 21 March 1861, p.3.
[938] *Nelson Examiner and New Zealand Chronicle*, 27 March 1861, p 3, cited Hearn, 'One past, many histories', p 175.
[939] *Wanganui Chronicle*, 21 March 1861, p 3.
[940] *Wanganui Chronicle*, 21 March 1861, p 3.
[941] *New Zealand Spectator and Cook's Strait Guardian*, 10 April 1861, P 2.

The letter went on to say that the Queen's flag had been raised on the same day 'as a sign to shew who are the men who remain steadfast in their allegiance to our gracious Queen'. It was signed by 'the elders of Ōtaki and Rangitīkei also':

> Kingi Te Ahoaho, Hoaita Te Wharemakatea, Hukiki Te Ahukaramu, Matenga Te Matia, Aperahama Te Ruru, Mukakai, Paraone Te Manuka, Riwai Te Ahu, Rawiri Te Wanui, Nepia Taratoa, Kurukoa Rangimaru, Mātene Te Whiwhi, Paora Pohotiraha, Horomona Toremi, Ropata Hurumutu, Karanama Te Kapukai, Aropata Hauturu, Rei Paehua, Wiremu Pukapuka, Herewini Pekawhati, Kepa Kerikeri, Parakaia Te Pouepa, and 49 others. These men determined that the Queen's flag should be hoisted at Ōtaki, and all the tribe consulted.[942]

The letter was published with approval by the *New Zealand Spectator* because it demonstrated 'the best possible feeling on their part, and that owing to the determined spirit which they have exhibited, this hoisting of the King flag, of which so much had previously been said, has proved a signal failure'. Further, it also showed that there was 'no intention of disturbing the peace of this Province, since the Kingites declare they have no wish to bring trouble here.'[943]

Not all commentators were as sanguine as the *Wanganui Chronicle* or the *New Zealand Spectator* about the prospects for peace. Wellington provincial politicians – Featherston, backed by Fox, and Fitzherbert – insisted that war was imminent and military protection necessary to prevent a general uprising. The *Wellington Independent* claimed that large numbers were declaring their support for the Māori King and that 'in fact almost the whole Native population might be said to be preparing for war which they deemed inevitable'[944].Featherston called for naval protection and a 'considerable force' to be stationed at Wellington and Wanganui in event of an uprising, should war be carried into in the Waikato. This was refused by Grey, who arrived back in the colony in late September. In the meantime, rumours were circulating around the West Coast Māori communities that the government was intending to confiscate their lands and 'exterminate' their race. According to Galbreath, this sense of unease was attributable to the proposal of the outgoing Governor, in July 1861, that those who took up arms against the Crown 'must in future expect that their offence [would] be visited by confiscation of land'.[945] Fox also was talking confiscation, arguing that it would be beneficial to Māori because 'nothing has been more pernicious to the native race than the possession of large territories under tribal titles which they neither use, know how to use, nor can be induced to use'; a pronouncement, Galbreath assesses as 'rapacity dressed up as humanitarianism'.[946]

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[942] *New Zealand Spectator and Cook's Strait Guardian*, 10 April 1861, P 2.
[943] *New Zealand Spectator and Cook's Strait Guardian*, 10 April 1861, P 2.
[944] *New Zealand Spectator and Cook's Strait Guardian*, 12 July 1861, p 2.
[945] Gore Browne despatch to Duke of Newcastle, 6 July 1861, AJHR, 1862, E1, p 22; R Galbreath, Walter Buller: the reluctant conservationist, Wellington, 1989, p 55; Hearn, 'One past, many histories', p 176.
[946] Galbreath, *Walter Buller*, p 55.

The views of the West Coast leadership were not yet firmly settled. In July, some 400 Māori including from Ngāti Raukawa, Ngāti Pikiahu, Ngāti Maniapoto, Te Ati Awa, and Ngāti Toa as well as Ngāti Apa, were reported to have gathered at Mātai-iwi. Most of the speakers expressed their disapproval of the Governor and their support for the King. Nepia Taratoa, who had stated earlier that he had chosen Church, Queen, and Governor, indicated that his hapū had decided otherwise: that 'his canoe … had gone over to the king, and that he could not remain alone, but must go with it'.[947] Hearn argues that 'Nepia's shift of stance suggests that certainly within Ngāti Raukawa, disapproval of Governor Browne's conduct was metamorphosing into active support for the Māori king.'[948]

There was clearly ongoing communication between Ōtaki, Pukekaraka, and the Waikato, as well as Wairarapa, where there was a strong element of support for the Kīngitanga. A letter from the Māori King's rūnanga, at Ngāruawāhia, dated 12 June 1861, was addressed directly to 'All the Chiefs residing at Otaki and Pukekaraka; to Heremaia, to Te Hapa, and to Te Tihi', advising that they had refused the Governor's terms with reference to Waitara and inquiring as to their intentions should the Waikato be invaded.[949] Resident Magistrate Herbert Wardell also noted the regularity of communication that was taking place between the runanga of Ōtaki and that of Wairarapa; although he did not know the 'exact connection'. The correspondence of the latter with Waikato was conducted 'more frequently through the Otaki Runanga than direct.' As an illustration he referred to the letter, cited above, which had been forwarded from Ōtaki.[950]

A further concern for colonists was the growing rejection of the courts. According to the *Wanganui Chronicle*, whereas Resident Magistrate Durie had previously adjudicated over cases involving both European and Māori, now the latter held the court 'in contempt', ignoring summonses and 'instead of caring for warrants would probably send away the constable who attempted to enforce them'.[951] The local King's runanga was issuing their own summonses. A case involving a dispute between the two different factions was reported on, in November. The failure of Hamuera to pay a debt of 18/- to a woman belonging to the King party had resulted in a summons from what was described as the "Ngāti Raukawa runanga" but which involved Kawana Hunia (at that time a King supporter), Panapa and Topine among others. Hamuera had ignored the summons because he did not recognise the King's authority. More summonses were issued with increasing penalties until Hamuera offered the woman a sum of £2 4s but she declined to accept it and instead the runanga seized a cow and calf from his brother (Aperehama Tipae) which they then sold publicly 'by warrant of the court'. Aperehama, in turn, laid a complaint before the Resident Magistrate. This

[947] *Nelson Examiner*, 24 July 1861, cited Hearn, 'One past, many histories', p 175.
[948] Hearn, 'One past, many histories', pp 175-6.
[949] Letter from the Maori King's runanga, 12 June 1861, *AJHR*, 1862, E-1, p 5.
[950] Wardell report, 25 October 1861, *AJHR*, 1862, E-1, p 52.
[951] *Wanganui Chronicle*, 17 October 1861, p 7.

prompted the runanga to offer a compromise. Durie could re-open his court at Rangitikei and 'administer justice to the government Natives and Europeans', promising not to harbour any fugitives from his jurisdiction, in return for the same consideration.[952] None of the runanga attended the Resident Magistrate Court and were in turn, fined 10/-.[953] In response, a letter, dated 24 December was sent to Durie from Pukekaraka, by a number of the "Chief King Natives in the district including Heremaia Te Tihi, Wi Tako Ngatata, Hapi Paneiti Hohepa, Aperehama Te Huruhuru, Nepia Winiata, Kawana Hunia, &c., representing the King Runanga of Tainui'. This stated that Durie must stop summonsing 'my children, because the work performed by them is good'. The seizure of the cow as not unlawful but on account of a summons for debt by the 'Runanga of Governor Junior, residing at Pakapakatea, who upholds the work of the Maori King'. Forty men had endorsed that action and Durie should not attempt to re-open the case as it had been disposed of by 'the great men of the Runanga'.[954]

5.16 Governor Grey's 'new institutions'

Grey's first decision on arriving back in the country was to overturn his predecessor's promise of annual Māori conferences, as he considered the proposal an unwise and unacceptable challenge to the Crown's kāwanatanga. In his view, it would be better to devise an institution which could be applied to a selected district that would break 'the native population up into small portions, instead of teaching them to look to one powerful Native Parliament as a means of legislating for the whole Native population of this island – a proceeding and machinery which might hereafter produce most embarrassing results'.[955] In effect, Grey thought to undermine the Kīngitanga by creating 'twenty kings in New Zealand…' and promising that 'those kings who work with me shall be wealthy kings and kings of wealthy people….'[956] Rather than allowing a single national body that could come to their own constitutional and political arrangements, Grey attempted to win Māori cooperation by utilising their customary structures, giving them a recognised and significant role in the administration of their own districts as well as potential control of the pace of settlement. The titling of land would be an element of the work undertaken by these 'new institutions'. As we discuss below, while there remained support for the Kīngitanga among the hapū, all were glad to be rid of Gore Browne, and many were pleased with Grey's system, which they thought would bring their institutions into equality with that of Europeans. As a result, much of the steam was taken out of the informal rūnanga which had been deciding on matters ranging from the operation of their own postal service to fines to be imposed on law breakers.

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[952] *Wanganui Chronicle*, 7 November 1861, p 3.
[953] *Wanganui Chronicle*, 19 Decmber 1861, p 2.
[954] *Wanganui Chronicle*, 9 January 1862, p 2.
[955] Cited Loveridge, 'The Origins of the Native Land Court in New Zealand', Crown Law Office, 2000, p 205.
[956] Cited O'Malley, Runanga and Komiti, PHD thesis, VUW, p 46.

In ‘His Excellency’s Plan of Native Government’ Grey promised Māori an active role in the formulation of their own laws and recognition of some very real powers. He stated that it was the Queen’s ‘earnest desire’ that:

> Her subjects in all parts of these Islands should participate in the benefits of law and order, be maintained in the undisturbed possession of their lands, and enjoy a perfect security for life and property: and that, for the attainment of these ends, they should, in as far as practicable, themselves frame and enforce regulations suited to their various requirements, and take an active share in the administration of the government of their own country, so that all may regard with contentment and gratitude a government adapted to their wants, administered by themselves, and in the benefits of which all participate. And inasmuch as, with any machinery by which law and order could be maintained, the good and well-disposed be protected, and the violent restrained, it is now intended to create the following machinery to give effect to the laws which have, from time to time, been made for the security and welfare of Her Majesty’s subjects, both European and Native.[957]

His subsequent notification to Māori described the heady mix of law, education, prosperity and self-government that Grey envisaged for Māori and we cite it fully here:

> These are some of the thoughts of the Governor, of Sir George Grey, towards the Maories at this time.
>
> His desire is, how to arrange things, that there may be good laws made, and those laws be put in force; and how all men, both European and Maori, may be taught to work for the common good of the country in which they live: that they may be a happy people, rich, wise, well instructed, and every year advancing in prosperity.
>
> For it is the desire of the Queen (whose heart was dark when she heard of the troubles in New Zealand), that all her subjects, both Europeans and Maories, in all parts of these islands, should have the benefits of law and order; that the lives and persons of all men should be safe from destruction and injury; and that every man should have for himself and enjoy his own lands, his cattle, his horses, his sheep, his ship, his money, or whatever else belongs to him. And it is the desire of the Queen that all her subjects should help in making the laws by which they are governed, and that from amongst them should be appointed wise and good men as Magistrates, to adjudge in cases of disputed rights and punish the wrong-doer, and to teach the law, how it should be obeyed.
>
> The Europeans in New Zealand, with the help of the Governor, make laws for themselves, and have their own Magistrates; and because they obey those laws, they are rich, they have large houses, great ships, horses, sheep, cattle, corn, and all other good things for the body. They have also Ministers of Religion, Teachers of Schools; Lawyers, to teach the law; Surveyors, to measure every man’s land; Doctors, to heal the sick; Carpenters, Blacksmiths, and all those other persons who make good things for the body, and teach good things for the souls and minds of the Europeans. It is because they have made wise and good laws, and because they look up to the Queen as one head over all Magistrates, and over all the several bodies of which the English people consists.
>
> It is the desire of the Queen, and this also is the thought of Governor Grey and of the Runanga of the Pākehās, that the Maories also should do for themselves as the

[957] Minute by Governor Sir George Grey on the Subject of His Excellency’s Plan of Native Government, Auckland, October, 1861, AJHR, 1862, E2, p 10.

> Europeans do. They know that of late years the Maoris have been seeking for law and order. The Englishmen have been more than a thousand years learning how to make laws and to govern themselves well. The Maori has only just begun this work. Besides this, in order to have Magistrates, and Policemen, and other officers, it is necessary to pay them, for the labourer is worthy of his hire; and he who works for the whole body of the people, should be paid by the people; for while he works for them he must, more or less, neglect his own work.
>
> Now the thought of the Governor is how he may help the Maories in the work of making laws, and how he may provide for the payment of the Magistrates and other Officers of Government, till such time as the Maories shall have become rich and be able to pay all the expenses themselves. In order, then, to provide the machinery of good government among the Maories in these Islands, the Governor desires to see established the following system, whereby good laws may be made, well-disposed persons be protected, bad men restrained from violence, and security for life and property be ensured to all.[958]

Those parts of the country 'inhabited by Maori' would be 'marked off into several districts, 'according to tribes or divisions of tribes, and the convenience of the natural features … of the country'. An 'earnest and good European' to be called a civil commissioner would be sent by the Governor 'to assist the Maories in the work of making laws and enforcing them'. There also would be a 'Runanga' for each district, which would consist of a certain number of men who would be chosen from the assessors. The civil commissioner would act as the president of the rūnanga to 'guide its deliberations' and have a casting vote. The rūnanga would have the power to:

> … propose the laws for that district, about the trespass of cattle, about cattle pounds, about fences, about branding cattle, about thistles and weeds, about dogs, about spirits and drunkenness, about putting down bad customs of the old Maori law, like the Taua, and about the various things which specially concern the people living in that district. They will also make regulations about schools, about roads, if they wish for them, and about other matters which may promote the public good of that district.[959]

The Governor would have the final word, however, as to whether such laws would have force; he would:

> … say if they are good or not. If he says they are good, they will become law for all men in that district to which they relate. If he says they are not good, then the Runanga must make some other law which will be better.[960]

Grey represented this as 'the way with the laws which the Europeans made in their Runangas, both in New Zealand and in the great Runanga of the Queen of England.'[961]

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[958] Notification circulated among the native tribes, just before the Governor's visit to Waikato, December 1861, AJHR, 1862, E-2, p 21.
[959] Notification circulated among the native tribes, just before the governor's visit to Waikato, December 1861, AJHR, 1862, E-2, p 21.
[960] Notification circulated among the native tribes, just before the governor's visit to Waikato, December 1861, AJHR, 1862, E-2, p 21.

The notification also outlined how the machinery would work. Each district would be divided into 'Hundreds', each with an appointed assessor to be chosen by them (the men), with the governor's final approval. The magistrate, with the assessors, would hold courts for 'disputes about debts of money, about cattle trespass, about all breaches of the law in that district. They will decide in all these cases.' There would also be policemen under the assessors who would have power of summonses and to give effect to the orders of the 'Court of Assessors'. Fines could be collected but would be kept in the hands of the magistrate until disbursed for public purposes.

Runanga would be assisted in establishing and maintaining schools, and teachers – 'sometimes Europeans, sometimes Maories'. Māori were to pay their salaries, and the Governor would cover the other costs. He would also endeavour to procure doctors to reside among them, whose salaries he promised to cover. Those doctors would:

> … give medicine to the Maories, when they are sick, and will teach them what things are good for the rearing of their children, to make them strong and healthy, and how to prolong the lives of all the Maories by eating good food, by keeping their houses clean, by having proper clothes and other things relating to their health.[962]

There would be a fee, however, for those requiring medical services.

In his original minute, outlining his intended system of government, Grey contemplated measures that would give the runanga control over both the process of determining who the rightful 'owners' of lands were and the pace of settlement. The runanga would 'provide for the adjustment of disputed lands, boundaries of tribes, of hapūs, or of individuals and for deciding who might be the true owners of any native lands'. Once title had been determined, land sales would be strictly controlled, and the rūnanga would be involved in the selection of suitable settlers. Owners would be permitted to dispose of lands 'not exceeding the extent of one farm', the size of which was to be determined by the civil commissioner together with the rūnanga. On their recommendation, the purchaser would then be approved by the Governor. Purchasers were required to occupy the land for three years and could be absent only for six weeks during this time, unless with the government's leave. Transgressors would be liable to a fine of £100. After three years, the purchaser would be entitled to a Crown grant and to on-sell under the same occupancy provisions. These stipulations would be removed after ten years. Māori owners could also lease their lands on terms decided by the government in consultation with the runanga of that district. Grey was proposing the gradual introduction of direct settler purchase under controlled conditions, a process which he later described as the 'gradual occupation of the

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[961] Notification circulated among the native tribes, just before the governor's visit to Waikato, December 1861, AJHR, 1862, E-2, pp 21-22.

[962] Notification circulated among the native tribes, just before the governor's visit to Waikato, December 1861, AJHR, 1862, E-2, p 22.

country by European proprietors' based on the agreement of the Māori inhabitants.[963]

The colonial government had serious reservations about any restrictions being placed on land sale and settlement although they approved the plan in general; even the implementation of part of it was likely to 'reconcile the Maoris to live under one common government with the colonists', while the whole of it would ensure the material and social growth of the entire country.[964] Colonial Secretary William Fox submitted detailed comments on behalf of the Ministers. They agreed that local administration in Māori districts was a task best left to Māori themselves, until such time they (Māori) became more familiar with and assimilated to formal legal processes.[965] In the meantime, utilising existing Māori political and social structures was sensible, nay – essential – if Grey's plan was to succeed. The runanga were 'little else than a gathering of the people of a particular village or hapū' and in the Ministers' opinion, that was as it should be, the only imposition being that 'none but adult males' should take part in its proceedings. This would 'entail no disturbance of any existing system'. It was 'only a taking under the recognised shelter of the law of what now exists as a universal custom, and constitutes the only deliberative and legislative institution of the Native race'. In other words, there would be no development of a pan-tribal body with parallel powers to parliament.

Fox and the ministers also approved the idea of Māori deciding on the ownership of lands for themselves. 'Difficult and delicate' matters involving land titles should be left to the runanga's determination:

> A title sifted through the investigation of these bodies (whose knowledge on the subject will in all except a comparatively small number of disputed cases be found complete), and made the subject of publicity, may be considered as pretty well ascertained …
>
> As regards the case of disputed title among the Natives themselves, Ministers conceive that, when once confidence in our rule shall have been established, no great difficulty will be found in inducing the Natives to refer these to some tribunal, to be hereafter constituted, of a certain number of the great chiefs of the country, whose decisions, on receiving the ultimate sanction of the Government, may become final.[966]

However, the ministers did not approve of the proposed controls on land purchase. In their view, once title was ascertained, Māori should be left to decide whether to sell or lease as they thought fit. And as for the terms under which purchases might be made, they were 'too rigid, and would to a great extent act as an actual prohibition on European settlement in Native districts' to the detriment

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[963] See Loveridge, 'Origins of the Native Land Court', p 144.
[964] Minute by Ministers in reference to His Excellency's Plan, 31 October 1861, *AJHR*, 1862, E-2, p 15.
[965] Minute by Ministers in reference to His Excellency's Plan, 31 October 1861, *AJHR*, 1862, E-2, pp 13-15.
[966] Minute by Ministers in reference to His Excellency's Plan, 16 and 31 October 1861, *AJHR*, 1862, E-2, p 13.

of Māori and settler alike.[967] They recommended a simple requirement for bona fide occupation for a number of years as adequate to prevent a 'scramble' for Māori land.[968] In his response to this minute, Grey affirmed his wishes in respect of land as only: '1st. That no one should be allowed to grasp more land than he could use. 2nd. Occupancy for some years. 3rd. Concurrence of Runanga to the sale.'[969]

The money for the new institutions was approved along lines suggested by Grey.[970] But the Governor dropped any mention of controls on purchase in the subsequent notification to Māori, issued before he visited the Waikato. It merely stated:

> About the Lands of the Maories. It will be for the Runangas to decide all disputes about the lands. It will be good that each Runanga should make a Register, in which should be written a statement of all the lands within the district of that Runanga, so that everybody may know, and that there may be no more disputings about land.[971]

There was no mention of runanga approving settlers, or the capacity of hapū owners to sell only one farm to settlers out of their holdings (once their title had been confirmed), or of any restrictions on the capacity of colonists to on-sell.

Nonetheless, Grey held out the promise of Crown recognition of Māori customary structures and self-government, prosperity, and 'brotherhood' with Pākehā:

> This then is what the Governor intends to do, to assist the Maori in the good work of establishing law and order. These are the first things: – the Runangas, the Assessors, the Policemen, the Schools, the Doctors, the Civil Commissioners to assist the Maories to govern themselves, to make good laws, and to protect the weak against the strong. There will be many more things to be planned and to be decided; but about such things the Runangas and the Commissioners will consult. This work will be a work of time, like the growing of a large tree – at first there is the seed, then there is one trunk, then there are branches innumerable, and very many leaves: bye and bye, perhaps, there will be fruit also. But the growth of the tree is slow – the branches, the leaves, and fruit did not appear all at once, when the seed was put in the ground: and so will it be with the good laws of the Runanga. This is the seed which the Governor desires to sow: – both Runangas, the Assessors, the Commissioners, and the rest. Bye and bye, perhaps, this seed will grow into a very great tree, which will bear good fruit on all its branches. The Maories, then, must assist in the planting of this tree, in the training of its branches, in cultivating the ground about its roots; and, as the tree grows, the children of the Maori,

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[967] Minute by Ministers in reference to His Excellency's Plan, 31 October 1861, *AJHR*, 1862, E-2, p 15.
[968] Minute by Ministers in reference to His Excellency's Plan, 31 October 1861, *AJHR*, 1862, E-2, p 15.
[969] Notes by His Excellency … on the Proceeding Minute, no date, *AJHR*, 1862, E-2, p 16.
[970] See Minute by Governor Grey, 29 Novemeber 1861 and Minute by Ministers, 6 December 1861, *AJHR*, 1862, E-2, p 16.
[971] Notification circulated among the native tribes, just before the governor's visit to Waikato, December 1861, AJHR, 1862, E-3, p 22..

> also, will grow to be a rich, wise, and prosperous people, like the English and those other Nations which long ago began the work of making good laws, and obeying them. This will be the Work of Peace, on which the blessing of Providence will rest, – which will make the storms to pass away from the sky, – and all things will become light between the Maori and the Pakeha; and the heart of the Queen will then be glad when she hears that the two races are living quietly together, as brothers, in the good and prosperous land of New Zealand.[972]

5.15.1 Response of the West Coast Māori communities

Legislative authority for Grey's scheme already existed, being provided by the Native Circuit Courts Act and Native Districts Regulation Act of 1858.[973] This latter legislation authorised runanga operating under a Pakehā chairman to make by-laws on matters of local concern. The Native Circuit Courts Act authorised the appointment of circuit judges to sit with Māori Assessors and juries to enforce such by-laws and the common law. The area from 'Paikakariki to Wangaehu' was brought under the Native Districts Regulation Act in mid-1862 and Walter Buller appointed as resident magistrate. In June, he reported that he had held sittings of the court at the European settlements as well as visiting all the 'principal villages', addressing, in all, thirteen native meetings. He had been well received: 'by the ultra-Kingites with respect, – by the moderate party and neutrals with cordiality, – by the loyal Natives with every demonstration of good feeling'. Buller was optimistic about the success of introducing the new institutions successfully to the region, where he thought the number of 'so-called kingites' remained large, but the 'spirit of kingism' on the decline. Only Waikanae and Ōhau were openly antagonistic, while other communities had given their immediate approval of the new institutions, and the rest were prepared to observe, and see if they thought it was worthwhile adopting the scheme. Ōtaki, with a population estimated by Buller to be 280, was 'equally divided', and '[t]he line of demarcation is distinct and the feeling strong on both sides' with no 'neutrals'.[974] The issue with flying the flag continued; Buller commented on the 'zeal' displayed by one party on behalf of the flag 'Tainui' and Grey later refused to meet with them on that account (see below). The other side were 'eager' for the 'immediate establishment of the proposed institutions'. For all their attachment to the King's cause, Buller acknowledged the stance of that party to be essentially a peaceable one; they were waiting to see what eventuated and willing to adopt this new system if they thought it sensible, but were wary of any attempt to impose it upon them without their consent:

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[972] Notification circulated among the native tribes, just before the governor's visit to Waikato, December 1861, AJHR, 1862, E-3, p 22.
[973] Ward, *Show of Justice,* p 128.
[974] State of the Natives in the Wellington West Coast District, *Wellington Independent*, 12 August 1862, p 5.

> Wi Hapi Te Whakarawhe, the recognised head of the King party at Ōtaki … made a sensible and very moderate speech. In substance, he said: – "Your words are good, very good. Your proposed plan of Native Government is clear, very clear. It may bear fruit, or it may not. Had you come with angry words for my King, then I should have turned away. You speak the words of kindness and I listen. You say my work has not borne good fruit. Very well; now commence your work. If yours proves to be better, we may come over to join you. [M]eanwhile we will sit quietly by, looking on. But don't provoke us with your summonses or your warrants, or there will be trouble.[975]

According to the *Wellington Independent*, that the 'District Treasurer' of the King's rūnanga had re4cently absconded with their funds had 'somewhat weakened' their confidence in the leadership of the party and worked in favour of trying out the government's proposal.

There were few 'Kingites' in attendance when the meeting reconvened, but a 'spirited discussion' took place after Buller had explained 'at some length the nature of the institutions offered to them'. On being asked to express their opinions 'fully', some thirty speakers were all 'strongly in favour of the immediate establishment of Native Courts at Ōtaki and the organisation of the Rūnanga, under the "Native Districts Regulation Act"'. They, too, anticipated that the King party would come over to their way of thinking once 'these institutions [were] in full operation and the advantages of better government [began] to develop themselves….' Buller advocated a careful step-by-step approach, intended to cement Crown control, but entailing, also, sanction of Māori authority over local matters of concern, including land title and law and order; '"the substance for the shadow," as they themselves express[ed] it'. Then, in Buller's opinion, their 'ultimate return to loyalty and obedience' would be 'almost certain'.[976] The general feeling among politicians and officials at this time was that some such step was crucial to satisfy Māori aspirations and to maintain – or win back – support for the Kāwanatanga; but with Crown control being the underlying intention of the apparatus, and no sustained commitment on their part once the worst of the crisis had been averted, Māori were to find that the substance was still to be denied to them under the shadow of the Queen's flag.

Buller moved on to the Manawatū, where he estimated the population to number not less than 600 persons, although the kāinga were 'so far apart and the people so scattered', it was difficult to be sure. He noted that 'several hundred [had] recently migrated to Waikato and to Napier, and a few to Taranaki'.[977] The proposed plan of government was well received at Moutoa and Te Maire, and a number of the 'loyal Natives agreed to put up at once a commodious raupō Court House, provided the Government would contribute plain doors, windows and

[975] State of the Natives in the Wellington West Coast District', *Wellington Independent*, 12 August 1862, p 5.
[976] State of the Natives in the Wellington West Coast District', *Wellington Independent*, 12 August 1862, p 5.
[977] State of the Natives in the Wellington West Coast District', *Wellington Independent*, 12 August 1862, p 5.

iron-mongery'. Buller described the majority of the inhabitants as either 'professed Kingites or "Kupapa" (waverers)', but again the Crown supporters were confident that the 'successful working of the new machinery' would be a turning point. Buller was also met warmly at Rangitīkei (population 400), where Hūnia Te Hakeke had 'made a public confession of his folly in joining the King party', and support for it was on the decline.[978]

Buller further noted that Nepia Taratoa, who was 'now permanently located at Matahiwi, Rangitīkei was very friendly'. He listened with 'evident interest' to Buller's explanations and welcomed the return of his friend, Governor Grey, saying that he was 'resting between the parties'; that he would not agree hastily but would see if the proposal bore fruit. Ngāti Apa also offered to put up a court house if the government provided the usual assistance, and also to 'make over' to the Crown a few acres for a magistrate's residence if required. At Turakina, Ngāti Apa (who numbered approximately 100) had already erected a small house for court sittings.

Buller also visited Poroutāwhao -– population about 200) – the 'recognised headquarters of the King party' – where there were two of their principal rūnanga houses (one of which he described as 38 feet by 23 feet and 'elaborately finished with carving and painting'). Te Hōia,'the head chief' welcomed him with feasting and he, too, expressed goodwill and a 'strong hope' that Grey would again visit the district. According to Buller, he promised that all Ngāti Huia would 'unite to do His Excellency honour'. Although they had given their allegiance to the Māori King, they expressed 'much satisfaction with the new "tikanga".'[979] Buller's reception at Ōhau (estimated at 70 persons) was less warm. Rāwiri Raparuru welcomed him as manuhiri but not 'the words' he brought. Rāwiri is recorded as saying:

> We are willing to have you but not the laws you offer us. Listen; our Runanga have deliberated long and this is their unanimous word, If you will renounce the 'mana' of the Queen and the 'mana' of the Governor, then we will receive you. You shall be my magistrate, our father and the head of our Runanga. We will support you – all Waikato will support you.[980]

At Waikanae, where the King movement was 'predominant', Wī Tako expressed confidence in the Governor's friendship and stated his own goodwill for Pākehā; but he had given his word to Waikato – and so it was to Waikato that the government should direct its plans. He would follow their lead as to whether to

[978] State of the Natives in the Wellington West Coast District', *Wellington Independent*, 12 August 1862, p 5.
[979] State of the Natives in the Wellington West Coast District', *Wellington Independent*, 12 August 1862, p 5.
[980] State of the Natives in the Wellington West Coast District', *Wellington Independent*, 12 August 1862, p 5.

adopt the 'new institutions' or not. He, too, would 'sit quietly by'.[981]The *Wellington Independent*, commenting on Buller's report, thought that it would require both 'time and patience to ensure it either a fair trial or ultimate success' but that the early results were 'both satisfactory and encouraging'.[982]

Tāmihana Te Rauparaha, who had been appointed an assessor, accompanied Buller on his circuit. His account corroborated Buller's report and added some details of his own. He objected strongly to a report that the whole district was for the King, alleging that it came from an un-named 'storekeeper here at Ōtaki who has brought trouble into all the settlement by his system of credit'. Ōtaki had put off any decision. At Moutoa, all present had given their consent to Grey's proposals, as did their (Ngāti Rakau) principal chiefs, 'Taraotea and Arapata Te Wioe'. At Te Maire, 'the old people of this place – Hori Te Waharoa, Henere Te Herekau and others of the Ngāti Whakatere tribe consented to the plans proposed by the Governor'. At Matahiwi, the words of Nepia and Ngāti Parewahawaha were 'good'. The leaders of the Rūnanga of the King party had also consented to the return of cattle belonging to Hāmuera that had been earlier 'seized by them upon one of their Maori judgments … and that Hāmuera's offence which led to this seizure [should] be tried by Mr. Buller and settled according to the laws of the Queen'.[983] Buller thought an important point had been won and that they had 'completely trampled upon their own King-runanga'.[984] Tāmihana also confirmed that they had been received cordially by the King party at Poroutāwhao, while the speeches of Muaupoko at Horowhenua had been moderate. Only at Ōhau and Waikawa had the community been 'strong in advocating the cause of the king'. Still, in Tāmihana's view:

> There was one good thing: they all assembled at Mr. Buller's word, and they all listened patiently to him till he had quite finished speaking. These tribes are Te Mateawa and Ngātiteihiihi. What they said was this – "we belong to the King: we will not turn over to those plans – never, never."[985]

It seems the return of Grey and his promise to recognise runanga authority led Ngāti Huia into support again for the Kāwanatanga. Grey visited Ōtaki several months after the announcement of his plans in order to attend a 'celebration of the abandonment of kingism by the Natives of Porotawhao'. Hākari was provided by Karanama at Katihiku to mark the reuniting of hapū, with the British ensign floating 'conspicuously' over the proceedings which involved European

[981] State of the Natives in the Wellington West Coast District', *Wellington Independent*, 12 August 1862, p 5.
[982] State of the Natives in the Wellington West Coast District', *Wellington Independent*, 12 August 1862, p 5.
[983] *Wellington Independent*, 13 June 1862, p 3.
[984] State of the Natives in the Wellington West Coast District', Wellington Independent, 12 August 1862, p 5.
[985] *Wellington Independent*, 13 June 1862, p 3.

spectators as well as the gathering of about 300 Māori. After a 'terse' welcome, all the Ngāti Huia speakers were reported to have declared themselves to be relinquishing 'kingism' and returning to 'loyalty to the Queen and obedience to the law'.[986] Addressing the gathering in te reo, the Governor spoke of his continued interest in their welfare, his offer of practical assistance, the contrast between the country as he left it and its current political state, and his sorrow at the 'unhappy relations' that had developed between some tribes and the government. Māori were then invited to gather again the next day at the schoolhouse at Ōtaki.

Meanwhile, a parallel gathering was taking place at Pukekaraka. The remaining supporters of the Kingitanga from Rangitīkei, Manawatū, Ōhau, and Waikawa 'invited the Governor to come over and see them, as they had assembled for the purpose'. Grey sent Buller over with a message declining their invitation until they 'consented to cut down the flagstaff or promised to hand over their flag to him at the meeting in token of renewed allegiance' – or they could come to him in the town. About 400 were reported to have gathered in their runanga house – Pou o Tainui – to consider this message, and they 'finally expressed their determination, through Heremia their teacher, that they would neither give up their flag, renounce kingism, nor go to meet the Governor'. According to the *Wellington Independent*, Wī Tako had deplored this decision, but at the same time criticised Grey for 'making so serious a matter of what had hitherto been called "child's play"'. He pointed out to the meeting that 'as the Pukekaraka stream had always been considered the boundary between the King and Queen natives, they might fairly go down to it; they remaining on the one side and the Governor and his party remaining on the other'. After further discussion, the meeting agreed to this compromise, 'on the express understanding that on no account would they cross the stream to sit under the Governor's shadow'. Grey then refused to meet them unless they came over the bridge to him. Featherston entered into the picture at this point and was reported to have persuaded Wī Tako to induce the gathering to accede to Grey's condition, which they did, crossing the bridge into Ōtaki and the domain of the kāwanatanga.[987]

This differed from an earlier account published in the same newspaper, according to which the Governor had come to the bridge where he met with Wī Tako. When asked by Grey why he had refused to come to him, Wī Tako had purportedly replied that he was making a bridge and that the Governor should do the same. Grey had replied, 'Wi Tako, friend, if there is only one hand to make the bridge it will not be finished, but it is better to have two hands to make it. E Wi, come back and be fed with good food.' To this Wī Tako responded that eating the heart of the dogfish would kill him, but fern root would make him well.[988]

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[986] *Wellington Independent*, 2 October 1862, p 3.
[987] *Wellington Independent*, 2 October 1862, p 3.
[988] *Wellington Independent*, 27 September 1862, p 5.

The meeting of 'loyal natives' in Hadfield's schoolhouse was considered to have been 'highly satisfactory'. Again, there had been about 400 present; and Tāmihana Te Rauparaha, Nepia Taratoa, Karanama, and others spoke, in addition to the Governor.[989] According to this second account, the Governor had come to the bridge after the assembly at the schoolhouse, and had been met there by the whole of the King party, numbering 1000, not including women and children. Wi Tako had stated their grievances with reference to events in Taranaki, reminding Grey that they had come to the Queen's assistance in the matter of Te Rangihaeata ('although he had been as a father to me when I was growing up'.) After further exchanges in which Wi Tako refused to come back to the Governor's side, Grey suggested that they both continue working to their goals and, then, see the 'goodness' of each other's endeavours.[990]

As we shall see in the following chapters, there turned out to be little of the patience that had been advocated to allow the 'new institutions' to take hold. Even as Buller and Grey were bringing that proposal to the attention of the West Coast and other tribes, the colonial government was undertaking legislation to establish a court to decide on matters of title. This initially took up the idea of assessors playing a major role in that determination, but subsequent legislation, and the system eventually put in place, then moved even further from what Grey had promised.

In the end, however, the new institutions came into full operation, briefly, only in Northland although the Native Circuit Court did function in the Manawatū with a panel of assessors sitting on occasion, under the Resident Magistrate.[991]

War broke out in the Waikato in late 1863 causing alarm among both Māori and colonists. As Hearn remarks, 'Tension mounted as preparations for defence were accelerated, including the assembly and arming of militia and volunteer forces.'[992] Settlers in the Manawatū, Ōtaki, and Waikanae areas decided against any overt and possibly provocative demonstration of military preparations in a district where they were scattered among a large and, it was thought, 'disaffected population'. At a meeting of Te Awahou (Foxton) settlers, opinion was divided as to the wisdom of calling out the militia, but 'the general feeling' was that should they be forced to evacuate the Manawatū, the district might fall back into the control of Māori; 'the King party would again claim that block of land by right of conquest', and the position of the loyalists be undermined.[993]

The Superintendent of the Province was invited to meet the King party at their rūnanga house, where Wī Tako and Heremia warned that the militia should not

[989] *Wellington Independent*, 2 October 1862, p 3.
[990] *Wellington Independent*, 27 September 1862, p 5.
[991] See *Wanganui Chronicle, 19 March 1863, p 3.*
[992] Hearn, 'One past, many histories', p 178.
[993] *Wellington Independent*, 22 September 1863, p 3.

be sent into their district, assuring him that Europeans would not be attacked but would be given notice if they were required to leave. In these discussions, Wī Tako revealed that he had received a letter urging him to take to arms, but had not shown it to the people because he considered it inflammatory. Featherston had replied:

> Though I meet you in your King's house don't fancy that I have become a Kingite, or am prepared to listen to his words. The Government will not be guided by the words of the wishes of the King natives. The Police Force will be stationed wherever the Government may please. As long, however, as I am satisfied of the peaceful intention of the Natives, and that no danger need be apprehended at Waikanae, Otaki, and Manawatu, I shall probably advise that no force be at present stationed at either of those places; but I shall certainly advise that a Force be stationed at Rangitikei, as that is the road … by which a marauding party would probably come.[994]

Both Wi Tako and Heremia agreed that this was reasonable and that the 'boundary of the district within which no Force is stationed be the Paekakakariki and Rangitīkei River'. They then accompanied Feathertson to Ōtaki, where he made a long and impassioned speech condemning the actions of the Kingitanga at Waikato and contrasting this stance to his prior condemnation of the Governor at Waitara. The 'loyal chiefs' then all declared that they were 'more than ever loyal', even though most deprecated the idea of sending a military force into the area. They called upon the King party to answer Featherston instead. Wi Hapi, 'after rebuking one of the loyal chiefs who had attacked him', challenged the Superintendent on two key points: as to living peaceably, and regarding the King. He assured Featherston that there would be no attack on any settlers 'by this tribe Ngātiraukawa, Rangitīkei being one boundary, Ōtaki the other'. He demanded that Featherston allow no barracks to be built at Paekakariki, Waikanae, Ōtaki, Manawatū, or Rangitīkei. As to the King:

> I say … I am not working on the King's side as a work for fighting, but merely as a "Mana" over my land, and as a "Mana" over myself. Fighting is no part of our plan, but if the Governor says that there shall not be two heads in New Zealand – if he attacks the King's rights – if he intends to put down the King, then we shall all go to support the King. We won't give up the King today. Keep your soldiers in Wellington.[995]

Heremia, however, told Wi Hapi that he should not commit himself in this way, saying that he himself would not go to war in Waikato – although he reiterated his demand that troops not be sent to the region, and that that now included Paekākāriki and Rangitīkei. Wī Tako said that he disagreed with some of the points made by Wī Hapi and Heremia, but also announced that he would not give up the King. He, too, invoked Waitara, pointing out that they had not fought there, although was closely concerned in it.[996] Although firm in their support for

[994] Extract from "The Wellington Spectator", *AJHR*, 1863, E-3A, p 9.
[995] Extract from "The Wellington Spectator", *AJHR*, 1863, E-3A, p11.
[996] Extract from "The Wellington Spectator", *AJHR*, 1863, E-3A, p11.

the King movement and its goals, they disavowed any intention to rise against settlers or the Crown unless provoked.

5.17 Conclusion

The Crown (through its Native Land Purchase Department, before it was abolished) had achieved only limited success in realising its ambition to acquire further lands between Wanganui and Porirua, preferably in large blocks and at the cheapest possible prices. Ngāti Raukawa also refrained from interfering with the Rangitāne-led sale of the extensive Ahuaturanga block, although Ngāti Kauwhata, Ngāti Wehi Wehi, and Rangitāne objected to and prevented the purchase of lands on which they were residing east of the Oroua River (later named Aorangi block). Disagreement had been over boundaries rather than the right of the vendors to undertake the transaction at all.

A protracted debate took place within the iwi as a whole as to how to deal with the pressures being exerted by the Crown and by colonisation. At first, encouraged by the missionaries, there had been agreement that land should be reserved – although it was less clear as to whether this should be 'permanently', so that there would be sufficient land for their expanding stock numbers into the future; or only until internal divisions could be sorted out. It would seem that it was decided to withdraw opposition to the sale of 'peripheral' blocks over which a claim to exclusive ownership could not be sustained. There was considerable interest in the Kingitanga at the time; and although the early leadership of Otaki rangatira fell away, hapū based at Pukekaraka, Katihiku and in the Oroua and upper Rangitikei areas continued to adhere to the party. The accusation that a land-league had ever been fomented at Otaki was, however, hotly denied by Hadfield and Williams.

The sale of Te Awahou was significant, signalling as it did, the growing division of attitude as to whether interests were best served by keeping their lands and engaging with the new economy through leasehold arrangements with individual settlers (although they were legally vulnerable on this point after the passing of Grey's Native Land Purchase Ordinance 1846), or by entering into direct engagements with the government, just as their neighbours were doing. These opposed stances were fully aired during negotiations in the 1850s, the hui at which it was decided whether to raise the King's flag, and at the Kohimarama Conference.

The purchase of Te Awahou also reflected the increasingly questionable practices of a Native Land Purchase Department under pressure from settlers frustrated at the slowness with which lands were being acquired in the province and the colony as a whole. The land there, as at Ahuaturanga, was purchased before title was properly investigated and reserves defined. Most notable was the pressure placed upon Taratoa by Searancke who upbraided him – indeed threatened him –

for his reluctance to sell. Clearly, too, government officers played on tribal politics in order to further Crown objectives. Grindell followed a trend set by McLean, encouraging Rangitāne and the other Kuruhaupo iwi to pull together, while relying on 'jealousies' among Ngāti Raukawa and their allies to allow the transaction to go ahead. This policy would be repeated also by Featherston. At the time, Searancke had pressed for a successful purchase of land on the Manawatu River at Te Awahou to demonstrate that attempts to hold land in shared customary title could not be sustained if any of the right-holders wished to sell.

Although leasing continued to be favoured by a number of leaders, the distribution of rents would become increasingly contentious. We shall see in the following chapters that the differences that had emerged over Te Awahou would continue. Those who wanted to engage with the Crown successfully could only do so by means of sale (not by lease), and it had been demonstrated that it was not possible to maintain a unified anti-selling position if particular leaders and hapū were determined to remove their 'plank' from the ship. The long-standing desire of the Crown to acquire the Rangitīkei-Manawatū area would generate more tensions within the iwi and with their neighbours, and under Featherston's management of negotiations (as Superintendent of Wellington and Land Purchase Commissioner), leasing was deliberately attacked, being blamed for provoking inter-tribal violence.

In the meantime, the promises of a measure of self-government which had been offered in different forms – in the shape of the annual conference suggested at Kohimarama, and by means of 'new institutions' as proposed by Grey – had not proved of substance. There had been considerable interest in these proposals. At the Kohimarama conference; one of the most consistently expressed views was the wish of Ngāti Raukawa rangatira to engage with colonisation on terms of equality and to exercise rights and duties on the same ground with the same benefits as Pakeha enjoyed; that desire applied to matters ranging from land grants to service on juries and road building. Reaction to Grey's scheme of officially recognised local committees exercising powers of self-government, including the capacity to control the pace of settlement, had also been largely positive. Many local rangatira – those based at Otaki and lower Manawatu– had greeted the idea with enthusiasm; others such as Wi Hape, with a more cautious "wait and see" approach, being unwilling to abandon the Kingitanga until it was shown that the prospect of self-government was real. Such caution proved warranted. Once the military crisis in the Waikato had quietened, the Crown moved quickly to reduce any 'special treatment' of Māori, as exemplified by recognition of Māori rūnanga. As we discuss in the following chapters, Weld's self-reliant ministry of 1864 to 1865 would replace the new institutions with a court under a Pākehā judge with a much reduced role for Māori and with the deliberate intention of expediting the large-scale transfer of land to settlers or the Crown.

CHAPTER 6

FEATHERSTON'S 'PURCHASE'; RANGITĪKEI-MANAWATŪ, December 1862 – December 1866

6.1 Introduction

Isaac Featherston was appointed a land purchase commissioner in 1862 and took over responsibility for land purchase in the province, departing from prior Crown practice and operating, too, in a changed political and tribal context. One of the issues that have been much debated is the degree to which Featherston was responsible for various acts and events that undermined the hold of the iwi known as 'Ngāti Raukawa' of their hold on Rangitīkei-Manawatū. Had that hold not really existed in custom? Or did Featherston implicitly - and actively- support the rights of Ngāti Apa, Rangitāne, Muaupoko and Whanganui in the region because they were willing to sell? To what degree was he merely responding to the willingness of a growing number of the people of the heke as well, to sell in order to gain the many benefits of a defined title in 'reserves' and European settlement, or did he (and his assistant, Walter Buller) deliberately undermine the capacity of those wishing to retain their lands whether under customary or Native Land Court title?

There is no doubt that Featherston was extremely anxious to acquire the district, although he later represented himself as driven by circumstance - namely, the imperative to prevent tribal fighting. McLean had been willing to wait, pursuing a 'steady course of negotiation' to give time for discussion, adjustment of conflicting claims and, as he saw it, 'neutralising systematic opposition of those tribes who tenaciously resist the alienation of land and through whose interference others disposed to treat with the Government are prohibited from doing so.'[997] He disapproved of the payment of advances before title questions were largely if not fully resolved and boundaries clearly marked. A deed signing took place at large-scale hui and was affirmed at the determination of the point where the rights of the vendor were no longer challenged by their neighbours. Payments (in the case of Rangitīkei-Turakina) had been made and distributed in the open light of day and in instalments. Reserves were to be clearly defined and were to fulfil a range of functions from protection of mahinga kai to a place in future developments of their economy. That was the theory at least.

There was little doubt, too, in McLean's mind, that 'Ngāti Raukawa' were the dominant iwi south of the Rangitīkei River to the Kukutauaki Stream. While there were Ngāti Apa living at Ōmarupāpaka, whose rights he was determined

[997] McLean to Colonial Secretary, 24 August 1850, qMS-1212.

should be recognised, he acknowledged that it would be impossible to purchase that area without Ngāti Raukawa consent. His interest in Muaupoko was minimal at that point, and he contrasted their situation with that of Ngāti Apa, not having been similarly empowered by Ngāti Raukawa to dispose of any of the land on which they were living.[998]

Much of that changed when Isaac Featherston took over land purchase operations in the province. An outspoken critic of the government's policy at Waitara and a determined provincialist, he favoured as much control of policy as possible lying in the hands of provincial councils, including that over native land purchase. He advocated large-scale purchase of lands at minimal prices to satisfy the demands of pastoralists whose cause he championed and he was increasingly impatient of McLean's seeming reluctance to push purchase in the face of Ngāti Raukawa and Ngāti Kauwhata resistance.[999]

Like his Crown predecessors, he was anxious to obtain large tracts of open Maori land at minimal prices, though he was dismissive of 'small farm settlement; and unlike them, he had very little regard for the notion of making extensive, or even 'sufficient' reserves for a race he considered doomed to falter and fade. Hearn sees Featherston as 'autocratic, intransigent, and intimidatory, contemptuous of constitutional norms and procedures … ever prepared to defend and advance Wellington's interests; and determined to extinguish Native land titles wherever they imperilled or impeded his political and economic agenda.'[1000]

Initially Hadfield welcomed his appointment as a land purchase commissioner by the Fox ministry. After all, Featherston had been very critical of the handling of the Waitara dispute by the Stafford government and its unsettling effect on the Wellington province, as well as the expansion of the power of general government.[1001] However, Hadfield had soon changed his opinion, noting: 'It seems strange, but Featherston has recently been making a forced purchase of land (Rangitīkei) in a manner quite as discreditable as the Waitara one, if not worse.'[1002] The two men became bitter enemies over the question of the Rangitikei-Manawatu and more especially how he treated the rights of Ngati Raukawa.

He had gained some renown among Maori too for his defence of their rights at Waitara as proof of his fairness and concern for their political welfare and he was able to persuade Maori against joining the Kīngitanga. Ngāti Apa and Whanganui, Rangitāne, and through Kemp, Muaupoko. Such was his popularity among those tribes during the war crisis of 1865-66 that when he raised the

[998] McLean diary, 24 January 1849, MS-1224.
[999] Hearn, 'One past, many histories', p 199.
[1000] Hearn, 'One past, many histories', pp 198-9.
[1001] David Hamer, Featherston, Isaac Earl', https://teara.govt.nz/en/biographies.
[1002] Octavius to Charles Hadfield, 4 February 1867, Hadfield Papers, Vol 4, qMS-0900.

auxiliaries, they refused to fight unless he led them himself. Although extremely ill, he accompanied Major General Chute, leading the Native Contingent in several engagements during the West Coast campaign, notably at Otapawa, for which he was awarded the New Zealand Cross for bravery. Those events – and more particularly the arming of pro-government forces – came at a critical phase of negotiations for the Rangitīkei Manawatū block. From the perspective of Ngāti Raukawa non-sellers associated as they were with the Kingitanga, Featherston brought the oath of allegiance while ignoring traditional leadership and unfairly favouring the rights of their rivals in order to further his purchase ambitions.

Called in supposedly to help settle a dispute over the allocation of rents and prevent an outbreak of fighting, he quickly abandoned any notion of arbitration, accepted the Ngati Apa offer of sale, persuading Maori to hand over their rents supposedly to prevent any trouble but deliberately undermining the ability to retain the freehold. With purchase competition excluded by a special exemption of the area under the Native Land Acts, 1862 and 1865 from the operation of the land court, he set about making his own determination as part he purchased. He was assisted In that endeavour by Walter Buller, who had been appointed resident magistrate in 1862 (and had brought his own interpretations of the nature of customary tenure in the region to the issue), Featherston persuaded Maori to give the rents up into his hands and made his determinations of who held rights, gathering signatures to a deed without sorting out where their interests lay beforehand, nor a priority of authority – although he had divided them up into 'principal' with two other levels of claim whereby the former (he said) were all in agreement that the transaction should go ahead. Many of the early signatories were those with secondary rights, not resident on the land, and signatures were collected, too, away from the whenua at Wellington and Wanganui. The purchase became notorious: as related to Rogan by Maori at Ōtaki, it was the 'climax of all land purchases' when 'Mr Buller and Dr Featherston drove in a dog cart to Rangitīkei, spilled £25,000 out to be scrambled for, and left the settlement.'[1003]

With Fox, Featherston, and Buller came a change in official attitude as to the exercise of customary tenure and who held authority over the lands south of the Rangitīkei River. Ngāti Raukawa were seen now as living in the area on the sufferance of Ngāti Apa. That conclusion rested in part on the interpretations that had developed around the allocation of rights along the Kapiti Coast to various hapu participants within the heke. That will be examined closely in Professor Boast's report for this inquiry, but briefly stated, the new set of Crown purchase negotiators argued that Ngāti Raukawa came under Ngāti Apa authority because the allocation of rights purportedly undertaken by Te Rauparaha had extended only as far as the Manawatū River. In contrast, the further claim of Ngāti Apa and the Kuruhaupō tribes to have retained rights south of the Manawatū in territory already acquired by the Crown from Ngāti Toa was never seriously

[1003] Rogan to Chief Judge, 26 June 1871, Papers relative to the working of the Native Land Court Acts, *AJHR* 1871, A2A, p 13.

entertained and Pākehā ownership went unchallenged by this interpretation as to how rights had been established.

To the further dismay of Ngāti Raukawa, Ngāti Kauwhata, and Ngāti Wehi Wehi their rights in what they were told were their real 'homelands' in the southern Waikato and Maungatautari region were under threat. These lands were initially caught up in the Compensation Court machinery, but on falling outside the confiscation line, ultimately, went through the land court at the same time as their first West Coast blocks. Where in one case they were deemed to have no right by conquest but only rights based on residence, in the other, they were judged to have no remaining interests at Puahue, Pukekura and the Maungatautari blocks where they were judged to have been 'conquered' by Ngāti Haua and to have abandoned all their rights. This was so, despite evidence that they had left people on the land and continued to go back and forth.

As we explore further in this and the following chapter, there was a growing feeling among the hapū who had participated in the heke south that they had been tricked and even forced into this situation.

6.2 Featherston is appointed a Land Purchase Commissioner

In April 1862, Featherston was informed that 'in order to enable the present Government to avail themselves of your Honour's valuable aid and influence the purchase by the Crown of native lands in the Province of Wellington His Excellency the Governor has been pleased to authorise you while holding the Office of Superintendent of Wellington to act as Commissioner of the Extinguishment of Native Title in that Province.' A letter in te reo was provided to the same effect.[1004] Featherston announced his appointment to the Wellington Provincial Council in congratulatory terms: the province would now be relieved of the 'heavy expense and of the mischievous obstructiveness of the Native Land Purchase Department.' There would be a new era of land purchase under his personal management, resulting in harmony between General and Provincial Governments and in which disputes between Maori as to their land right would be adjusted rather than 'fomented'. Indeed:

> The Superintendent … cannot fail to acquire an accurate knowledge of the feelings, wishes, and requirements of the Natives and thus be able to second far more effectually, than he could otherwise do, His Excellency's Government in their endeavours to remove existing causes of irritation, and to revive that confidence in the Government which has been so grievously impaired by the proceedings of the late [Stafford] Administration [referring to the war]. While on the one hand there will be no solicitation – no teasing of the natives to part with a single acre of their lands, yet on the other hand, they well know and feel that in the event of their wishing to sell, they will not be subjected to the

[1004] Fox to Featherston, 7 April 1862, WP3, box 10, 186.

> vexatious delays hitherto occasioned by the necessity of referring every negotiation to a distant authority.[1005]

While Featherston did not know how much of the land purchase fund was now left, he feared that most of the £37,000 allocated to the Wellington Province would be found to have 'disappeared', with much of it 'frittered' away in departmental expenses. He asked the Council to authorise him to raise temporary loans so that he could carry on purchase operations, and this was done. On 4 June 1862, the Council authorised him to make payments for any blocks of land that could be purchased within the Province.[1006] He was empowered also to secure a temporary loan of up to £20,000 from a local bank if the Provincial government did not itself have the necessary funds, on the condition that those advances would be the first charge on any profits from the sale of the blocks acquired through these means.[1007]

Featherston had not yet started purchase operations in the district when the Fox ministry fell because of its native policy. It was replaced by the Domett government (August 1862-October 1863), which intended to bring in a new system of dealing with native land.

6.3 The exemption of Rangitīkei-Manawatū from the operation of the Native Lands Act 1862

In 1862, the Domett government introduced a Native Land Bill and, for the sake of getting it through the House, introduced a clause specifically excluding the 'Manawatū' from its operation, meaning the continuation of pre-emption by the provincial government. This provision was repeated in the Native Land Act, 1865, discussed more generally at chapter xx

Specifically, section 31 of the Native Land Act 1862 (and section 82 of the Native Lands Act 1865 which preserved the exception) provided that:

> And whereas by an Act of the General Assembly of New Zealand intituled the "Land Orders and Scrip Act 1858" it was provided that in certain cases within the Province of Wellington holders of Land Orders issued by the New Zealand Company and purporting to grant certain rights of selection should be entitled to select land in respect of such Land Orders within any blocks of land laid out by the New Zealand Company for selection at Manawatu or elsewhere within said Province whenever the Native Title to such blocks should be extinguished and by the same Act it should set apart or reserve out of any of the said Blocks lands for a Township or otherwise as in the said Act mentioned

[1005] 'Speech of His Honour', *Wellington Independent*, 9 May 1862, cited Hearn, 'One past, many histories', pp 316-7.
[1006] 'Provincial Council', *Wellington Independent*, 10 June 1862, cited Hearn, 'One past, many histories', p 217.
[1007] 'Provincial Council', *Wellington Independent*, 10 June 1862, cited Hearn, 'One past, many histories', p 217.

then and in that case the holders of such Land Orders should be entitled to select land in respect thereof out of any land laid out as Rural land within any District the Native Title whereto should at the time or within two years afterwards be extinguished. And whereas by reason on the indefinite extent over which the rights of selection so conferred as aforesaid may be held to run disputes may hereafter arrive as to how far such rights would interfere with the operation of this Act and for the purpose of preventing such disputes it is expedient to define and limit the exercise of such rights in manner hereinafter mentioned.

Be it enacted that all rights of selection by the said Act conferred upon the holders of land orders of the New Zealand Company within the Province of Wellington shall be exercised and exercisable within the Block of land called the "Manawatū Block" described in the Schedule to this Act whenever the Native Title to the said Block shall have been ceded to Her Majesty and not otherwise or elsewhere and the said Block shall accordingly be and be deemed to have been excepted from the operation of this Act and the Native Title therein shall only be capable of being extinguished by Her Majesty.

Section 32, which was preserved under section 83 of the 1865 Act, dealt with 'pending agreements for cession of Territory to be completed' stating:

And whereas at various times agreements have been made between the Native owners of land in various Districts on the one part and officers duly authorised to make or enter into the same on the other part for the cession of Native Territory to Her Majesty but such agreements are not yet completed and it is expedient to provide for the completion thereof according to the intention of the parties thereto at the time of making or entering into the same.

Be it enacted that all Native Territory affected by any agreements so made or entered into whereof there is evidence in writing shall be and be deemed to have been excepted from the operation of this Act and such agreements may be carried to completion according to the intention of the parties thereto as aforesaid in like manner as if this Act had not passed.

In fact the New Zealand Company never had any other than a pre-emptive right in the Manawatu block but the holders of Land Orders were considered to have an equitable right to their original selection which was legally provided for by Clause VI of the Land Orders and Scrip Act 1858. The Native Lands Act 1862 recited that provision contained, but erroneously excepted a much larger area than that surveyed by the Company.

Rangatira at Rangitīkei-Manawatū were not informed of this intention and so this came as something of a shock to them when they eventually found out after the passage of the 1865 Act and the effective introduction of the Native Land Court throughout much of the colony. Ihakara Tukumaru and others like him who had been persuaded of the importance of a Crown-recognised title were immediately

suspicious, and offended by the lack of discussion of issues directly affecting their rights. Opponents of the sale of the block were equally outraged, pleading repeatedly that the law be changed before the land was sold out from under them by those who, they said, did not have the primary right.. .

The Manawatū exemption was crafted by the Domett ministry to gain the support of the Wellington Province members of the House for the wider measure that was intended to reformulate native policy and bring to an end the Crown pre-emption system of native land purchase. Under the new system, its proponents argued, Maori would regain the right to manage their own lands and would readily sell once they were confident of securing better values when the market was opened to private purchasers rather than the low returns (but supposedly large reservations) offered by the Crown as the sole purchaser. However, it would be necessary first to determine title before any lease or purchase could be made. Dillon Bell (who was in charge of the Native Office as well as Member for Wallace) explained to the House: the proposal was to take decisions as to ownership out of the hands of civil commissioners who were but poorly qualified for such a task and, instead, constitute Courts to ascertain, define, and register the Native ownership. After this had been done, 'the owners should be relieved from the restrictions we have placed upon them for the last twenty years as to the disposal of their land.' [1008]

The Bill was debated at length, on its introduction in 1862, but despite the unique character of the exemption, Manawatū was little mentioned in a direct sense, encompassed, rather, in the claims of the members from the Wellington Province that the measure would interfere with engagements already made, as well as its future capacity to fund the infrastructure of colonisation through native land purchase. We look more particularly at the second reading, which preceded the amendment, which was worked out at the committee stage.

The promoters of the Bill, notably Mantell (at that point, Secretary for Crown Lands) and Dillon Bell (Native Minister), argued that it would restore Maori to their Treaty rights by enabling them to deal with their lands as they wished and at a fair market price, condemning the former 'very dirty business' of the Native Land Purchase Department.[1009] Its opponents defended the old system, also invoking the Treaty and the protection of pre-emption. The Bill would be a land-sharking measure; it would destroy systematic colonisation and undermine the peace of the colony; it would reduce some of the provinces to bankruptcy; it was a violation of the financial settlement of 1856 under which the public burdens of debt between the Middle and North Islands had been adjusted;[1010] and if Maori

[1008] *NZPD*, 1861-63, p 611.
[1009] *NZPD,* 1861-63, p 620.
[1010] See discussion at chapter 5.

were given such rights, they must also be subject to taxation equally with European property-owners.[1011]

In the debates for the second reading of the Bill, government members set about refuting these criticisms. Competition for the land would prevent land-sharking, it was argued. According to Dillon Bell:

> [T]here will be such an amount of competition among intending European buyers – such an effect on the Europeans and Natives from the immutable laws of supply and demand that the mere land-shark – if you must give this nickname to any speculator in land – would get an extremely small advantage compared with the advantages got by the large number of people whose capital and enterprise would be directed to the purchase of Native lands.[1012]

He scoffed at the notion of 'systematic colonisation' pointing to Waikato, Taranaki, and Manawatū as examples of where the right of pre-emption had led. Nor had it resulted in opening up the country to colonisation: 'With all your principles of systematic colonisation you have not been able to get the land on which to colonise.' Ploughers of land, the builders of roads, schools and villages, he argued, would produce better results than allowing lands to lie idle and 'be destroyed by thistles' making them suitable only for grazing by the large run-holders.[1013]

Dillon Bell was, however, far more conciliatory when it came to any difficulties the change of system might entail for the provinces in terms of its operations and engagements already made, thus opening the way for Featherston and his allies in the House – Fitzherbert, Carter and the other members for the Wellington Province– to reserve the exclusive right of purchase in the Manawatū - although, we note, Ngāti Raukawa and other iwi asserting rights in those lands ultimately would not be spared the negative impact of the land court's operation in the district.

He affirmed the financial arrangements reached in 1856 and did not see these as affected in any way. He also invited members from the North Island provinces to come up with some sort of arrangement whereby their concerns about their current land purchase negotiations could be allayed:

> I wish to take this opportunity of repeating that the Government will be ready to receive from members representing the North Island provinces, and to give every possible effect to any proposals having for their object to prevent any breach of faith with regard to arrangements now pending any contracts for sale or otherwise are already engaged. I shall myself propose a clause by which all contracts and pending negotiations will be

[1011] *NZPD*, 1861-63, p 612.
[1012] *NZPD*, 1861-63, p 612.
[1013] *NZPD*, 1861-63, p 612.

> saved; so that this law shall not put a stop to anything actually undertaken on the part of the province.[1014]

There would be, however, no province-wide exception to the operation of the Act. Still, a door had been indicated as open to the Wellington provincialists of protecting their purchase programme and assuage their financial difficulties. As for taxing Maori if they were to make large sums of money by the lease, or sale of land, the Government was sure that this would be 'perfectly fair.' Dillon Bell thought that there would be no difficulty in persuading Maori to pay taxes for the maintenance of roads and the 'improvement of the country they retain if you let them have the value of what they sell'.[1015] It would be necessary, however, that they be represented in parliament – then it would be the point at which to discuss such matters.

Dillon Bell appealed directly to William Fox, as the member for Rangitīkei and a man with influence among Maori, to support the Bill and not give them the idea that rights were made 'battledores and shuttlecocks' of party politics. Instead: 'Let us together give them the most practical proof we can of our desire to be united with them.'[1016]

Mantell picked up the theme of the Treaty of Waitangi:

> [T]he Bill was simply proposed to give to the Natives the right we guaranteed to them by the Treaty of Waitangi. Since that time we had managed to surround that ownership with so many qualifications that de facto we had deprived them of any interest in those lands. This question lay at the very root of the differences between ourselves and the Natives which was the curse of New Zealand.[1017]

Mantell told the House that although previously involved in land purchase operations himself, he had become so disenchanted that he had resolved to 'have nothing more to do with such transactions'. He was, he said, 'totally dissatisfied with the course which the Government had taken, buying the Natives' land for the least possible amount and making a profit out of it'. The result had been incomplete purchases and vague boundaries that were open to subsequent challenge and dispute. George Graham – the member for Newton – also spoke in support of the measure, arguing that: 'Not one Native would have signed the Treaty of Waitangi if they had not understood that, if the Crown would not buy, they might still sell to others that would…' and he appealed to the House to now legalise that right. It had not been the run-holders who had caused the war in the Wairau and the Hutt Valley, he pointed out.

An attempt to bring the debate to adjournment failed, and Carter (member for Wairarapa) spoke against the Bill; of the need for colonists who would bring

[1014] *NZPD*, 1861-63, p 613.
[1015] *NZPD*, 1861-63, p 613.
[1016] *NZPD*, 1861-63, p 615.
[1017] *NZPD*, 1861-63, p 620.

lands under cultivation rather than 'that class of capitalist who from their avaricious natures were termed land-sharks, who, as the Bill now stood, could buy up the land wholesale'.[1018] He argued that the Bill would 'inflict serious injury on the province of Wellington, where Native lands could be acquired under the present system, where negotiations were pending, and where, in the Manawatū district, a block of a quarter million acres [apparently referring to Ahuaturanga] had actually been surveyed ready for sale'.[1019] Carter proposed to the House that certain portions of the province 'fit for colonisation' should be exempted to avoid bankruptcy.[1020] Williamson also spoke against the measure, and the turnabout by former opponents of direct purchase, arguing that pre-emption had been a real protection, resulting in a gradual alienation of surplus lands by Maori and a regular British colonisation.[1021] Nor, he said, could he believe that a treaty made between the Queen and Maori could be cancelled in this way.

Featherston stood up towards the end of the debate, making a 'solemn protest' against the Bill and endorsing the views already expressed by Carter and Fitzherbert: the Bill would ruin the province financially and damage the whole colony. He embarked on a vigorous defence of Crown pre-emption as a fundamental principle of the Treaty of Waitangi and condemned the Bill as an assault on the Queen's sovereignty. If the House could waive the one it could waive the other. It abnegated the 'fundamental principle of the Treaty of Waitangi'. He blamed the war in Taranaki on the Governor's 'practical denial of the Treaty' and predicted 'still worse results' should the Bill become law. He also re-raised the spectre of land-grabbing, arguing that, without pre-emption, the land would have fallen prey to land-sharks for nominal sums, who would then have made no investment in infrastructure, holding it in an 'idle state in the hope of getting a large price for it in the future'. He argued that Maori would be entitled to compensation if they had been served unjustly by being induced to accept low prices for their lands over the past twenty years; but he did not believe this to be the case since, 'No sane man believed that the Natives had not received full value for the land sold by them to the Government, the land having no value but what it acquired by colonisation, and the Government, however high the price of land, deriving no profit for that price, which was returned to the land in the shape of works etc'.[1022] There were 'four million acres' of native land still unpurchased, and the 1856 arrangements would never have been accepted if it had not been thought that they (the provinces) would retain the right of pre-emption. The Bill was a 'gross violation' of those understandings, 'depriving the provinces of the only means of carrying out improvements, or discharging one single function of

[1018] *NZPD*, 1861-63, p 623.
[1019] *NZPD*, 1861-63, p 624.
[1020] *NZPD*, 1861-63, p 624.
[1021] *NZPD*, 1861-63, p 643.
[1022] *NZPD*, 1861-63, p 647.

colonisation'.[1023] He dismissed proposals that a court be established to ascertain title as 'the veriest shams – conditions that would be ignored and despised by both European and natives'.[1024]

He and all the Wellington members voted against the Bill's second reading.[1025] Over the next two weeks the measure continued to pass through the House. In the Legislative Council, a handful of members spoke at length but, Gilling points out, 'the Manawatū was never mentioned again'.[1026] However, the Wellington members had achieved their goal. They withdrew their opposition during the committee sessions of the House when their concerns (as Dillon Bell had indicated) were alleviated by the government by the addition of an exemption clause. This was moved by William Fitzherbert, the member for Hutt who proposed:

> (1) That those districts in the Province of Wellington within which the Native title has been partially extinguished, (2) or in which European settlements have been established, (3) or in respect of which instalments have been paid or negotiations already commenced, shall be exempted from the operation of the Act, which districts are severally more particularly described in the Schedule to the Act.[1027]

Dillon Bell, true to his word, then moved the Manawatū amendment as it stands in the Act with its reference to the Land Orders and Scrip Act and the Manawatū block as described in the schedule.[1028]

6.4 Featherston's negotiations 1863–1865

There is no doubt that Ngāti Apa became more assertive of their rights in the late 1850s and 1860s; a change that a number of contemporaries, and historians since, have attributed to pax Britannica; and others, contrarily, to their arming and to the actions of government officials. We have already noted that McLean had encouraged Ngāti Apa to call upon the support of Rangitāne, Whanganui and Kahungunu while discouraging any connection between the tangata heke on the coast and the iwi of the interior.

With the outbreak of war, the fortunes of Ngāti Apa, Rangitāne, and Muaupoko rose, while those of Ngāti Raukawa, Ngāti Kauwhata, Ngāti Wehi Wehi, Ngāti Tūranga, Ngāti Tūkorehe, and the other hapu fell. None of the iwi asserting interests in the lands between the two rivers were immediately unanimous in their

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[1023] *NZPD*, 1861-63, p 648.
[1024] *NZPD*, 1861-63, p 647.
[1025] *NZPD*, 1861-63, p 654.
[1026] B Gilling, '"A Land of Fighting and Trouble": the Rangitīkei-Manawatū Purchase', report for CFRT, 2000, p 95.
[1027] *Journals of the House of Representatives*, 1862, p 131, cited in Gilling, 'Land of Fighting', p 96.
[1028] *Journals of the House of Representatives*, 1862, p 137.

siding with the kawanatanga as the colony moved towards war. There were intra-hapu divisions among both the tangata heke who had settled the region between Kukutauaki and the Rangitīkei River and among Ngāti Apa and their allies, and Rangitāne. Bruce Stirling has shown, for example, that Taueki supported the Kingitanga.[1029] Kāwana Hūnia also started off by supporting the Maori King although he was to change his stance. The branch of Rangitāne residing at Puketōtara also were known as 'kingites' although their leaders Peeti Te Aweawe and Hoani Mehana Te Rangiotu were staunch 'loyalists'. As described in the preceding chapter 'Ngati Raukawa' had been politically divided but included known adherents of the Kingtianga. such as Ngāti Huia rangatira Karanama who retained close connections in the south Waikato,[1030] while Katihiku and Pukekaraka was acknowledged as a centre of support for the King party. to which Ngāti Tukorehe adhered. Ngāti Kauwhata, Ngāti Wehi Wehi and the hapu based inland, who retained strong links with Ngati Manaiapoto and Tuwharetoa also supported the Maori King. Concerned for the fate of their kin, small but significant parties of warriors would be involved in the fighting in Waikato (1863=64), second Taranaki war (1863-66) and it would seem, even in a few instances, in the Tauranga campaign (1864). As a result, the allegiances of 'Ngati Raukawa' as a whole remained suspect in the eyes of Europeans, including Crown officials, in these years; this despite the strong kawanatanga sentiments of many among them and efforts by all to adhere to a peaceful path when confronted by tribal violence in the late 1860s and 1870s.

6.4.1 From arbitration to purchase

There had been increasing contest over the lease of land for grazing and timber milling in the late 1850s and early 1860s. Successive colonial administrations had turned a blind eye to a supposedly illegal activity. As noted earlier, run-holders were an influential entity in New Zealand politics and the local economy. McLean's early instructions had been to use its powers sparingly as he set about purchase operations so as not to 'give more annoyance or inflict more injury upon any squatters that may be necessary'.[1031] That policy had held in the 1850s. and leasing had expanded into the Manawatu region largely unchecked so that Searancke complained that Maori were demanding high prices for their lands, adding to the many difficulties he faced in complying with his instructions.[1032] A return tabled before the House of Representatives in 1864 showed that a considerable extent of territory was being leased by the 1860s. South of the Rangitikei River there were some 150,000 acres under lease, generating considerable revenues for the Maori right-holders. Most of the rents were shared but the arrangements appear to have come largely under Nepia Taratoa's

[1029] B Stirling, 'Muaupoko Customary Interests', September A183, pp 171-4.
[1030] R Boast, 'Ngati Raukawa, Custom, Colonisation and the Crown, 1820-1900', CFRT, draft October 2017 , p 16.
[1031] Eyre to McLean, 24 September 1849, Ms-papers 0032-261.
[1032] Hearn, 'One past, many histories', p 240.

authority up to the time of his death in 1863. Ngahina although he maintained that Ngāti Apa had the mana to enter into their own arrangements acknowledged (in later land court testimony) that an early dispute over a mill at Makowhai had been settled by Taratoa.[1033]

Table 6.1: Lessees, Rangitīkei, Horowhenua, Manawatū

Lessee	Nature of Tenancy	Area (a.r.p.)	Annual Rental (£.s.d.)	Locality	Lessors
James Cootes	Free gift	500.0.0	-	Kapiti Island	-
Thomas Dodds and William Dodds	Lease for 21 years	12.0.0	£9.0.0		Arapata Hauturu, Ngatikikopiri, Hinenuitepo and Puke, Ngatipare
	Free gift	10.0.0	-	Waikawa	-
Thomas Bevan	Lease for 15 years	800.0.0	£20.0.0	Waikawa	Paora Pohotiiraha, Ngatiteihuhi
Hector McDonald	'Free gift to occupier's half-caste son'	43.0.0	-	Horowhenua	-
	Lease for 12 years	2,000.0.0	£25.0.0	Horowhenua	Whatanui, Ngatiraukawa
	Yearly tenancy	2,000.0.0	£30.0.0	Horowhenua	Puke, Ngatipare, Horomona, Ngatiraukawa
	Lease for 12 years	1,000.0.0	£8.0.0	Horowhenua	Puke, Ngatipare, Horomona, Ngatiraukawa
	Lease for 6 years	3,000.0.0	£52.0.0	Horowhenua	Whatanui, Ngatiraukawa, Noa Te Whata, Kowhai—Muaūpoko

[1033] Ōtaki MB No. 1E, 17 April 1868, p 656.

Lessee	Nature of Tenancy	Area (a.r.p.)	Annual Rental (£.s.d.)	Locality	Lessors
Thomas Cook	Lease for 15 years	20,000.0.0	£60.0.0, increasing by £10 p.a. for each of the first four years, then remaining at £100 for remainder of term	'From the sea-beach midway between the Manawatu and Rangitikei Rivers to the Oroua River'	Hunia Te Hakeke, Rawiri Takaoi, Ngatiapa; the representatives of Kuruho Rangimaru, Aperahama, Matehuru, Hemara; the representatives of Paratene, Ihakara, Tukumaru, Keremeneta—Ngatiraukawa; Kerei Te Panau, Te Peeti Te Aweawe, Hone Te Rangipouri—Rangitane; Te Kaero, Te Ono, Te Reihana, Te Piki, Te Nera, Te Angiangai, Mateawa

Lessee	Nature of Tenancy	Area (a.r.p.)	Annual Rental (£.s.d.)	Locality	Lessors
	Lease for 14 years	20,000.0.0	£113, increasing by £9 p.a. for each of the first four years, then remaining at £149 for remainder of term	‘Along sea-beach from S. bank of Manawatu river to Karangai, within 2 miles of Horowhenua stream. Block extends inland to an average depth of 4 miles’`	Te Matenga, Te Matia, Te Moroati, Kiharoa, Te Aomarere Puna, Hoani Taipua, Merata; the representatives of Hukiki, Roera Hukiki, Ropata Te Ao, Kiharoa Te Mahauariki, Hema Te Ao, Puieha Te Mahauriki, Ihakara Tukumaru, Poutu, Arona Te Kohatu—Ngatiraukawa; Popo Rau, Tanihana Te Hoia, Epiha Taitinui, Kireona Whamaro, Hutana—Ngatihuia; Hona Te Purangi, Takerei Nawe, Raureti Nga Whena, Waretini Te Tahora—Ngatiwakatere

Lessee	Nature of Tenancy	Area (a.r.p.)	Annual Rental (£.s.d.)	Locality	Lessors
Francis Robinson	Lease for 15 years	20,000.0.0	£50, increasing by £10 p.a. for each year of occupation	'On the sea coast between Manawatu and Rangitikei rivers'	Nepia Taratoa, Parakaia Poenpa; representatives of Paratene Taupiri, Nerai Ngatuna, Pitihira Te Kuru, Roera Rangihenea; representatives of Kuruho Rangimaru—Ngatiraukawa; Matene Matuku, Timihane Te Kaha—Ngatiapa; Rapana—Ngatikauwhata; Rupene—Ngatikauwhata; Hoani Meihana—Rangitane
Stephen C. Hartley	Yearly	0.2.0	£4.0.0	Pohuetangi on Manawatu river	Watikena, Ngatiwakatere
	Lease for 21 years	0.2.0	£1.10.0	Pohuetangi on Manawatu river	Ahitara, Ngatiwakatere
Alexander Gray	Lease for 5 years	8.0.0	£5.0.0	Te Awahou, Manawatu	Wereta, Ngatiraukawa
Albert Henry Nicholson	Free gift	700.0.0	-	Adjoining S. bank of Manawatu river	Relations of Caroline Whawha, married to

Lessee	Nature of Tenancy	Area (a.r.p.)	Annual Rental (£.s.d.)	Locality	Lessors
	Free gift	700.0.0	-	Near S. bank of Rangitikei river	Nicholson's brother, granted the land to her and her children.
John Haslam	Written agreement	730.0.0	£100.0.0	Kahutoraw a in district of Manawatu	Te Peeti Te Aweawe, Rangitane
	Written agreement for sale	100.0.0	-	Kahutoraw a in district of Manawatu	-
	Written agreement	1,900.0.0	£80.0.0	Papaihoea in district of Manawatu	Te Huru, Rangitane
	Written agreement for sale	100.0.0	-	Papaihoea in district of Manawatu	-
Alexande r Winks	Verbal agreement, no term specified	20.0.0	-	Parewanui Reserve, Rangitikei	Rewiri Takaoi, Ngatiapa
William Waring Taylor	Written agreement	500.0.0	£10.0.0	Parewanui Reserve, Rangitikei	Ritamona, Ngatiapa

Lessee	Nature of Tenancy	Area (a.r.p.)	Annual Rental (£.s.d.)	Locality	Lessors
William Adams	Verbal agreement, no term specified	'Occupier (a native of Africa) lives in a small hut on the reserve, but holds no loand other than the few feet covered by the whare'	-	Parewanui Reserve, Rangitikei	Rawiri Takaoi, Ngatiapa
Donald Fraser	Lease for 21 years	500.0.0	£15.0.0	Parewanui Reserve, Rangitikei	Rupene, Ngatiapa, Hakaraia, Ngatiapa, Ripeka, Ngatiapa
	Written agreement to hold until land fenced in by owners	60.0.0	£5.0.0	Parewanui Reserve, Rangitikei	Hunia Te Hakeke, Ngatiapa
Philip Bevan	Lease for 25 years	35.0.0	£10.0.0	Waikone district of Rangitikei	Rupene, Ngatiapa

Lessee	Nature of Tenancy	Area (a.r.p.)	Annual Rental (£.s.d.)	Locality	Lessors
Edward Daniell	Lease for 7 years	16,000.0.0	£75 increasing by £5 p.a. for each year of lease	S. bank of the Rangitikei river	The representatives of Nepia Taratoa, Miniata, Kereopa, Hare Reweta, Te Rei Te Paehua Aperahama, Tuoi—Ngatiraukawa, Rupene, Papaka, Henara, Rakawa, Reweti, Pokkura, Hoani Te Rangipouri, Nahona Te Ahu, Pera, Moetai—Ngatiapa
John Cameron	Verbal agreement for 9 years	8,000.0.0	£60.0.0	Wakori, near the Manawatu river	The representatives of Nepia Taratoa, Ngatiraukawa, Hamuera, Ngatiapa
William J. Swainson John Jordan	Lease for 15 years	9,000.0.0	£60 increasing by £10 p.a. for each of	On Oroua plains, five miles from the S. bank of the	'Since the death of Nepia Taratoa (a party to the lease), series

Lessee	Nature of Tenancy	Area (a.r.p.)	Annual Rental (£.s.d.)	Locality	Lessors
Joseph William Jordan			the first 4 years, the rent then to remain at £100 for 5 years, and £150 p.a. for the remaining 5 years	Rangitikei river.	disputes have arisen between the Ngatiraukawa and Ngatiapa, regarding the right to this land'
Charles Blewitt Alex McDonald	Lease for 7 years	8,000.0.0	£30 increasing by £10 p.a. for each year of occupancy	Wakaari plains between the rivers Manawatu and Rangitikei	Representatives of Nepia Taratoa, Ngatiraukawa
John Williams Marshall	Lease for 10 years	500.0.0	£20.0.0	N. bank of the river Rangitikei and adjoining sec. XX Rangitikei	Utiku, Ngatiapa, the representatives of Moroati, Ngatiapa

Lessee	Nature of Tenancy	Area (a.r.p.)	Annual Rental (£.s.d.)	Locality	Lessors
James Alexander	Verbal permission to occupy until cattle shall be removed—lease surrendered in consequence of disputes between Ngatiraukawa, Ngatiapa and Rangitane	40,000.0.0	None specified	On sea coast adjoining S. bank of the river Rangitikei	Principal lessors were Kerei Te Panau, Peeti Te Aweawe, Hoani Meihana, Patiriki Te Atua, Maehi Te Kihi—Rangitane, Ratana Ngahina, Kawana Hunia, Mohi Mahi, Rawiri, Takaoi—Ngatiapa
Benjamin William Rawson-Trafford	Lease for 17 years	11,000.0.0	£55 increasing at the end of seven years to £100	S. bank of the river Rangitikei	The representatives of Nepia Taratoa, Nepia Winiata, Aperahama Te Hurahura, Noa Te Ranahihi, Paranihi Te Tau, Wiremu Pukapuka, Te Rei Paihua, Ngawhaka, Patoroup Tinga, Hau Reweti, Ngawhaka, Ahitara, Eruera, Mauahi Te Mu—Ngatiraukawa

Lessee	Nature of Tenancy	Area (a.r.p.)	Annual Rental (£.s.d.)	Locality	Lessors
Frederick O'Donnell	Free gift	100.0.0	-	Matahiwi, on S. bank of the river Rangitikei	-
Robert Glasgow	Verbal agreement for 5 years	200.0.0	£10.0.0	Near village of Turakina	Watekini, Ngatiapa, Hunia Te Hakeke, Ngatiapa
Adam Glasgow	Verbal agreement from year to year	100.0.0	£5.0.0	Near village of Turakina	Rupene, Ngatiapa
Charles Cameron	Lease for 10 years	11,000.0.0	£150.0.0	Between the rivers Turakina and Wangaehu	Aperahama Tipae, Hapurona, Ihakara, Watekihi—Ngatiapa
Alexander Simpson	Written agreement to pay composition for sheep trespass	3,000.0.0	-	On sea-coast between Turakina and Wangaehu rivers	Rupene, Ngatiapa
John Chapman	Lease for 10 years	200.0.0	£20.0.0	Adjoining the main road, near the village of Turakina	Reweti, Karene, Hone, Waitere, Tiepne, Arapata, Hirea Piripi Huruterangi—Ngatiapa

Lessee	Nature of Tenancy	Area (a.r.p.)	Annual Rental (£.s.d.)	Locality	Lessors
Frederick Richards	Lease for 12 years	2,000.0.0	£75 increasing by £5 each year until the rent shall reach £120, at which amount it shall remain for residue of term	On sea-coast adjoining S. bank of the river Wangaehu	Te Munu, Ngatiapa

Table based on data from 'Return of Persons Occupying Native Lands', November 1863, *AJHR*, 1864, Sess. I, E.-10, pp. 7–16

Increasingly confident by reason the alliance they had formed with the Crown during the Taranaki war, their acquisition of arms and the support of Whanganui, with Nepia Taratoa gone, and apparently spying an opportunity in the questions that had arisen over Ngati Raukawa's political disposition, they began challenging lease arrangements in earnest; in the view of Ngati Raukawa, they became 'covetous' wanting all the revenues for themselves.[1034]

The question of the leases and the conflicts associated with them would be canvassed at length during the course of the Native Land Court hearing at Himatangi in March 1868. Numerous witnesses detailed the nature of the leases, the relationships between the various parties, and the conflicts that followed between those parties. For example Hoani Meihana Te Rangiotu told the Court that he had been included in a lease of land to a Pākehā farmer, a Mr Robinson, that had been concluded by two parties, one led by Nepia (with interests in Omarupapaka), the other by Parakaia (with interests in Himatangi). Te Rangiotu believed the lease had been signed in 1861. Ngāti Apa had asked to be included as part of Parakaia's party, but objections to this were raised by Ngāti Rakau and Ngāti Te Au, and so they were not included. In any event, the agreement that was reached stipulated that the rent received each year would be divided evenly between the two parties—in the first year, the rent was to be £40, in the second year £50, and in the third year £60.[1035] Meihana's account was subsequently

[1034] Letter from Nepia Taratoa, son of Nepia Taratoa, in T C Williams, *A Letter to the Right Hon W E Gladstone, being an appeal on behalf of the Ngati Raukawa Tribe*, Wellington, 1873.
[1035] Hoani Meihana, 18 March 1868, Ōtaki MB No. 1C, p. 274.

corroborated and expanded on in the evidence of several further witnesses, including Parakaia Te Pouepa, Roera Rangiheuea, Aperahama Te Huruhuru, Amiria Te Raotea and Henare Te Herekau.[1036] Parakaia told the Court that Robinson had had a lease from Nepia, Ihakara and Hukiki before 1861, and that he, Parakaia, had received £5 (one-third of the total rent) in recognition of his interests. Parakaia also confirmed that Kāwana Hunia had pressed him to allow Ngāti Apa to join in the leasing arrangement. According to Parakaia, some of the Ngāti Apa had previously joined in a leasing arrangement with Ngāti Kauwhata, and it was for that reason that he both refused to have them join with him and that he insisted on making the distinction between his party and that of Nepia clear. Both he and Nepia were in agreement that the rent would be divided, with the two rangatira receiving one half each.[1037]

Kooro Te One spoke in some detail regarding the dispute between Ngāti Raukawa and Ngāti Apa that began in 1863.[1038] Ngāti Apa had been allowed to share in the first lease, he said, but then they 'did not consider the kindness' of Ngāti Raukawa.[1039] They 'came over Rangitikei to this side to cultivate', at which time Raukawa lent them seeds for the purpose.[1040] But then Apa built 'Wharekura' in which they planned to hold meetings 'to devise means of ejecting Ngati Raukawa'.[1041] Ngāti Apa then took the rent from a lease that had been set up by Ngāti Kauwhata and Ngāti Parewahawaha—an inquiry was held and Ngāti Apa were found to have acted wrongly. Then Ngāti Apa began suggesting that Ngāti Raukawa ought to go to Maungatautari, but this only made Raukawa angry. 'Ngati Apa and we have been friends,' they said, 'we shall be strangers.'[1042] Te Rangiotu, however, cautioned patience. The rents were soon to come due, he said, and if Raukawa just waited until then, they would soon know Ngāti Apa's true attitude towards them. This Raukawa did, only to find that Ngāti Apa would not share the rent with them. In due course, it was Ngāti Apa and Rangitāne who agreed to share the rent between them. But when they went together to Whanganui to collect the rent, Apa left Rangitāne on one side of the river, crossed over and took the rent for themselves. Angered by this, Rangitāne approached Ngāti Raukawa for help, asking them to drive away the cattle that were on the land.[1043] This, Te One said, was the 'cause of the talk about Ngatiraukawa going to Rangitikei to occupy'.[1044] Ngāti Apa's 'evil' was, said Te

[1036] Parakia Te Pouepa, 18 March 1868, Ōtaki MB No. 1C, pp. 275–277; Roera Rangiheuea, 18 March 1868, Ōtaki MB No. 1C, pp. 277–278; Aperahama Te Huruhuru, 19 March 1868, Ōtaki MB No. 1C, pp. 280–281; Amiria Te Raotea, 19 March 1868, Ōtaki MB No. 1C, pp. 281–282; Henare Te Herekau, 19 March 1868, Ōtaki MB No. 1C, p. 284.
[1037] Parakia Te Pouepa, 18 March 1868, Ōtaki MB No. 1C, pp. 276–277
[1038] Kooro Te One, 19 March 1868, Ōtaki MB No. 1C, p. 285.
[1039] Ōtaki MB No. 1C, p 286.
[1040] Ōtaki MB No. 1C, p 286..
[1041] Ōtaki MB No. 1C, p 286.
[1042] Ōtaki MB No. 1C, p.287.
[1043] Ōtaki MB No. 1C, pp 287–288.
[1044] Ōtaki MB No. 1C, p 288.

One, 'now manifest'.[1045] Needless to say, Ngati Apa interpretations were different and we refer the reader to Hearn's synopsis.[1046] Ratana Nga Hina for example spoke of Ngati Apa's lease to James Alexander: rejecting earlier testimony that it had been arranged by Nepia Taratoa who had let them into the rents so that they could join in building a mill. 'It was not Nepia who arranged the lease. First lease of Makowhai was granted to Mr Alexander in 1858. We (the Ngatiapa) agreed with Mr Alexander for him to occupy Makowhai,' he told the court.[1047]

Official reports confirm that Ngati Apa refused the peaceful offers of compromise – a three-way split between the tribes - using 'insulting expressions' and demanding that Ngati Raukawa 'stand aside' and leave the land.[1048] The matter escalated with 'Ngati Raukawa' and Rangitane agreeing at a hui held at Puketotara in July, vowing to stand on their strict rights and assume the ownership of the entire land in dispute. The issue came to a head, in the winter of that year, as Ngāti Raukawa and Rangitāne on one side and Ngāti Apa on the other 'took active and vigorous measures' to enforce their claims, building pa and preparing for war. An attempt by Buller and Tāmihana Te Rauparaha to get the parties to disperse failed, and Fox intervened, not, he said, as a Crown minister (being then out of government power) but as a 'friend of both contending parties'.[1049] He warned officials that the dispute 'if not promptly disposed of, threaten[ed] to involve the Europeans, and to complicate the relations of the races in this District in a manner which may be attended with serious consequences'.[1050] Both he and Buller proposed arbitration along the lines of that undertaken at Kaipara when fighting broke out between Te Parawhau and Ngāti Wai. At first Ngati Raukaw agreed and Ngati Apa refused. Then after several days of negotiation, Fox seemed to have won the agreement of both sides to refer the matter to some form of arbitration, though two immediate obstacles remained: Ngāti Raukawa's occupation of the disputed land at Kaihinu and the rents that would accrue in the meantime. How exactly these should be dealt with was unclear. The leases were a potential embarrassment to the government. Fox thought that the government would have to put its scruples aside and manage the situation. Fox recommended that the Governor himself should conduct the arbitration and at Maori request, wrote asking for immediate action. Buller agreed that direct Crown arbitration was needed and suggested a formal court hearing as the only way to resolve conflicting accounts and permanently settle the dispute.[1051] He also urged upon the government the 'importance of seizing without delay so fitting an opportunity for at once disposing of a difficult and

[1045] Ōtaki MB No. 1C, p 288,
[1046] Hearn, 'One past, many histories', pp 266- 269..
[1047] Otaki minute book, No. 1E, p 656.
[1048] Report of meeting at Parewanui, 23 May 1863, MA 13/69a.
[1049] Fox memorandum for Native Minister, 19 August 1863, MS-Papers 0083-236.
[1050] Fox to Buller 1863, 19 August 1863, MS-Papers 0083-236, cited Gilling, 'Land of Fighting', p 75.
[1051] Buller to Fox, 27 August 1863, MS-Papers 0083 236.

dangerous land question, and of placing the relations of these tribes on a more friendly and safe footing for the future'.[1052]

Ngati Apa continued to resist arbitration and to attempt to provoke a response from Ngati Raukawa; however, in his report back to the Native Minister, on 31 August 1863, Buller advised he and Fox, assisted by Tāmihana Te Rauparaha, had managed to persuade the contending parties to submit the question to a Court of Arbitration and to abide by its decision. He also .explained the position of the question when the Rangitīkei purchase was negotiated by McLean and the manner in which the dispute had since developed. This process, he described as:

> It appears that when the Ngātiapa, in 1849, surrendered to the Crown the land lying between the Whangaehu and Rangitīkei rivers, they com promised the conflicting Ngātiraukawa claims (of conquest) by conceding to the latter the right of disposal over the territory lying south of the Rangitīkei, with the mutual understanding that as the Ngātiraukawa had received a share of the payments, the Ngātiapa should in like manner participate in the purchase money of this block, whenever the Ngātiraukawas should sell. With the lapse of years the Ngātiapa have come to regard their claim as one of absolute right. in every respect equal to that of the present holders; while the latter, always regarding the latter claim as one of sufferance, are now disposed to ignore it altogether.[1053]

(we note that there is little evidence that Ngāti Raukawa ever received payment for the Rangitīkei-Turakina transaction, although there had was clearly been a compromise reached as to territorial arrangements.}

Buller later recalled that he had 'used every possible effort to induce the leaders to adopt this course' but within a few months that prospect had largely disappeared because Ngati Apa refused to sign the an arbitration bond, and he concluded that 'neither side would meet arbitrators in a spirit of submission and that an arbitration attempted under such circumstances would be a mere sham'.[1054] These 'conciliatory measures' having no effect, Buller 'obtained the authority of the Government to hold out to the contending tribes a definite threat of armed interference in the event of open hostilities.'[1055] Ngāti Raukawa, whom he described as 'exercising on the disputed land acts of ownership of a kind calculated to exasperate the Ngātiapa and to provoke a collision', retired to their pa, agreeing to arbitration provided that McLean was involved.[1056] Nothing was done, despite Buller's urgings, 'owing probably to the critical state of Native Affairs' .Frustrated by the delay and, it seems likely, the failure of McLean to

[1052] Buller to Mantell, 31 August 1863, MS-Papers 0083 236.
[1053] Buller to Minister of Native Affairs, 31 August 1863, cited Williams, *Manawatu Purchase Completed,* Wellington, 1867, pp 12-3.
[1054] Buller memorandum, 6 August 1865, *AJHR*, 1865, E2B, p 5.
[1055] Buller memorandum, 6 August 1865, *AJHR*, 1865, E2B, p 5.
[1056] Buller memorandum, 6 August 1865, *AJHR*, 1865, E2B, p 5.

appear, Maori settled down into what Buller described as a 'spirit of sullen discontent with the Government'.[1057] Thus, by the time Featherston arrived, the emergency was over; as Buller noted in his report of October, 'there was no longer any danger of an immediate rupture.'[1058] Of course the underlying issue of who held authority remained while rumours of hauhaus hiding in the district, apparently initiated, in part, by Ngāti Apa, continued to circulate and cause alarm.[1059]

In early 1864, Fox, whose ministry had come into power a few months earlier (in October 1863), requested Superintendent Featherston to 'adjust the long-pending land dispute at Rangitīkei between the Rangitāne and the Ngātiraukawa on the one side and the Ngātiapas on the other'.[1060] According to Buller, the idea was received 'with great satisfaction by all Natives concerned', and it was arranged that he should meet with them separately – Ngāti Raukawa at Tāwhirihoe and Ngāti Apa at Parewanui – and with their mutual agreement fix a time and place for a 'general meeting'. Buller was optimistic:

> Considering Dr Featherston's personal influence with these Natives – their evident anxiety to bring the matter to a final issue, and the frequent 'talk' among them of late in favour of selling the disputed land – I am inclined to hope that his Honour will not only succeed in settling a difficult and vexed question of land title, but will also be enabled to acquire for European settlement the finest and richest block of Native land in this Province.[1061]

In January 1864, Featherston set out, in part on provincial business, but chiefly to discharge Fox's request. The context was, of course, the hard-line policies recently introduced, namely the Suppression of Rebellion Act and the New Zealand Settlement Act, which authorised the classification of Maori according to their political allegiance and the forced settlement of lands of those considered to have been 'in rebellion'.[1062]He visited Wī Tako, first, by written invitation. He was a rangatira Featherston respected despite his support for the Kingitanga. In his view, Wī Tako's influence, at some self-sacrifice, had been crucial in maintaining the peace of the province but now he was caught between 'two fires'; government punishment 'for the part he [had] taken in kingism, but … still more thoroughly convinced that if he suddenly gave it up he would be murdered by his own people'.[1063] In fact, Featherston's own summary of the discussions

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[1057] Buller memorandum, 6 August 1865, *AJHR*, 1865, E2B, p 5.
[1058] Buller to Native Minister, 22 October 1863, cited in Buller Memorandum on the Rangitikei Land Dispute, 5 August 1865, *AJHR*, 1865, E2-B, p 5.
[1059] *Wanganui Chronicle,* 27 August 1863, p 2; see also later recollections of and debate between Hadfield and Buller, *Wellington Independent*, 14 March 1868, p 5 and 19 March 1868, p 5
[1060] Featherston memorandum for Fox, 18 February 1864, *AJHR* 1864, E-3, p 36.
[1061] Buller memorandum, 6 August 1865, *AJHR*, 1865, E2B, p 5.
[1062] For discussion of policies of the Whitaker-Fox ministry, see Ward, *Show of Justice*, pp 169-70.
[1063] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 37.

held at Waikanae suggests that the community there was anxious to repair any possible breach with the Crown:

> Neither surprise nor dissatisfaction were expressed when I explained the measures passed by the Assembly, and the determination of the Governor to crush the rebellion at once and for ever, and to trample out kingism in every part of the Colony. While freely confessing the part they had taken in hoisting king's flags, in issuing proclamations in his name, in arming and drilling &c., they laid great stress upon their not having disturbed the peace of the Province, and upon none of them having gone to the war either at Taranaki or Waikato, pleading also that they in common with many others had been disappointed with the results of the king movement.[1064]

Moving on to Ōtaki and the Manawatū, the Superintendent found that most people had already gone to the Rangitīkei, where some 400 Rangitāne and 'Ngātiraukawas' (men, women and children) had assembled at Ihakara Tukumaru's pā, with which Featherston was clearly unimpressed. He described it as unfortified and noted that there were only four or five acres under cultivation. At this point, Featherston considered Ihakara as 'evidently the leader in the land dispute'. This had resulted in his acquisition of 'an influence which he had never previously possessed' and, in Featherston's opinion, he was 'inclined to foment the quarrel rather than abdicate the position which he had obtained by it.[1065] Such was his initial assessment of the rangatira who, as we have seen, had been a leading advocate of adopting the European ways and on whom Featherston would soon come to rely to lead Ngāti Raukawa into sale of Rangitikei-Manawatu.

Featherston began his negotiations from a position of maintaining the peace of the colony and the Queen's law, and according to his own later report, unaware of any prior tribal arrangements entailing a general division of territory at Rangitīkei until he read McLean's notes in 1868. Nor had he read Searancke's reports as, he said, 'he had no occasion to do so'.[1066] He did not push for arbitration, quickly accepting an offer of sale by Ngāti Apa of such rights as they might be said to possess. Acceptance of that (plus an agreement to withdraw from the spot more immediately disputed) was then represented to Ngāti Raukawa and Rangitāne as a compromise; but in effect, there was now little choice to be made, especially once Featherston and his delegate began collecting signatures endorsing the sale. At the same time, the various leaders of the 'Ngāti Raukawa' residing on the west coast worried that they might be categorised as in rebellion, like their northern hapu who remained at Maungatautari. Opponents of Featherston's purchase later questioned, however, how urgent it was for him to intervene in this way, arguing that the issue might have been settled amicably by customary processes and that it was Featherston's actions that helped disturb matters on the ground.

[1064] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 37.
[1065] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 37.
[1066] Featherston to Richmond, 23 March 1867, MA13/70f.

Featherston began by emphasising to the assembly that he was there to maintain the peace and to 'protect all Her Majesty's subjects, whether Pakehas or Maoris, and that whichever of the three tribes engaged in the dispute dared to fire a shot, or strike the first blow would be regarded as being in arms against the Queen's Government, and punished accordingly'.[1067] They responded that they wanted to resolve the matter through arbitration, proposing Captain Robinson and Mr Halcombe as their arbitrators, 'with a Maori to be named hereafter', requesting Featherston to carry the proposal to Ngāti Apa. They saw this as entirely in accordance with what had been proposed earlier by Fox, but it became apparent they wanted the process carried out in the presence of the three parties and that they should be allowed to bear arms: a proposition that Featherston saw as opposed to 'Pakeha rules' and likely to result in conflict. He reported:

> In consequence of an observation which fell from one of the speakers, I asked whether the arbitration was to be strictly in accordance with Pakeha rules, which I briefly explained. "Kahore," exclaimed Ihakara, "the arbitrators must meet in the presence of the three tribes; the tribes will meet with their arms in hand. Each man will say what he pleases." I pointed out that such a meeting must end in a general shindy. Tamihana Rauparaha backed me in urging them to adhere to Pakeha regulations; but Ihakara's motion was put to the meeting in regular form, and carried with enthusiasm.[1068]

He met next with Ngāti Apa at Parewanui, where 'they did not muster more than 150'.[1069] Here, he was joined by Mete Kīngi, and other Wanganui chiefs as well as John Williams, who had been trying for several months to persuade Ngāti Apa to sign the arbitration bond but 'had given it up in despair'. Kawana Hunia 'addressing a few compliments to Mātene Te Whiwhi and Tāmihana Rauparaha' opened proceedings.[1070] 'The Ngātiapas recognised them as chiefs and would to some convenient extent be guided by them, but as to Ihakara, he was nobody, and they utterly ignored him and his people.' There had been a 'good deal of fencing' over the offer of arbitration, which Featherston represented as 'a fair proposal' and 'evidence of their desire for a peaceful solution of the difficulty' which the government would support.[1071] The Ngāti Apa assembly insisted that they needed to consult chiefs who were absent to which Featherston responded that he was prepared to wait. Upon which:

> [a] consultation ... took place amongst the chiefs, and they got up one after another in rapid succession, and declared they never would consent to arbitration; that an arbitration would involve them in another number of disputes; that they would dispute about the apportionment of the block; that they would dispute about the particular block to be assigned to each party, about the surveys, about the boundaries of each man's land, and

[1067] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 37.
[1068] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 37.
[1069] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 37.
[1070] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 37.
[1071] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 37.

> therefore they would have nothing to say to arbitration. "We hand over the block in dispute to you." [1072]

When Featherston asked for clarification, 'Mohi, the old fighting warrior of the Ngapuhi, became very angry, declaring that I knew perfectly well what they meant. "We hand over the whole block to you for sale, not retaining a single acre, and with it the dispute."' Mohi argued that it would be easier to divide the money than the land; that they all consented; and that they would 'agree to nothing else…'[1073]

Told of this reaction, 'Ngāti Raukawa' and Rangitāne assembly insisted that 'they would neither themselves sell nor allow the Ngātiapas to sell' and called on the government to honour its earlier commitment to arbitration. Featherston argued that just as he could not force them to sell, so he could not 'compel the Ngātiapas to accept arbitration' urging them 'to consider whether there was any other mode of adjusting their differences'.[1074]

Featherston then moved onto Pūtiki where he had been requested to attend a hui on the question. He found 'all the principal chiefs of Wanganui, Whangaehu, and Turakina present at it' while the Reverend Taylor interpreted. They all 'repudiated arbitration, and insisted on the block being handed over to the Queen' and were 'evidently prepared to support the Ngātiapas in case they were attacked.' There were requests for an immediate payment of £500, but Featherston told them that he needed to talk the matter over at Rangitīkei first and 'that under no circumstances would a single farthing be paid to either of the three tribes on account of the land till the dispute was settled'.[1075] A letter was signed handing the land over.

On returning to the Rangitīkei, Featherston learned that they had been performing haka at Ihakara's pa. Two hundred had taken part in it, 'including Ihakara, Epiha Taitimu, Te Hohia, and Horikerei-te-Manawa (all Queen's assessors), and that great excitement existed'. It was for this reason, he said, that he decided to go to Ngāti Apa first. At their pa, which were built within a few hundred yards of each other and 'double palisaded, with rifle pits, &c., the union jack was flying, with a red war flag underneath'.[1076] Featherston reported that he went there to outline the government's course of action but it is not clear exactly what this was. According to Featherston, their determination was unchanged. All the rangatira declared that they would never agree to arbitration, but 'gave up the whole of the lands, together with the quarrel, to the Government, and that they also surrendered their arms as a proof of their sincerity, and of their determination to abstain from all acts of violence.' They then laid a number of arms – 'half a dozen guns

[1072] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 37.
[1073] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, pp 37-8.
[1074] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 38.
[1075] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 38.
[1076] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 38.

(including a very good rifle), several cartouche boxes, boxes of caps, and two tomahawks, and the red war flag' before the government's man, declaring '"We now surrender into your hands our lands, our pas, and our arms, and we wait your answer."'[1077] A crucial exchange followed:

> I said "There must be no misunderstanding as to what you offer and I accept on the part of the Government. I have carefully forborne expressing any opinion upon the merits of the question as to who is right or who is wrong in this dispute. I don't know whether you have a right to the whole or any portion of these lands which you now offer me. Neither do I know whether the Rangitānes and Ngātiraukawhas [sic] are entitled to the whole or any portion of the block. Neither tribe, until its interests have been ascertained, is in a position to hand over the lands in dispute to the Government, and I therefore tell you distinctly that I will not accept the lands. I will not buy a Waitara. All you can offer and all I can accept is the interest which you may be found to have in these lands. Do you clearly understand what I say?" They were evidently disappointed, and remained silent, consulting, however, among themselves. I repeated two or three times what I had just stated. Their intention in their offer to hand over the lands was simply to have their title to them confirmed, as it were, by the Government, and thus to make the Government the principal in the quarrel. At last Governor Hunia said, "Your meaning is perfectly clear. You will only accept whatever interest we may have in the lands." "Yes. I will not accept the land, but only whatever interest you may hereafter be proved to possess in it." Governor Hunia then put the offer, thus explained and modified, to the meeting in regular form, and it was carried by acclamation. Then came the question of the arms. They said, in giving them, they did so as a token that they gave up all intention of fighting, and as a sign that they placed themselves under the protection of the Queen. I stated that before accepting them I must have a distinct understanding that in future they would obey the orders of the Government in the matter of the quarrel, and that I certainly should at once require them to return to the other side of the river, leaving on the disputed land only a sufficient number of their tribe to look after their cultivations. To this they all readily assented. I then accepted one double-barrelled gun and a cartouch-box full (returning the others) as a pledge on the part of the Government that as long as they adhered to what they had promised, they should, if attacked by the Rangitānes, and Ngātiraukawas, receive from the Government precisely the same protection as the Pakehas would in similar circumstances. The meeting, which lasted some five or six hours, terminated with the Maoris giving several rounds of hearty hurrahs.[1078]

From this point on, Ngāti Raukawa and the various hapū who had rights within the area between the Rangitīkei and Manawatū Rivers were backed into a diminishing corner; unable to defend their rights by force of arms lest they be accused of having thrown their entire weight behind the Kingitanga and at war with the Crown. Their wish was to establish their interests through the law, by arbitration or by court decision, only to find that this avenue was also closed to them; and in the meantime, by agreeing to a proposal that the rents be impounded in order to remove that irritant, their main source of income would be cut off while expenses mounted.

[1077] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 38.
[1078] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 38.

The following day, Featherston returned to Ihakara's pa to explain the offer he had accepted from Ngāti Apa and the pledges he had made on behalf of the Government. He then brought up the matter of the haka:

> [A]fter these warnings I had given them I could only regard it as a challenge on the part of the whole body to the Ngātiapas to fight, and a defiance of the Queen's Government; that the conduct of the four assessors (who had taken part in it), men sworn to preserve the peace, was utterly disgraceful, and that the Queen's assessors who indulged in such practices would be dismissed.[1079]

Tāmihana Te Rauparaha and Mātene Te Whiwhi, who during Featherston's absence had been 'exerting themselves to the utmost to effect some compromise'[1080] now advocated adoption of the Ngāti Apa proposal, but this was refused:

> Ihakara and Hoani Meihana were the chief spokesmen. They entered at considerable length into the history of the question, and ended by expressing the determination of the two tribes not themselves to sell the block, nor to allow the Ngataiapas to sell any portion of it; but they were still willing to submit to arbitration.[1081]

Ihakara defended their haka on grounds of the 'gross insults heaped upon them' but agreed arbitration and quite readily (according to Featherston's report) to the government impounding the rents over all the block; and also 'gave a half promise that they would all return to their several homes, with the exception of a few to attend to their crops.'[1082] Their willingness to submit to arbitration and to have all rents put on hold would suggest that Ngāti Raukawa and Rangitāne did not see resolution of their dispute with Ngāti Apa as requiring the sale of land at this stage of Featherston's negotiations.

The discussion then turned to the Premier's recent instructions to resident magistrates regarding supporters of the King natives. and the treatment of those deemed to be in rebellion. Many questions were asked as they were clearly worried about 'how far they had in the eyes of the Government committed themselves, and to which of the three classes they properly belonged.' Ngāwaka (a brother of Noa Te Rāhiri and a known opponent of the Crown) explained that a visit to Taupō concerned land belonging to his tribe; it was not to participate in the fighting. Featherston believed him, but was less convinced by the explanations of others. However, he reported, 'upon the whole, the meeting seemed to regard the terms of submission as just and reasonable'.[1083]

On the following day, the two sides agreed to disperse, each party leaving a few to look after their cultivations while the government should hold the rents until

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[1079] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 38.
[1080] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 38.
[1081] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 38.
[1082] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 38.
[1083] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 38.

rights should be decided. Featherston now advised purchase as the only likely and best solution:

> Of the two proposals, arbitration and sale, there can be no doubt that the latter presents the easiest solution and adjustment of their long pending dispute. Arbitrators would no sooner have decided upon the apportionment of the land between the two (at present) contending parties, the Ngātiapas on the one side, and the Ngātiraukawas and Rangitānes on the other, than they would be called upon to apportion the land allotted to these two tribes between them, and ultimately to allot to each man his own particular piece. Such a process would be interminable, every step in it would create fresh disputes, and involve the Government in difficulties from which it would be impossible for it to extricate itself, except probably by a recourse to the sword.
>
> What I mean when I say that the sale of the block presents the easiest, perhaps the only possible solution of this quarrel, is simply this: Complicated as the dispute apparently is, it has been very much simplified by the transactions which have taken place between the disputants during the last few years; 1st, by the offer of the Ngātiraukawhas [sic] made in 1863 to divide the land between the three tribes (according to them) into three equal portions, or (according to John Williams) into two, one for the Ngātiapas, the other for the other two tribes; 2nd, by the proportion in which the rents have for some years been received by the parties; 3rd, by Nepia Taratoa having just previous to his death handed over the rents then due to the Ngātiapas. These transactions not only show that each tribe has an interest in the block, but pretty clearly indicate what the amount of interest which each tribe possesses is. These three interests might easily be satisfied by a money payment but not by a subdivision of the land. And it would be well worth the while of the Province to buy up their interests by paying the two litigating parties a sum which would at the ordinary rate of interest yield to each of them the same amount as they have been jointly receiving from the squatters as rent.[1084]

Trouble soon threatened to break out at Pakapakatea, where Europeans were purchasing timber from Ngāti Raukawa. This was a situation that Featherston thought jeopardised the rents arrangements and the peace of the district, and in April 1864, he threatened the Europeans concerned with prosecution under the Native land Purchase Ordinance 1846.[1085]

6.5 Submitting to the Queen's law

Contrary to Featherston's earlier report that Maori regarded the Crown's terms of submission as 'just and reasonable'. A number of Ngāti Raukawa and Ngāti Kauwhata resident at Manawatū were listed among those who surrendered themselves and their arms immediately after the end of the Waikato and Tauranga wars in 1864. Included here, were the following persons identified as Ngāti Raukawa Parata Te Whare residing at Te Kopua, Hone Ngahua from Rukekaraka, Arapeti Te Wharemakate and Hapimana Taikapurua, all of the Manawatū. Among Ngāti Kauwhata were Tapa Te Whata, Atarea Te Toko, Haratura Turanga, Retemana Te Hopoki, and Nepia Maukiunguru.[1086] Not every

[1084] Featherston memorandum for Fox, 18 February 1864, *AJHR*, 1864, E-3, p 38.
[1085] Buller memorandum, 6 August 1865, *AJHR*, 1865, E-2B, p 5.
[1086] Return of Arms Surrendered by Natives, *AJHR*,1864, E-6.

leader was willing to submit to the 'Queen's law' however. In April, Buller reported on the local response to those terms, which seems to have been largely pragmatic although some chose to continue in their support of the King's cause. He informed the Colonial Secretary that two chiefs "Watihi" and "Herekiuha" had offered their submission and had declared their loyalty. According to Buller:

> These chiefs visited Waikato during the siege of Meremere and although they went unarmed and took no active part in the war, they encouraged the rebels by their presence, and by their assurances of sympathy and support. They therefore clearly came within the 2nd class of offenders under the terms of your instructions and I refused to take their declaration of loyalty till they consented to a surrender of arms They pleaded that they went to Waikato merely from motives of curiosity, that they went unarmed, that their stay was short, and that there was no actual engagement with our troops … and they earnestly begged that the stipulation as to arms might be relaxed in their case. [1087]

Subject to Native Department approval, Buller agreed to accept one 'good serviceable gun' for their 'joint surrenders' arguing that 'the submission of those chiefs [was] regarded by the Natives on this river as politically an event of much importance.' He described Te Watihi as the 'recognised leader of a small but influential tribe of Kingites, the Ngātiwhakatere' who had 'long resisted the authority of the Government.' He believed that their rangatira's 'return to loyalty and obedience' would give the hapu a 'sufficient pretext for abandoning "Kingism".' While Te Watihi had 'yielded to necessity' his people followed him largely out of respect for his position and authority and were 'shrewd enough to see the opportunity of abandoning a false position without any sacrifice of their natural pride.'[1088] He did not have much good to say about "Herekiuha" [Herekau?] 'a man of some rank and influence but with few adherents.' Herekau had been 'an earnest advocate for the expulsion of the Manawatū settlers at the commencement of the present disturbances and altogether his character and antecedents were such as to render his conversion from an avowed enemy to a "friendly Native" very desirable.' Buller doubted his motivations, however; whether

> his real feeling towards the Pakeha [had] undergone a change, or whether he was influenced in this course by anything beyond a consideration for his personal safety, but it was evident from his whole demeanour and bearing when he made his formal submission, publicly, in the Queen's Court, and in the presence of many Kingites, that he

[1087] Buller to Colonial Secretary, enclosure 2, 12 April 1864, in Grey despatch to Duke of Newcastle, 7 May 1864, *BPP*, *Colonies: New Zealand*, 1865–68, Vol. 14, p 32.
[1088] Buller to Colonial Secretary, enclosure 2, 12 April 1864, in Grey despatch to Duke of Newcastle, 7 May 1864, *BPP*, *Colonies: New Zealand*, 1865–68, Vol. 14, p 32..

> considered a tone of humility more becoming in the altered state of things than his former arrogant boasts.[1089]

There were several others, he reported, who had been 'urged by their friends to avail themselves of the clemency of your conditions and probably will do so', but Buller was unsure of how to handle the case of Takana of Ngāti Kauwhata who was living on the Oroua River. Takana had gone to Waikato in the early part of the war, joined the "rebels" at Meremere, and had assisted in loading the cannon which had been fired at the HMS Gunboat, *Avon*, He was now anxious to make a submission of arms, and to take the oath, but was considered to belong to the 'first class of offenders', having been in active rebellion, and thus meriting imprisonment.[1090]

Buller intended to furnish the Colonial Secretary with a list of other Maori in the district who had taken an active part in hostilities, or who had 'visited the rebels since the commencement of the war. He could identify several parties. Te Hirawanu Te Mahaki whom he described as Ngāti Whakatere, living at Takapu, had fought at Rangiriri and had 'brought home a trophy.' According to Buller, he feared arrest and carried 'a loaded pistol on his person.' There was 'Taharuku of Ngātiraukawa tribe', living at Moutoa, Manawatū, who had fought at Meremere. 'Te Watikene of Ngātiwhakatere tribe, and Hami, of Ngātimaniapoto, both living at Te Takapu, Manawatū,' had also visited Meremere, but had not joined the conflict. On the other hand, Te Reipata who was a 'recruiting officer' for the King party and Wereta Te Kiwata, both of Te Mateawa, based at Ōhau, had taken part in the recent engagements, returning about a fortnight since. Mitai, who had accompanied them to Waikato, had been killed in action, Buller said that Reipata had 'returned in tattered garments and without his cap, but in spite of this they have given such glowing accounts of Maori prowess and Maori successes in the field that the Ohau Kingites are now holding long runangas, and debating over Heremia's proposal to proceed as a body to Maungatautari.'[1091]

While this was going on, Buller attempted to compel the attendance of a witness at the trial of an alleged murderer. Those efforts were thwarted, however, by the runanga at Ōhau despite the agreement of the local chief, Te Peina, although he was considered a "kingite" as well.[1092] . The runanga had insisted on referring the matter to Heremia, who had ordered off the constable Buller had sent, and 'clothing the lad [the witness] in the uniform of a "King's soldier" refused to let

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[1089] Buller to Colonial Secretary, enclosure 2, 12 April 1864, in Grey despatch to Duke of Newcastle, 7 May 1864, *BPP*, *Colonies: New Zealand*, 1865–68, Vol. 14, p 32.
[1090] Buller to Colonial Secretary, enclosure 2, 12 April 1864, in Grey despatch to Duke of Newcastle, 7 May 1864, *BPP*, *Colonies: New Zealand*, 1865–68, Vol. 14, p 32.
[1091] Buller to Colonial Secretary, enclosure 2, 12 April 1864, in Grey despatch to Duke of Newcastle, 7 May 1864, *BPP*, *Colonies: New Zealand*, 1865–68, Vol. 14, p 32.
[1092] Register of chiefs and assessment of their character and behaviour, MA 23/15.

him go.'[1093] Buller then sent down one of his assessors, Aperahama Te Huruhuru (Nepia Taratoa's brother). After a 'long and angry rūnanga' which had been convened to hear Te Reipata's report, he also was ordered off by Heremia who threatened to 'shoot the next messenger, whether Pakeha or Maori.' Buller saw this as 'probably a sufficiently overt act of rebellion to exclude Heremia individually from the benefits secured to the first class of offenders under your instructions as to rebels,'[1094] He intended to take Aperehama's affidavit immediately on his return from Ōhau and subsequently forwarded the deposition to the Government. Grey took this as evidence that our 'authority has in that district been openly set at defiance.'[1095]

Later that month, Buller transmitted a letter from Parakaia Te Pouepa and Aperahama Te Ruru, to the Governor, stating that, 'The kingites have gone to fight', but, he explained, this anticipated the fact. The proposal for a 'general movement' of 100 men to reinforce the 'rebels' had been 'earnestly debated by the King's runanga at Otaki… over a week.' By all accounts, Heremaia had advocated this course while Wi Tako had strongly opposed it. The plan had been abandoned and a much smaller party of 20 people, consisting 'chiefly of wild and turbulent spirits' were all that were actually preparing to travel north.[1096] Reipata was reported as intending to lead the contingent through the Manawatū Gorge to avoid a collision with the defence force based at Rangitīkei. According to Buller, this intention was 'regarded by many with alarm and apprehension' and it was 'loudly condemned by the loyal natives'. He would have liked to have arrested him but feared that it would 'endanger the peace of district'. There was a silver lining, however; the immediate effect would be to free the district of a 'troublesome and dangerous element' acting as a 'safety valve by opening the door to the thoroughly disaffected and warlike without disturbing the peace of this district'.[1097] Buller anticipated that many would be killed and others return 'dispirited and humbled'. He had 'reason to hope' also that their departure would 'act beneficially in another way' for:

> I have obtained from Ihakara and Hoani Meihana a distinct promise that they will make this a pretext for offering for sale the large block of land now in dispute between their tribes and the Ngātiapa. Ihakara has long wished to sell, but has been deterred by the strong adverse feeling at Ōtaki. The possibility of future confiscation through this

[1093] Buller to Colonial Secretary, 14 April 1864, enclosure 3, in Grey despatch to Duke of Newcastle, 7 May 1864, *BPP*, *Colonies: New Zealand*, 1865–68, Vol. 14, p 33.
[1094] Buller to Colonial Secretary, enclosure 2, 12 April 1864, in Grey despatch to Duke of Newcastle, 7 May 1864, *BPP*, *Colonies: New Zealand*, 1865–68, Vol. 14, p 33.
[1095] Grey despatch to Duke of Newcastle, 7 May 1864, *BPP*, *Colonies: New Zealand*, 1865–68, Vol. 14, p 31.
[1096] Buller to Colonial Secretary, 20 April 1864, enclosure 5, in Grey despatch to Duke of Newcastle, 7 May 1864, *BPP*, *Colonies: New Zealand*, 1865–68, Vol. 14, p 35.
[1097] Buller to Colonial Secretary, 20 April 1864, enclosure 6 in Grey despatch to Duke of Newcastle, 7 May 1864, *BPP*, *Colonies: New Zealand*, 1865–68, Vol. 14, p 35.

> participation in the war (by a section of the tribe) he considers a sufficient argument for his purpose.[1098]

Governor Grey appears to have responded in April by inviting Ngāti Raukawa settled at Ōtaki to submit claims to their lands in the southern Waikato – well before the first confiscation of Waikato lands was proclaimed and gazetted on 17 December of that year (followed by a complex series of proclamations relating to the Waikato that continued until September 1865). Grey's invitation clearly sought to reassure those hapu who had migrated that they would not be penalised for the activities of their northern kin, cement their allegiance, and undermine resistance to sale in both areas.

Parakaia Te Pouepa and Aperehama Te Ruru had sent a second letter to Governor Grey stating that they had heard from Ngāti Toa, who had, in turn, heard from Mr Mackay what the government intended 'regarding the land of Maories who have remained loyal'. They had been told they should 'describe their lands so that they may not be lost through the doings of the General. We are grateful for this explanation of your thoughts at a time when both Pakehas and Maories are in gloom.'[1099] That invitation appears to have been confirmed in writing. Ihakara Tukumaru responded to Grey in June: 'We have received your letter – on the 26th May – we have seen the justice of your word to us – you have asked us to give the names of our different pieces of land and the names of the claimants.' The letter then went on set down the boundaries concerned and the people involved, including Rawiri Te Wannui, Parakaia Te Pouepa, Aperehama and others.[1100]

Over the course of the next few months, a number of rangatira and hapu based on the west coast did as Grey advised, sending in letters relating to lands that they thought had been 'conquered' by the Crown. The letters generally stated the boundaries of those lands and the persons who had claims but expressed the intentions of the authors in a variety of different ways. Parāone Te Mānuka, Pita Te Rakumia, Pihikaru, and Hapi Wiremu Kaupeka, and others describing themselves as 'all the runanga of Ngāti Huia' asked their 'friend' and their 'loving father' to reply stating whether he 'approved our claim or not'.[1101] A letter from Horomona Toremi and 'the runanga of Ngāti Kāhoro' who described themselves as 'we who are living in the profession of Christianity and in loyalty to the Queen', set out their boundaries which included Rangiaohia and Maungatautari. They asked that Grey 'give us sixpence (an acre) more or less as

[1098] Buller to Colonial Secretary, 20 April 1864, enclosure 6 in Grey despatch to Duke of Newcastle, 7 May 1864, *BPP*, *Colonies: New Zealand*, 1865–68, Vol. 14, p 35.
[1099] Parakaia Te Pouepa, 11 May 1864, Raupatu Document Bank, vol 106, p 40651.
[1100] Ihakara Tukumaru and others to Grey, 28 June 1864, on DOSLI Hamilton, 4/25, Waikato Confiscations; Compensation Court Claims and Correspondence, Raupatu Document Bank, vol 106, pp 40629-40634.
[1101] Paraone Te Manuka and others to Grey, 1 June 1864, Raupatu Document Bank, vol 106, pp 40662-6.

you may think best'.[1102] A second letter a week later (9 June 1864) stated that: 'We place these lands under your care that you may preserve them unto us under the authority of the Queen of England and New Zealand.' A third letter was sent by Ngati Kahoro on 15 June, claiming lands at Maungatautari which had been omitted by mistake.[1103] Also sending in applications from Otaki were Wipiti Hinerau and others on 9 June and Merehira Taura and others on 18 June, both for land at Maungatautari; and Paraone Toangina and others for interests at Waikato.[1104] Another later application was also made by Parakaia Te Pouepa for lands to the south of Maungatautari in February 1866.[1105]

We shall see that these letters were regarded as applications to the compensation court, but ultimately, the lands at Maungatautari and southern Waikato fell outside the confiscation boundary and were dealt with by the Native Land Court. The applications of the 'Ōtaki' hapū were utilised by the Crown to open up those lands while, at the same time, the question of rights of migrant hapu in their former sites of occupation was an ongoing concern in the background of their negotiations on the west coast as was the general fear that their lands there would also be subject to confiscation because of the involvement of some leaders in the Waikato fighting.

6.6 The offer at Wharangi, October 1864

On the West Coast, a number of leaders had decided that their best option was to sell their interests to the government. In a letter dated 17 September 1864, Ihakara Tukumaru, Hoani Meihana Te Rangiotu, Wiremu Pukapuka, Noa Te Rauhīhī, Hori Kerei Te Waharoa, Āperahama Te Huruhuru and Te Rei Paehua informed Featherston that they placed 'Our land between the Manawatū and Rangitīkei Rivers … in your hands, for sale to the Government, as the only means of finally settling our difficulty.' There was the matter of reserves and price to be decided; and that offer represented, they said, the 'individual act of a few, the leading men in the dispute, and threatened fight'. The 'general consent of the tribe' was still required for: 'The final decision as to selling or refusing to sell rests of course with the whole tribe… It is only when both chiefs and people are agreed the land can be absolutely ceded.'[1106] In a separate letter, Tapa Te Whata of Ngāti Kauwhata endorsed the proposal, Featherston thought, because

[1102] Horomona Toremi and others to Grey, 2 June 1864, Raupatu Document Bank, vol 106, pp 40669-72.
[1103] Horomona Toremi and others to Grey 9 and 15 June 1864, Raupatu Document Bank, vol 106, p 40673-76 and 40677-78
[1104] Hinerau and others to Grey, 9 June 1864; Taura and others to Grey, 18 June 1864; Toangina and others to Grey, 1 August 1864, Raupatu Document Bank, vol 106, pp 40635-42, 40680-81.and 40686-88.
[1105] Te Pouepa and others to Grey, 16 February 1866, Raupatu Document Bank, vol 106, pp 40657-60.
[1106] Ihakara Tukumaru and others to Featherston, 17 September 1864, *AJHR*, 1865, E-2, pp 4-5.

the impounding of rents and the high price paid for Ahuaturanga had produced their desired effect.[1107]

Featherston grabbed the opening. On 12 October, he (with Buller interpreting) met with 'eleven representative chiefs' of Ngati Raukawa and Rangitāne at Te Wharangi, on the Manawatū River, at the lower ferry house, where a 'number of Natives and a few Europeans' had gathered. Mātene Te Whiwhi's name was mentioned along with the original authors of the letter. Ihakara, described now by Featherston as 'one of the principal Ngātiraukawa chiefs and the leader of the late fighting party', offered the block for sale to the Crown, subject to terms of price and the definition of reserves. Ihakara claimed that he had consulted his people earlier and that they had received the proposal to sell the area 'with satisfaction'.[1108] It was, however, 'premature' to discuss the terms as the 'whole subject was still under deliberation' and they wanted to see first whether the offer would be accepted.[1109] At the same time, he and others pressed for the rents to be paid out. Featherston seems to have thought the bargain sealed but Buller recorded him as saying at the time that Ngāti Apa's legitimate claims would have to be 'rigidly respected and upheld' and that 'every member of both tribes' would have to consent to the sale and its specific terms.[1110]

As we shall see, Featherston subsequently represented this as a 'formal' contract for sale agreed to by the 'principal chiefs' and later recalled that Ihakara had presented him with a 'carved club' named 'Rangitīkei', which had belonged to Taratoa, to symbolise the transfer of the land into the hands of the government.[1111] That agreement was used to justify the continued exemption of the block from the Native Land Court's jurisdiction although it is clear that those involved were not as fully 'representative' of the wider iwi as he maintained; that there remained considerable opposition to the sale among both "Ngāti Raukawa" and Rangitāne. The basis on which Featherston decided whether right-holders were 'principal' or not, at Te Wharangi and later key meetings such as at Takapu (discussed below), was far from clear. Whether 'all principal claimants' had consented to a sale could not be known until their respective rights had been investigated, which had not been done. Of course, the exemption from the Native Land Court jurisdiction was already in place (under the Native Lands Act 1862), which prevented any such investigation from taking place. And he was soon to retreat from his statement that all had to consent before the government would purchase.

[1107] Featherston memorandum for Colonial Secretary, nd, *AJHR*, 1865, E-2, p 3.
[1108] Buller memorandum, 5 August 1865, *AJHR*, 1865, E-2B, p 6.
[1109] Buller memorandum, 5 August 1865, *AJHR*, 1865, E-2B, p 6.
[1110] Buller memorandum, 5 August 1865, *AJHR*, *1865*, E-2B, p 6.
[1111] Featherston to Colonial Secretary, 21 August 1865, *AJHR*, 1865, E-2B, p 3.

The next day, Featherston met with 200 Ngāti Apa (including some Whanganui rangatira) at Parewanui and congratulated them on the 'strictly honourable manner in which they had fulfilled the conditions of their agreement…'[1112]

6.7 Mantell's interventions

Mantell took up the position of Minister of Native Affairs in Weld's government in December. Shortly after, Buller left the district for Wanganui and Featherston subsequently blamed the loss of 'the man most capable of assisting in finally and for ever closing the Rangitīkei transaction' for the continuing hold-up.[1113] Mantell had had castigated Buller for his activities and removed him from the Manawatū, as well as denying him a handsome increase in salary (of 25 per cent). This had had been recommended, by Fox, to the Governor a few months earlier, because of the superintendent's 'great satisfaction' with Buller's work on finalising the Ahuaturanga purchase and the 'heavy amount of work' he had been performing 'with great ability over an extended district'.[1114] Mantell then proceeded to re-organise the resident magistrates' districts. That inhabited by Ngāti Raukawa had been divided between Ōtaki and Manawatū; but now they found their region of interest divided between Ōtaki and Rangitīkei and Wanganui – with no resident magistrate at Manawatū at all. The involvement of a resident magistrate in land purchase negotiations had been highly questionable, but the new appointee, Major Noake, had very little knowledge of the district and its inhabitants as reflected in the brevity of his reports.

Learning that their lands were to be treated differently from elsewhere (under the 1862 Act) and that they would remain subject to government pre-emption – in effect a monopoly market whereas the rest of the country would be open to competition – Ihakara and those rangatira and hapu resident between Rangitīkei and Ohau asked why their district had been excluded from the 'permissive law of the Government … ('Native Lands Act 1862') and 'Rangitikei, Manawatu, and on to Ohau bound in your prison-house'. According to their petition as finally presented, they were grieved that two different courses had been enacted: the one a law for 'opening' and the other for 'closing'. All should be open. There was 'darkness of heart' at this unequal treatment. They stated: 'Therefore, we, the chiefs of the district, thus restricted by you, request of you, the members of the Government, that you will remove this ill-working regulation from our territory, and permit us to go our way in lightness, joy, and gladness of heart.'[1115] Multiple signatures from Maori resident at Rangitikei, Poroutawhao, Horowhenua, and

[1112] Buller memorandum, 5 August 1865, *AJHR*, 1865, E-2B, p 7, cited Hearn, 'One past, many histories', p 277.
[1113] Featherston to Colonial Secretary, 21 August 1865, *AJHR*, 1865, E-2B, p 3.
[1114] Fox memorandum, 27 September 1864, *AJHR*, 1865, D-15, p 5.
[1115] Petition of Rangitikei and Manawatu Natives, 24 April 1865, *AJHR*, 1865, G-4, p 4.

Ohau were attached.[1116] Mantell returned it to them for its lack of proper form, despite the objection of Noake that this would likely irritate feeling further.[1117]

Featherston's suspicions were aroused. In his view, this was a deliberate attempt on Mantell's part to foster Maori dissatisfaction and undermine his purchase.

Mantell denied this and other allegations (in Featherston's report of 21 August 1865) point by point. Buller had asked to be transferred to Wanganui and had assisted in drawing up the new boundaries while the reduction of his salary to that of an ordinary resident magistrate had been approved by Cabinet. He denied any intention to offend the Ngāti Raukawa petitioners or to deliberately cause dissatisfaction with the Superintendent's negotiations. The re-organisation of the resident magistrates' district had had no effect on those negotiations and had been made only, he said, to 'allay the feelings of jealousy which a distinction so much stronger than mere tribal difference might create'.[1118] Mantell, who had become disenchanted with the old purchase regime, alleged that Featherston and Buller were carrying on with the purchase practices that he had so strongly criticised during the 1862 debates, and that they had worked together to suppress the purchase price – which Buller denied. (This question pertains to the Crown's treatment of Rangitāne and being outside the scope of this report is not discussed further here.) It is hardly surprising, however, that Buller, when he was appealed to, as the dispute between the two politicians continued, should have sided firmly with Featherston.

Featherston argued that the petition itself was the result of Pakeha meddling, that the Maori signatures were the work of one person (presumably Ihakara), and that Mantell had sent the petition back to prevent discovery of the plan to undermine him. According to a subsequent interview with the chief, reported by Featherston, after his agreement to sell in October, Ihakara had heard from the Pakeha that a new law had been passed, throwing open all land to direct traffic, except for that lying between the Rangitīkei and Ohau Rivers:

> He could not see why he, who had never been in rebellion against the Government, should be treated with less consideration than other Natives. He regarded the exclusion as an oppression of his tribe, and he wrote to Mr Mantell a letter of complaint. He was told to petition the General Assembly. His eyes were now opened. He found that Dr Featherston and Mr Buller, whom he had always regarded as his best friends, were dealing treacherously with him, and that he was selling his land 'blindfolded'.[1119]

[1116] Petition of Rangitikei and Manawatu Natives, 24 April 1865, *AJHR*, 1865, G-4, p 4.
[1117] Noake to Mantell, 20 June 1865, *AJHR*, 1865, E-2A, p. 3
[1118] Notes on the Special Report of the Native Land Purchase Commissioner, 11 September 1865, *AJHR*, 1865, E-2B, p 8.
[1119] Notes of an interview, 22 November 1865, *AJHR*, 1866, A-4, p 15.

As a result, he had immediately decided to rescind his offer, the tribe had agreed and the petition had been drawn up and signed. Mantell's rejection of the petition in its first form had convinced him that the 'Pakehas were conspiring to 'humbug' him (hamapaka), and he had been informed by letter from Wellington that it had been disregarded by the General Assembly because of Featherston and Buller further conspiring against him.[1120]

In the meantime, the agreement Featherston considered himself to have won in October 1864 at the ferry house meeting proved to be more limited than he had initially reported. As negotiations over price and boundaries took place, opponents began demanding to have the impounded rents released. Noake wrote to Mantell, fearing an outbreak of violence; that Ngāti Raukawa were threatening to drive off livestock of the squatters who were now not paying rent. A formal petition had been sent in by a large number of "Ngāti Raukawa" from Rangitīkei, Manawatū and Ohau objecting to the retention of government pre-emption over their lands.

In mid-June 1865, Buller was despatched from Wanganui by Weld (then premier), at Featherston's request, to try to calm things down. He met with the different iwi groupings in their respective territories – first with Ngāti Apa at Turakina and Parewanui, Ngāti Raukawa at Manawatū and Rangitikei, and with Rangitāne in the upper Manawatū, reporting 'complete success'. All three groups had 'pledged themselves in the most emphatic terms' not to interfere with the squatters or their livestock and to wait until the dispute was resolved (which was assumed by officials and many Maori to mean, the completion of purchase of the whole of the area between the two rivers). Ngāti Apa – as reported by Buller – promised also that they would adhere to the agreement, although their attitude to Ngāti Raukawa remained far from conciliatory. They predicted that Ngāti Raukawa would fail to honour this arrangement because, 'it was always so with tribes with no land' and requested guns and powder to defend their new pa at Turakina against the 'cannibal people the Hauhau'.[1121]

6.8 The preservation of the exemption clause, Native Lands Act 1865

The exemption was preserved in the Native Land Act 1865. FitzGerald told the House:

> His opinion was that, in 1862, the House had intended to except the Manawatū block from being dealt with as were lands of Natives in other provinces, and it would remain to be seen whether they could by any means except such a piece of land. Had it not been for the war which had broken out, he believed that the block would have been purchased before that time by the Superintendent of Wellington. In 1862, the House had decided

[1120] Notes of an interview, 22 November 1865, *AJHR*, 1866, A-4, p 15.
[1121] Buller to Featherston, 22 June 1865 and Ngati Apa to Featherston, 10 June 1865, *AJHR*, 1865, E-2, pp 7-8.

> that land purchases should be discontinued by the Government, but it was found that there were several blocks which … were already partially purchased by that system which had facetiously been called 'ground-bait', and thus special permission had to be given in various provinces to make purchases.[1122]

Robert Pharazyn, the member for Rangitīkei, and representing grazier interests, opposed the retention of the exemption clause. They wanted to open the block to direct purchase from Maori with whom they generally had established relationships. He argued that the squatters' interests could no longer be ignored, dismissing the New Zealand Company's claim as a 'pretext', pointing out that it only ever amounted to 18,300 acres, all on the south side of the Manawatū River. While some 15,000 acres of that original claim remained outstanding, more than 275,000 acres had been purchased in the region. Nor did Pharazyn hold out much hope for Featherston's negotiations should the exemption remain: 'The Superintendent … would never be able to purchase the block, as [the exclusion] would make the Natives regard the question as one involving a point of honour and all their rights, and not as a money matter.' Nor was there support for the sale among all groups: 'many of the owners of large portions of land had not agreed to sell, and many of those who had agreed to sell their land had done so because they thought that by agreeing with Dr Featherston, their claims would be strengthened.'[1123]

Frederick Weld took a completely contrary view; he only supported the exclusion because support for the sale was now widespread – presumably among Maori – although he thought the boundary went too far south. Dillon Bell hinted that he had included the clause to win the support of the Wellington members

The Wellington members rejected Pharazyn's contention that there was far from complete support for the sale among Maori. Alfred Brandon (Porirua) pointed out that Ihakara Tukumaru and others from all three tribes claiming rights had now agreed to sell and had handed over a mere as a token of that intention while FitzHerbert accused Pharazyn of party politics and campaigning for the upcoming elections. Henry Bunny, the member for Wairarapa, also thought Featherston would have already completed the purchase if he had not been called elsewhere.[1124] Pharazyn admitted himself willing to accept the exclusion if Featherston could indeed bring his purchase to a successful conclusion but he thought that leaving it in place ran the risk of war, 'whereas if it were omitted Featherston would be more of an arbitrator, and no pressure would be felt.'[1125] The man himself, as Gilling points out, was absent from the debates, being ill, his absence bemoaned because it was felt he would have thrown light on the

[1122] *NZPD*, 1864-66, pp 370-1.
[1123] *NZPD*, 1864-66, p 629.
[1124] *NZPD*, 1864-66, pp 628-30.
[1125] *NZPD*, 1864-66, p 630.

Manawatū situation.[1126] The clause was included again by a majority of twenty-four to six.[1127] The issue was not mentioned by the Legislative Council at all.

6.9 The Wharangi offer comes under attack

The exemption, the continued withholding of the rents, and the response to the petition – first Mantell's rejection of the signatures as 'informal', which was seen as an attempt to hamapaka or 'humbug' them, and then the failure of parliament to heed their plea – caused increasing dissatisfaction amongst Ngāti Raukawa, who had agreed to sell in October 1864, as well as amongst Ngāti Kauwhata, Ngāti Wehi Wehi and those leaders and hapu of Ngāti Raukawa as well as hapu closely associated with Ngāti Maniapoto and Tuwharetoa who continued to oppose this supposed solution to tribal rivalries. Heightening the rising discontent was advice from local settlers that the Rangitīkei-Manawatū lands were 'imprisoned'; the publication of a letter under the sobriquet, 'Kaionge', which suggested that the exemption had been retained because of the opposition of Featherston; and worst of all, a provocative caricature depicting the three tribes as pigs, with heads of Maori, being driven by Featherston and Buller. Not surprisingly, this caused great offence. In a meeting with Featherston and Buller in Wellington, in November, Ihakara announced that he no longer regarded them with 'affection and esteem' but with 'distrust and suspicion'. He thought that the law meant that he was selling his land 'blindfolded', and, he announced, he was withdrawing his consent to the transaction so long as the 'restriction' remained in place.[1128]

Featherston soothed Ihakara's concerns. He was not, he said, surprised that he should be annoyed at the caricature or Kaionge's letter; nor did he need to know who the Pakeha were who were referring to the land as 'in prison' – it was pretty generally known who they were and that they had 'selfish and interested motives'. He explained that the Native Land Act did not mean, as Ihakara seemed to think, that Maori would be able to sell their lands freely; they would have to prove their title first. Then he justified the exclusion of the Manawatū from the court's jurisdiction on the doubtful – and indeed false – grounds that an agreement to sell was already in place (the initial legislation having predated even the agreement of the nine rangatira at the Wharangi Hotel). He told Ihakara that the Act expressly exempted lands on which purchase deposits had already been made and justified its application to Manawatū on the grounds of their prior agreement as well as the usual one of supposed intractable tribal rivalry:

> Now although no deposit had yet been paid on the Rangitikei-Manawatu block, Ihakara could not deny that virtually it was already in the hands of the Commissioner, … It was only fair therefore, to deal with the Rangitikei-Manawatu block as land under sale to the

[1126] Gilling, 'Land of Fighting', p 97.
[1127] *NZPD*, 1864-66, p 630.
[1128] Notes of an interview, 22 November 1865, *AJHR*, 1866, A-4, p 15.

> Government, although the final terms had not yet been arranged. But apart from all this, he felt sure that Ihakara would agree with him that to attempt to get the ownership to this particular block investigated and settled in any Land Court would be a mere farce. Every effort had been made to induce the disputants to a settlement of their claims by arbitration, but to no effect. Neither tribe would admit itself in the wrong or submit to an adverse decision of the Court. [1129]

Nor could Buller be seen as 'driving the Natives into a sale' when the offer had come from Māori themselves.[1130]

Ihakara professed himself as 'satisfied' but asked why the land between the Manawatū and Ōhau Rivers was included in the restriction since it was not in dispute. Featherston said that he saw no objection to the land south of the Manawatū River being brought within the Court's jurisdiction, although he questioned whether the ownership of that area was, as Ihakara claimed, undisputed.[1131]

These arguments and reassurance were repeated at several meetings held at Maramaihoea, Oroua, Puketōtara and Ōtaki in the first week of December. At Maramaihoea, Wī Pukapuka also questioned his earlier efforts to gain the consent of his hapu to the sale. He had been satisfied with the explanation given as to the Native Land Act, but his eyes had been opened since and he had discovered he was the 'laughing stock of the pakehas – that a fence had been erected around his land, and that the Superintendent and Mr Buller were driving him into a trap. His tribe (the Ngātiraukawas) had always been considered … a tribe of chiefs. They had never been stigmatized as "pigs" before He would stand it no longer. He would snap the rope that had been tied to his leg by the Superintendent…' When he had consented to the sale, he had not been aware of the 'disgrace' he was bringing on his tribe. Wi Pukapuka also complained of the length of time – two years – that the rents had been withheld and intimated that he no longer trusted Ihakara, whom he thought had 'betrayed' the tribe, who were all of one mind – 'all determined to assert their rights at whatever risk'.[1132] Aperahama Te Huruhuru and several other chiefs spoke to the same effect, as did Wirihana of Ngāti Kauwhata, although his declaration of support for the Kingitanga found no favour with Pukapuka. Tohutohu (Ngāti Wehi Wehi from Oroua) who had not consented to the sale, wanted the rents to be paid. Tapa Te Whata, Te Kooro, Nēpia Maukiringutu, and several others also spoke in favour of the rents being paid over, promising to make a fair division among the tribes.

Featherston, in reply, denied any instrumentality or any effort to drive them into selling; indeed, one might be excused for thinking he was a reluctant purchaser, although the reality was that the provincial government was determined to

[1129] Notes of an interview, 22 November 1865, *AJHR*, 1866, A-4, pp 15-16.
[1130] Notes of an interview, 22 November 1865, *AJHR*, 1866, A-4, p 16.
[1131] Notes of an interview, 22 November 1865, *AJHR*, 1866, A-4, p 16.
[1132] Notes of a meeting at Maramaihoea, 4 December 1865, *AJHR*, 1866, A-4, pp 16-17.

acquire the area. Featherston had made that clear to the general government in the preceding decade. and it was regarded as an increasingly urgent matter as the provincial economy continued to struggle.[1133] He 'reminded' his audience that the proposal to sell had come first from the 'Natives' (he did not identify Ngāti Apa specifically at this point), and his efforts at arbitration had failed. He had 'simply endeavoured to adjust an angry dispute which threatened to embroil the district in a tribal war…' As the offer of sale 'virtually amounted to a pledge that the tribe would not assert their rights by force of arms … he felt himself bound to accept it but in doing so he was careful to explain to them that he did not accept the land, but such right or interest as they might hereafter be proved to have in the land'. He did not explain how this was to be done in the absence of a land court investigation. He did absolve himself, however, of 'taking advantage' of Ngāti Apa's offer of sale as a way of forcing Ngāti Raukawa and Rangitāne to terms. He simply explained to them 'what he had done, warned them against disturbing the peace … and proposed the withholding of all rents till some amicable arrangement had been mutually come to'. They had agreed to the proposal, and any settler who attempted to violate the restriction would be held liable for the consequences. It was a matter of speculation, he argued, as to whether paying out the rents would cause trouble, but he pointed to the growing 'disaffection' that had prompted Nēpia Taratoa 'who was shrewd and far-seeing' to allocate his own share to Ngāti Apa before his death. Ngāti Apa had 'grasp[ed] at and carried away the money' and the passing of Taratoa had dissolved the ties that had long kept the tribes in check. The feelings of 'discontent and jealousy' had flared up and although the district was currently quiet, he thought that this would happen again if the rents were at issue. The decision lay with him but he promised to ascertain the opinion of the other tribes involved, and if they were unanimous in their wish to have the rents paid out and their commitment to divide them in a peaceful and equitable manner, he would 'probably yield to their request.' He then rebuked Pukapuka and Te Huruhuru for attempting to intimidate him and defended Ihakara's actions in extracting a promise (so far as Featherston was individually concerned) to limit the restriction of the court to the 'disputed block', which they had condemned as a betrayal.[1134]

Pukapuka expressed satisfaction at this and excused their threats by reference to the caricature, prompting Featherston to dismiss the incident to the general amusement of the gathering; the next caricature might well portray Buller and himself as sheep being driven off the land by the chiefs, he told them.[1135]

At Oroua, Te Kooro led the discussion, opposing the sale and demanding the rents and then he, Tapa Te Whata, and several others accompanied Featherston and Buller to Puketōtara where further and fuller discussions were held.[1136] We do

[1133] Hearn, 'One past, many histories', p 295.
[1134] Notes of a meeting at Maramaihoea, 4 December 1865, *AJHR*, 1866, A-4, p 18.
[1135] Notes of a meeting at Maramaihoea, 4 December 1865, *AJHR*, 1866, A-4, p 18.
[1136] Notes of a meeting at Maramaihoea, 4 December 1865, *AJHR*, 1866, A-4, p18.

not detail the Rangitāne kōrero here other than to note that at this stage Hoani Meihana, who had been present at Wharangi when the chiefs handed over the 'land of fighting and trouble' to Featherston, still supported that decision but he thought that the hapu must endorse it: 'Let all the tribe agree.' If they did, they would get their money, but they could keep 'talking, talking, talking'. He later clarified that he was speaking only of the area on 'the other side of the Oroua'.[1137]In his view, Featherston had to take charge of the rents because they would be unable to reach an amicable agreement on an allocation themselves. Tapa Te Whata endorsed these sentiments, but Peeti Te Aweawe disputed the right of the rangatira at Wharangi to dispose of his land and demanded the rents. Te Kooro did likewise. He suggested that if the rents were paid and spent, then they might be 'in the humour' to discuss the question of a sale to the Queen. He saw no justification for holding back the rents for their land because it was not disputed – 'our title is perfectly clear.' If, ultimately, the tribe wanted to sell, then he would demand a large reserve at Awahuri because 'all the best land is being sold to the Pakehas and we shall have none left for our own support'.[1138] Featherston, in response, repeated much of what he had said at the earlier meetings. He congratulated Meihana and Tapa Te Whata on their 'manly and straightforward' speeches and stated that it was his 'firm conviction that before very long the whole of the Natives interested would consent to the proposed sale of the land to the Crown, and in this way get rid of a very vexed and troublesome question.' They would benefit in other ways, too, for a large European population settled among them would open up new avenues for trade and provide protection for loyal Natives: 'He felt sure that the sale of the block would be mutually beneficial to both Natives and Europeans. He had never sought to purchase it, but as it had been voluntarily offered to him as the Queen's commissioner, first by Ngātiapa, and afterwards by Ngātiraukawa and Rangitāne, he intended to do as Hoani Meihana and Te Whata recommended – "to hold it fast".' That way there was no danger of fighting.[1139]

The meeting at the 'lower Manawatū' had to be cancelled because fighting broke out 'owing to the supply of grog' although Featherston held a further interview with Ihakara, who now expressed himself as firmly opposed to the handing over of the rents. He informed Featherston that 'nearly all the men of influence' were in favour of an immediate sale, but that continued opposition of some would likely mean considerable delay.[1140] At Ōtaki, where Māori had gathered to receive the purchase money for Mana Island, Tāmihana, Te Whiwhi and Horomona Toremi all declared themselves opposed to the distribution of rents.[1141] Te

[1137] Notes of a meeting at Maramaihoea, 4 December 1865, *AJHR*, 1866, A-4, pp 18-19.
[1138] Notes of a meeting at Maramaihoea, 4 December 1865, *AJHR*, 1866, A-4, p 18.
[1139] Notes of a meeting at Puketotara, 6 December 1865, *AJHR*, 1866, A-4, p 20.
[1140] Notes of a meeting at Puketotara, 6 December 1865, *AJHR*, 1866, A-4, p 20.
[1141] Notes of a meeting at Puketotara, 6 December 1865, *AJHR*, 1866, A-4, p 20.

Rauparaha followed up with a letter stating that the land 'must be sold' to prevent further contention.[1142]

Hearn points out that whatever plans Featherston had for furthering negotiations to bring the purchase to a satisfactory conclusion for the provincial government were disrupted by the decision of the general government to 'clear' Maori from the bush lands, along the planned road from Taranaki to Whanganui.[1143]The ruthless General Chute commanded a force of 620 men, including about 270 Maori, in a six-week campaign in early 1866 that resulted in considerable loss of life and the destruction of seven pā and twenty villages between Taranaki and Waitotara.[1144] Featherston played a prominent role in the campaign. Later that month, he held a meeting at Pūtiki resulting in up to 300 Maori gathering around Te Rangihiwinui, including a contingent from Horowhenua. Some 50 Ngāti Apa led by Kāwana Hūnia and a group of Rangitāne under Peeti Te Aweawe also joined the government forces during the campaign.[1145] They refused to fight unless Featherston led them himself, and he accompanied Chute on the west coast campaign, and was subsequently awarded the New Zealand Cross.[1146] Nobody could doubt Featherston's personal courage; more debatable was the influence of his relationship with the Māori contingent in the negotiations for the Rangitīkei-Manawatū that followed.

6.10 Takapu hui, April 1866

This was an important hui at which the three iwi were deemed to have reached agreement to sell, although some members of the tangata heke remained opposed and Featherston insisted on some 'stipulations' that had yet to be met. The kōrero, as reported by Featherston, makes for interesting reading, as do the details which he omitted and for which we must turn to the correspondence of a number of those involved – more especially those who were opposed and whose claims and status Featherston consistently denigrated in his official reports. Much of what Featherston said could be described as 'alternative facts', as we explore further below.

By the new year, public pressure was mounting for the acquisition of the Rangitīkei-Manawatū, which was described as 'two hundred thousand acres of the finest land in New Zealand'.[1147] In February 1866, the Manawatū Small Farm Association announced plans, supported by the provincial government, for the

[1142] Notes of a meeting at Puketotara, 6 December 1865, *AJHR*, 1866, A-4, p 20.
[1143] Hearn, 'Once past, many histories', p 295.
[1144] D Green, 'Chute, Trevor', https://teara.govt.nz/en/biographies.
[1145] Mason Durie, 'Peeti Te Awe Awe', https://teara.govt.nz/en/biographies.
[1146] Mason Durie, 'Peeti Te Awe Awe', https://teara.govt.nz/en/biographies.
[1147] 'The Manawatū Small Farm Association', *Wellington Independent*, 11 January 1866, p 5, cited Hearn, 'One past, many histories', p 296.

settlement of small farmers on some 10,000 acres in the block.[1148] Speculation in shares of small farm associations attended the announcement of Featherston's departure for the Manawatū, while the run-holders tried to 'stoke the opposition' by offering high prices for the purchase of desirable sites.[1149] Hearn points out, also, that the anticipated purchase was keenly debated during the general election campaign that month.[1150]

Maori were also pushing for some sort of resolution and for the release of their impounded rents. Aperahama Te Huruhuru and Wiremu Pukapuka called the principal chiefs together for a meeting at Tāwhirihoe and, if they were 'all of one mind', they would then convene a meeting of the people to 'bring this work of ours to a speedy close'. Featherston was to offer a price, and if they could not agree among themselves, he should leave them – Ihakara, Meihana, Te Whata, and Waharoa – with Buller to 'work quietly among the people' so that general consensus might be reached.[1151] The key question to be decided was whether they would unite with Ngāti Apa in the transaction or act separately.[1152] In the meantime, Te Huruhuru was beginning to have doubts about the sale and the impartiality of the commissioner and, in February, he and a number of others wrote to Resident Magistrate, Major Edwards, with a request that he forward a message to Russell (Native Minister) and the 'Runanga of Wellington', asking that they 'withhold' Featherston.[1153]

That same month (February), Ihakara announced that after consulting with the other chiefs, it had been decided that the time had arrived for 'a final adjustment of the Rangitīkei question', and so the Tāwhirihoe hui never took place. Instead, a general meeting was convened at Takapu on the Manawatū some 20 miles upriver, but first (in Featherston's view), Ngāti Apa had to be persuaded to attend – because, Hearn suggests, it would be far more expensive to negotiate separate deals for the different iwi involved.[1154] Buller and Featherston travelled to Turakina in late March. We do not describe those discussions other than to note that Aperāhama Tīpae was reported to speak with 'much bitterness about Ngātiraukawa and their chiefs', refusing to unite with any other tribe in the sale, while:

> Governor Hunia made a still more violent speech against the other tribes, openly boasted that they … now had plenty of arms and ammunition, and could easily drive off their opponents, and that they would now prefer an appeal to arms to any other course. He

[1148] 'The Manawatū Small Farm Association', *Wellington Independent*, 10 March 1866, p 5, cited Hearn, 'One past, many histories', p 296.
[1149] Hearn, 'One past, many histories', p 296.
[1150] Hearn, 'One past, many histories', p 297.
[1151] Enclosure in Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 23.
[1152] Enclosure in Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 23.
[1153] Aperahama Te Huruhuru and others to Edwards, 25 February 1866, *AJHR*, 1866, A-4, p 4.
[1154] Hearn, 'One past, many histories', p 299.

> almost intimated that they had during the West Coast campaign reserved their ammunition for that purpose.[1155]

According to Featherston's report, such 'extreme violence was …distasteful to the meeting'. He rebuked the speakers for such threats, stating that the 'Queen's Government was both determined and able to enforce law and order'. He would, however, convey their messages to the Takapu meeting and was prepared to sign a separate deed of cession provided the other tribes agreed. Various demands for the purchase money (ranging from £90,000 to £40,000 with reserves) were then made, but nothing definite was decided before the Crown party returned to the Manawatū. There, Featherston had an interview with eight of the 'representative chiefs' who had 'voluntarily met' with him at Wharangi, and 'on behalf of their respective tribes formally offered the Rangitīkei block to the Crown in the hope of thus finally adjusting their quarrel with the Ngātiapa'.[1156] Te Huruhuru was not present, however, having declared himself a non-seller.[1157]

Featherston accompanied the chiefs to Takapu, where Maori had gathered prior to the formal opening of proceedings for preliminary discussions. According to Featherston, Ihakara and the principal supporters of the sale declined to enter into any debate, but the leading anti-sellers 'availed themselves of the interval … to foment discontent among the people and to create a feeling adverse to the sale'. It was his view that, 'As often happens on such occasions, those who were most zealous in opposing the sale and proposing other modes of adjustment were amongst those who had least claim to the land.' This, he said, had been frequently admitted by the speakers themselves, who often commenced their kōrero by saying that they only had a claim 'on sufferance'.[1158] He later cited two specific examples. However, opponents to the sale subsequently would claim the opposite: that it was those who were selling that had the least claim. Certainly, the majority of those who were to sign Featherston's deed of cession were, by his own admission, remote claimants.

Over the next week, the various issues associated with the 'Manawatū question' were debated by the gathering of some 700 Maori of Ngāti Raukawa, Rangitāne, Ngāti Toa and Muaupoko. Ngāti Kauwhata, Ngāti Wehi Wehi, Ngāti Pare, Te Matewa, Ngāti Parewahawaha, Ngāti Pikiahu, Ngāti Whakatere, Ngāti Huia, Ngāti Ngārongo, and Ngāti Rākau were noted as attending. Ngāti Apa and Whanganui refused to attend and although there was a small delegation of Ngāti Awa present, they did not participate in the kōrero.[1159] The importance of the occasion is indicated by the gifting of some 40 tons of food before the speeches began.

[1155] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 24.
[1156] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 24.
[1157] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 24.
[1158] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 24.
[1159] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, pp 24-25.

The first speaker was Te Huruhuru, who explained his change of heart, which he attributed to Featherston's persistent refusal to distribute the impounded rent monies (which Featherston justified as essential to keeping the peace, but which was also clearly intended to impel right-holders into sale). Huruhuru 'called upon the tribes to support him and challenged the sellers to prove that they had the sympathy of the majority of the people.'[1160] He was followed by Nepia Maukiringutu (Nepia Taratoa's son and often referred to, by the same name), who also said he would not sell. Ihakara spoke next, delivering a speech that Featherston complimented as 'carefully prepared, well delivered and very effective' (and which he more fully recorded than those made in opposition). Ihakara detailed the history of his actions with regard to the land and his former dispute with the late Nepia Taratoa:

> He vindicated himself from the charge of inconsistency in having first built pas and attempted to assert his claims by force, and having afterwards offered to sell the land peaceably to the Crown. He expressed his regret that the Ngātiapa had failed to attend the meeting, and repeated his oft expressed conviction that nothing but a sale of the disputed land could bring about a peaceful settlement of the question.[1161]

He argued that if the whole of the block and not just Te Awahou had been sold earlier, 'there would have been no more trouble.' Instead, it had been leased to Pakehas with rents paid to different tribes. 'While Nepia Taratoa lived there was no trouble', but his death had been followed by dissension and a spate of pa building. 'He had himself built three pas, Tawhirihoe, Hokianga, and Mokowhai.[1162] The Rangitāne became his allies. The fighting was very near when the Pakehas interfered. He had resolved to keep possession of his land or else to shed his blood upon it.' He then referred to the various efforts by officials to prevent the outbreak of hostilities, the Ngāti Apa offer of sale, the failure of arbitration, and his deduction that 'nothing but a sale of the land to the Queen would bring the trouble to an end'. He told the assembly that he had 'consulted his brother chiefs' and upon them 'all' consenting, a 'formal offer' had been made by the nine rangatira at the Wharangi. This occasion had been marked by giving Featherston his club known as Rangitīkei 'in token of the surrender of the land, and the club was still in Dr. Featherston's hands'.[1163]

There had been a considerable delay while the consent of the people was won, but they were now assembled, and the matter could be soon settled. He reiterated that he 'would have continued to oppose the sale of the land had he been able to discover any other way out of the difficulty. There were only two ways open to him. One was to fight the Ngātiapa, and take forcible possession of the soil; the other was to sell the land to the Queen, and to let the Ngātiapa sell also.'[1164] He

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[1160] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 25.
[1161] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 25.
[1162] The correct name is Mākōwhai.
[1163] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 25.
[1164] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 25

suggested that his preference had been to fight, but 'his young men had laid aside their guns and were planting potatoes' and he 'did not want to call them back to the war dance'. He wished to unite with Ngāti Apa in the sale; if they refused, 'the Queen would have to make them a separate payment … he would ask Dr. Featherston for a very small price, only £21,000 … on behalf of *all* the tribes concerned'. This was only £1000 more than Horomona had demanded for Ngāti Raukawa and would, he said, 'show that he was selling, not for the sake of the money, but to prevent fighting. If his share should only be sixpence he would be satisfied.'[1165]

Wiriharai, Tohutohu, Te Kooro, Reupena Te One, Horapapera Te Tara, Hare Hemi Taharape, Heremia Te Tihi, Paranihi Te Tau, Henare Hopa, Te Reweti, Te Herekau, Rāwiri Te Wanui, Parakaia Te Pouepa, Te Kepa Kerikeri and Rota Tāwhiri were the next speakers, all of them more or less opposed to the sale, but the content of their speeches was not recorded in any detail by Featherston. It appears from correspondence, however, that they had emphasised their understanding of earlier Crown purchases as a basic division of tribal territory and their wish for an investigation by the Native Land Court. Tāmihana Te Rauparaha described the debate as a 'great deal of talking.' Some said, "let it be surveyed and investigated;" others said, "Let it be held as before for the purpose of maintaining the power (authority or influence) of the Natives; if that settlement is sold, the Maori tribes will be lost."' This core concern was not one that he shared. 'There was a great deal of talking,' he added, 'which was not quite clear.'[1166] Featherston, who invariably belittled the rights of those who were opposed to his purchase, did note that Heremia and several others described themselves as remote claimants. Featherston states: 'There were many of them averse to the sale, not on any particular ground, but because they were opposed generally to the further alienation of native lands.'[1167] Both Te Herekau and Parakaia Te Pouepa urged that a further attempt should be made to have the exemption clause in the Native Lands Act repealed. Te Whiwhi thought that the chiefs should have decided on the question on behalf of the tribe, and Te Rauparaha spoke strongly in favour of sale and suggested that a fair price would be 20/- per acre for the best land, 5/- per acre for swampy and indifferent ground, and 2/6d per acre for the sand-hills.[1168]

Discussion resumed the following day with a number of speakers debating the matter of price – in most cases suggesting something rather less than that proposed by Ngāti Apa. Ihakara repeated his suggestion of £21,000 and Horomona Toreni proposed £20,000; Tāmihana Te Rauparaha suggested £30,000 to be divided between the three tribes; Wi Pukapuka, £50,000; and Noa Te Rauhihi and several others, £40,000. Gilling points out that 'opinion swung

[1165] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 25.
[1166] Te Rauparaha to Mantell, 25 April 1866, *AJH*R, 1866, A-4, p 6.
[1167] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 26.
[1168] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 26.

unpredictably.'[1169] Featherston specifically named a number of attendees who seemed to abandon their opposition and who later in the hui were among the first to sign the deed: Neri Puratari, Wereta Te Waha, and Piripi Te Rangiataahua. Others, such as Te Hōia, of Ngāti Huia based at Poroutāwhao (one of those purportedly calling himself a 'remote claimant'), acknowledged that, although he was opposed to all land selling, it would not be possible to prevent Ihakara from doing so if he insisted. That had been demonstrated in the case of Te Awahou, as Ihakara himself pointed out. Peeti Te Aweawe spoke briefly on behalf of Rangitāne and Muaupoko, stating that they would reserve their opinion until a future occasion since Ngāti Apa were not present.[1170]

After a day of debate (7 April) in which a number of opponents were reported to have withdrawn their objections, 'crushed by the resolute determination of Ihakara and the other leading chiefs to effect a sale', Featherston was called upon to state his intentions. Ihakara was certainly clear as to his:

> Dr Featherston, the land is yours. Give me the payment. Here are the people, let them consent. Refuse not, lest there be fighting. Let the tribes have the money – Ngātiraukawa, Ngātiapa, Rangitāne, all the tribes. .. let the people take it. I don't want the money, let the tribes take it all.[1171]

He went on to suggest that only Featherston had been able to prevent the fighting and only then had 'the people listened' and turned to peaceful, productive pursuits. 'Pay the money,' he exhorted, 'and all the opposition will disappear. It was so when the Awahou block was sold. Rangitikei is in your hands, hold it fast forever and ever!' This Featherston refused to do until Ngāti Apa consented. Suggesting that they had been slighted by Ngāti Raukawa's earlier failure to attend one of their hui, he proposed that a delegation of chiefs from the several tribes present, including some from the anti-selling party, be sent to invite Ngāti Apa to return with them to the meeting. The assembly assented to this and a letter was sent immediately to invite Ngāti Apa to meet the deputation on 10 April at Rangitīkei. Featherston, Buller and the ten rangatira, who had been chosen, then set off but received an angry letter from Kāwana Hunia en route, ordering them back. Believing that an approach kanohi ki te kanohi might produce better results, Buller and Peeti Te Aweawe travelled on to Turakina and then Wanganui. After a night of negotiation, they succeeded in persuading Kawana to return with Ngāti Apa and Tamati Puna from Whanganui to Parewanui, where they met up with the commissioner and the deputation before travelling on to Takapu. There, they were received 'with every demonstration of good feeling'. According to Featherston's report, most of the first day was devoted to promoting harmony

[1169] Gilling, 'Land of Fighting', p 111..
[1170] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, pp 26-27.
[1171] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 27.

between ‘the hitherto estranged tribes and to the establishment of mutual confidence’.[1172]

By the following day, there was an increasing sense of urgency that agreement be reached. Kāwana Hūnia threatened to start building pā again and decide the question of title by force of arms if all else failed. Rangitāne and Muaupoko were unanimous in favour of a sale to the government. Parakaia continued to advocate submitting the matter to the Native Land Court, but Ngāti Apa scorned the idea and, according to Featherston’s report, there appeared to be ‘very few’, even among the anti-sellers, who favoured that course of action. Te Huruhuru and Nepia still opposed the sale but admitted that there seemed to be no other hope of resolving their dispute with Ngāti Apa.[1173]

Featherston (interpreted by Buller) then replied, beginning with ‘an extensive self-justification and obvious attempt to clear himself in advance of any charge of taking personal advantage of the situation’.[1174] It was time, he said, to resolve the dispute and while Ihakara and others had spoken truthfully, he wished to explain how he came to be ‘dragged into’ the matter. He stressed repeatedly that his role was one of mediator only. He had not asked for the job; both the quarrel and the land in dispute had been ‘forced’ upon him by the three tribes after other avenues of conciliation had failed.[1175] They had invited him, he said, because they had long regarded him as a friend ‘in whose justice and integrity they had faith’, while the government had urged him to undertake the mission because ‘they knew the tribes had confidence in him and would be more likely to be guided by his advice than by that of any other person’.[1176] They had been on the verge of open warfare, unable to admit the claims of the other, and when Ngāti Apa insisted on sale as the only possible solution of the difficulty, he had refused to accept more than ‘whatever interest they might be found to have.’ Similarly, when the nine rangatira had ‘formally handed the block to him’, he agreed to it subject to Ngāti Apa’s claims and the consent of the people. He had only accepted the offer of sale of land to which they had a real title, he said – although he did not elaborateon how that was to be shown! Indeed, the tortuous logic of the speech that followed suggested that such an assessment was all but impossible.

He reviewed the different options that had been discussed over the prior three years. Arbitration had been ineffective, only serving to embitter and entrench the dispute because neither side was prepared to abide by a decision contrary to their interest. When he asked whether they would accept a decision in Ngāti Apa’s sole favour, there was ‘universal dissent’. Proposals to divide the land three-ways

[1172] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 27.
[1173] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 27.
[1174] Gilling, ‘Land of Fighting’, p 113.
[1175] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 28.
[1176] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 28.

had failed because there was no agreement as to each group's precise entitlement; nor was their consensus as to who would get the good land and who would get the sand hills. When asked if a division of the land was now practicable, the gathering replied 'Kahore. Kahore.' As to the idea of submitting the matter to the Native Land Court, Featherston was scathing of its chances of success:

> Parakaia had omitted to tell them many things connected with that Court. He had not told them that all the tribes must consent to take the land into the Court, that each tribe must employ surveyors to mark out the boundaries of the land it claimed; that the tribe must be prepared to accept the decision of the Court as final. Were they prepared to comply with any of these conditions? … (No, no.) Would anyone of them dare to send surveyors on the land, every inch of which they had decided to be in dispute … Would they agree to abide by the decision of the Court? (Enough, enough.)
>
> … Let the tribes say with an united voice that they agreed to any one of them – that they will go to arbitration – let them say that they will divide the land – let them say that they will submit their claims to the decision of Judge Parakaia, and he would declare his concurrence in it.[1177]

Presented in this light, it is unsurprising that none of these alternatives found favour, and Featherston concluded that the six tribes present 'were more than ever convinced that the only possible solution … was … an absolute sale of the whole of the land in dispute to the Crown.[1178] Up to this point, he said, he had refrained from giving 'the slightest inkling' of his intention' but now had not the 'slightest hesitation' in accepting the block as the 'only means of preventing bloodshed'.

Next he referred to Te Whiwhi's earlier criticism that a grave mistake had been made in not concluding the sale at Wharangi without reference to the opinion of their iwi, whereas he (Featherston) had insisted that this must be gained first – but what did he mean by this?

> He did not mean that the opposition of one man (not a principal chief) should prevent a whole tribe selling their land. Neither did he mean that a small section of one tribe should be allowed to forbid some six or seven tribes disposing of a block which they were anxious to sell. However much he might insist on having the consent of the tribe, of all the real and principal claimants, he would be no party to such a manifest injustice as would be implied by one or two men probably possessing little or no interest in the land, forbidding the tribe selling it; or to a small section of one tribe opposing the wishes of some half dozen tribes, especially when the carrying out of the decision of the majority was the only means of avoiding an inter-tribal war.[1179]

Featherston continued to insist on his impartiality. Completely ignoring his involvement in the Waitōtara purchase,[1180] he maintained that he had 'studiously

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[1177] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 28.
[1178] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, pp 28-9.
[1179] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 28.
[1180] In the opinion of General Cameron, the acquisition of Waitōtara was more 'iniquitous' than that of Waitara. See discussion in Waitangi Tribunal, *The Taranaki Report: Kaupapa Tuatahi*, Wellington, 1996, pp 64-7; Hearn, 'One past, many histories', pp 233-36.

avoided buying a disputed block; and certainly would not do so now'. None of his purchases had been impugned, he said, although some people had complained that they had not received their fair share of the price, but he took no responsibility for that; he had never been the one to distribute the money which was for the nominated chiefs to do. He then called on the chiefs of the different tribes, one by one, to speak on their behalf. Tāmati Puna for Whanganui, Kāwana Hūnia for Ngāti Apa, Hoani Puihi for Muaupoko, Mātene Te Whiwhi, Tāmihana Te Rauparaha and Hōhepa for Ngāti Toa, and Peeti Te Aweawe for Rangitāne. All said that their people were unanimous in their assent. Finally, he called upon Ngāti Raukawa 'who he knew were divided in their opinion'. Ihakara replied that they were not unanimously in favour as the other tribes were, but 'the large majority of them were so determined to sell, especially all the principal claimants, that he insisted upon the purchase being completed. Knowing that those who were at present holding out would soon become consenting parties, he never would listen to any other mode of adjusting the dispute.'[1181]

The commissioner responded that his course was clear:

> Five of the six tribes were unanimous in their determination to sell, and of Ngātiraukawa only a small section opposed the sale. Of that section the two principal chiefs, Nepia Taratoa and Aperahama Te Huru [sic] had some time since given their consent, and had repeatedly protested against the delay … in bringing the transaction to a close. Great chiefs like them were not in the habit of repudiating engagements entered into in the face of the whole tribe. He was certain, therefore, that the present opposition would not be persisted in. Of the other opponents many had already told him that they would abide by the decision of the majority, and would sign the deed of purchase. He felt, therefore, so confident that the deed would ultimately be executed by all the real claimants, that he had no difficulty in publicly announcing his acceptance of the block, and in congratulating them upon this long-standing feud being thus amicably settled and finally adjusted.[1182]

According to Featherston, this announcement was received with 'great applause, not a few of the opponents exclaiming, 'Rangitīkei is fairly sold, is forever gone from us.'[1183] Whether this was approbation or lamentation is not clear. The price was set at £25,000 without any discussion recorded, and how this figure was reached also is unclear. A memorandum of agreement was signed by 'upwards of 200 of the principal claimants'.[1184] Hearn points out that: 'Such was the Wellington Provincial Government's anxiety to conclude the transaction that Provincial Treasurer Halcombe, immediately on hearing of the outcome of the meeting … proceeded up country with £3000 as an instalment.'[1185] He turned back, however, on finding that Buller had been charged with collecting signatures to the deed of sale.

[1181] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 29.
[1182] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 29.
[1183] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 29.
[1184] Notes of various meetings … March and April 1866, *AJHR*, 1866, A-4, p 29.
[1185] Hearn, 'One past, many histories', p 307.

The opposition was not as negligible as Featherston indicated; however, it is to the correspondence of the opponents to which we must turn for a fuller description of the nature of their objections.

6.11 Continuing Opposition

In the following months it became apparent that Taratoa, Te Huruhuru, Hemi Hare Tarahape, Te Herekau, Te Pouepa and others had not approved, or had withdrawn their approval of the sale. Even before the assembly started to disperse, a letter was received by Fitzgerald that gave a rather different account of proceedings than the one contained in Featherston's official report. In a letter sent to *Karere Māori*, their 'fixed determination expressed in the presence of Dr Featherston and all the Europeans of these rivers' was reiterated:

> This holding fast of Ngātiraukawa to this side of Rangitikei is not a new thing. It existed long ago, at the time of Governor Grey and Mr McLean. We quietly gave up the other side of the Rangitikei to the desire of Ngātiapa; that went in a clear manner to the Governor. This side was retained in a clear manner. After that time it was Mr McLean and Governor Browne. Searancke again urged upon Ngātiapa. Governor Browne did not hearken to the voice of Ngātiapa. I settled about Manawatu to this Governor, and Rangitikei to Governor Grey … Six men, chiefs of the tribe expressed these words.[1186]

According to the authors of the letter, Featherston had addressed their arguments about survey and the Native Land Court but not this, to which he had made no reply. The letter concluded: 'Let it be done in a proper manner, not in a way resembling a taking by force.' Amongst the supposed signatories was Mātene Te Whiwhi, although there were allegations of forgery.[1187] Also recorded were Parakaia Te Pouepa, Paranihi Te Tau, Wiriharai Te Ngira, Epiha Te Riu, Heremia Puke, Henere Te Herekau, Nepia Taratoa, and Aperahama Te Huruhuru.[1188] A similar statement was addressed to Parliament, also written on the closing day of the Takapu hui, that they had agreed to sell Rangitīkei-Turakina, Ahuaturanga, and Te Awahou but 'the desire to sell land to the Queen has ceased. This is my heart's core that you are striving to obtain'. Their 'constant word' to Featherston was that they did not wish to sell, but to have the land court settle the difficulty, and that was what they were waiting for. The more serious allegation of threats was also made:

> On the 11th of April Dr Featherston made answer to us. … There are eight hundred of Whanganui, there are two hundred of Ngātiapa, Rangitāne and Muaupoko are one hundred, but you O Ngātiraukawa are a half – a small portion. Another word of Dr Featherston's was – "We went together with these tribes to fight against the rebel tribes upon the authority of the Queen; they have consented to the sale. I have agreed to their (proposal). This land is in my hand."

[1186] Parakaia Te Pouepa and others to *Maori Messenger*, 5-14 April, *AJHR*, 1866, A-15, p 4.
[1187] Te Whiwhi to Featherston, 9 May 1866, cited in *Wellington Independent*, 15 May 1866, p 2.
[1188] Parakaia Te Pouepa and others to *Maori Messenger*, 5-14 April, *AJHR*, 1866, A-15, p 4.

They had objected that this was tantamount to taking the land by force, asking where the 800 Whanganui were and accusing him of intimidation. He had then replied that it was 'done' and that he would 'give the money to the sellers'. They had objected that this was wrong, that they would 'hold on to the land forever' and not take any of the payment: 'This was the word of all the people.' Underneath this statement were listed the names of Ngāti Raukawa, Ngāti Whakatere, Ngāti Huia, Ngāti Parewahawaha, 'NgāttieTangi', Ngāti Tūranga, Ngāti Kauwhata, Te Mateawa, Ngāti Pikiahu, Ngāti Kahoro, Ngāti Rākau, Parakaia Te Pouepa and Henare Te Herekau.[1189] Certainly Ngāti Tūkorehe could be added to the roll-call of objectors. Their rangatira, Hare Hemi Taharape joined with Te Herekau (Ngāti Whakatere) in a letter to Fitzgerald, dated 16 April 1866, saying that they had expressed their ;determination to hold fast to Rangitikei; and had asked Featherston to'deal fairly with the people within the Province'. They had referenced the earlier purchases, arguing that Ngāti Apa had already sold this same land but that it had been 'withheld by Ngatiraukawa, and so kept back'. The 'desire' of Ngāti Apa, of Ihakara and of Hirawanu had been acceded to and accomplished by the earlier sales and permanent boundaries laid down, They had told Featherston this and of their intention to survey what remained for themselves to be kept for their own residence. Featherston had made no reply; and later they stood again and had asked him to let the land court decide who the owners were 'so that it may end well.' Taharape and Te Herekau repeated the allegation that Featherston had attempted to threaten them with the massed presence of the tribes that had fought against the 'rebels', saying that they had 'consented to this sale'; that the land was now in his possession and that he would 'hand the money over to them'. To this, Ngāti Raukawa had replied. 'We will hold fast to our own land; we will not take your money.' A third time they had warned him not to buy any land until it was properly surveyed and title decided; otherwise he would be taking the land by force and Ngāti Raukawa would resist and be brought into conflict with the government and settlers.[1190]

In a further letter to the Native Minister, Te Herekau and others again argued that the proponents of sale were 'unauthorised as regards each man's piece of land … If these people were willing to sell their own land, the sale of it would be clear.'[1191] Taratoa and twenty others also wrote to Governor Grey complaining that Featherston had 'seized' reserves at Paretao and Te Rewarewa, and was now attempting to do the same at Rangitīkei-Manawatū. 'If trouble should come upon us this year,' they argued, 'it will be through Dr Featherston. This land selling is not by the residents of Rangitīkei. … This land purchase is by your second (Provincial) Government. Enough, then. It is for you to prevent this land now being seized by Dr Featherston.'[1192]

[1189] Letter to Assembly, 14 April 1866, *AJHR*, 1866, A-15, pp 4-5.
[1190] Te Herekau and Taharape to Fitzgerald, 16 April 1866, *AJHR*, 1866, A-15, p 5.
[1191] Te Herekau and others to Native Minister, 20 April 1866, *AJHR*, 1866, A-4, pp 3-4.
[1192] Taratoa and others to Governor, 23 April 1866, *AJHR*, 1866, A-4, p 12.

Hearn describes these and other letters, petitions, and submissions as part of a 'remarkable public campaign' intended to counter Featherston's misinformation, and highlighting his questionable practices and the injustice of ownership rights being decided without proper investigation. These views were met by an 'equally vigorous campaign waged by the advocates of the transaction and in which denigration, excoriation, innuendo, aspersion, and accusations of fraud featured prominently among the weapons of choice.'[1193] We agree with Hearn's assessment and refer the reader to his report for a detailed analysis of these two campaigns.[1194] We note only some of the salient features in the following discussion. For example, the *Wellington Independent* denigrated both Parakaia Te Pouepa and Te Herekau. Te Pouepa had rights to only a few acres and was described as a 'big mouth'. Te Herekau was alleged to have been heard telling his companions at Takapu that he did not mean what he was saying and as having been among the first to sign the memorandum of sale.[1195] He denied this accusation, informing Fitzgerald that his 'hand did not grasp the pen'.[1196] Hearn concludes: 'There was nothing to suggest that the *Wellington Independent*'s claims were anything more than simple fabrications intended to reassure a public showing some signs of disquiet.'[1197] He also notes that the missionaries, likewise, came in for a good deal of invective, being accused of self-interested meddling in Featherston's efforts to acquire the block for the provincial government.[1198]

A destructive consequence of the government's determination to purchase the Manawatū was increasing division among the leadership of the tribes of the heke. Tāmihana Te Rauparaha was among those who came out in strong support of the transaction, accusing Te Pouepa and Te Herekau of falsehoods and forgery. He contended that the opponents were those who supported 'Kingism and Hau Hauism' and as being Rangitikei-based, while the 'multitude of the Maori chiefs', including Taratoa and Te Huruhuru, had 'consented to sell all the land lying between the Rangitīkei and Manawatū Rivers'. He also alleged that Te Herekau had sought an advance from Featherston for the land. Tāmihana encouraged the government to ignore those protesting as, 'Those people have two tongues.'[1199] Again, this was vigorously denied. Rawiri Te Whanui entered the debate, corroborating the account given by Te Pouepa and Te Herekau of the Takapu discussions, and that Parakaia had maintained that the consent of Ngāti

[1193] Hearn, 'One past, many histories', pp 317-8.
[1194] Hearn, 'One past, many histories', pp 313-39.
[1195] *Wellington Independent*, 28 April 1866, p 4, and 17 May 1866, p 4, cited Hearn, 'One past, many histories', p 318.
[1196] Te Herekau to Fitzgerald, 30 April 1866, *AJHR*, 1866, A-15, p 6.
[1197] Hearn, 'One past, many histories', p 319.
[1198] Hearn, 'One past, many histories', p 325.
[1199] *Lyttleton Times*, 31 May 1866, p 2, cited Hearn, 'One past, many histories', p 322; Te Rauparaha to Mantell, 25 April 1866, *AJHR*, 1866, A-4, p 6..

Raukawa to earlier Crown purchases had been contingent on their retention of the Rangitīkei-Manawatū portion.[1200]

In early May, Mantell forwarded a letter from Tāmihana Te Rauparaha to the Native Minister (at this point, Russell) describing the divisions among those claiming rights in the lands being purchased, accusing the other side of lying and asking for the money to be paid. Mantell suggested that 'the most important part of the negotiations … namely, the ascertainment and assessment of the proportionate interest of the contending tribes [was] still unaccomplished, or at least has not been communicated to the Natives or received their assent'.[1201] Featherston was then instructed to provide a report of his proceedings and, at the same time, furnished with a memorandum respecting land purchasing for his 'guidance'. This stated that purchase officers should satisfy the Native Minister of the following:

1. That he has duly investigated the Native claims to land within the block in question.
2. That such investigation has taken place after due publicity.
3. That by such investigation he has ascertained that the title to the block in question rests in such persons of such tribes as are named in his report.
4. That the area and price agreed to be paid and received in full … are accordingly defined and laid down as well as the number and amount of the instalments in which the same is to be paid, and the dates on which they are due.
5. That the persons to be named in his report are those to whom it has been agreed by all known claimants that payment shall be made on their behalf.[1202]

Instead of reporting as directed, Featherston supplied notes of the various meetings he had held, based on Buller's minutes, from which this chapter has drawn extensively. These he reckoned would tell the government everything it needed to know about the 'adjustment of the long pending dispute between the Ngatiapa on the one side and the Rangitānes and Ngātiraukawas on the other'. He also informed the Native Minister that the purchase deed had been already signed by over 1000 claimants.[1203] Russell seems to have been alarmed rather than reassured by his perusal of the notes and, especially, the intention of handing over all the money to nominated chiefs at Parewanui for further distribution. Featherston was informed that he must make a full report first and also not to authorise any surveys without the knowledge and consent of the general government, which had received reports of threats of disruption.[1204]

In the meantime (in May), Parakaia and Te Herekau led a delegation of some 35 members to Wellington to wait upon the Native Minister. In a statement they had

[1200] *Press*, 8 June 1866, p 2, cited Hearn, 'One past, many histories', p 322.
[1201] Mantell to Native Minister, 1 May 1866, *AJHR*, 1866, A-4, pp 5-6.
[1202] Enclosure 1 in Native Minister to Featherston, 3 May 1866, *AJHR*, 1866, A-4, p 5.
[1203] Featherston to Native Minister, 30 June 1866, *AJHR*, 1866, A-4, p 14.
[1204] Russell to Featherston, 17 and 20 July 1866, *AJHR* 1866, A4, pp 32-3.

sent to *Te Karere Maori* so that 'all may hear', they had informed 'all the Runangas of Wellington, Christchurch, Ahuriri, Auckland, England, and all the places of the Queen' that they were 'very dark at the work of Dr Featherston', who had been sent in the stead of McLean. McLean 'held the words of the tribes who retained possession of this side', but Featherston was 'not clear'. They then detailed the reasons for their dissatisfaction, not only with the commissioner but with a government that seemed indifferent to their plight:

> He retained our rents and we were dark. You regard him as an adjudicator; to our idea he is a person who stops the mouths of the people … That was why we urged … that it should be settled by law, and that a court should be held; but the Assembly did not consent. We urged that he should be kept back, but you did not consent. Now he has come to ask for Rangitikei, but it will not be given up by Nepia and Aperehama. We are in trouble. In your estimation he is a judge; in ours he is one who seizes property, who introduces people from one side, who opposes the words of the rightful owners, and causes vexation to settle upon the people who work quietly.[1205]

A similar letter signed by Parakaia, Te Whiwhi, Paranihi Te Tau, Wiriharai Te Ngiro, Epiha Te Riu, Heremia Te Puke, Henere Te Herekau, Nepia Taratoa, and Aperahama Te Huruhuru was published in the *Press.*[1206]

The delegation was received by Colonel Haultain acting on Russell's behalf. In the interview that followed, they stated that while seventeen of Ngāti Raukawa had consented to the sale, they remained unanimously opposed. Parakaia argued that the majority of those who had signed the deed 'belonged to strange places' and came, he believed, from 'various parts of Wanganui'. In response, Haultain told them that Featherston had not yet sent in a report, so the government was not in a position to make any decision. They were then requested to leave a document, signed by all, stating their objections so that it could be considered alongside Featherston's report when it arrived, and were assured that 'no sale would be allowed unless the owners of the land agreed to it'.[1207] The delegation wrote to the General Assembly on the same day, with counter allegations of forgery by Buller of the names of Taratoa and Te Huruhuru on the Memorandum of Agreement, and that Featherston was 'not willing that the Pakehas of Wellington hear our words…'[1208]

Further correspondence was sent during the months that followed. Henare Te Herekau complained, for example, of the 'wearisome' and 'false' claims that he was in favour of selling, and that Parakaia had only an acre or two when he had rights in thousands and his hapu, 'a very large piece there'. His letter was published in the *Press*, which editorialised that it was impossible to tell the truth of the matter when there was no possibility of a court of inquiry. The article went on to comment that while it was hard to believe that Featherston would

[1205] Letter from Te Huruhuru to all the Runanga, 20 April 1866, *AJHR*, 1866, A-4, p 14.
[1206] *Press*, 27 April 1866, p 2.
[1207] Notes of an interview, *AJHR*, 1866, A-4, p 11.
[1208] Parakaia Te Pouepa and others to General Assembly, 9 May 1866, *AJHR*, 1866, A-4, p 35.

deliberately 'do injustice to a Native', there was 'that ugly story about the Waitotara totally unexplained', which led them to 'mistrust his judgement in a land purchase'.[1209] Te Kooro Te One and other Ngāti Kauwhata and Ngāti Wehi Wehi similarly protested the actions of Hoani Meihana Te Rangiotu and Tapa Te Whata respecting the land between the Rangitīkei and Oroua Rivers and setting out the boundaries of the land they possessed and were determined to retain. Another letter was sent in July when Buller arrived in Puketotara touting the deed of purchase. Signatories included amongst others, Mukakai, Reihana Te Piki, Repena Te One, Te Horo and Hoani Te Puke.[1210] Rawiri Te Whānui, with four others, also wrote from Ōtaki protesting the intended purchase.[1211]

Hearn comments that 'dissension within Ngāti Raukawa' – or perhaps more accurately, within the heke tribes – intensified, as did the pressure on Featherston (who had by this stage sent his minutes of the meetings to the Native Office). He cites Tukumaru as writing to Featherston to refute Parakaia's claims and to ask for a Crown grant for Mingiroa. Nepia Taratoa also wrote stating his determination not to sell and criticising Te Huruhuru for his inconsistency on the issue.[1212] Featherston, Buller, and the exemption from the Native Lands Act were roundly criticised by T C Williams in a letter published in the *Wanganui Chronicle*.[1213] Hadfield was equally critical, suggesting that Buller would not have needed to collect so many signatures ('all this padding') to the deed he was 'so assiduously carrying about in all directions' if he had the consent of the 'real owners', who could only be determined by a 'fair and open investigation by a proper tribunal…'[1214] Hadfield was dismissed as an 'avowed partisan of the Ngātiraukawa or of that section of them which belongs to his immediate neighbourhood'.[1215] According to Hearn, however, 'even some of the transaction's supporters began to express doubts' as a result of the sustained criticism.[1216]

Other tactics were attempted by those who were opposed to the sale in the months leading up to Featherston's so-called 'distribution' of the purchase price. Denied a Native Land Court investigation, Parakaia attempted to use the regular court system, applying to the Supreme Court under the Native Rights Act 1865 for an injunction to stop the sale of land to which he and others had claims by native custom. Featherston successfully argued, however, that no title had been proved and that even if the land in question belonged to the plaintiffs, no irreparable damage had been demonstrated, whereas to stop the sale would

[1209] *Press*, 17 May 1866, p 2, cited Hearn, 'One past, many histories', p 329.
[1210] Te Kooro Te One and others to Governor, 13 June and 13 July 1866, *AJHR*, 1866, A-4, pp 30-31.
[1211] Rawiri Te Wanui and others to Native Minister, 19 July 1866, *AJHR*, 1866, A-4, p 32.
[1212] Hearn, 'One past, many histories', p 330.
[1213] *Wanganui Chronicle*, 18 July 1866, p 2; Hearn, 'One past, many histories', pp 330-31.
[1214] *Wellington Independent*, 10 August 1866, p 2.
[1215] *Wellington Independent*, 10 August 1866, p 2.
[1216] Hearn, 'One past, many histories', pp 331-33.

'create a very bad feeling … between the settlers and the natives, and might even be the cause of bloodshed.'[1217] The application was refused. In effect, Parakaia was denied an investigation by the Native Land Court and, at the same time, could not use the regular court because he could not prove ownership.[1218] A second attempt to use the court system was to be made in October – again unsuccessfully. Parakaia applied to the Court of Appeal for an injunction to stop the sale of 11,800 acres of the block. The court declined the application because it had to be heard first by the Supreme Court, Justice Richmond commenting that an action for trespass could be brought once possession was taken.[1219]

Parakaia also attempted to survey the land he claimed in order to lease it to run-holders rather than sell to the provincial government. This prompted warnings of imminent violence which were initially discounted by the local resident magistrate (Major Edwards), who thought it unlikely that there would be interference. There were objections, however, from Hūnia and Ngāti Apa at the 'clandestine' work in the 'bush' by people who 'rightfully belonged to Maungatautari'.[1220] It was alleged that Featherston and Buller had been encouraging the disruption of Parakaia's survey by advising the sellers of that his intention. Two of the vendors (Horomona and Hōhepa) claimed, in September, that they had been advised by Buller to join with Tukumaru in interrupting the survey. A similar allegation was made by Nēpia Taratoa, who was also attempting to have his hapu's portion defined: that their survey pegs had been pulled out and attempts made to drive them off by Featherston's direction.[1221] The extent of Featherston and Buller's complicity is unclear, but Ngāti Apa had no hesitation in admitting their disruption of Parakaia's survey activities, writing directly to the judge then hearing his application to stop the sale, stating that they had 'thrown down the poles of Parakaia and his Hau Hau friends…'[1222] Hearn notes that they were rebuked for their attempts to intervene while Featherston denied the charges.[1223] In the meantime, allegations of Hau Hau sympathies were regularly levelled at Parakaia, and Taratoa was discredited by his having apparently signed the deed of cession (although he denied this) and when the purchase was subsequently 'finalised' he did not participate in the payment.[1224]

[1217] Hearn, 'One past, many histories', p 337.
[1218] *Wellington Independent*, 11 July 1866, p 5; *New Zealand Herald*, 10 December 1866, p 4.
[1219] *Evening Post*, 15 October 1866, p 2, and *Wellington Independent*, 16 October 1866, p 5.
[1220] Edwards to Russell, 21 July 1866, *AJHR*, 1866, A-4, pp 33-4; Te Hakeke and others to Featherston, 1 August 1866, *AJHR*, 1866, A-15, p 11.
[1221] Taratoa to Bishop, 9 September and Te Pouepa to Grey, 14 September 1866, *AJHR*, 1866, A-15, pp 9-10.
[1222] Te Ratana Ngahina and others to Judge Johnston, 10 September 1866, *AJHR*, 1866, A-15, p 14.
[1223] Hearn, 'One past, many histories', p 341.
[1224] See *New Zealand Herald*, 10 December 1866, p 10; for a contrary view, *Wellington Independent*, 2 October 1866, p 5; see also Featherston to Stafford, 18 September 1866, *AJHR* 1866, A-15, p 10.

6.12 September–October 1866 – disputing surveys

In fact, the assertion that Te Pouepa and Te Herekau stood alone in their opposition elicited a growing number of declarations of support for their stance. Te Wireti Te Riu and ten others wrote to Grey, informing him that they were opposed to the sale and that they were holding back their land just as Parakaia was 'holding back his own piece'. He was the 'voice of all the people who were opposed to the sale of Rangitikei'.[1225] Wiharai and 129 others wrote to Grey along the same lines as did Rāwiri Te Whānui and 19 others.[1226] Roera Te Rangiheuea and 30 others also disputed newspaper reports in the *Wellington Independent*, informing the Native Office that Parakaia was the 'voice from the hapus … of Ngātiraukawa who hold back Rangitikei', and that 'neither the machinations nor temptations of Mr Buller [would] be able to loose it'.[1227] Hemara Ahitara and fourteen others said much the same thing, and even Hoani Meihana, who had been one of the rangatira at Wharangi, warned Featherston that the matter was far from settled and that there were 'many people and many chiefs on the Oroua side … still opposed to the sale' and 'many also on the side towards Manawatu – Parakaia and his party'.[1228] Figures ranging from one to 500 were mentioned. The following month, E W Puckey's independent and disinterested estimate was that 392 remained opposed to the purchase.[1229]

The reaction of Buller and Featherston to these and further protests was to argue that the faction within "Ngāti Raukawa" who opposed the purchase had no real interests in the block. In a memorandum to Featherston, Buller maintained quite misleadingly, that the majority of those who were 'protesting' against the sale were 'Otaki residents' without any valid claim to the land in question: 'They claim as members of Ngāti Raukawa tribe although they have never resided on the land or exercised such acts of ownership upon it as would entitle them by Maori custom to lay claim of its possession.'[1230] In contrast,the sellers consisted of 'that section of the tribe which ha[d] (jointly with the Ngātiapa and Rangitāne) occupied the land for years, erected Pas and villages upon it – cultivated portions of it – enjoyed the exclusive privileges of its eel fisheries – leased Runs to European squatters and protected them in their illegal occupation in spite of the Government'. It was this portion of the iwi who had resisted the encroachment of Ngāti Apa with a 'threatened appeal to arms' and who 'without even consulting the non-resident Ōtaki claimants ... agreed in the first place to refer their dispute ... to a court of arbitration, but afterwards decided on selling their disputed claims to the Crown as the only possible means of terminating the tribal feud'.

[1225] Te Wīreti Te Riu and others to Grey, 8 October 1866, MA 13/70b.
[1226] Wiriharai and 129 others to Grey, 8 October 1866; Rāwiri Te Whānui and others, 8 October 1866, MA 13/70b.
[1227] Roera Rangiheuea and 30 others to Native Office, 8 October 1866, MA 13/70b.
[1228] Hemara Ahitara and 14 others to Grey, 12 October 1866, MA 13/73a and Hoani Meihana to Featherston, 22 October 1866, MA 13/69b.
[1229] Memorandum of Puckey, 13 November 1866, MA 13/70c.
[1230] Buller to Featherston, 5 November 1866, MA 13/69b.

According to Buller, 'It was not until the actual occupants of the land had agreed to the terms of the sale and had signed the Deed of Cession that any attempt was made to obtain the acquiescence of the outside claimants.'[1231]

Buller also responded to a declaration made before the Resident Magistrate of Ōtaki, signed by 151 Maori, who described themselves as 'living on the Manawatū block and … each entitled to a part' of it. This document stated that they were 'strenuously opposed' to the purchase and 'still insisting on our rights that our portions of the said block should not be sold without our consent'. According to the signatories, there were many others in the same position and of the same mind.[1232] Buller had gone through the list of signatories, with (he said) the assistance of Hoani Meihana and Tapa Te Whata, noting where he thought they resided, and had come to the conclusion that the declaration was 'wholly false and deceptive'. According to Buller, two of the signatories, had signed the Deed of Cession, two others had signed the 'memorandum of agreement', and another three (including Te Kooro Te One) had 'distinctly agreed to the terms of purchase promising to sign the Deed at Parewanui on the payment of the purchase money'. Buller claimed to have found only sixteen 'bona fide residents' whose claims were not complicated in some way, or another, and of these, three were women and one a little girl. On the other hand, 111 of the signatories were identified as 'natives of Ohau, Waikanae and Otaki' who had never resided upon, or exercised acts of ownership; over the land in question.[1233] Like the previous memorandum sent to Featherston, this was part of a concerted campaign on the part of Buller and Featherston to discredit the claims of those who opposed the provincial government's purchase and was to be repeated often in official correspondence and newspaper reports in the following months.

6.13 A second delegation meets with the Native Minister, October 1866

In the meantime, Parakaia and a delegation of some twenty rangatira from many different hapu met with Richmond on 24-25 October.[1234] The delegation, told Richmond that many among Ngati Raukawa and Ngati Kauwhata were strongly opposed to Featherston's purchase and that they had surveyed the lands which belonged to them and which they wished to retain. Over the course of the two-day discussion, they argued points that would be often repeated: that Featherston and Buller were buying from the wrong people and using dubious tactics; that the territorial rights of the vendors had already been accommodated by Ngati Raukawa sanction of their earlier large scale transactions; that ownership should be properly investigated before any money was paid out and their ability to hold onto their lands brought to an end; that they were in danger of being rendered

[1231] Buller to Featherston, 5 November 1866, MA 13/69b.
[1232] Declaration by 151 Maori opposed to the sale of the Manawatū block, MA 13/69b.
[1233] Buller memorandum, 7 November 1866, MA 13/69b.
[1234] Notes of a conversation between Maori and Richmond, 24-25 October 1866, MA 13/70b.

landless; and the government was not responding to their many representations while favouring the vendors.

Parakaia acknowledged that the land they claimed was under dispute and that there were a few individuals among Ngati Apa who had rights in it. There was, he said, 'no land that all tribes allow can be specifically allotted to any one tribe or section of a tribe; that some of Ngati Apa claimed the section that belonged to him and his people, and indeed had been allowed to share in the rents.' He recognised seven Ngati Apa and Rangitane claimants within the block (Himatangi) that had been surveyed. He also acknowledged that there were some among Ngati Raukawa who wanted to sell, but in that area, most did not.[1235]

Henare Te Herekau, who spoke next, complained of the government's failure to respond to their repeated protests and pleas. They had written 'many times' but had received 'no definite answer' and while those in favour of the sale had been 'graciously received' those opposed seemed to have no friends among government officials. He argued that no money should be paid out as Featherston had proposed for December: 'Is this the custom in English law,' he asked, 'that men having no claims should sell the lands of those who have?' His preference was for the question of title to be investigated by the land court. To this, Richmond responded that Featherston and Buller were required to identify the rightful owners, and further inquiry would be made if they were unable to do so; on the other hand the purchase would go ahead if the Governor was satisfied as to this matter.[1236] Kooro Te One also stated (on 25 Oct6ober) that their wish was to prevent Featherston from paying out the purchase money.[1237]

On the following day, Te Herekau again objected that the government was not purchasing from the rightful owners, asking for all the names of such persons to be removed from the deed 'before trouble actually arises'. He warned Richmond that 500 members of the tribe would stay at their homes in Otaki and Oroua and not attend Featherston's meeting in December when the purchase was supposed to be finalised. Rawiri Te Wanui (Ngati Maiotaki) assured Richmond that they did not intend to hold back the whole of the block, just a small portion that lay between the areas that had been 'rightfully sold to the Queen'. He, like Te Herekau, saw many of those who had signed the deed, as having no rights in the lands concerned and thought it wrong that a purchase be made and the money paid before the title was investigated. As for Ngati Apa, their rights were on the other side of the Rangitikei River.[1238] This was the view of Akapita (Te Mateawa) as well, reminding Richmond that they had already been paid for their territories: 'The white man made Ngatiapa and Rangitane free, so we allowed them to

[1235] Notes of a conversation between Maori and Richmond, 24-25 October 1866, MA 13/70b.
[1236] Notes of a conversation between Maori and Richmond, 24-25 October 1866, MA 13/70b
[1237] Notes of a conversation between Maori and Richmond, 24-25 October 1866, MA 13/70b
[1238] Notes of a conversation between Maori and Richmond, 24-25 October 1866, MA 13/70b

receive the money for the blocks sold by them with our consent.'[1239] Ihakara who wanted to sell himself, thought the land was being 'plundered' when their agreement had not been reached, while Nepia Taratoa, a long-term opponent to selling, also objected that many of those who had signed the deed had no rights: 'we and 500 who remain behind are strenuously opposed to this sale. … land all round is sold and if this is sold we shall have no land to live upon.'[1240] Later in proceedings, he explained why his own signature was attached despite his opposition, suggesting that Buller had been using some questionable tactics in collecting signatures. He claimed that Buller had offered him a position as an assessor, gunpowder and a cask of beer. Ultimately, Buller had signed the deed for him and, he claimed, 'this is the way he has got many signatures'; a proposition with which other members of the delegation agreed.

During the course of the day, Parakaia spoke again, outlining the many peaceful steps they had taken to protect their land. Earlier delegations had gone to the Governor, the Native Office and Featherston himself; they had attempted to have their claims investigated by the Native Land Court; to go to the Supreme Court; and to survey off their block which Featherston had incited other Maori to disrupt. All of this had produced no result. The government and the law had left them to be 'trampled upon'.[1241]

Richmond conceded that the government would have to 'consider the subject … carefully before the money was paid' but defended the apparent failure of the law. He argued that the exclusion of the land from the court was on account of the 'difficulty of dividing the land', while the Supreme Court could not respond to their plaint because no one had taken possession of the land. He then laid out his understanding of the matter; that Featherston had been trying to resolve a dispute between the three contending tribes and had decided that selling the land was the only solution when he saw that it could not be divided peacefully. While Ngati Raukawa might say that the former occupants had been driven out and thus the land belonged to them by custom, Featherston had found that Ngati Apa 'had got strong friends and in fact Maori custom might soon have changed the ownership of the land again.' He assured the delegation that the government's 'only wish' was for an 'amicable settlement' and that it favoured no particular party. 'No one can say exactly what is right,' he told them. 'Concessions must be made on all sides.'[1242] Richmond continued, 'The Government cannot tell the value of respective claims but they might be assured that the … Govt would do its best to see that they had fair play and … if the Govt made a mistake there was still a court over all.' He then repeated that the government did not favour one party over another; that the dispute lay between Maori themselves and the 'difficulty would come only if they tried to settle things by bad customs of guns

[1239] Notes of a conversation between Maori and Richmond, 24-25 October 1866, MA 13/70b
[1240] Notes of a conversation between Maori and Richmond, 24-25 October 1866, MA 13/70b
[1241] Notes of a conversation between Maori and Richmond, 24-25 October 1866, MA 13/70b
[1242] Notes of a conversation between Maori and Richmond, 24-25 October 1866, MA 13/70b

and tomahawks.'[1243] Taratoa welcomed Richmond's indication that their claim would not be swamped by the numbers who had signed the deed without any rights in the block. On the other hand, he seems not to have found any reassurance but rather a deal of hypocrisy in the assertion that Featherston had been merely trying to keep the peace, telling Richmond: '[F]or a long time past we ourselves made peace when there was trouble, but when you and the Super[intendent] came you brought trouble. Dr Featherston said he came to arrange matters, instead of which he oppressed us, so we came to you, if you don't help us we shall go to the Queen.'[1244]

Richmond was clearly concerned about aspects of Featherston's purchase including his reluctance to fully respond to earlier directives from the Native Office setting out the 'general principles' to be followed in land purchase matters. Featherston was reminded of these in a letter dated 11 November and asked to report on several key matters: the numbers of the tribes 'claiming in chief', setting out which hapu were resident and which non-resident; the numbers in each hapu supporting or opposing the purchase; the numbers of secondary and 'remote' claimants with an estimate of the nature and extent of their claims; the 'proportions in which the hapu interested in chief in the current transaction have participated in the proceeds of former sales of land claimed by the sale tribes or any of them and the reasons so far as can be ascertained of the arrangement agreed on in those cases'; details of the mode and proportion of the distribution of the purchase money; and the area and position of reserves for the 'dissentients' so//// as to 'leave no doubt' that their rights had been 'carefully guarded on the part of the colony'.[1245] He warned Featherston that a 'more exact mode of dealing' than had sometimes prevailed was required in the case of the Manawatū, given its 'peculiar position', the irritation being expressed towards Buller, and 'revived excitement throughout the Maori population'.[1246]

Featherston responded three days later, justifying his action, but largely ignoring the Native Minister's requirements. Once again, Featherston held that a government purchase was the only way to avoid tribal hostilities and further, that this was at the insistence primarily of Maori themselves; the 'peaceable acquisition of the block of land' by the Crown had been agreed to by the Native Tribes as the only possible means of settling the conflicting claims'. Following Buller's lead, he also argued that there were 'only about fifty bona fide Ngāti Raukawa claimants whose signatures can be in any way essential to the satisfactory completion of the Deed of Purchase' and that of this number, most had either promised to sign the deed at the 'final settlement' in Parewanui set for 5 December, or had 'tacitly agreed to the sale'. According to Featherston, 'the vast majority of the non residential claimants [had] agreed to the sale'. At the

[1243] Notes of a conversation between Maori and Richmond, 24-25 October 1866, MA 13/70b
[1244] Notes of a conversation between Maori and Richmond, 24-25 October 1866, MA 13/70b
[1245] Richmond to Featherston, 11 November 1866, MA 13/70c.
[1246] Richmond to Featherston, 11 November 1866, MA 13/70c.

same time, he informed Richmond, many of the Ngāti Rauakwa faction who were opposing the sale had 'never resided on the block, nor … exercised such acts of ownership as would justify their claim'. Their claims, he told Richmond, were 'preposterous'. Featherston also set out his proposal for the distribution of the purchase price: £10,000 for Ngātiapa, £10,000 for Ngātiraukawa and £5000 for Rangitāne.[1247]

Richmond was far from reassured, informing Featherston that the protests by a section of 'acknowledged owners [had] awakened an anxiety' that his report had not assuaged. He had not provided sufficient information to allow the government to deal with such a large area of land and so many antagonistic claims. Nor was he satisfied with Featherston's argument that it was impossible to define reserves, which was contrary to the government's general practice. Pointing out that it seemed that one-third of 'legitimate claimants' within one of the tribes involved in negotiations were opposed to the purchase, Richmond warned Featherston that he was in danger of violating another of the government's purchase principles:

> The Government have never yet recognised the right of a majority in a tribe to override the minority in the absolute way here implied. Whilst refusing to countenance a small section in pressing their communistic claim in mere obstruction of all dealings by the rest of the tribe, they have at all times been consistent in recognising to the fullest extent the proprietary claims of every bona fide owner. Nor are they prepared on the present occasion to take a different course.[1248]

He also questioned whether the purchase would resolve the tribal dispute and rebuked the commissioner for having set a day for the handing over of the purchase money without first consulting with the general government, which had promised the dissentients that their rights would be respected and their shares of the land secured to them. To insist on the purchase of the whole block while undertaking to return a portion under Crown grant to the non-sellers, would, in Richmond's opinion, generate discontent among the sellers because it was likely that the former would be able to realise higher prices on the open market when they chose to sell. Richmond did not wish the sellers to have any cause for complaint. He then proposed a means of proceeding that involved making substantial advances but leaving the final payment and exact determination of all claims to future inquiry – which Featherston ignored, along with the rest of Richmond's advice.

6.14 Parakaia Te Pouepa's meeting with Governor Grey, November 1866

In late November, less than two weeks prior to the date set by Featherston for the finalisation of his purchase, Governor Grey invited Parakaia to meet with him.

[1247] Featherston to Richmond, 14 November 1866, MA 13/69b.
[1248] Richmond to Featherston, 11 November 1866, MA 13/70c.

Also present were Rāwiri Te Whānui, Richmond, William Rolleston, Henry Halse, and E W Puckey. Although there were conflicting accounts of exactly what was said, it appears that Grey attempted to persuade Te Pouepa to withdraw his opposition to the sale so 'that your own pieces of land may be secure, these will not then be touched'. No agreement was achieved, however. Hearn suggests that 'in all likelihood', Grey found it 'difficult to deal with Parakaia's bluntness and willingness to confront and, where necessary, contradict him'.[1249]

According to Parakaia's published account, Grey had repeatedly urged him to agree to the sale, accusing him of being headstrong and risking an outbreak of fighting that would affect not only Maori but also draw the government into war. The rangatira refused to accept any responsibility for such an outcome; the talk of fighting came from 'Featherston's friends', not himself. He told Grey that his tribe had 'come to a determination not to sell and he had no power to alter their resolution'. Grey had then threatened him, saying, 'If you fear me, give me your assent. I am a wrathful Governor...' Parakaia had continued to refuse, and Grey had called him a 'madman' who ought to be sent to the 'lunatic asylum at Karori'. Parakaia had responded that it was Featherston who should be sent there and reiterated the determination not to sell. Neither he, nor Nēpia, Rāwiri, Tākana, Wīharai or Hoeta would 'consent to part with their lands'; if 'all the other owners of the various portions first give their assent, then his agreement would follow but the decision was that of the 'tribe', and they had come to a 'fixed determination not to sell Rangitīkei.' We cite the whole reported conversation here:

> Governor Grey – Parakaia, the reason why I have sent for you is that I am alarmed. Trouble is near; this is what I fear, and why I wished to learn what you think about Rangitikei. I am much alarmed. Hostilities are now likely to take place at our end of the Island. What I now desire is that you should consent to the sale of Rangitikei – give it up to Dr. Featherston. If you persist in retaining it you will quarrel among yourselves about it.
>
> Parakaia – You do well to be alarmed at the probability of hostilities, but go and talk to Featherston [i.e. Isaac Featherston, Wellington Provincial Superintendent]. What has been said about fighting does not proceed from me; that threat of fighting came from Featherston's friends.
>
> Governor – Those tribes, Wanganui, Ngātiapa, and Ngātikahununu, are angry because you refused to sell Rangitikei. I am grieved, very much grieved about this, Parakaia.
>
> Parakaia – I was not aware that those tribes intended to fight. It must be Dr Featherston having offered them money caused them to be elated, and act in that way. What right would men have to go from this to Taranaki to fight? Should we think of going to fight

[1249] Hearn, 'One past, many histories', p 360.

about the land belonging to the men of Ahuriri, as you say Ngātikahununu are coming over here to the country of these tribes without any cause, for the purpose of stirring up strife; besides, it is not my business to lecture those tribes, it is your duty to admonish them.

Governor – Don't be headstrong, Parakaia; if you are obstinate you will only be drawing other people into trouble. You resemble a man hauling on to the rope of a canoe, until suddenly it is smashed on a rock. You are also drawing the Government into a war there.

Parakaia – I am not responsible for that war (which you imagine will come); that talk about fighting comes from Featherston's friends.

Governor – If you will yield to what I advise, just sign your name to the deed of cession, and say to the people – "I have assented to sell this land to the Government. Featherston will take care that my piece of land shall be excluded from the block which is alienated, as well as the lands of those who are opposing the sale." And say to Featherston, "Have their lands excluded from the alienated portions". This is a prudent course to adopt. Sign your names to the deed, that your own pieces of land may be secure; these will not then be touched.

Parakaia – Why have you not hitherto advised me during these months that have elapsed? Had you spoken then I could have communicated what you said to the tribe for their careful consideration, which possibly by this time might have been agreed to; but the day of trouble about Rangitīkei is near at hand – it is too late now to deliberate with my tribe. Besides, had I been dealing with McLean (who understands these questions) instead of Featherston, I might be induced to think there was some feasible plan in what you two propose. For Featherston made me a similar offer; I declined it. He pressed me to consent to the sale of Rangitīkei, and promised me money. I declined it, and said, "I am not a servant working for hire," no master said to me "retain your land," I retain it of my own accord.

Governor – Parakaia, you possess land in many parts of this Island – you have lands at Maungatauri and elsewhere. Give up this particular piece of land to the Government, in order that the Government may treat you with consideration, in reference to your claims to those other lands.

Parakaia – Stay! One thing at a time. You are now confusing the matter in hand with irrelevant allusions to other land claims.

Governor – What I meant was, that the course of the Government might be clear, in my opinion that is right.

Parakaia – I said to you some months ago, speak out your mind; do not remain silent, lest your silence be taken advantage of by Dr Featherston as a consenting to his evil doings. Had you spoken then, what you now aim at might have been accomplished; but

now I am taken aback, I am not clear what to do. I said earnestly on a previous occasion, Governor, speak out your mind.

Governor – My son, I did speak before; nevertheless I now speak again distinctly. I am right in what I now propose; you are blaming me for refusing to attend to it.

Parakaia – What can I do: Can I break a tough tree? The tribe has come to a determination not to sell. I have no power to alter their resolution, I might now, perhaps, influenced by feat of you, give a hasty and useless assent to sell; but what then.

Governor – If you fear me, give your assent. I am a wrathful Governor; assent.

Parakaia – If it were Maori anger I should be afraid; but it is a Governor who is angry. I trust he will soon see he is angry without just cause.

Governor – My words are good; you are a madman; you ought to be sent to the lunatic asylum at Karori.

Parakaia – You ought to send Featherston to the madhouse at Karori. I am no madman. The land on one side of this block has long since been ceded to you; you heard then that there was [p.101] a determination to retain this portion. Subsequently Governor Browne and McLean endeavoured to purchase it, but we refused to sell. Those other tribes did not take it from us at that time. You have obtained both the Lower and Upper Manawatu Blocks; this is comparatively a small portion which we are retaining. Let Nepia, Takana, Hoeta, Wiriharai, and all the other owners of the various portions first give their assent to the sale; my assent will then follow and be of use; but for me to venture to take the lead, and give a futile assent to the sale, is beyond my power. There is fixed determination not to sell Rangitikei. I can do nothing in the matter. With reference to what you say about fighting, we have nothing to do with that; it is for the Governor to put that down.[1250]

E W Puckey, later reading this version of events, questioned its accuracy, suggesting that Grey, to the contrary, had been conciliatory.[1251] At the very least, it highlighted the deep-seated concerns of Parakaia and his hapu in the light of Featherston's purchase tactics, which they saw as favouring Ngāti Apa; the gathering together of Whanganui and Kahungunu support for Ngāti Apa in the West Coast and; the vulnerability of their interests in south Waikato. It also expressed the determined opposition of Parakaia and a number of other leaders not to participate in selling as the land was purchased around them.

Parakaia said later that he had 'foolishly' hoped that Grey would assist, but on being assured that no violence was imminent 'forgot all about our being brought

[1250] *Wellington Advertiser*, 11 May 1867, reprinted in T C Williams, A Letter to the Right Hon W E Gladstone being an Appeal on behalf of the Ngati Raukawa Tribe, Wellington, 1873, Appendix pp 134-37.
[1251] Puckey to Rolleston, 10 July 1867, MA 13/72b.

to grief by this dishonest purchasing of our land by the Government of Wellington'.[1252] The Parewanui meeting went ahead despite the continuing concern of government officials and a section of the Pākehā press, and although it was boycotted by the 'dissentients', who gathered at Ōtaki so that 'they might not see the money of Dr Featherston'. In a letter addressed to Richmond the day before the Parewanui hui was scheduled, Parakaia lamented 'good law in New Zealand has come to an end'.[1253]

6.15 Arrangements at Parewanui, December 1866; Featherston considers the purchase complete

Dr Featherston arrived at Parewanui on 6 December accompanied by Buller and some 200 Maori supporters, finding 'about fifteen hundred' people had already assembled. According to Featherston's notes on which this account is largely based, the gathering included members of Ngāti Raukawa, Ngāti Apa, Rangitāne, Muaupoko, Whanganui, and Ngāti Toa as well as 'representatives' from Ngāti Kahungungu, Ngāti Awa, and Ngāti Upokoiri 'by invitation'.[1254] A 'large number of Europeans, some 100, including Cook and his family, and the manager of the Wanganui Bank of New South Wales and his wife, were also present. His arrival was reported to have been met with 'intense satisfaction … shouting, jumping and gesticulations in the most extraordinary manner'.[1255] What Featherston failed to record was the absence of many 'Ngāti Raukawa' – a fact that caused at least some of the Pakeha correspondents concern. According to the *Wellington Advertiser* in a report reproduced in the *Press* – both critics of Featherston's policies – the numbers gathered were less than he had expected because 'the principal, if not the only real owners, of the land were conspicuous by their absence'. Although several of their leading men were there, they took no part in the proceedings, while amongst those who failed to attend were many who had been 'stated to have signed the deed of cession'. The author considered this 'remarkable', given that this was the meeting when they were supposed to receive the purchase money.[1256] A ground for complaint among those Ngāti Raukawa who did attend, he reported, was that the 'Ngāti Ape and Wanganui were allowed to bring with them Government arms and to appear fully armed'. He could not think that Featherston would pay over such a large sum of money until 'some more satisfactory arrangement [was] arrived at'.[1257]

Charles Dilke, an English parliamentarian whom Featherston had invited to observe the final agreement, reported that they were welcomed by a waiata composed for the occasion:

[1252] Cited Hearn, 'One past, many histories', p 360.
[1253] Parakaia Te Pouepa to Richmond, 4 December 1866, MA 13/70d.
[1254] Notes of a Native Meeting at Parewanui December 1866, MA 13/72b.
[1255] *Wellington Independent*, 12 December 1866, p 3.
[1256] *Press*, 12 December 1866, p 3.
[1257] *Press*, 12 December 1866, p 3.

> Here is Petatone
>
> This is the 10th [sic] of December;
>
> The sun shines, and the birds sing;
>
> Clear is the water in rivers and streams;
>
> Bright is the sky; and the sun is high in the air.
>
> This is the 10th of December;
>
> But where is the money?
>
> Three years has this matter in many debates been discussed.
>
> And here at last is Petatane;
>
> But where is the money?[1258]

Dilke described how they moved through the assembly and pulled up at the flagstaff 'and while the preliminaries of the council were arranged had time to discuss with Maori and with "Pakeha" … the questions that had brought us thither'.[1259] These he recounts as the desire of the government to acquire the block for 'the flood of settlers'; as 'the only means whereby war between the various native claimants of the land could be prevented'; and 'how the money should be shared'.[1260]

Kāwana Hūnia opened the hui, greeting first the assembled tribes and then Featherston and Buller, as Gilling notes, 'placing himself at the centre of the entire business'.[1261] He promised that those of Ngāti Apa who had not signed the deed would do so now, and then:

> The land will now absolutely pass over to you and I shall receive the payments. I will consult you Dr Featherston as to the division of the purchase money among the tribes. I shall ask you, however, to make some provision for us out of the lands which are now to be handed over to you for ever.[1262]

Having welcomed the gathering, Hūnia announced: 'I now declare in the hearing of all the assembled tribes that Rangitikei is being absolutely sold to the Pakeha. We are floating the land into the sea and parting with it forever.' He then informed Featherston that he was not selling 'fictitious claims' but land which he had inherited from his ancestors over many generations. He also described the circumstances that had led to their decision to sell. Despite being urged by Featherston, Fox, and Buller to take their disagreement with Ngāti Raukawa 'to mediation', Ngāti Apa had resolved 'on either fighting or selling'.[1263] They had

[1258] Charles Dilke, *Greater Britain*, London, 1868, p 355, cited Gilling, 'Land of Fighting, p 138.
[1259] Charles Dilke, *Greater Britain*, London, 1868, p 355, cited Gilling, 'Land of Fighting' p 138.
[1260] Charles Dilke, *Greater Britain*, London, 1868, p 355, cited Gilling, 'Land of Fighting', p 138.
[1261] Gilling, 'Land of Fighting', p 136.
[1262] Notes of a Native Meeting at Parewanui, MA 13/72b.
[1263] Notes of a Native Meeting at Parewanui, MA 13/72b.

now come together in friendship and, accordingly, he recognised the rights of Nēpia Taratoa's son and his immediate hapū, as they had been living on the land for thirty years; but many of those who opposed the sale had been squatting on the land only for one or two years, having arrived when fighting had seemed imminent.[1264] Having declared, again, that the land had been sold, Hūnia turned to the matter of boundaries. The inland one, he stated, was at Waitapu adjacent to Ngāti Upokoiri territory, and he called upon the Ngāti Raukawa rangatira Aperahama and Ihakara 'to cut the boundary line at Pākingahau (on the Manawatū side), in spite of Parakaia and his lawyer, because the 'land does not belong to him'. Then he called upon Featherston 'to bring out the money ... the £25,000'.[1265]

The following day, Kāwana Hūnia again dominated proceedings, angrily denouncing the failure to pay over the £25,000 purchase price, immediately, and renewing his demand that 'the mode and proportion of the distribution … should be left entirely in his hands'.[1266] Featherston rejected this suggestion, insisting that the procedures for apportionment of the money agreed upon at Te Takapu be respected; in absence of that agreement, 'the fault of this delay was theirs not his'. He told the assembly that in the proceeding months he had repeatedly urged individual chiefs to make this decision and for the villages to debate it so that by this time there should be a 'well-digested plan' for the consideration of all. Until this was done – and Featherston satisfied that the interests of all were fairly accounted for – the money would remain in Wanganui.[1267]

Featherston then turned to the question of the "Ngāti Raukawa" non-sellers, who had refused to attend. He told the gathering that he 'could not pretend to say what the claims of these dissentients were worth, but they alleged claims to the block and he was anxious that their assent be secured'. He urged those gathered to persuade them to 'come up' and join the meeting, suggesting that a delegation of Ngāti Apa chiefs invite them (as Ngāti Raukawa had persuaded Ngāti Apa to attend the Takapu hui). Nobody except Tāmihana Te Rauparaha thought that this was a good idea, arguing it would 'invest [Parakaia's] party with an importance that did not belong to them'. Their absence was of 'no consequence to the sellers', and they voted unanimously against any deputation. The problem of dissent having been thus disposed of, Featherston then suggested that 'each tribe should appoint a certain number of delegates' who could then meet together in a 'runanga' and decide the appropriate distribution of the purchase price.

The 'runanga' of 46 delegated chiefs discussed the distribution the following afternoon with Featherston, Buller 'and a number of European settlers' in attendance. Several suggestions were mooted. Te Rātana Ngāhina ('a young

[1264] Notes of a Native Meeting at Parewanui, MA 13/72b.
[1265] Notes of a Native Meeting at Parewanui, MA 13/72b.
[1266] Notes of a Native Meeting at Parewanui, MA 13/72b.
[1267] Notes of a Native Meeting at Parewanui, MA 13/72b.

Ngātiapa chief') proposed that Ngāti Apa should receive £22,000 for themselves and to satisfy the claims of Rangitāne, Whanganui, Ngāti Upokoiri, and Ngāti Kahungunu. The remaining £3000 would go to Ngāti Raukawa, who would also be responsible for the Ngāti Toa claim. An 'animated debate' continued until the evening with the Ngāti Apa chiefs supporting the proposal while Ihakara and the other Ngāti Raukawa rangatira demanded 'an equal division of the purchase money' between the tribes north and south of the Rangitīkei River. This would put Ngāti Apa, Whanganui, and Ngāti Upokoiri in one camp and Rangitāne, Muaupoko, Ngāti Toa, and Ngāti Awa along with Ngāti Raukawa in the other. The Rangitāne chiefs, for their part, argued that the money should be split equally three ways: amongst the three main rights-holding iwi.

With the rūnanga still deadlocked, Featherston and Buller met with Kāwana Hūnia, Aperahama Tīpae, and Te Kēpa Rangihiwinui, in an attempt to 'influence' Ngāti Apa. After meeting for five hours, Kāwana agreed to put forward 'a more liberal and satisfactory proposal'. The purchase commissioner and his assistant spent Monday meeting privately with 'the chiefs of the various tribes'. Then, that evening Kāwana Hūnia proposed 'a new arrangement' by which the purchase money would be divided into five equal sums of £5000. These would be allocated to Ngāti Apa 'residing at Rangitikei'; Ngāti Apa at Turakina and Whangaehu; Ngāti Raukawa and Ngāti Toa; Rangitāne and Muaupoko; and 'the Wanganui tribes'. This was acceptable to Rangitāne, Muaupoko, and Whanganui but unsurprisingly, the Ngāti Raukawa chiefs 'refuse[d] to entertain it'.[1268] When Tapa Te Whata (Ngāti Kauwhata) accused Ngāti Apa of 'trifling conduct' and advised Ngāti Apa to pull out of the negotiations, Kāwana took offence and closing the meeting, told everyone to go home.[1269] Buller, however, smoothed matters over with Ngāti Apa that evening and succeeded in 'restoring their good humour'.

The following morning (Tuesday 11 December), Featherston spoke to the gathering, describing Kāwana's original proposal as 'not merely a mockery but an insult to all the tribes' and asking whether they would agree to abide by his (Featherston's) decision – which they refused to do.[1270] Upon this, he took them to task for having failed to come to any agreement when they had committed to doing so and when he himself had fulfilled his every promise. He accused the chiefs of 'trifling' with their people. Then, having received confirmation from Rangitāne that they would join with Ngāti Apa and leave it to Kawana to decide what they should each receive and word from Ngāti Raukawa that they would make 'not merely a fair but a most liberal provision for the dissentients' he proposed a split of £15,000 for Ngāti Apa and Rangitāne. This left £10,000 for Ngāti Raukawa and their allies, which he thought would meet 'the justice of the

[1268] Notes of a Native Meeting at Parewanui, MA 13/72b.
[1269] Notes of a Native Meeting at Parewanui, MA 13/72b.
[1270] Notes of a Native Meeting at Parewanui, MA 13/72b and *Wellington Independent*, 15 December 1866, p 5.

case'. Responding to Kāwana Hūnia's 'demand that the Tawhirihoe pa should be given to him', Featherston emphasised that 'the whole block' would be 'ceded to the Crown' at the sellers' 'own request, because "every acre was in dispute" and was "fighting ground".' Entirely contrary to the advice and best practice of the Native Department, he flatly refused to define any reserves, threatening to 'decline to pay the purchase money' unless it was 'understood that there were no reserves whatever'.[1271] While he said that the Government would deal liberally with them and that it should be left to the 'good faith of the Government',[1272] as the *Daily Southern Cross* commented, '[We] can readily imagine how much land the natives will have reserved for their use when we consider that since 1862, Dr Featherston has succeeded in exempting the Manawatū block from the operation of all laws bearing upon the purchase or alienation of native land.'[1273]

A 'long and angry discussion' followed, with Ngāti Apa and Rangitāne 'strongly opposed' to the proposal and Hūnia threatening to call the sale off and to start the fighting at Tāwhirihoe.[1274] Ihakara, who had accepted Featherston's decision although it represented less than half the money he sought, responded in kind. He called upon Featherston 'to bring out the money and pay it over to them, whether Ngāti Apa should consent or not', warning that should the meeting 'break up' without the price having been allocated, 'fighting would immediately ensue'. He finished by advising the commissioner not to be afraid of Ngāti Apa, Governor Grey, or Parakaia, and to 'leave them to me.' Several senior chiefs, including Tāmihana Te Rauparaha and Aperahama Te Huruhuru, spoke in support of Ihakara's proposition, urging Featherston 'to make an immediate payment.' On the other side, Whanganui chiefs, Tāmati Puna, Aperaniko, Mete Kīngi, and Te Kēpa all urged Kāwana to accept Featherston's arrangement with Rātana Ngāhina (who originally had proposed a division heavily weighted in Ngāti Apa favour), also supporting that position despite the remonstrances of Hūnia.

Kāwana again responded angrily, declaring that 'the talk between the tribes [was] at an end', ordering all the tribes to go home and Featherston to return to Wellington. 'My new work will be fighting,' he announced. 'I will drive these Ngātiraukawas off the land. Let them hold it if they can. … Let the Rangitikei Deed be torn up…. Let the Pakehas keep their money. Let the Ngātiraukawa prepare for fighting.' He then stormed off to his pa 'followed by nearly the whole of his tribe while the other parties withdrew to 'their respective camps', where they spent 'the whole night in angry debate'.[1275] Among Ngāti Raukawa,

[1271] Notes of a Native Meeting at Parewanui, MA 13/72b.
[1272] *Daily Southern Cross*, 18 December 1866, p 5.
[1273] *Daily Southern Cross*, 19 December 1866, p 4.
[1274] Notes of a Native Meeting at Parewanui, MA 13/72b.
[1275] Notes of a Native Meeting at Parewanui, MA 13/72b.

however, 'peace prevailed' because, it seems, they had accepted Faetherston's proposal.[1276]

One group of Whanganui departed in the morning after their leader, Haimona Hīroti, sent a message to Ngāti Raukawa stating that he believed the offer to be fair and that they would not support Ngāti Apa in their continuing obstruction of the settlement. Featherston and Buller spent the day in 'personal communication' with the remaining Whanganui and Ngāti Raukawa chiefs, informing them that 'unless expressly sent for by the Ngātiapa he would not return to Parewanui' and commending them 'for the manner in which they had behaved throughout the meeting'. He urged them 'not to be excited … by the threats or taunts of the Ngātiapa' but to 'quietly leave the whole matter in his hands'.[1277]There now seemed 'very little prospect of any immediate settlement' of the Rangitīkei-Manawatū 'question', but he requested them 'not to leave, under any circumstances, before Friday', nor to respond to Hunia's threats. Featherston withdrew – one supposes to maintain an appearance of impartiality and to show that the transaction was in danger of falling over – but Buller remained at Parewanui to continue negotiating with Ngāti Apa and 'their allies'. During the discussions, which lasted 'the greater part of the night', it became apparent that the 'real difficulty in the way of settlement' was not 'so much the division of the purchase money' but Ihakara's 'expressed determination … to remain in possession of Tawhirihoe' (located at the mouth of the Rangitikei River). Buller talked privately with the Ngāti Raukawa chief, persuading him to give up the pā in the 'interests of peace'. This further concession produced the desired effect; 'every objection' was immediately withdrawn, and Featherston's proposed division of the purchase money was 'unanimously agreed to'.[1278] Ngāti Apa then sent to Featherston, asking him to 'attend a meeting of all the tribes', at which Kāwana Hūnia announced 'on behalf of the Ngātiapa and their allies' that they now fully agreed to his allocation of the money.

Featherston expressed his satisfaction at the successful resolution and considered that all that remained was to fetch the purchase money from Wanganui and appoint the chiefs to receive it. As a gesture of faith in the Maori of the district and to show that he did not believe the Hau Hau, who were rumoured to be nearby, would interfere, he proposed that he and Te Kēpa fetch it together without an armed escort. In his view, 'All the real difficulties in the way of the peaceful and permanent adjustment of the Rangitikei difficulty [were] now removed.'[1279]

Kāwana Hūnia and Aperahama Tīpae were chosen to receive 'the Ngātiapa share', promising 'to see a fair and equitable division of the money among the

[1276] *Daily Southern Cross*, 18 December 1866, p 5, cited Hearn, 'One past, many histories', p 366.
[1277] *Wellington Independent*, 15 December 1866, p 5.
[1278] Notes of a Native Meeting at Parewanui, MA 13/72b.
[1279] Notes of a Native Meeting at Parewanui, MA 13/72b.

several associated tribes'. Ihakara Tukumaru and Aperahama Te Huruhuru, who were to receive the portion for 'Ngāti Raukawa', similarly promised to 'make ample provision for the few dissentients of his tribe who have refused to sign the deed'.[1280] With 'the final terms … now arranged', Featherston was ready 'to execute the Deed of Purchase in the name of the Queen'. This was retrieved from the cottage of Reverend Taylor, placed on a table underneath the flag pole and read out by Buller. Featherston then signed 'in due form'. The gathering chanted a 'song of farewell to the land' and Buller called 'on all present who had not yet signed the Deed of Cession to come forward and do so'. Some thirty Maori then came forward to sign, and Featherston and Te Kēpa set off to Wanganui to bring back the money 'amidst tumultuous cheering'. No sooner had they gone than the assembly began to farewell their land.[1281]

Featherston returned with the money late in the afternoon of the next day (Friday 14 December). Escorted into Parewanui by 'about a hundred natives' who had ridden out to greet him, his arrival was met with 'every demonstration of delight'. Hūnia and the other leading chiefs then insisted that the handover wait till the next day so that the sun could 'shine upon the transfer of the lands'. The handover took place in the Rūnanga House with Featherston once more addressing the gathering, especially praising Ngāti Apa for preserving the peace 'for three long years and in the midst of much provocation'.[1282] He then congratulated both the Ngāti Apa and Ngāti Raukawa 'that their long standing feud had now been healed – that the Rangitīkei land dispute was now a thing of the past'. As 'a token of his approbation' he presented Kāwana with a signet ring 'symbolising the establishment of a lasting friendship between the two tribes'.[1283] (Gilling points out that Kāwana was often later referred to as 'the man to whom the ring had been given'.)[1284] Ihakara apparently did not merit any such mark of favour, despite his sacrifice of Tāwhirihoe and resolve in the face of opposition of the non-selling factions. Finally, the purchase money (£6000 in gold and the rest in banknotes) was handed over in the agreed proportionate amounts, There was 'a war dance in celebration of the event' and a feast, and Featherston departed a little later 'leaving the natives to make their own arrangements for the distribution of the money'.[1285] According to the *Evening Post*, the assembly then proclaimed 'their determination to assist the Queen's Government if called upon to do so, in any part of the island where their services might be required'.[1286]

The English version of the deed is reproduced here:

[1280] Notes of a Native Meeting at Parewanui, MA 13/72b.
[1281] Dilke, *Greater Britain*, p 372.
[1282] Notes of a Native Meeting at Parewanui, MA 13/72b.
[1283] Notes of a Native Meeting at Parewanui, MA 13/72b.
[1284] Gilling, 'Land of Fighting', p 150.
[1285] Notes of a Native Meeting at Parewanui, MA 13/72b.
[1286] *Evening Post*, 19 December 1866, p 2, cited Hearn, 'One past, many histories', p 4.

This Deed written on this thirteenth day of December in the year of our Lord one thousand eight hundred and sixty six (1866) is a full and final sale conveyance and surrender by us the chiefs and people of the tribes Ngatiapa, Ngatiraukawa, Rangitane, Wanganui, Ngatitoa, Muaupoko, and Ngatiawa, whose names are hereunto subscribed and Witnesseth that on behalf of ourselves relations and descendants we have by signing this Deed parted with and for ever transferred unto Victoria Queen of England her heirs, the Kings and Queens who may succeed her and her and their assigns for ever in consideration of the sum of Twenty five thousand pounds (£25,000) Sterling agreed to be paid to us by Isaac Earl Featherston Land Purchase Commissioner on the due execution of the present Deed, All that piece of land situated between the Manawatu and Rangitikei rivers on the Western side of the Province of Wellington the boundaries whereof are set forth at the foot of this Deed, with its Rivers, Trees, Minerals, Lakes, Streams, Waters and all appertaining to the said land or beneath the surface of the said land and all our right title claim and interest therein. To hold the Queen Victoria her heirs and assigns as a lasting possession absolutely and for ever. And in testimony of our consent to all the conditions of this Deed we have hereunto subscribed our names and marks and in testimony of the consent of the Queen of England on her part to all the conditions of this Deed the name of Isaac Earl Featherston Land Purchase Commissioner is hereunto subscribed. These are the boundaries of the land sold by us, namely, the Western boundary is the sea, the Northern boundary is the Rangitikei river to the mouth of the Waitapu Creek and the Southern boundary commences at the mouth of the Kai-iwi stream and follows the boundary of the land already sold to the Queen till it reaches Pakingahau on the Manawatu River. These are the other boundaries. The river Manawatu from Pakingahau to the mouth of the Oroua stream, then the Oroua stream as far as Te Umutoi which is the North Western boundary of the Upper Manawatu Block already sold to the Queen, thence the boundary runs in a direct line to the mouth of the Waitapu Creek, thence (as already described) along the course of the Rangitikei river to its mouth and along the Sea Coast to Kai-iwi the starting point. And we the chiefs and people before mentioned, Do by this writing agree that the said sum of twenty five thousand pounds (£25,000) shall be paid by the Land Purchase Commissioner to certain chiefs to be nominated at a general meeting of the tribes concerned at Parewanui on the thirteenth day of December aforesaid who shall then divide and distribute the same among the sellers.[1287]

6.16 The Days Following the 'Completion' of the Purchase

Having supposedly completed the purchase of Rangitīkei-Manawatū, Featherston 'proceeded to Wanganui on important public affairs'. At the 'special request of the native tribes', Buller remained at Parewanui to assist in the various meetings that were being held there and at Maramaihoea, on the opposite side of the river, to consider the best way of allocating and distributing the purchase money among

[1287] Turton, *Compedium of Deeds*, p. 230.

their rangatira and hapū. Some 300 "dissentients" whose number now included Mātene Te Whiwhi, Nepia Taratoa, Tākana Te Kawa, Te Keremīhana, Te Angiangi Tohutohu, Wi Hapi, Parakaia and others met at Ōtaki and according to Major Edwards, decided to put aside their political differences to present an united front: 'Hauhau Kingite and Queenite being anti-sellers have determined to combine to prevent the sale of their portions of the Rangitīkei lands.'[1288]

Featherston dismissed Edwards' report. He had received a letter from Te Whiwhi saying that the hui had nothing to do with the block, but Edwards pointed out that there had been two different meetings (one on 17 December and the other, two days later). At the meeting he had attended, Parakaia and Heremia Te Tihi had indeed referred to the government's conduct at Manawatū as a 'second Waitara'.[1289] A second letter was received from Te Whiwhi confirming Edwards' report and alleging that the 'principal portion' of the earlier letter to Featherston had been written by Buller.[1290] Then Buller wrote, contending that the latter, though dictated to Tāmihana Te Rauparaha, was 'really and substantially Matene's own'. According to Buller, Wī Tako had reported that there were 60 Hauhaus, 20 non-sellers, and 40 in favour of sale.[1291] Hearn points out that the record of the discussions held at the second meeting supported Edwards' interpretation. Parakaia complained of the lack of an impartial investigation, arguing that the government was 'trifling' with them and that 'this kind of purchase is to startle us and find out our weakness of purpose….' Only after Ngāti Apa rights had been demonstrated and 'our wrong … seen.' would it be 'correct for Dr Featherston to give his money to his friends.' He advised them 'throw away the chain.' Matene Te Whiwhi called for Ngāti Raukawa to continue along the path of peace as they had done since Kuititanga advising that the chain be taken 'in kind feeling.' Taratoa remained 'dark', that it had not been decided 'by law' and argued that the chain should be moved to lodge at the boundary of the selling party; a plan of action also advocated by Akapita Te Tewe.[1292]

They sought an interview with Featherston, who agreed to meet with them providing 'all the tribes concerned in the sale' were present.[1293] This was held in the Runanga house at Parewanui on 21 December. Ihakara opened proceedings, expressing regret that the non-sellers 'had not come sooner' and informing them 'that all the Manawatū-Rangitīkei Block had been finally surrendered to the Queen – that it was now entirely in the hands of Dr Featherston', but that 'the Ngāti Raukawa section of the sellers' had 'set apart a very liberal sum' for them of £2500 to meet all their claims. Nepia declined to accept this sum as part of the

[1288] Edwards to Native Minister, 19 December 1866, WP 3/20, cited Hearn, 'One past, many histories', p 368.
[1289] Edwards to Richmond, 2 February 1867, MA13/70d.
[1290] Te Whiwhi to Edwards, 1 February 1867, MA 13/70d.
[1291] Buller letter, undated, MA 13/70e.
[1292] Notes of a hui held at Otaki, 19 December 1866, MA 13/70d.
[1293] Notes of a Native Meeting at Parewanui, MA 13/72b.

purchase price, demanding instead 'the whole of the back rents' currently held by the government, totalling approximately £3000. Featherston, it appears, wilfully ignored the distinction, writing in the margins of his notes that, 'Nepia Taratoa, who had even at that time signed the Deed, has since taken a share of the purchase money and given his full acquiescence to the sale.'[1294] The Commissioner addressed the meeting, expressing his 'entire satisfaction' with the manner in which the purchase has been completed, although he remained concerned that Rangitāne 'had not been fairly treated' by Ngāti Apa in the distribution of the purchase price that had been 'far less than they were entitled to, and certainly far less than they had been led to expect' (and which was to remain a grievance in the years that ensued).

6.17 Conclusion

Featherston had been a leading critic of the operation of the Native Land Purchase Department. Despite his early confidence that many Māori based in the region were willing to sell, he ran into similar problems as his predecessor and, in response, employed tactics that were questionable, including some that he had previously condemned. Pre-emption had been retained for the benefit of the Wellington Province rather than as protection for Maori. On a pretext of prior engagement to the New Zealand Company settlers rather than to the owners of the land that was largely fabricated, a huge area was set aside for the Provincial Government's sole purchase that was well in excess of the New Zealand Company's original surveyed claims. In short, there was increasing pressure within provincial politics for a purchase of these lands to be effected. Featherston was determined that this should be done, abandoning McLean's more cautious approach and generally favouring the claims of Ngati Apa who were universally in favour of sale..

Ngati Raukawa, Ngati Kauwhata and the leadership of other affiliated hapu consistently and strenuously argued that Featherston and Buller were buying from the wrong people and using dubious tactics including forgery, bribes, and threats. They maintained that the territorial rights of the other iwi had already been accommodated by their earlier large scale transactions which Ngati Raukawa had sanctioned. They rejected arguments that a sale was essential to maintaining the peace, pointing out that it was the activities of Crown agents that was stirring up most trouble. They rejected Featherston's reliance on an agreement by a handful of chiefs before it was taken back to their communities and endorsed. They argued that the proper course was to have the question of ownership investigated by a court before any money was paid out and the question and their ability to hold onto their lands compromised. They complained that their many representations were ignored by both the general and provincial

[1294] Notes of a Native Meeting at Parewanui, MA 13/72b.

governments and that the 'law' had failed them. At the same time, Ngāti Raukawa, Ngāti Kauwhata and other hapu based in the interior with strong links to Ngāti Maniapoto and Tuwharetoa were in the invidious position of having to demonstrate their loyalty to the Crown which came to be seen by many colonists and officials as meaning willingness to sell their lands. Negotiations began in the context of administering an oath of loyalty, surrender of arms and putting in claims to the Compensation Court for lands confiscated in southern Waikato. Not only was their ability to retain a land-holding stance undermined, so, too, were their linkages with their northern kin.

Instead of adjusting tribal rivalries, as he had been directed to do, the commissioner fomented them, and then presented the purchase as the only way to settle the matter and maintain the peace. Grabbing the excuse, he accepted Ngāti Apa's offer of sale of their interests so far as they existed but without any investigation of their nature, or extent, and putting Ngāti Raukawa and Ngāti Kauwhata immediately on the back foot. In the absence of any investigation of title, Featherston (and Buller) were determining title for themselves while acting as purchasers. According to Ngāti Raukawa, Featherston threatened that the land had been placed in his hands by tribes who had supported the government against rebel tribes. It was now in his possession and their choice was to accept payment or miss out. The retention of rents – instead of taking action against the run-holders – was again justified by Featherston, by the need to prevent fighting, Buller would later admit, however, that this had been done with the deliberate intention of forcing the owners into debt and the need to sell outright (see chapter 8).

Ngāti Raukawa who had sanctioned Ngāti Apa's sale of the lands north of the Rangitīkei River found that a change of administration meant that former understandings were forgotten, or put to one side. Featherston's official report of the supposed agreement reached at Takapu in April 1866 downplayed the strength of opposition expressed by the leaders of many hapu of Ngati Raukawa, Ngati Kauwhata, Ngati Wehi Wehi and the hapu like Ngati Pikiahu and Ngati Rangatahi based in the upper reaches of the Rangitikei River who had strong links to Ngati Maniapoto and Tuwharetoa. Nor did he acknowledge the importance of the emphasis Ngati Raukawa placed on the earlier transactions by Ngati Apa and Rangitane. He later claimed, quite falsely, to have been ignorant of any prior tribal arrangements entailing a general division of territory at Rangitīkei until he read McLean's notes in 1868, denying also that he had read Searancke's reports, as 'he had no occasion to do so'.[1295] His starting point was that Ngāti Raukawa, Ngāti Apa, and Rangitāne had 'tacitly recognised each other by consenting to share together the rents accruing from native leases'.[1296] That being the case, no tribal entity could pretend to be able to prevent a sale by the others.

[1295] Featherston to Richmond, 23 March 1867, MA13/70f.
[1296] Featherston to Richmond, 23 March 1867, MA13/70f.

Featherston had initially attempted one big purchase, and instead of first ascertaining tribal, hapu, and other rights and purchasing accordingly, in the 'full light of day', he and Buller began collecting signatures without inquiry As Buller would later tell the court, he had allowed any one to sign the deed if they alleged a claim. Athough Featherston did hold many meetings and toured the district (much as McLean and Searancke had done before him), it was only in order to ensure that a sale would take place, not to determine boundaries, the extent of rights, areas of contested rights, or the extent and location of reserves. He relied on one big final meeting to 'sweep all dissenters into the fold'; but as Gilling has pointed out (although he defends a number of Featherston's actions), 'the numbers who signed and were deemed to have assented did not reflect actual ownership rights or fully overwhelm others' commitment to retaining the land.'[1297] The consent of all right-holders was not obtained and the deal (and the price) were struck with significant opposition still being expressed, rights not yet determined and boundaries still unsettled and un-surveyed. The failure to define interests on the ground would be repeated in 1869, and problems continued into the 1870s.

[1297] Gilling, 'Land of Fighting', p 67.

CHAPTER 7

THE NATIVE LAND COURT AND 'COMPLETING' THE RANGITĪKEI-MANAWATŪ PURCHASE, 1867–1870

7.1 Introduction

It was soon clear that important issues remained unresolved despite Featherston's deed, the Parewanui meeting, and payment of £25,000 to delegated chiefs. Over the following months, the government received numerous reports of discontent and letters of protest and complaint. A number of hapū remained steadfastly opposed to the sale. Meetings were reported to have been held in 'boycott' and, it was alleged, comparisons had been made with Waitara. There were also petitions and appeals, referencing the Treaty of Waitangi. The allegations and counter-allegations that had preceded the Parewanui hui continued unabated, and reports and commentaries were so conflicting that it is difficult to know the truth of a number of detailed matters. What is certain, however, is that Featherston had not been able to win the acceptance of all right-holders, despite gaining more signatures to his deed after the Parewanui hui, and that his procedures continued to invite criticism. Ultimately, the government decided to allow the Native Land Court to investigate, although its jurisdiction was now circumscribed by the existence of the deed of cession. Having been repeatedly denied an investigation of title before a purchase was undertaken on the contradictory grounds that the land was under formal offer and, at the same time, was in such dispute that any decision would likely result in armed challenge, it was now argued that those with outstanding claims who had refused both payment and reserves had to prove their title to defined portions of the block before any provision could be made for them. Ultimately, though the court did not find 'Ngāti Raukaw' to have exclusive or even dominant rights in the territory between the Rangitīkei and Manawatū Rivers, the interests of Parakaia Te Pouepa, Kooro Te One, and other opponents to the purchase were demonstrated to be more extensive than Featherston and Buller had been in the habit of admitting.

7.2 Continuing objections and protests

There were clear indications of discontent with Featherston's conduct; that it was deliberately designed to undermine the authority of traditional tribal leadership, The meetings and allusions to Waitara, in parallel to the Parewanui hui (as

reported by Resident Magistrate Edwards), were followed by letters to government ministers. One signed by Heremia Te Tihi, Hema Te Ao and 'all the runanga' alleged that Featherston had come to Otaki with money as 'a bait to lure people' and had handed it over to the 'young men' of the tribe, who lacked authority to accept it.[1298] This allegation was repeated by Parakaia Te Pouepa who also complained that Featherston's money had been taken 'surreptitiously by the young men of Ngatiraukawa'; if the purchase was flawed it was Featherston's 'own fault' for being in too much haste.[1299] A letter published in the *Press* also alleged that Featherston had paid out the money 'secretly to his friends' without the consent of 'the Raukawa' and would 'never alight on the land which we wish to retain.'[1300]

In further correspondence, Parakaia and Te Kooro complained that Featherston and Buller were now collecting 'any names' they could from amongst those who had opposed the sale, 'distributing small sums of money … to evade the customs of the Queen', and avoiding 'careful enquiry'. Featherston, knowing that his purchase was 'wrong', was sending 'his money to talk'; however, they had 'not attended to the voice of his money'.[1301] At least the 'old men' – the 'big eels' had not accepted their 'bait', but some of the young men, allegedly with no legitimate claim, the 'worms and small eels' had done so, spending the money on alcohol.[1302] Parakaia and Te Kooro criticised a number of the commissioner's 'bad practices', including purchase from 'strange tribes', making reserves on disputed lands, and threats of 'shooting' if they attempted to stop the survey of those areas.[1303] Another letter from Parakaia to the Governor summed up his position. He would 'not oppose the sale by any one of his own piece of land', but he objected to Featherston attempting to 'get' his territory and 'pay money to other people for it'.[1304]

Hoeta Te Kahuhui, Kooro Te One, and twenty-one others also informed Richmond that they had accepted no part of the money – had not even been present – because they were not willing to part with their land and would disrupt any attempt by Featherston to survey his flawed purchase.[1305] According to subsequent letters from Kooro Te One, the surveyor (J T Stewart) had been warned off from Whitirea and Puketōtara where a reserve had been promised to the Rangitāne vendors. Stewart had insisted that he was acting on the instructions of Featherston and, it was alleged, threatened to 'send the Rangitane to tie us up….'[1306] According to those writing in protest, 'Whitirea belonged to Parakaia

[1298] Heremia Te Tihi and others to government, 1 January 1867, MA 13/70d.
[1299] Parakaia Te Pouepa and others to Richmond, 27 December 1866, WP 3 21 30.
[1300] *Press*, 31 December 1866, p 3, cited Hearn, 'One past, many histories', p 371.
[1301] Parakaia Tokoroa and Te Kooro Te One to Rolleston, 5 February 1867, MA 13/70e.
[1302] Parakaia Te Pouepa to Judge Smith, 31 December 1866, MA 13/70f.
[1303] Parakaia Tokoroa and Te Kooro Te One to Rolleston, 5 February 1867, MA 13/70e.
[1304] Parakaia to Governor Grey, 29 March 1867, MA 13/70f.
[1305] Hoeta Te Kahuhui and others to Richmond, 2 January 1867, WP3/2 40.
[1306] Te kooro Te One to Rolleston, 30 January 1867, MA 13/70d.

and Puketotara to Te Reihana, Te Kooro, Reupena and all the people who have not taken money for Rangitīkei'.[1307] Some opponents also began to complain of the apparent double standard of the government – an accusation that was to be repeated in ensuing years:

> We know that you claim Waikato and all the land that you have conquered; that conquest is but of a recent date. It is thus that we got possession many years since of Rangitikei and of the country down this coast. Now you say it is not right that Maori usage should become law…[1308]

The earlier request of their leadership to have land at Maungatautari returned had been refused. They asked, 'Why now do you take Rangitikei out of our hands, and give it back to the Ngati Apa?' And why was the law with-held? The government, they complained, spoke with a 'double tongue'.[1309]

Nor were all the vendors happy. The monies, it was alleged, had not been properly distributed: Moroati Kiharoa, for one, asked early on for his name to be erased from the deed of sale, stating that he had been deceived by Taratoa, who had promised him £100 but given him only £10.[1310] Allegations were being made by Rangitāne, as well, that Kāwana Hūnia had failed to hand over the full amount due to them and which, as noted earlier, Featherston acknowledged to be true.

The press continued to be divided on the merits of the purchase as it stood at that point, editorialising and publishing letters of vendors and non-sellers according to their own political persuasions.[1311] The *Wellington Independent* continued to be enthusiastic in its support, but other newspapers were concerned at the ongoing opposition and Featherston's reaction to it; the departure from best purchase tactics – and notably, the failure to set aside reserves; the denial of the standard legal avenue of title investigation and possible redress; the motivations of Featherston, whose overwhelming desire to acquire the land for the province was thought likely to 'blind' his judgement; and the continuing possibility of tribal conflict, which had been an underlying pressure upon those opposed to give way. The *Daily Southern Cross* commented:

> They had the example of the rebellious tribes before their eyes. They could not withdraw from the purchase, and decline to sell altogether if they desired to live and die on their "piece" because the Superintendent of Wellington would not let them do so. He wanted the land; he meant to have it; and the law made him the sole purchaser.[1312]

[1307] Te Kooro Te One and Parakaia Tokoroa to Rolleston, 5 February 1867, MA 13/70d.
[1308] Ngati Raukawa letter to NZ public, 6 February 1867, cited in TC Williams, *A letter*, Appendix, p cviii.
[1309] Ngati Raukawa letter to NZ public, 6 February 1867, cited in TC Williams, *A letter*, Appendix, p cviii.
[1310] Kiharoa to Government, 18 February 1867, MA 13/70e.
[1311] For full discussion of the various articles and letters published in the aftermath of the Parewanui meeting, see Hearn, 'One past, many histories', pp 281-86.
[1312] *Daily Southern Cross*, 19 December 1866, p 4.

We note, also, the allegations against Buller; in particular, his incessant 'teasing' of them to part with their land and, later on, that he had told claimants that the Wellington Land Purchase Loan Sanction Act (empowering the Superintendent to raise a loan of £30,000 to pay for the block and make it ready for settlement), which had been passed late in the 1866 parliamentary session, meant that the only course left open to them was to sign the deed; 'the land has gone to the Queen, and this is sanctioned by an Act of the Assembly'.[1313] There was concern, too, that the rents had been withheld not to prevent fighting but to pressure the right-holders into selling (as Buller was later to admit), while tribal divisions had been deliberately exploited. In the view of the editor of the *Daily Southern Cross*; if not for the war and 'divided counsels among themselves, and conflicting tribal interest' Featherston would not have been able to complete his purchase.[1314]

7.3 Featherston defends his purchase, March 1867

A concerned Richmond requested Featherston twice in January, to give 'full information' respecting the position of the purchase because 'letters received from influential claimants … make it apparent that the difficulty [was] not yet sufficiently disposed of…'[1315] In the meantime, Buller defended the commissioner's conduct, forwarding to Rolleston, two letters of support; one from Ihakara Te Hokowhitukurī (Tukumaru) stating that Nepia had signed the deed in Wellington and had been offered neither 'a cask of beer, or a calk of powder or an assessorship to make him write…'; the other from Wiremu Pukapuka, which similarly denied any attempt at bribery.[1316] Featherston did not respond for two months complaining that Richmond had agreed to leave him 'perfectly free and unfettered' in his efforts to bring the Rangitikei-Manawatū negotiations to a successful conclusion and that to have replied sooner while 'questions were in a process of adjustment … might have materially increased the difficulties [he] had to encounter.'[1317]

A detailed report followed, in which Featherston set out the state of the purchase to date, the conditions he had set for the sale, the number of signatures obtained and the extent of their rights, how the purchase money had been distributed, and the reserves to be set aside. Although written in defence of his actions, his report reveals a number of problematic features – the collection of signatures of many who had only tenuous rights but were paid by Ngāti Apa in recognition of their support in pushing through the transaction in the face of 'Ngāti Raukawa'

[1313] *Press*, 6 January 1869, p 2, cited Hearn, 'One past, many histories', p 373. For full discussion of press reports see Hearn, pp 372-76.
[1314] *Daily Southern Cross*, 19 December 1866, p 4.
[1315] Richmond to Featherston, 26 January 1867, MA 13/70d; see also letter dated 17 January 1867, MA 13/70d..
[1316] Ihakara Te Hokowhitukurī to Richmond, 15 January 1867 & Wiremu Pukapuka to Richmond, 14 February 1867, MA 13/70e.
[1317] Featherston to Richmond, 22 March 1867, MA 13/70e.

opposition; doubts as to the consent of some key signatories; the side-lining of opposition by having money put aside for them, willing or not; problems in the distribution of the payment; the failure to define reserves; and obstruction of surveys. According to Featherston, he had insisted upon a number of 'stipulations' at the Takapu meeting in April 1866 to which the vendors 'unanimously agreed' and which had formed the 'basis of all [his] subsequent proceedings in connection with the purchase':

- the tribes asserting claims to the 'disputed block' should sign a formal deed of cession to the Crown before receiving any part of the purchase price;
- no reserves would be made prior to the sale in order to prevent any dispute arising and the extent and position of the portions to be set aside was to be left 'entirely' to his 'discretion';
- the purchase money should be handed over to the tribes in the 'Ngatiapa Runanga House at Parewanui' on a day of his choosing 'of which ample notice should be given by printed circular';
- the 'tribes concerned should decide among themselves' the proportion that each would receive;
- upon 'completion of the purchase … the tribes should be prepared to give … immediate possession of the block' while also assisting 'the Crown surveyors in cutting the inland boundary'.[1318]

Featherston then described the process he had followed in which, he argued, the rights of all the owners, whatever their political persuasion, had been protected. Buller had carried 'a formal deed of cession to almost every native village between Wellington and the Upper Wanganui, in order to obtain the signatures of the various hapu'. Featherston's insistence on obtaining the signatures of 'several Ngatiraukawa chiefs of great local influence' who initially opposed the purchase had caused considerable delay but whose consent he considered absolutely essential. Without the 'acquiescence' of these chiefs – notably, Nepia Taratoa and Aperahama Te Huruhuru – he would have 'declined to complete the purchase'. By September, having obtained the agreement 'of all the leading chiefs and of an overwhelming majority of the claimants', Featherston considered the negotiations 'sufficiently advanced' to fix 5 December 1866 as the date for the finalisation of his purchase and 'a notification to that effect was printed and extensively circulated'. Despite having obtained 'a large number' of additional signatures prior to that date, he was obliged to admit that there remained 'a few dissentients among the bona fide Ngati Raukawa claimants who refuse[d] to give their assent to the sale'. He did not, however, 'anticipate any real difficulty in coming to an amicable arrangement with them'.[1319]

[1318] Featherston to Richmond, 23 March 1867, MA 13/70f.
[1319] Featherston to Richmond, 23 March 1867, MA 13/70f.

Featherston insisted that the interests of the non-sellers had been adequately safeguarded by setting aside money for them to be taken in the future: 'when the purchase money was handed over to the representative chiefs' he had 'obtained a distinct assurance' from Ngati Raukawa that 'the rights of dissentients would be honestly considered and provided for in the distribution'. A sum of £2500 had been set aside for this purpose, mainly at the urging of Ihakara and Aperahama Te Huruhuru.[1320] Of this sum, £1500 would be handed over by Ihakara Tukumaru to Nepia Taratoa, who had repudiated his signature, declaring himself opposed to the sale. According to Featherston, however, he had been won over subsequently. On his last visit to the Rangitīkei, Taratoa had given his 'public assent … received a share of the reserve fund and expressed himself highly satisfied' with the arrangements that had been made. The remaining money had been left with Tapa Te Whata for the group of non-sellers 'represented by Te Kooro, Takana and Whiriharai'. However, only £500 had been offered to them and they had refused the money which had been subsequently 'distributed by Tapa Te Whata among his own people'. Upon hearing this, Featherston had (he said) accused Te Whata of 'a breach of faith' and warned him that he 'would make no reserve whatever for his hapu' unless the money was returned.[1321]

By this stage, a total of 1647 signatures were attached to the deed including: 246 Ngati Apa; 341 Ngati Raukawa; 96 Rangitane; 44 Ngati Upokoiri; 64 Ngati Toa; 68 Muaupoko; 730 from Wanganui; and 58 'Other Claimants (Ngati Awa, Ngati Tika etc)'. Three 'distinct classes' were represented:

- 'Principal Claimants' who had 'for a term of years, actually resided on the block, exercising thereon the customary rights of ownership';
- 'Secondary Claimants' or 'those who are related to the Resident owners by family or tribal ties but who have not till recently asserted any claim to the land'; and
- 'Remote Claimants … who have only a distant tribal connection with the sellers, whose share in the transaction is practically one of sufferance, and who are simply entitled to a present.'[1322]

A 'good number' [??] he admitted to be of a 'remote' connection only. On the other hand, the majority of those deemed to have the strongest connection – those whose names appeared on the various leases – had signed: a total of 107, with twelve outstanding, of whom 'only seven' were recognised by Ngati Apa to be 'original lessees'.

In order to demonstrate how Maori themselves 'assessed the claims of the several tribes who were parties to the sale', Featherston submitted a breakdown of how

[1320] Featherston to Richmond, 23 March 1867, MA 13/70f.
[1321] Featherston to Richmond, 23 March 1867, MA 13/70f.
[1322] Featherston to Richmond, 23 March 1867, MA 13/70f.

the purchase money for Rangitīkei Manawatū had been distributed: This was stated as follows:

> Ngati Apa
>
> Ngati Apa residing at Rangitikei – £6,000
>
> Ngati Apa residing at Turakina and Wangaehu – £4,000
>
> Wanganui Tribes – £2,000
>
> Ngati Upokoiri (Hawkes Bay) – £1,000
>
> Rangitane and Muaupoko – £1,400
>
> Ngati Kahungunu – £400
>
> Ngati Ruanui and Taranaki visitors – £200
>
> TOTAL: £15,000
>
> Ngati Raukawa
>
> Ngati Parewahawaha and allied hapu (represented by Aperahama Te Huruhuru) – £2,000
>
> Ngati Patukohuru and allied hapu (represented by Ihakara Tukumaru) – £2,000
>
> Ngati Kauwhata (represented by Tapa Te Whata) – £2,000
>
> Ngati Toa and Ngati Awa – £1,000
>
> Matene Te Whiwhi's sister & party – £500
>
> Awarded to Ngati Raukawa dissentients (non-sellers) – £2,500
>
> TOTAL: £10,000 [1323]

Featherston noted also that the 'large share awarded by Ngatiapa to the Wanganui tribes' was in recognition of the fact that although 'Ngatiapa might have exercised the right of selling without the consent of the Wanganui people … they would never have attempted a trial of strength with the Ngatiraukawa in the absence of the powerful support of their Wanganui allies'.[1324]

Having addressed Rangitane complaints that they had not received their promised share, Featherston turned to the matter of reserves. He had 'considered it expedient that the whole of the disputed land should be ceded to the Crown', but it had 'always been understood' that reserves would be set aside once the purchase was complete. Those for Ngāti Apa and Rangitāne had been 'determined to their entire satisfaction'; however, those for Ngāti Raukawa 'had not yet been defined'. The Puketōtara reserve for Rangitāne had been already surveyed and, although 'opposed by a party of dissentients headed by Te Kooro', there had been 'nothing in the nature of the opposition calculated to provoke a breach of the peace and both parties preserved their good humour to the last'. He assured Richmond that he did not 'anticipate any further difficulty in the laying of the promised reserves, provided the natives [were] not tampered with' (a likely

[1323] Featherston to Richmond, 23 March 1867, MA 13/70f.
[1324] Featherston to Richmond, 23 March 1867, MA 13/70f.

reference to Alexander McDonald's involvement in the opposition of Ngāti Kauwhata, Ngāti Wehi Wehi, and allied hapū based in the Oroua region).[1325]

In his address to the Wellington Provincial Council, the following month, Featherston reiterated his now oft-repeated message: that he had accepted the offer of the block only to prevent the outbreak of armed hostilities and, by so doing, 'forever removing the cause of strife'; that the purchase was complete, with only a few dissentients remaining who had been well provided for in terms of the purchase price but for whom it might be necessary to make an award of land 'to the extent of such claims as [were] admitted by the sellers' and for whose intransigence he blamed a few 'designing' and self-interested Pākehā.[1326]

7.4 Petitions to the Queen and the response of the general government

Featherston's address to the Provincial Council claiming that the whole of the Rangitīkei-Manawatū block had been purchased and the ongoing failure of the colonial government to respond to their many representations of dubious actions, wrong-doing, and injustice prompted two petitions to Queen Victoria invoking her protection under the Treaty of Waitangi. Many of the allegations and grievances, expressed there, were to be repeated over the next twenty years, as was the strategy of direct appeal to the Queen in an effort to utilise lawful methods of resolving disputes. Besides, their grievance lay increasingly with the settler government and local governors as with their tribal rivals. Who else to turn to than the supreme authority in the British world and who had promised them protection under the Treaty of Waitangi?

The first of these petitions was led by Paranihi and Eruini Te Tau, signed by 71 members of Ngāti Pikiahu, Ngāti Waewae, Ngāti Maniapoto and Ngāti Hinewai, and witnessed by Mātene Te Whiwhi and Akapita Te Tewe. The points of grievance centred on denial of a proper investigation of their title, the failure of the colonial authorities and the Governor to respond to their many appeals and the payment to people who had 'no ground of claim' to their land.[1327] We quote the petition in full.

They said:

> Here do we, your loving subjects, cry to you out of the midst of the injustice inflicted upon us. We had all heard before the Treaty of Waitangi that you, the Queen, would take care of us and our lands. We now write to you because a block of land belonging to us, situate at Rangitikei, in the Province of Wellington.

[1325] Featherston to Richmond, 23 March 1867, MA 13/70f.
[1326] *Wellington Independent*, 30 April 1867, p 5.
[1327] Parakaia Te Pouepa to Queen, 4 July 1867, *AJHR*, 1867, A-19, p 4.

> We, the Ngatiraukawa, took that land by force of arms prior to the sovereignty of the Queen having been declared over New Zealand, and we have kept possession of it up to the present time.
>
> In the year 1862 the General Assembly and the Governor established a Court to adjudicate upon the General Assembly to exclude our lands from the operation of "The Native Lands Act," in order that it might be bought by the Government of Wellington. To this the Assembly straightway assented.
>
> Give heed: Only the land of us, the Ngatiraukawa, has been excluded from the Land Court. We have sent a petition to the General Assembly, praying that the Act might be disannulled, in order that our claims may be taken through the Court. We have also been to Governor Grey and shown him our troubles, requesting that our claims to the land be investigated. We have also been to the Colonial Ministers and requested to have our title investigated; but they paid no heed.
>
> In December, 1866, the Land Purchase Commissioner, the Superintendent of Wellington, handed over the purchase money to certain persons who own land adjoining ours. He gave money also to tribes dwelling at a distance who had no ground of claim to our land.
>
> We have all seen the speech of the Superintendent of Wellington made in opening the Provincial Council on the 26th April, 1867, in which he stated he had purchased the whole of our lands – that is, the Rangitikei-Manawatu Block. He upon a former occasion made use of these words: "The whole of your lands have gone to the Queen of England." Still we were aware that this law was not made by the Queen, but was made at their own instance by the Assembly at Wellington.
>
> Now therefore, we, your subjects, who have always given support to your laws ever since the arrival of the first Governor, pray you to send an investigator of sound judgment to inquire into the particulars of this act of injustice.
>
> These are the names of the Hapu of Ngatiraukawa represented by us: Ngatipikiahu, Ngatiwaewae, Ngatimaniapoto, Ngatihinewai. There are seventy-one men of us, owning our piece of land at Rangitikei, who have not taken Dr. Featherston's money. Only one of our party, Noa Te Rauhihi, he alone took money. There are other Hapus of Ngatiraukawa who claim in the block.[1328]

A separate petition was sent by Parakaia Te Pouepa to 'our loving parent the Great Queen of England'. Parakaia began by recollecting their previous appeal to the Crown about Gore Browne's actions at Waitara. Now he was petitioning the Queen on behalf of his own people with reference to the actions of Featherston:

> Now we have borne in remembrance throughout all these years now past how that your name was well received in New Zealand prior to the year 1840. By the Treaty of Waitangi the sovereignty over this country was placed in your hands by the Maori Chiefs of New Zealand. It is therefore for you, the great Queen of England, at this time to show kindness to us your children, and to protect us in the possession of our lands.[1329]

Te Pouepa then stated that the land had been taken 'by force of arms, during the year 1830; before your sovereignty had lighted down upon this island' and they

[1328] Paranihi Te Tau and Eruini Te Tau to Queen, 20 June 1867, *AJHR*, 1867, A-19, p 4.
[1329] Parakaia Te Pouepa to Queen, 4 July 1867, *AJHR*, 1867, A-19, p 6.

had been 'in possession ever since'.[1330] He noted their former acts of grace and kindness to the other tribes and to the Government:

> Listen then to the favour shown by us to your Governors who came forth from your presence. In the year 1847 we allowed Rangitikei to be sold to Governor Grey; in the year 1858 Manawatu was sold to Governor Browne; in the year 1858 again another block, Te Ahuaturanga, was sold to Governor Browne. Those were large blocks fairly sold to your Governors. By these acts we had gratified the desires of Ngatiapa, Rangitane, and a portion of my own tribe, to sell land. The block referred to in the present question is what remains, and which is being kept back from sale by my tribe and me.
>
> […]
>
> Rangitikei, a large block of land, I graciously gave back to Ngatiapa. Te Ahuaturanga, a large block of land, I graciously gave back to Rangitane, and now those tribes, together with the Government, come openly to take away my piece remaining; our houses and the cultivations, whence my tribe get their living, are being taken away.[1331]

Only their lands had been excluded from the Court. When fighting seemed likely they had asked for McLean's assistance and got Featherston instead; 'for Dr. Featherston's plan of investigation was to buy the block so as to get the land into his own possession; also, assisting Ngatiapa, and saying falsely that he had brought life to these tribes'. Efforts to get the General Assembly to amend the Act to allow an investigation by the court had failed and, it was alleged, Featherston had intimidated and manipulated them into accepting a sale led by others:

> In the year 1866 Dr. Featherston came openly to urge the sale of our land to him, but we were not willing, his words expressed, with a view to intimidate us, were as follows:— "This land I hold in my hand; 800 of Whanganui have agreed to the sale; 200 of Ngatiapa have agreed to the sale; 100 of Rangitane and Muaupoko have also consented to the sale; all these tribes went with me to fight against the tribes who are fighting against the Queen's troops; they have all consented to my taking this land; they are many, you are few; you cannot keep back this land."
>
> When my tribe heard his word of intimidation and slight as regarded us we stood aghast with shame and fear. But, I replied, asking him — Friend, where are the many hundreds of those people you have mentioned who have claims upon this land, the Court only shall put you in lawful possession?
>
> He answered me, "Parakaia, this land will never be taken through the Court."[1332]

Several more attempts had been made to get the settler government to intervene but were rebuffed each time and then Parakaia had asked himself, 'Where can the Treaty of Waitangi be that its good results do not appear?' Featherston had gone ahead and handed over the money in payment for the Rangitīkei-Manawatū Block to the sellers. Te Pouepa's letter continued:

[1330] Parakaia Te Pouepa to Queen, 4 July 1867, *AJHR*, 1867, A-19, p 6.
[1331] Parakaia Te Pouepa to Queen, 4 July 1867, *AJHR*, 1867, A-19, p 6.
[1332] Parakaia Te Pouepa to Queen, 4 July 1867, *AJHR*, 1867, A-19, p 6.

> [S]ome of my tribe also had some of it, the greater portion of them having no claim to the land. Some of the money also was handed over to distant tribes, having no ground of claim to our land, and then he told my tribe, "The whole of your land has gone to the Queen."[1333]

He prayed that someone be sent 'to investigate carefully this injustice, that he may give life to us and our tribe, and raise up again the Treaty of Waitangi, which has been trampled under foot by the Government of New Zealand'.[1334]

Richmond, in a lengthy memorandum, dated 20 July 1867, attached to Parakaia's petition, set out what he considered to be the difficulties in bringing the Manawatū purchase to a conclusion. Having detailed his understanding of the dispute over title dating back to 1830 when 'the invading tribe Ngatiraukawa took possession … of a large tract of country between Whanganui and Wellington driving out the Tribes which before inhabited', he then recounted how the Rangitāne and Ngāti Apa were allowed to return to the land, first as 'slaves' then 'more and more' in 'equality' with the 'conquerors'. As evidence of this, he pointed to the Crown purchases of Rangitīkei-Turakina and Te Ahuaturanga in which Ngati Apa and Rangitane 'took a part' and also in 'the leases of an irregular kind' to European run-holders.[1335] In effect, Richmond saw the heke tribe's acceptance of those transactions as an act of necessity on their part, not one of grace, nor one of wider strategic significance.

Following the death of Nepia Taratoa, whom he described as 'a Ngatiraukawa chief of great influence who seems to have acted as a moderator', 'violent' differences developed over the shares of the rents paid to the respective tribes. Ngati Apa, 'fortified by the alliance of their powerful neighbours the Whanganui claimed the whole … for themselves and the Rangitane' while Ngati Raukawa 'ignored all but their own claims insisting on their right of conquest'.[1336]

In the escalation of tensions, Featherston had been called upon 'to endeavour to effect some compromise'. After negotiations and a 'fruitless offer of arbitration', Ngati Apa proposed 'a sale to the Crown of the whole disputed land, the money paid to be distributed equally among the tribes'. After holding back 'for a long time … a majority of the Ngatiraukawa including Ihakara Tukumaru a leading man among them accepted the terms'. However, a 'portion of the tribe', including the petitioners, still refused to sanction the sale, even though they had been 'repeatedly assured by the Government of full justice'. A share of the purchase money had been set aside for 'the non-contents', as well as additional 'large allotments of land'. The Government had also allowed 'considerable delay in winding up the transaction [so] that as many as possible of the non-contents [could] come in'.[1337]

[1333] Parakaia Te Pouepa to Queen, 4 July 1867, *AJHR*, 1867, A-19, p 6.
[1334] Parakaia Te Pouepa to Queen, 4 July 1867, *AJHR,* 1867, A-19, p 6.
[1335] Richmond memorandum, 20 July 1867, MA 13/73b.
[1336] Richmond memorandum, 20 July 1867, MA 13/73b.
[1337] Richmond memorandum, 20 July 1867, MA 13/73b.

Richmond feared that tribal conflict could flare up again 'if an extensive part of the block proportioned to their numbers were at present laid off' for the non-sellers. In his view, it would be 'impracticable to make any award to the non-contents in this case which would not be challenged by the sellers, who although they have parted with their own interest in it might probably view its occupation by other natives with great bitterness.' He saw this as an 'insoluble quarrel between half civilized men whose titles all rest on violence of a comparatively recent date and who are only half weaned from regarding violence even now as an ultimate appeal. One side alleges conquest as its ground, the other the power to reconquer.' With the non-sellers making up about 10 per cent of the owners Richmond suggested that 'after a time their claims may be allowed and dealt with on some simple arithmetical basis having regard to their numbers' and argued that 'no other mode of estimating their claims will approach nearer to justice'.[1338]

In summary, then, despite his own misgivings about some of Featherston's actions, Richmond thought the problem intractable and essentially approved the purchase. Although he was ready to rethink the exclusion of the block from the Native Land Court's jurisdiction which really had been put into the legislation to win the support of the Wellington Provincialists, he regarded the government's acquisition of the entire block as the only solution and the rights of the remaining non-sellers adequately protected by setting aside money (rather than a portion of the land) for them.

Even Featherston had to acknowledge that several matters remained outstanding. He still held the impounded rents and the reserves were still not fully defined. The non-sellers, he reported to Richmond, had 'declined' to accept any reserves which were to be set 'to the extent of their claims as admitted by the sellers.'[1339] There was the matter, too, of the failure to distribute the purchase monies properly, not only by Ngāti Apa to Rangitāne, but by Tapa Te Whata to the non-sellers among the hapū of his area, although Featherston did not admit to this as being a problem for which the government had any responsibility. As to the question of reserves for the non-sellers, he now stated that he would be prepared to go to arbitration, and in the event of that failing, to any two judges of the Native Land Court.[1340] Such arbitration was dependent upon all the non-sellers agreeing to accept the decision. Judge Johnston was approached by Ngati Kauwhata as their nominee (the other was to be Featherston's choice), but he declined, not wishing to undermine the perceived impartiality of the Supreme Court, and the proposal was superseded by events – namely the government's decision to amend the exclusion clause to allow the objectors to bring their claims before the Native Land Court.[1341] Featherston had also attached a list to his

[1338] Richmond memorandum, 20 July 1867, MA 13/73b.
[1339] Featherston to Richmond, 27 July 1867, *AJHR*, 1867, A-19, p 7.
[1340] Featherston to Richmond, 27 July 1867, *AJHR*, 1867, A-19, p 7.
[1341] Judge Johnston to Richmond, 7 August 1867, *AJHR,* 1867, A-19, p 11.

report to Richmond, which he entitled 'Resident Ngatiraukawa, alleged claimants who have not signed the Deed of Cession',[1342] It contained only 39 names, and cannot be seen as comprehensive. Nor was there any indication of how it had been compiled. We reproduce this assessment below.

Table 7.1 'Resident Ngatiraukawa; alleged claimants who have not signed the Deed of Cession'

NAME	LOCATION	NAME	LOCATION
Takana Te Kawa	Oroua	Tiaki Te Pakarau	Taikorea
Hoeta Te Kahuhui	Oroua	Wiriharai Te Angiangi	Taikorea
Kerehana Tauranga	Oroua	Wiremu Kingi	Taikorea
Kooro Te One	Oroua	Tohutohu	Taikorea
Te Ara (female)	Oroua	Paranihi Te Tau	Taikorea
Erina Taurua (female)	Oroua	Eruini Te Tau	Taikorea
Rahiri Kahuihui (female)	Oroua	Tiniwata Tekerunga	Taikorea
Parakaia Te Pouepa	Papakiri	Pumipi Te Kuka	Rangitikei
Nirai Nape	Papakiri	Te Keremihana	Rangitikei
Te Roiri Kamara	Papakiri	Miritana Te Raki	Rangitikei
Pitihira Te Kura	Papakiri	Wireti Te Rea	Rangiiīkei
Roera Hore	Papakiri	Naera Te Angiangi	Taikoria
Kipa Te Whitu	Papakiri	Te Reihana	Oroua
Hakopa Te Tehe	Papakiri	Repuma Te Oreie	Oroua

[1342] Featherston to Richmond, 27 July 1867, *AJHR*, *1867*, A-19, p 8.

Hemara Te Mataaho	Papakiri	Horopapera	Oroua
Arapata Te Wharemakatea	Papakiri	Reweti Te Kohu	Oroua
Pineaha Mahauariki	Papakiri	Te Warihi	Oroua
Paratene Hakaraia	Papakiri	Pini	Oroua
Heta Ngatuhi	Papakiri	Matiu	Oroua

There continued to be rumours of imminent violence during the initial attempts to cut the boundary and allegations, too, of Crown complicity in Ngāti Apa's decision to carry arms to Waitapu. Te Aweawe (Rangitāne) said, for example, that he had heard Kāwana Hūnia and 'all the Ngatiapa' threaten to take 400 guns to cut the Waitapu boundary' on the pretext that it was defend themselves against a surprise attack from the 'Hauhaus'.[1343] Hadfield sent Richmond an extract from a letter from Te Herekau alleging that Featherston had made the threat himself. This, Featherston vehemently denied.[1344] Buller submitted a signed statement from Ihakara Tukumaru and eleven others. They expressed alarm at the situation: that Ngāti Apa were bringing arms to the survey, which Featherston had explained, were for their own protection since they did not know the intention of the Ngati Raukawa non-sellers who were 'continuously causing trouble'. Ihakara did not, however, accuse the two Crown officials of agreeing to Ngati Apa's proposal; they had only said that they would go in charge of the party of cutters.[1345] Buller, thinking to support the commissioner, indicated that Featherston had told Kāwana Hūnia that 'he would not send them at present, and that when they did go they would be accompanied by himself and Mr Buller…'; a statement which Rolleston (Under Secretary of the Native Department) condemned as 'an equivocal one and much to be regretted'.[1346] By this stage, however, the government had decided that the claims of the non-sellers should be investigated by the Native Land Court after all and so, Hadfield was informed, 'it

[1343] Peeti Te Aweawe to Featherston, 5 September 1867, MA 13/72b.
[1344] Hadfield to Richmond, 5 July 1867 and Featherston memorandum, 13 July 1867, *AJHR*, 1867, A-19, p 12; for further allegations and counter allegations see pp 12-16.
[1345] Statement of Ihakara Tukumaru and 14 others, MA 13/72b. Both Hearn, in 'One past, many histories', pp 398-400, and Gilling, 'Land of Fighting', pp 170-74 discuss these allegations in some detail.
[1346] Rolleston to Hadfield, 6 September 1867, *AJHR*, 1867, A-19, p16.

would answer no useful end to prolong the discussion of this particular question'.[1347]

7.5 Exclusion clause is repealed in the Native Lands Act Amendment Act 1867

In September, both 'Ngati Raukawa' and 'Ngati Kauwhata' petitioned parliament separately for the Native Land Court to be given jurisdiction to hear their claims at Rangitīkei-Manawatū. The Raukawa petitioners stated that the Assembly had promised them, when they had made that plea in 1865, that the court would be enabled to receive their claims if Featherston's purchase was not near completion after a year. They had not realised that they would have to renew their petition and they now did this.[1348] Ngati Kauwhata's petition (signed by 73 hapū members) asked, 'Alas! What trouble is upon us! Who will deliver us from the body of this great death?'[1349]

Richmond had decided that the government's best course was to insert a section into legislation intended more generally to solve problems that had been revealed in the operation of the land court system (more particularly, the 10-owner rule und unrecorded trusts) and also empower the Governor to place restrictions upon the alienating of Maori land. The Native Lands Bill 1867, which he and Stafford drafted, was dealt with almost entirely in committee and was only briefly debated in the House itself. Nor was it widely reported in the press. Manawatū was specifically discussed only once. On the motion for the Bill to go into committee, Hugh Carleton, the member for Bay of Islands (and Henry Williams' son-in-law), cited the petition, reminding the House of their decision in 1865, that the exclusion clause would be rescinded if the purchase took more than a year to finalise and he accused the government of forgetting its earlier commitments.[1350] Carleton then expressed concerns about how the signatures to the deed had been collected, implying that a number of owners had signed 'under duress'. In reply, Richmond told the House that he had always assured the 'non-contents' that however long referral to the court had to be put off because of inter-tribal quarrels, 'just claims could not lapse' and that 'they need not be afraid whatever might be done with regard to the survey, they would watch over the affair and secure justice to them. … notwithstanding the circumstances that excluded that particular claim from the operation of the court' and that they always had recourse to the Assembly as a 'Court of Appeal'.[1351]

Richmond told the House that:

[1347] Rolleston to Hadfield, 6 September 1867, *AJHR*, 1867, A-19, p16.
[1348] Petition of Te Whiwhi and other Natives of Otaki, 9 September 1867, *AJHR,* 1867, G-1, pp 11-12.
[1349] Ngati Kauwhata petition, 29 July 1867, *AJHR*, 1867, G-1, p 13.
[1350] *NZPD* 1867, pp 1137-8.
[1351] *NZPD*, 1867, p 1139.

> The last clause of the Bill provided for the winding up of the negotiations, and for the settlement of the claims and disputes relating to the Manawatū purchase, and for the repeal of the exclusion clause of the Act of 1865 except so far as it related to the block included in the deed of sale in 1866.[1352]

Richmond went on to say that he hoped that George Graham- member for Newton- would not oppose the Bill; that its effect would be to do no injustice to the province and was 'really intended.to afford every facility and convenience to the Natives and to afford the means of rendering easy and practical the business of the Native Land Court'.[1353] No more was said in the House after so many years of controversy.

Section 40 reflected Richmond's statements:

> The Governor may at his discretion refer to the said court the claim of any person to or any question affecting the title to or interest of any such person in land within the boundaries described in the second Schedule hereto being the boundaries described in a certain deed of sale to the Crown bearing date the thirteenth day of December one thousand eight hundred and sixty-six and expressed to be a conveyance by Natives entitled to land within the district excepted from the operation of the said Act by section eighty-two thereof. Provided that no claim by and no question relating to the title or interest of any Native who shall have signed the said deed of sale shall be so referred and the Native Lands Court shall in the manner prescribed by the said Act investigate and adjudicate upon such claim and the interests in and title to any land so claimed.[1354]

Section 41 repealed the exclusion clause in so far as it applied to lands outside the deed of cession, thus incidentally fulfilling Ihakara's request to Featherston some two years earlier. As we discuss later in the report, the Native Land Court could now begin operating throughout the district.

Parakaia Te Pouepa and the other right-holders who had rejected Featherston's purchase 'offer' were now able to bring their claims – and had to prove their title – to limited portions of the larger block, but they had no capacity to overturn the overall transaction unless they were able to show that the sellers had no rights at all. As we discuss below, the risk of that happening saw the government throw its weight behind the Ngati Apa counter-claimants in the court proceedings.

7.6 Bringing claims to the Native Land Court

The first reaction of the non-sellers wanting to protect their rights, as others were selling their as yet undefined interests in the territory, was one of satisfaction: '…it is good. It is very good,' wrote Rāwiri Te Wānui. He informed Rolleston that: 'All the Ngatiraukawa resident at Rangitīkei, Oroua and Manawatū have agreed.' They wanted their various claims to be heard at Otaki: Parakaia's claim

[1352] *NZPD*, 1867, p 1136.
[1353] *NZPD*, 1867, p 1136.
[1354] Native Lands Act 1867 (31 Victoriae 1867 No 43).

to Himatangi extending to Whitirea and Ōmarupāpako, which had been surveyed in the preceding year; his own to Kākānui; Kooro Te One's to Mangatangi, including Puketōtara; and Te Ara Tākana's to Te Awahuri Rakehou (also surveyed in 1866).[1355]

This was not the only engagement with the new court that was taking place in these months. There had been a desire for the clarity, security and status of a title like those enjoyed by Pākehā property owners which centered on the Ōtaki township and surrounding lands. As we discuss in detail in chapter 9 many of these mostly small blocks were brought through the Native Land Court in the usual manner, from July 1867 onwards. Although these cases entailed complex histories of occupation, gifting and exchange, there was a good deal of consensus also; a question often of adjusting boundaries and, when necessary, adjournment for inspection of the land and an out of court agreement which it then endorsed. There were no lawyers involved and a degree of agency in the person of the assessor. Further, just prior to the Himatangi case coming on, Hoani Hemorangi, describing himself as Muaūpoko, Rangitāne and Ngāti Apa, and supported by Kāwana Hūnia, had appeared as a counter-claimant for some of the Ōtaki blocks. They maintained that Ngāti Raukawa had not driven Ngāti Apa away. although they had ceased to live there. A surveyor and one supporting witness on each side gave evidence and both the applicant and counter-applicant addressed the court which then came to its decision; Hoani Hemorangi had not made out his case and accordingly, the certificate of title was ordered in the name of the Ngāti Raukawa applicant.[1356] There was nothing in any of this to prepare Ngāti Raukawa or the affiliated iwi/hapū for what was to come!

We note here, that as these matters moved into the Native Land Court on the West Coast, so too, was it necessary to try to establish and defend rights in the southern Waikato-Maungatautari region putting them under considerable strain. When the Pukekura and other southern Waikato blocks came on for investigation at the Cambridge Court in November 1867, Parakaia appeared, asking for an adjournment, because he was 'by himself'.[1357]

Parakaia may be seen as initially leading the case for the hapū of Ngati Raukawa, Ngati Kauwhata and Ngati Wehi Wehi who had migrated to the Manawatū region, in a contest against Ngati Hauā, Ngāti Koroki and Ngāti Kauwhata who had continued to reside in the South Waikato-Maungatautari region. Judge Rogan granted the adjournment, in large part, because of the accusations that 'Hauhaus' were preventing 'Queenites' from attending, and the court did not sit on these

[1355] Rawiri Te Wainui to Rolleston, 2 November 1867, MA 13/73b.
[1356] See discussion at chapter 9.
[1357] Report from James Mackay, *AJHR*, 1873, G-3, p 17.

cases until November 1867.[1358] We return to the significance of this later in the chapter.

The full effect of the Native Lands Act 1867 and hence, the opening of the Rangitīkei-Manawatū to title investigation, was not immediately clear; in particular, whether the Court was empowered to investigate tribal, or only individual claims, and how it would be possible to separate out the claims of sellers and non-sellers in the same piece of land, especially if they were of the same hapū. Hoani Meihana was especially anxious as one of those who had signed the deed but not received any of the money and now wished to submit the claims of his hapū to the court for investigation.[1359] Rolleston was insistent that both sides should understand what the effect of the Act would be before the Governor exercised his powers under it, so that there should be no confusion or cause for complaint. He noted that the idea was circulating that the law limited the inquiry to individual claims of the non-sellers whereas, in his view: 'The position of any claim to land within the Rangitīkei-Manawatū block … referred by the Governor to the Court will be precisely the same as that of any other claim referred directly by the natives elsewhere in the country.' There was 'no such thing as an individual claim clear of communistic title'. As he understood it, the Act did not 'recognise what was understood by a number of Europeans to form a "tribal right" over land apart from communistic usufructuary occupation. Occupation alone whether in common or not is what is recognised as giving title and Parakaia's claim will no doubt be considered as all other claims'.[1360] William Gisborne, the Colonial Under Secretary, pointed out to Rolleston that he was mistaken: that Maori rights arose from 'many other causes than occupation'. It was Gisborne's view – in our opinion, the correct one – that, 'A certain number of persons have a common interest in the same land – therefore in justice to all, no one person, or no number of persons except all can properly alienate that land.'[1361] It would seem that the opinion of Prendergast was sought on the effect of the Act on the claims of non-sellers in Rangitīkei-Manawatū, his advice being that:

> If a claim [was] made by a Native to land in the Block and that claimant has not signed the instrument of sale, the Governor may refer their claim, and if such claim can be dealt with without making an order in favour of any of those who signed the instrument … the Court can and ought to make the said order.

If, on the other hand, the Court was unable to do this, without the same order including the interests of those who had sold, 'the Court has no power to make any order at all'. Prendergast advised that 'no construction should be put on the law' and that notification should be made that any person (rather than tribe or

[1358] Report from James Mackay, *AJHR*, 1873, G-3, p 17.
[1359] Meihana to Swainson, 11 November 1867, MA 13/73b.
[1360] Rolleston memorandum, 31 October 1867, MA 13/73b.
[1361] Gisborne to Rolleston, 31 October 1867, MA 13/73b.

hapū) who had not signed could send an application to the Governor 'for consideration and reference if the state think fit'.[1362]

The claims to Hīmatangi, Kākānui, Mangatangi, and Awahuri were gazetted as having been referred to the Native Land Court on 7 December 1867 and were published also in the *Kahiti*.[1363]

A number of other questions relating to logistics and technical requirements were raised in the months before the court began to sit. First, the Native Department thought it desirable that more than one judge hear the case and accordingly T H Smith, J Rogan and W B White were empanelled. In January, C B Izard, who was acting on behalf of Parakaia and Rāwiri Te Wānui, inquired whether a formal survey was required before the case could be heard, and was informed by Chief Judge Fenton that this would not be necessary.[1364] An attempt by Rāwiri Te Wānui and his hapū to survey their claims at Kākānui in early February was obstructed by Ngāti Apa and Rangitane. The surveyor concerned, George Swainson, wrote to the Native Minister, outlining the trouble he had encountered. When he had told the people at Parewanui that they had no right to interfere with the surveys of the non-sellers of lands that had been referred to the court, since all their own 'right and title to the land was now vested in the Crown, under the Deed of Sale', they had replied that they held joint possession with the government until the impounded rents were paid, and had still removed his pegs.[1365]

A claim by Hare Hemi Taharape of Ngati Tukorehe to Ōmarupāpaka was referred to the Court in February but not notified since it pertained to 'another block' than that claimed by Te Pouepa.[1366] Richmond clearly wanted the matter settled for once and all, and sent T C Williams application forms for investigation of title, requesting him to persuade all those with outstanding claims to the Rangitīkei-Manawatū block to lodge them in time to be heard by the court in its Ōtaki sitting. This would 'give to all the non-selling claimants their just rights and terminate the excitement which [had] for so long disturbed the tribes between Wanganui and Wellington…'[1367] Further applications from non-sellers were then sent in to the Court via Williams; Henere Te Waiatua for Oroua; Akapita Te Tewe for Hikungārara; Paranihi Te Tau for Reureu and Pukekokeke; Keremihana Wairaka for Tāwhirihoe; Te Angiangi for Kaikōkopu; and Pumipi Te Kaka for Makōwhai.[1368] These six claims were included in the Governor's order (as

[1362] Prendergast to Colonial Secretary, 11 November 1867, MA 13/73b.
[1363] T H Smith to Rolleston, 24 March 1868, MA 13/73b; *Kahiti*, 7 Tihema 1867, p 79.
[1364] Izard to Rolleston 2 January 1868, Fenton to Izard, 17 January 1868, MA 13/73b.
[1365] Swainson to Native Minister, 3 February 1868, MA 13/73b.
[1366] Richmond to Native Land Court, 17 February 1868, and Rogan to Rolleston, 23 March 1868, MA 13/73b.
[1367] [??] to Williams, 23 March 1868, MA 13/73b.
[1368] Williams to Russell, 18 April 1868, MA 13/73b.

required by section 40 of the Native Lands Act 1867).[1369] However, there were clearly more non-sellers than these. Later, after the case was underway, Williams attempted to put into evidence a list containing 800 names of people who had refused to sign the deed but this was not allowed by the court.[1370]

We note that in March, Richmond asked Crown counsel (at that point, Hart) to not allow 'smaller or semi-technical difficulties to postpone a decision by the court'.[1371]

7.7 A note on the conflict at Tuwhakatupua in 1868

In 1868, Te Peeti Te Aweawe who had joined the Native Contingent two years earlier, thus cementing an alliance between his people and the Crown, burned down the huts and destroyed the crops belonging to Ngāti Raukawa at Tūwhakatupua, asserting as he did so, Rangitāne's ownership of the land.[1372] He did this, according to one account, as a demonstration of Rangitāne's resurgence that had come about as a result of their fighting on the side of the Crown during the conflicts of the 1860s.[1373] In response, Ngāti Raukawa determined that they would attack Rangitāne at Puketōtara. Hoani Meihana Te Rangiotu then intervened, asking two influential 'Raukawa' leaders, Pineaha Māhauariki and Henare Te Herekau (both of whom, as with Te Rangiotu, were Anglican lay readers), to meet at Puketōtara.

According to tradition, the three men faced down the opposing war parties, and persuaded them to resolve the dispute peacefully. Several days of negotiation followed, at the end of which it was decided to refer the matter to the government for arbitration. But then, when they met with the Native Secretary, the heavily armed Te Peeti who had retained a number of rifles from the Taranaki campaigns, declined to withdraw his assertion of ownership.

Rather than have resort to arms, however, the Ngāti Raukawa offered to give up their claim to Tūwhakatupua, suggesting that it be recognised as the new boundary between the two iwi. Although reluctant to accept the compromise, Te Aweawe was eventually persuaded to do so (by Hoani Meihana).

Hoani Meihana Te Rangiotu, who had been so instrumental in preventing bloodshed, commemorated these events by naming a large patu pounamu, 'Te

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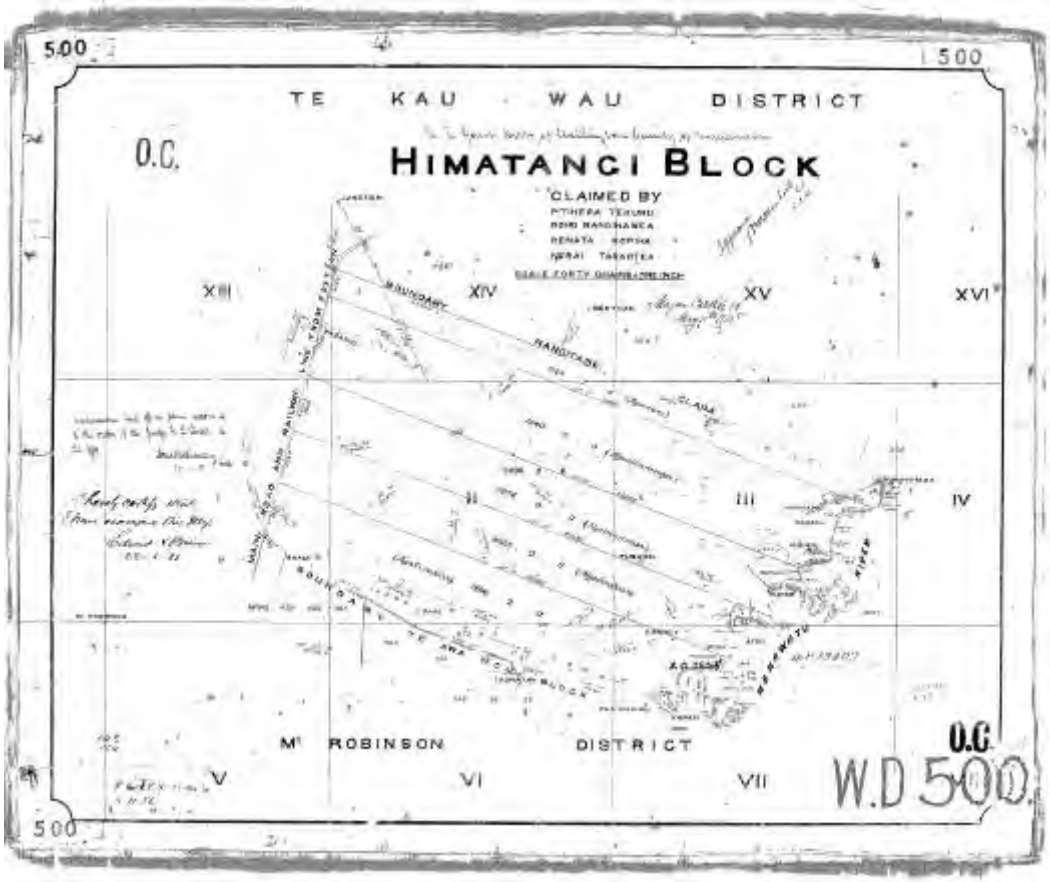
[1369] Governor Bowen to Native Land Court, 28 March 1868, MA 13/73b.
[1370] Otaki minutebook, 1C, 20 March 1868, p 291; Earlier in the proceedings Williams had been permitted only half an hour adjournment to produce list of all non-sellers and so had been obliged to rely on his original list, see 'Native Lands Court – Otaki', *Wellington Independent,* 14 March 1868, p 5.
[1371] Richmond to Featherston, 11 March 1868, MA 13/73b.
[1372] M Dixon and N. Watson (eds), *A History of Rangiotu*, Palmerston North, 1983, p 13.
[1373] Dixon and Watson (eds), *History of Rangiotu*, p 13.

Rohe-o-Tuwhakatupua'.[1374] Te Rangiotu's biographer states that this was one of three weapons made from a single slab; Te Rohe-o-Tuwhakatupua Tane-nui-a-Rangi and Manawaroa. The latter which commemorated an earlier peace-making between Ngati Raukawa and Rangitane was presented to Tawhiao.[1375]

We shall see further in this report, that the capacity to peacefully challenge in the Native Land Court, the boundary drawn on this occasion, would be greatly undermined by the government's payment of very substantial advances to Te Aweawe for the block.



[1374] Dixon and Watson (eds), *History of Rangiotu*, p 14.
[1375] Mason Durie, ;Te Rangiotu, Hoani Meihana, https://terara.govt.nz.

7.8 The First Hīmatangi Hearing, March–April 1868

After many petitions and meetings and letters from non-sellers asking for their claims to be investigated by the Native Land Court, they finally received their wish only to find that their position had been compromised by the preceding years of government dealing and support for their opponents.

7.8.1 The case for the claimants

The hearing was held in Ōtaki, commencing on 11 March 1868.[1376] The presiding judges were Smith, Rogan, and White. It was reported that 'between five and six hundred natives assembled' to witness the proceedings.[1377] The claimants found their case opposed not only by their tribal rivals but by the Crown as 'objector' in the person of William Fox, a trained lawyer, critic of the Treaty of Waitangi, staunch provincialist and former Premier.[1378] Conducting the case for Parakaia and his co-claimants was a talented amateur, T C Williams (son of Henry Williams. From the moment they began, Fox showed himself prepared to scrap. Williams had hardly begun to speak, when Fox interrupted with an objection. He 'appealed to the Court to order that the proceedings should be conducted in English'.[1379] Williams, it seems, had had the temerity to begin his case in the 'native language'.[1380] The judges considered a moment and 'eventually ruled that Mr. Williams might continue to do so'.[1381] Allowed to proceed, Williams then sought to submit to the Court a list of names of those who claimed with Parakaia for a certificate of title to Himatangi. Fox immediately objected. The list, he feared, might be incomplete, and only a complete list ought to be accepted. The Court adjourned and Williams was sent off to complete it.[1382] And thus was the tone set for the hearing.

When the Court resumed half an hour later, Williams submitted the now complete list and proceedings commenced. After Walter Buller had attested to his familiarity with the deed of purchase for the Rangitīkei-Manawatū block (the original of this document had earlier been submitted to the Court by Fox), he then stated that it had been signed 'by some 1700 natives' and that he had 'witnessed every individual signature or mark'.[1383] Most importantly, he added, 'Every native who subscribed his name or mark to the deed was at the time of doing so

[1376] Ōtaki minute book, 1C, 11 March 1868, p 192.
[1377] 'Native Land Court, Otaki', *Evening Post*, 13 March 1868, p 2.
[1378] Fox is listed as Crown counsel—'Mr Fox appeared as Counsel for the Crown' (Otaki MB 1C, p. 192). Then, two weeks or so later, Fox presents the 'Case of the Crown as Objector' (p. 369). Nothing in fact is said of any other objector.
[1379] Ōtaki minute book, 1C, 11 March 1868, p 192.
[1380] 'Native Land Court, Otaki', *Evening Post*, 13 March 1868, p 2.
[1381] 'Native Land Court, Otaki', *Evening Post*, 13 March 1868, p 2.
[1382] 'Native Land Court, Otaki', *Evening Post*, 13 March 1868, p 2; Ōtaki minute book, 1C, 11 March 1868, p 193.
[1383] 'Native Land Court, Otaki', *Evening Post*, 13 March 1868, p 2.

perfectly sober.'[1384] No doubt pleased to hear so, the Court released Buller as a witness, and Williams was finally able to give his opening address.

The case for the claimants was clear and uncomplicated. The land in question had once been held by Ngāti Apa, Rangitāne and Muaūpoko. But then, in the 1820s, Ngāti Toa had arrived from Kāwhia. Fighting had ensued, and Toa had emerged victorious. Some years later, Ngāti Raukawa had then come also. They, too, fought as they came down, and they, too, were victorious. Welcomed by Te Rauparaha, the great Ngāti Toa rangatira, Raukawa then settled on the lands of the Manawatū and Rangitīkei, and there they stayed, their mana over the lands undisputed.[1385] That, in sum, was the claimants' case, and Williams then called on a host of witnesses to substantiate it.

The first called was Mātene Te Whiwhi. He rehearsed in great detail the history that Williams had given more cursorily, the coming of Ngāti Toa, the coming of Raukawa, the fighting, the battles, the making and breaking of allegiances, and the victories and the defeats. Ngāti Toa, said Te Whiwhi, gave 'the land as far as Whangaehu to Ngatiraukawa because of the murder of Te Poa by Muaupoko at Ohau'.[1386] It was this moment that established Raukawa's mana over the land – 'the "mana" of Ngatiraukawa was then established up to Turakina', while 'the greater part of Ngatiapa were with Rangihaeata at Kapiti', as his 'dependents'.[1387] And – a point that was of great significance, at least to Ngāti Raukawa – 'the "mana" of his land was with Ngatiraukawa at the time of the Treaty of Waitangi'.[1388]

After Te Whiwhi, Parakaia Te Pouepa himself was called. He, too, recounted the history the Court had just heard. But in words more plain, he made clear to the Court the exact nature of the relationships between the various tribes. When Ngāti Raukawa had come to Kāpiti, he said, Te Rauparaha 'wished us to destroy Muaupoko and Rangitane'.[1389] Nothing, however, was said of Ngāti Apa. Further fighting among the tribes ensued, but by 1830 a peace of sorts had been obtained. It was then, said Parakaia, that Ngāti Raukawa asserted their mana over these lands:

> Ngatiraukawa then proceeded to apportion the lands at Manawatu and Rangitikei between themselves. … Ngatiapa came and lived under the protection of Ngatiraukawa – all the land had been taken by Ngatiraukawa and Ngatiapa occupied by their permission and under their protection.[1390]

[1384] 'Native Land Court, Otaki', *Evening Post*, 13 March 1868, p 2.
[1385] 'Native Land Court, Otaki', *Evening Post*, 13 March 1868, p 2; Ōtaki minute book, 1C, 11 March 1868, pp 194–195.
[1386] Ōtaki minute book, 1C, 11 March 1868, pp 197–198.
[1387] Ōtaki minute book, 1C, 11 March 1868, p 199.
[1388] Ōtaki minute book, 1C, 11 March 1868, p 199.
[1389] Ōtaki minute book, 1C, 12 March 1868, p 201.
[1390] Ōtaki minute book, 1C, 12 March 1868, pp 201–20.

Disputes periodically flared among the three Raukawa hapū that had settled the lands – Ngāti Rākau, Ngāti Te Au and Ngāti Tūranga – but Apa 'took no part in these disputes for their right was gone'.[1391] What is more, some Ngāti Apa were taken as mōkai, slaves, by Raukawa, although they were released before the Treaty was signed.[1392] All in all, said Parakaia, Ngāti Raukawa were 'kind' to Ngāti Apa – 'if Whatanui had not saved them they would not have been spared'.[1393] At first, beaten and cowed, Ngāti Apa were never 'whakahī' to Raukawa – they were never 'cheeky', they showed no pride, they never sneered at their conquerors – and had they been 'whakahī', then 'they would not have been spared'.[1394] It was only with the coming of the missionaries and the Crown that Apa began again to assert themselves to claim for themselves the mana they had lost.[1395] It was this, said Parakaia, that 'caused them to say the land was theirs'.[1396]

Cross-examined by Fox regarding the sale of Rangitīkei, Parakaia stated that while Ngāti Apa had sold the land, the mana was, nonetheless, Raukawa's – 'Ngatiraukawa allowed the Ngatiapa to sell that land north of Rangitikei'.[1397] Remembering the 'kindness of Whatanui', Ngāti Raukawa had divided the land, giving to Apa north of the Rangitīkei as theirs to sell if they wished.[1398] Examined by Williams, Parakaia emphasised that while Apa had sold the land, it was Raukawa's to give, and even McLean had known this. When Ngāti Apa had approached Donald McLean about selling the land, McLean went to Ōtaki to ask Raukawa what they thought – 'Kia whakaae Ngatiraukawa?' he asked, 'Does Ngāti Raukawa consent?'[1399] In fact, at first, Ngāti Raukawa did not agree, but then it was decided, 'hei arai i a Ngatiapa' to the north side of the Rangitīkei – the north side of the Rangitīkei would be the boundary for Ngāti Apa.[1400]

More witnesses followed to support Ngāti Raukawa's claim. In '1840 the "mana" of this land,' said Hare Hemi Taharape, was 'wholly Ngatiraukawa – the 3 tribes [*i.e. Ngāti Apa, Rangitāne and Muaūpoko*] were under them'.[1401] Towards the end of the hearing, Tapa Te Whata of Ngāti Kauwwhata spoke of why they and Raukawa, having claimed dominion over the lands, did not destroy Apa – 'the reason why Ngatiapa were not killed,' he said, 'was because we did not wish to kill, did not come to kill'.[1402] And, he added, Te Rauparaha was 'not at enmity'

[1391] Ōtaki minute book, 1C, 12 March 1868, p 202.
[1392] Ōtaki minute book, 1C, 12 March 1868, p 202.
[1393] Ōtaki minute book, 1C, 12 March 1868, p 203.
[1394] Ōtaki minute book, 1C, 12 March 1868, p 203.
[1395] Ōtaki minute book, 1C, 12 March 1868, p 203.
[1396] Ōtaki minute book, 1C, 12 March 1868, p 203.
[1397] Ōtaki minute book, 1C, 12 March 1868, p 205.
[1398] Ōtaki minute book, 1C, 12 March 1868, p 205.
[1399] Ōtaki minute book, 1C, 12 March 1868, p 205.
[1400] Ōtaki minute book, 1C, 12 March 1868, p 206.
[1401] Ōtaki minute book, 1C, 12 March 1868, p 209.
[1402] Ōtaki minute book, 1E, 13 April 1868, p 624.

with Ngāti Apa.[1403] Not all of these witnesses were themselves of Ngāti Raukawa. Hoani Meihana Te Rangiotu of Rangitāne, was adamant that at the time of the signing of the Treaty, Raukawa alone had held the mana 'over the land alleged to have been sold to the Crown': 'Muaupoko had no "mana" over the land at that time, Ngatiapa, same, Ngati Kahununu [*sic*] had no "mana"' or title at that time, Whanganui and Nga Rauru tribes had no "mana" or "tikanga" over the land in 1840, Rangitane, same.'[1404] It was true, he said, that Ngāti Apa had gone on to the land to catch eels, but they had only done so with the permission of Ngāti Raukawa.[1405]

And not all of the witnesses were Māori. Two prominent Pākehā were also called to testify to Ngāti Raukawa's mana over the land. On the third day of the hearing, Archdeacon Octavius Hadfield took the stand. He had arrived at Kāpiti in 1839 and had been with Henry Williams when the Treaty was signed on the coast. He had seen the signatures being set down. He knew, in other words, the tribes and their relationships.

> Up to the time of the treaty of Waitangi, Ngatiraukawa was the only tribe acknowledged to be in possession of this part of the country from Kukutauaki 3 miles this side of Waikanae up to Turakina. Mua Upoko were then living at Horowhenua. Rangitane were living in the neighbourhood of Oroua. Ngati Apa were living on the other side of Rangitikei on to Turakina excepting a small fishing settlement at the mouth of the river.[1406]

To this fairly precise accounting, Hadfield then added that 'there were no Ngati Apa living on the block alleged to have been purchased except at the place called Tawhirihoe'.[1407] And there was no questioning the nature of the relationship between the two tribes: 'Ngati Apa certainly had no "mana" whatever over the land … when I came here … Ngatiraukawa openly claimed the country between Rangitīkei and Turakina, Ngati Apa were living in a state of subjection.'[1408]

Given the opportunity to cross-examine Hadfield, Fox set about his work with zeal, his unsubtle intent being to discredit the reliability of the missionary's testimony in every way possible. He began by asking the witness how long he had been in New Zealand when he had come to Kāpiti, and how well he had, at that time, been able to speak Māori. Hadfield allowed that he had been in New Zealand 'just twelve months' when he arrived at Kāpiti, and as to his abilities in the native tongue, 'I never have had a perfect mastery,' he conceded.[1409] But then Hadfield protested that, his linguistic deficiencies notwithstanding, he had been quite 'competent' to discuss the questions of mana when he had visited the

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[1403] Ōtaki minute book, 1E, 13 April 1868, p 624.
[1404] Ōtaki minute book, 1C, 14 March 1868, pp 222–23.
[1405] Ōtaki minute book, 1C, 14 March 1868, p 225.
[1406] Ōtaki minute book, 1C, 13 March 1868, pp 211–12.
[1407] Ōtaki minute book, 1C, 13 March 1868, p 212.
[1408] Ōtaki minute book, 1C, 13 March 1868, p 213.
[1409] 'Investigation of the Dissentients' Claims', *Wellington Independent*, 17 March 1868, p 4.

different tribes, having given 'my whole mind to the acquisition of the language for one year'.[1410] He then went on:

> I am not stating that in 1840 I was fully able to acquire all the necessary information, but that the impressions I then formed have been verified by the accumulated information and experience which I have gained from twenty-eight years' residence in this district.[1411]

Still, Fox – the accomplished court performer – had scored a point. And then he moved to score another. Having impugned the Archdeacon's knowledge of Māori, he now probed his motives for supporting the present claim. Had not Hadfield, Fox asked, sought to acquire land in the district for the Church? Hadfield granted that prior to his returning to England, the Bishop had asked him to secure a block of land 'from the natives' for a 'native ministry'.[1412] Meetings with Nēpia Taratoa and others occurred, and it was suggested that a block of 10,000 acres be set apart. Asked by Fox where this land was to be located, Hadfield replied, '[T]he proposed block of 10,000 acres was comprised within the boundaries of the land alleged to have been purchased by the Government.'[1413] He had, he further conceded, only spoken with Ngāti Raukawa about the possible grant.[1414] In any event, after Taratoa's death, the scheme was dropped.[1415] Ever the wily lawyer, Fox well knew that it was irrelevant whether or not there was any truth in the inference he was drawing out – it was enough that he had drawn it out at all.

The Reverend Samuel Williams appeared as a witness for the claimants the following day, 14 March. He recalled the purchase of the Rangitīkei block in the late 1840s, McLean having asked him 'to assist in obtaining the assent of the Ngatiraukawa and Ngatitoa to the sale':[1416]

> Rauparaha, when the subject was broached, indignantly objected to Mr. McLean treating with Ngatiapa for the sale of the Rangitīkei and Turakina land; he [McLean] explained that he had not bought the land from Ngatiapa, but had come expressly to Ngatiapa [Ngāti Toa?]; had no intention of buying without consent of Ngatiraukawa and Ngatitoa.[1417]

[1410] 'Investigation of the Dissentients' Claims', *Wellington Independent*, 17 March 1868, p 4.
[1411] 'Investigation of the Dissentients' Claims', *Wellington Independent*, 17 March 1868, p 4.
[1412] 'Investigation of the Dissentients' Claims', *Wellington Independent*, 17 March 1868, p 4.
[1413] 'Investigation of the Dissentients' Claims', *Wellington Independent*, 17 March 1868, p 4.
[1414] Ōtaki minute book, 1C, 13 March 1868, p 215.
[1415] Ōtaki minute book, 1C, 13 March 1868, p 215. At least, that is how his evidence was recorded in the Court minute book. In a newspaper account, Hadfield is recorded as having gone on to say that 'since the death of Nepia Taratoa he had been to look at the land, in company with the Bishop of Wellington, Mr Robinson, and Nepia's son', following which the Bishop had recommended that Ngāti Apa also be consulted. This was done and Ngāti Apa gave their assent to the proposal. – 'Investigation of the Dissentients' Claims', *Wellington Independent*, 17 March 1868, p 4. Whatever was said, exactly, Fox had again succeeded in scoring a point off the Archdeacon.
[1416] Ōtaki minute book, 1C, 14 March 1868, p 227.
[1417] 'Native Lands Court – Otaki', *Evening Post*, 19 March 1868, p 2.

The discussion that ensued, according to Williams was not long, in part at least because of his own intervention:

> I advised Rauparaha and Rangihaeata to shew consideration to the conquered tribes, and to consent to the sale of a portion at least of the country; pointed out the folly of holding waste land where many were desirous of settling on it.[1418]

Although Te Rauparaha and Te Rangihaeata did not at first consent, they at last agreed to the proposal, said Williams, at which point 'Ngatiraukawa … went in a body to Rangitīkei to see Mr McLean and Ngatiapa.'[1419] Williams was not present at that meeting, but he later heard that 'Ngati Raukawa told Ngati Apa that they might think to be the better for selling the land but they thought it would be poverty' – 'You may then be glad,' Raukawa were reported as having said, 'to come to us who have kept our lands for means of support, you will then see that it would have been wise to keep the land.'[1420] After this, McLean told Williams that Ngāti Raukawa asserted their mana over the land north of Rangitīkei, an assertion that he, McLean, recognised.[1421]

The account given by Williams was supported by Rāwiri Te Wānui, who gave a little more colour to it by repeating the words Te Rauparaha supposedly said when he heard that McLean had consulted Ngāti Apa: 'What did you go to those slaves to talk about [the] sale [for]?'[1422] Ngāti Apa were 'people whom he had spared and they had no voice in such a matter'.[1423]

For the claimants, however, it was not only necessary to demonstrate that they had conquered Ngāti Apa and taken possession of their lands, they needed also to demonstrate that they had retained that possession. To this end, the Court heard evidence of Raukawa's efforts at maintaining and asserting their rights after 1840, the sale of Te Awahou, for instance ('Ngati Apa did not sell that land, nor Rangitane, nor Muaupoko, nor Ngati Kahununu [*sic*], nor Whanganui, nor Nga Rauru, nor Ngati Awa, nor Ngati Toa – I alone, the Ngati Raukawa,' testified Ihakara),[1424] the suppressing by Raukawa of Apa attempts to lease the land without their permission,[1425] and disputes over cultivations.[1426] All this evidence was intended to show that, despite Ngāti Apa having become whakahī after the arrival of the missionaries and the Crown, Raukawa had never given up their mana.

[1418] 'Native Lands Court – Otaki', *Evening Post*, 19 March 1868, p 2.
[1419] Ōtaki minute book, 1C, 14 March 1868, p 228.
[1420] Ōtaki minute book, 1C, 14 March 1868, p 228.
[1421] Ōtaki minute book, 1C, 14 March 1868, p 229.
[1422] Ōtaki minute book, 1C, 14 March 1868, p 232.
[1423] Ōtaki minute book, 1C, 14 March 1868, p 232.
[1424] Evidence of Ihakara Tukumaru, Ōtaki minute book, 1C, 18 March 1868, p 264.
[1425] See, for instance, the evidence of Henare Te Herekau, Ōtaki minute book, 1C, 18 March 1868, pp 269–70.
[1426] See, for instance, the evidence of Te Kooro Te One, Ōtaki minute book, 1C, 14 March 1868, pp 286–89.

This, then, was the crux of Ngāti Raukawa's claim. The land was theirs by virtue of conquest and occupation. First Ngāti Toa and, then, they themselves had defeated the tribes they found settled on those lands. They had occupied those lands, cultivated them, used them for fishing, lived on them, and they had never ceased to do so, from a time prior to the signing of the Treaty up to that very moment. It was, seemingly, a simple enough story, clear and straightforward. But history can always be told in many ways, it can always be contested, and that is precisely what Fox, when he opened the case of the Crown, set about doing.

7.8.2 Fox and the Crown

Fox began with a snide reference to Hadfield – 'a dignitary of the Church, whose unfortunate irritability of temper is only equalled by his inability to conceal it'[1427] – before declaring that he would confine himself 'to laying before the Court a dry and abstract statement of the evidence I propose to adduce on behalf of the Crown as objector to Parakaia's claim to the Himatangi block.'[1428] His, then, would be a disinterested account of history (and the Court could draw the relevant conclusion concerning the account it had just heard). Then, having scorned Hadfield by implication, he did the same for the witnesses who had appeared for the claimants:

> The witnesses whom I shall bring before the Court will not be a few "tutua" or common men of one tribe, nor even a picked body of carefully trained office bearers in the Church: but they will be almost without exception the great leading chiefs of the several tribes on the West Coast, the men who have themselves taken the most active part in the wars and other public events which have marked the history of the period in which they have lived, and who are familiar with all the land titles of their respective tribes.[1429]

The fact that the accounts given by these illustrious witnesses may not have all agreed in the particulars, said Fox, was of no moment – the four gospels do not agree in the details, either, but that does not detract from the essential truths they convey.[1430] In any case, the Court 'will not fail to appreciate the unanimity in which the several narrators converge in their assertion of the broad positions involved in the issue before the Court, such as the maintenance of "mana" by the Ngatiapa, the ownership of the disputed block, the unauthorised intrusion into it

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[1427] 'The Manawatu Purchase', *Wellington Independent*, 31 March 1868, p 4. See also Ōtaki minute book, 1C, 27 March 1868, pp 369–72 for a more abbreviated account of Fox's opening. Throughout the proceedings, Fox maintained this tone of sarcasm and scorn – in one speech alone he congratulated Williams, with heavy irony, on being more fluent in Māori than in English, he dismissed the Treaty as 'a great sham', decried the clergy as 'missionary landsharks', and labelled Parakaia Te Pouepa an 'omnivorous landshark'. – 'Mr Fox's Speech on the Manawatu Purchase', *Wellington Independent*, 28 April 1868, pp 5, 7.
[1428] 'The Manawatu Purchase', *Wellington Independent*, 31 March 1868, p 4.
[1429] 'The Manawatu Purchase', *Wellington Independent*, 31 March 1868, p 4.
[1430] 'The Manawatu Purchase', *Wellington Independent*, 31 March 1868, p 4.

of Parakaia, and the like'.[1431] And, what was more, the Court would discover how misled it had been by the witnesses for the claimants and their agent:

> The Court will, I have no doubt, be greatly surprised to discover, as my evidence unfolds itself, how many important events affecting the history, and how many important facts affecting the ownership of the Himatangi block, have been put on one side, and absolutely ignored by the agent for the claimant, though they could not but be within his knowledge. The Court will also be astonished to find how dates have been distorted and misrepresented.[1432]

Whatever else one might say of it, Fox's opening was a *tour de force* of the arts of rhetoric.

The groundwork laid, Fox then set before the Court his alternative history of Kapiti and its many tribes. Te Rauparaha and Ngāti Toa came to the district as a heke, not a taua. They were welcomed by Ngāti Apa as friends and allies. The conflict that later took place between Toa, on the one side, and Rangitāne and Muaūpoko on the other, did lead on to conflict with Ngāti Apa, but eventually peace was restored, and no more fighting between Toa and Apa took place. Ngāti Raukawa, meanwhile, turned down an invitation from Te Rauparaha to join him at Kapiti, and instead treacherously attacked Ngāti Kahungunu (who drove them ignominiously away). Following this defeat, they now 'bethought themselves of Rauparaha's invitation, and determined to go South and claim his protection'.[1433] And so Raukawa came to Kapiti and to Te Rauparaha and asked for 'the shield of his protection' – they came as supplicants, as a defeated and frightened people, and they offered to fight Rauparaha's wars and to catch his fish and his birds in return.[1434] Te Rauparaha accepted the invitation, and so, for all intents and purposes, Ngāti Raukawa became the mōkai of Ngāti Toa.[1435] And while all this was taking place, the 'Ngatiapa continued to reside on the land between Rangitīkei and Manawatū, from which they had never been driven'.[1436]

Then came 1834 and the events of Haowhenua. The conflict brought Raukawa and Apa together as allies and friends, and both tribes, by 'acting not as slaves, but as independent allies' of Ngāti Toa, regained 'any amount of "mana" which they might have lost by the course of previous events'.[1437] Once peace ensued, Ngāti Raukawa elected to settle, with the permission of Ngāti Apa, at Rangitīkei.[1438] And so, right up to the time of the Treaty, Ngāti Apa continued to live 'in force' on Hīmatangi, as a free and independent people.

[1431] 'The Manawatu Purchase', *Wellington Independent*, 31 March 1868, p 4.
[1432] 'The Manawatu Purchase', *Wellington Independent*, 31 March 1868, p 4.
[1433] 'The Manawatu Purchase', *Wellington Independent*, 31 March 1868, p 4.
[1434] 'The Manawatu Purchase', *Wellington Independent*, 31 March 1868, p 4.
[1435] 'The Manawatu Purchase', *Wellington Independent*, 31 March 1868, p 4.
[1436] 'The Manawatu Purchase', *Wellington Independent*, 31 March 1868, p 4.
[1437] 'The Manawatu Purchase', *Wellington Independent*, 31 March 1868, p 4.
[1438] 'The Manawatu Purchase', *Wellington Independent*, 31 March 1868, p 4.

Indeed, despite incursions from Ngāti Raukawa onto their Hīmatangi lands after 1840, Ngāti Apa remained free, they remained independent, and they retained their mana over Hīmatangi – so Fox continued.[1439] Raukawa may have possessed Ngāti Apa slaves, but then so too did Ngāti Apa possess Raukawa slaves. A 'section of the Ngatiraukawa' may have 'succeeded by degrees in obtaining a footing at Himatangi', but that is a far cry from the iwi itself having mana over the entire block.[1440] And it was not just Ngāti Apa who could claim a right in Hīmatangi: the 'Rangitane also have claims in the Himatangi, and they have never ceased to assert these claims', Fox declared.[1441] In short, this is what Fox maintained:

> The Ngatiapa have continued to exercise undisputed acts of ownership up to the present time – such as catching eels, snaring birds, digging fern-root, and killing pigs. I might give the names of a large number of eel ponds of which they retain possession, and to which they are accustomed to resort to the present day. The Rangitane also have continued to exercise the customary acts of ownership, and can point to their eel ponds and fern grounds in the Himatangi block, of which they have never been dispossessed.[1442]

And so on and on went Fox, in this manner, refuting, confuting, rebutting, and dismissing everything the Court had heard over the course of the previous two weeks. And then, when he felt he had sufficiently laid before the Court the actual facts of the matter, he began calling on his illustrious witnesses to corroborate all that he had just said. The first to take the stand was the Ngāti Toa rangatira, Tāmihana Te Rauparaha.

Tāmihana began his evidence with a lengthy account of Ngāti Toa's conquest of the Kāpiti district. When he did, finally, come to the issue of who had mana over the lands of the Rangitīkei and Manawatū, he was unequivocal. After his father's conquest of district, said Tāmihana, he had lived peaceably with Ngāti Apa, and he had left them 'in possession of their lands' beyond Manawatū.[1443] Ngāti Raukawa, meanwhile, had come to Te Rauparaha as supplicants, and the 'Ngati Apa "mana" was greater than that of Ngati Raukawa'.[1444] Under cross-examination by Williams, Tāmihana was equally unequivocal – at least, to begin with:

> Ngatiapa and Rangitane were living peaceably between Manawatu and Rangitikei. … I did not hear that they were ejected by Ngati Raukawa – Ngati Raukawa were living on the banks of the Manawatu. … Before the treaty of Waitangi and up to this time the

[1439] 'The Manawatu Purchase', *Wellington Independent*, 31 March 1868, p 4.
[1440] 'The Manawatu Purchase', *Wellington Independent*, 31 March 1868, p 4.
[1441] 'The Manawatu Purchase', *Wellington Independent*, 31 March 1868, p 4.
[1442] 'The Manawatu Purchase', *Wellington Independent*, 31 March 1868, p 4.
[1443] Ōtaki minute book, 1C, 27 March 1868, pp 377–78.
[1444] Ōtaki minute book, 1C, 27 March 1868, pp 377–78.

> 'mana' of Ngati Apa was greater than that of Ngati Raukawa, at the time of the treaty and before and down to the present time.[1445]

So far, so clear, but then Tāmihana muddied the waters. 'The great chiefs of Ngatiraukawa and Ngatitoa,' he said, 'had returned that land to Ngatiapa.'[1446] 'I was present at Te Awahou,' he continued; 'it was there that Ngatiraukawa and Ngatitoa returned to Ngatiapa the land on the other side of Rangitikei and this side of Rangitikei up to Manawatu.'[1447] The contradiction is apparent. If Ngāti Raukawa were subservient to Ngāti Toa *and* had less mana than Ngāti Apa, on what basis were they joining with Ngāti Toa in giving land *back* to Ngāti Apa, land which, apparently, Ngāti Apa were already in possession of? Still, Tāmihana was adamant on this point – 'I heard Ngatiraukawa giving back the land … I listened to Ngatiraukawa bidding farewell to their lands.'[1448]

Having obtained from Tāmihana this blot on his copybook, Williams then asked him certain questions concerning the more recent past, eliciting the following response:

> I did not tell you in July last year that the Ngatiraukawa were a foolish tribe not to kill all these tribes, as my father advised them. … I did not say to you last winter that the Ngatiraukawa were fools to give back the land at Rangitikei to their slaves ... You did not say "would not your father 'patu' you if he knew that £15,000 went to slaves and only £10,000 to Ngatiraukawa?"[1449]

In a bid, perhaps, to repair the damage, Fox re-examined Tāmihana and coaxed from him the statement that 'Rauparaha acquired a "mana" by his conquest, but he left the people of the 3 tribes in possession of the land'.[1450] In any case, there were plenty more witnesses to be called, and all affirmed the fundamental point: as Hohepa Tamaihēngia put it, 'Ngatiapa lived all over the country between Manawatu and Rangitikei', their 'fires burning then and since.'[1451] And in the words of Nopera Te Ngiha, 'Ngatiraukawa did not get any "mana".… [D]id Ngatiraukawa gain any battle or take any "pas" of the Ngatiapa upon which it should be said that they had destroyed the Ngati Apa "mana"'?'[1452]

Again, though, it was not all plain sailing for Fox (and Tāmihana Te Rauparaha). Under cross-examination, Rakapa Kahoki, of both Ngāti Toa and Ngāti Raukawa, and daughter of Topeora, conceded that she had heard 'Tamihana Rauparaha say that Ngatiraukawa were a foolish tribe to return their land to their

[1445] Ōtaki minute book, 1D, 28 March 1868, p 385.
[1446] Ōtaki minute book, 1D, 28 March 1868, p 386.
[1447] Ōtaki minute book, 1D, 28 March 1868, p 386.
[1448] Ōtaki minute book, 1D, 28 March 1868, p 387.
[1449] Ōtaki minute book, 1D, 28 March 1868, pp 389–90.
[1450] Ōtaki minute book, 1D, 28 March 1868, p 390.
[1451] Ōtaki minute book, 1D, 30 March 1868, p 399.
[1452] Ōtaki minute book, 1D, 30 March 1868, p 395.

slaves – he 'whakahe'd' [*i.e. objected to*] the return of Te Ahu o turanga to Rangitane, he 'whakahe'd' the return of Rangitikei to Ngatiapa'.[1453]

Fox had, of course, warned the judges that the testimony of his witnesses might not agree in the particulars, so perhaps he hoped they would not pay too much attention to these kinds of discrepancies. And, anyway, he still had Amos Burr to call, whose evidence would surely be impeccable.

Indeed, Burr began his testimony by informing the Court that he had been called as a witness before Commissioner Spain, and that Spain had even extolled his virtues as a witness, recording that 'the evidence of Amos Burr is very important in this case'.[1454] Clearly this was a man to be relied upon, although we note, Burr had not questioned the authority of Ngāti Raukawa to make territorial dispositions at those hearings. Having established his evident reliability, Burr then set about his work:

> The Ngatiapa were in possession of the Rangitikei Manawatu block on this side of Rangitikei. … Ngatiapa were in possession of [the] Rangitikei River, lower Manawatu in possession of Ngatiraukawa. … The Ngatiapa claimed and were in possession of country between Rangitikei and Manawatu, especially at fishing places on the coast. It would not be true if any person were to say that Ngatiapa had no 'mana', it would not be true. Nepia distinctly told me that Ngatiapa were the original owners of the land and I always found what he said was true. I should say it was not true that Ngatiapa were living in subjection to Ngatiraukawa. ... Ngatiapa were quite independent equally with any other tribe on the coast. If any one were to say that Ngatiraukawa were in possession of all the country from Kukutauaki to Turakina I should say it was absurd.[1455]

Thus was Burr's account of Ngāti Apa's retention of their mana over the lands of the Rangitīkei-Manawatū. But Burr was not there solely as an expert on the relations between the tribes. He was also there, seemingly, as an expert on the reliability of Archdeacon Hadfield as a witness. Demonstrating impressive powers of recall, he suggested that the clergyman had often been absent from the district:

> I know Archdeacon Hadfield. I believe he was at Waikanae about 1840 and 1841. I know that for several years between 1840 and 1850 he was in Wellington. Soon after his house was removed to Otaki he was taken ill and was absent in Wellington for several years. During the 5 years from 1841 to 1846, Archdeacon Hadfield was not at Manawatu more than once a year. I was in charge of the ferry store, and a person on horseback could not cross except at the ferry … After return from Wellington, Mr Hadfield used to come once in 6 months and after a time about once in 3 months.[1456]

So the archdeacon was hardly present during these crucial years, and, what is more, said Burr, 'missionaries are not so likely to get correct information about the natives and their lands as myself who was actually employed to obtain such

[1453] Ōtaki minute book, 1D, 31 March 1868, p 416.
[1454] Ōtaki minute book, 1D, 3 April 1868, p 473.
[1455] Ōtaki minute book, 1D, 3 April 1868, pp 473–74.
[1456] Ōtaki minute book, 1D, 3 April 1868, p 477.

information'.[1457] Burr received his information from 'chiefs and at public meetings of the natives'[1458] – who is to say where the archdeacon got his from?

Burr's efforts at discrediting Hadfield might have struck home with more force but for his performance under Williams' cross-examination. Indeed, while Burr apparently retained a very precise accounting of Hadfield's movements some 20 or more years previously, his own movements, along with significant events in history, were a bit of a mystery to him. Asked about the battle of Kuititanga, Burr maintained that it had occurred after the signing of the Treaty of Waitangi – 'about 7 months after the treaty'.[1459] Possibly his confusion was because he did not know exactly when the Treaty had been signed – 'I did not hear anything,' he said, 'about the treaty'; and given his reliance for information on what he did hear from others – 'I only state what I have heard'; he could probably say very little about the Treaty at all.[1460] As to his own movements, he believed he had arrived at Kāpiti in January 1840, although that was another date he would not swear to. Nor could he say how long it was that he stayed at Kāpiti – his best guess was 'from 9 to 15 months', although he 'did not live there constantly'.[1461] And, incidentally, he was unable say when it was, exactly, he had begun to keep the ferry across the Manawatū.[1462]

So here is another curiosity, that this man should recall with such precision somebody else's movements over two decades prior, while struggling to remember his own. Whatever the explanation and these minor lapses of memory and gaps in knowledge notwithstanding, Burr continued to insist on his superior insight as to how things stood on the coast. 'I know more about these tribes than the missionaries,' he declared to Williams, and then, again, 'I know more about the tribes at that period than a missionary who had been the same time in the country as I had' (the latter statement was made after he admitted that he had not travelled over the lands of the Rangitīkei-Manawatū during the course of 1841, but had instead gone 'direct to Whanganui on business').[1463] Still, perhaps it was as Burr said, and he did know best, even if he did appear a little shaky on the geography of the land in question. Shown a plan of Himatangi, he managed to identify just one place, Ōmarupāpaka.[1464]

Whether or not Burr's testimony helped or hindered the Crown's case, is difficult to say in the absence of any indications one way or another from the Court. What

[1457] Ōtaki minute book, 1D, 3 April 1868, p 477.
[1458] Ōtaki minute book, 1D, 3 April 1868, p 477.
[1459] Ōtaki minute book, 1D, 3 April 1868, p 477. In fact, the battle took place on 27 October 1839. It is surprising, given Burr's close knowledge of Hadfield's movements, that he did not recall this date, as it was just a few weeks after the battle that Hadfield first arrived at Ōtaki.
[1460] Ōtaki minute book, 1D, 3 April 1868, pp 478–479.
[1461] Ōtaki minute book, 1D, 3 April 1868, p 479.
[1462] Ōtaki minute book, 1D, 3 April 1868, p 483.
[1463] Ōtaki minute book, 1D, 3 April 1868, pp 478, 479.
[1464] Ōtaki minute book, 1D, 3 April 1868, p 483.

most certainly would have helped its argument was the subsequent appearance of prominent Ngāti Raukawa rangatira sellers who spoke in support of Ngāti Apa, namely Horomona Toremi, Kereopa Tukumaru, and Ihakara Tukumaru. According to Horomona, Ngāti Raukawa and Ngāti Apa became 'one tribe and lived together'.[1465] There never was 'great fighting' between the two tribes, and 'all the land from Omarupapaka to Rangitikei, all this land belonged to Ngatiapa, their fires were burning and their "mana" was over it'.[1466] A similar story was told by Kereopa. There was 'no great fighting' between Raukawa and Apa, rather, both tribes had mana over the land. And then Ihakara Tukumaru told the Court that he 'did not hear the chiefs of Ngatiraukawa claimed the "mana" over the Rangitikei and Manawatu'.[1467]

It is reasonable enough to wonder at the motives of these Ngāti Raukawa rangatira who spoke in favour of the interests of Ngāti Apa. Certainly, Williams did. He asked Horomona Toremi if he and Parakaia had recently fallen out. 'Parakaia is a friend of mine,' said Horomona.[1468] But then he added, '[W]e have had a dispute about Rangitikei … I did say to him that I would sell Rangitikei'.[1469] Having been left the guardian of Nepia's lands, Horomona said, he had then sold them: 'I sold all the lands of the children of Nepia.'[1470] And although he elicited no such admission from Kereopa or Ihakara, Williams did receive from them answers that appeared to contradict their earlier statements. Having first suggested that the two tribes had equal mana, Kereopa told Williams that Raukawa – which he described as an 'iwi Rangatira' – had taken Ngāti Apa slaves, although 'they were not taken in any great battle'.[1471] Indeed, he said, '[W]e had "pononga" [*servants, slaves*] of Ngatiapa and Muaupoko and Rangitane at the time of the treaty and some were living with us'.[1472] Ihakara, similarly, recalled having had Ngāti Apa slaves at the time of the Treaty, although he released them, he said, after the signing.[1473]

Over the course of the next several days, further witnesses were called, all to repeat more or less what the Court had already heard. If the crux of the Ngāti Raukawa case was that they had taken possession of Hīmatangi (and, indeed, all the lands of the Rangitīkei-Manawatū) by means of conquest followed by occupation, then the crux of the case of those who opposed them was simply that they had not. One version of history, in other words, had Ngāti Raukawa holding all the mana. Another version had Ngāti Raukawa playing the role of subservient

[1465] Ōtaki minute book, 1E, 9 April 1868, p 574.
[1466] Ōtaki minute book, 1E, 9 April 1868, pp 580-82.
[1467] Ōtaki minute book, 1E, 11 April 1868, pp 595–96.
[1468] Ōtaki minute book, 1E, 9 April 1868, p 577.
[1469] Ōtaki minute book, 1E, 9 April 1868, p 577.
[1470] Ōtaki minute book, 1E, 9 April 1868, p 577.
[1471] Ōtaki minute book, 1E, 9 April 1868, p 583.
[1472] Ōtaki minute book, 1E, 9 April 1868, p 584.
[1473] Ōtaki minute book, 1E, 11 April 1868, pp. 610–11.

helpmeet to Te Rauparaha's Ngāti Toa, while Rangitāne and Ngāti Apa went about life untroubled, their own mana entirely intact.

7.8.3 Buller, Featherston, and the signing of the deed

Although the Court had made it clear that it was not investigating the legality of the Rangitīkei-Manawatū purchase, it nonetheless heard considerable evidence as to Buller's approach to obtaining the signatures for the deed.[1474] The legality of the purchase may not have been under scrutiny, but Buller's apparent strategy at the very least suggested a good deal as to who had mana over the land (and who did not). As noted above, Buller was the first witness to take the stand, testifying to the veracity of the Rangitīkei-Manawatū deed – and, incidentally, eagerly testifying to the sobriety of those who had signed it.[1475] But that was not Buller's only appearance. Two days later he again took the stand. On this occasion, with reference to the fact that Whanganui rangatira had signed the deed, Buller told the Court, 'I allowed any one belonging to the tribes named in the deed to sign … if they alleged a claim.'[1476] Examined by Fox, Buller postulated that the presence of signatures belonging to those who did not, in fact, have a legitimate claim, would not in itself 'invalidate the deed', although he did not expand on this point to explain why that should be so.[1477] Buller was then cross-examined by Williams, to which he replied with the following:

> Wi Tako signed the deed at Waikanae; has since requested payment; do not remember Wi Tako saying that he had no claim; told him that Dr. Featherston wished to have the names of all the claimants; do not recollect saying only chiefs; know Wi Parata; do not recollect his being present; do not remember his signing the deed; know Wi Tamihana signed; believe all who signed alleged claims to the block; I took it as such; the deed describes them as owners; cannot swear that those who told me they had no claims did not sign.[1478]

So, according to Buller's reasoning, those who signed the deed must have been the owners, because the deed states that they were. But this was not all. Examined by the Court, Buller – without, seemingly, a trace of concern – stated that it was not his 'practice to investigate claims': 'It was my practice,' he continued, 'to ask for signatures, not to wait for persons to allege claims.'[1479] And, it seems, his manner of 'asking' for signatures may at times have wavered

[1474] When Williams had sought to submit to the Court a list of some 827 names of those who had not signed the Rangitīkei-Manawatū deed, the Court said it could only accept it if it 'bore on the question' (i.e. Hīmatangi). Williams withdrew the list. – 'Native Lands Court', *Evening Post*, 27 March 1868, p 2.
[1475] 'Native Land Court, Otaki', *Evening Post*, 13 March 1868, p. 2. See also Ōtaki minute book, 1C, 11 March 1868, pp 193–94.
[1476] Ōtaki minute book, 1C, 13 March 1868, p 217. See also 'Native Land Court, Otaki', *Evening Post*, 16 March 1868, p 2.
[1477] 'Native Land Court, Otaki', *Evening Post*, 16 March 1868, p 2.
[1478] 'Native Land Court, Otaki', *Evening Post*, 16 March 1868, p 2.
[1479] Ōtaki minute book, 1C, 13 March 1868, p 219.

between coercion and bribery. According to Wī Parata, when Buller showed him the deed with Ngāti Toa signatures on it, he had told Buller that it was not right for Toa to sign, as 'that land belongs,' he had said, 'to Ngatiapa and Ngatiraukawa – it is not ours'.[1480] To this, Buller had apparently replied, 'No, but sign', to which Wī Parata in turn replied, 'No, but give us £1,000 and we will sign.'[1481] To this Buller appeared to agree, and then, according to Parata: 'We wrote our names, having no claim.'[1482] Then, for good measure, Buller had the names of children signed to the deed, the objections of Wī Parata and others notwithstanding (he had earlier told the Court that children, 'brought forward by their parents', had signed the deed).[1483] And a not dissimilar story was told by Hoani Taipua:

> I got money. I did not tell Mr Buller that I had land there. I did not say so to anybody. Mr Buller said that the more who signed the more money there would be. I received £25. … Mr Buller gave it to me. [I] never said I had land there. … It is Mr Buller and Dr Featherston's plan to get people to sign who have no land. We were not asked whether we had land there; if we had been, we should have said we had none. Our names were signed without being asked.[1484]

As to Featherston, his own contributions to the hearing were characterised, for the most part, by an inability to recollect and an absence of significant pieces of knowledge that did not appear to bother him overly much. He did not know the year Ngāti Apa had ceased to cultivate at Himatangi, as he had not asked them prior to the purchase. He could not remember the number of 'dissentients' from the sale, was unaware of Ngāti Rākau, was not aware that Ngāti Raukawa were solely in occupation of Himatangi, could not say when they began to cultivate there, knew Parakaia but did not know he was a chief (thought the contrary, in fact), could not remember Nepia Taratoa (although he 'may have seen him'), did not know if Taratoa had been present when the money was paid at Parewanui, did not know the names of Parakaia's fellow claimants (although he 'repeatedly met all the dissentients'), had not heard that the land was sold with permission of Ngāti Raukawa.[1485] Nonetheless, despite his uncertainty about many matters, he was entirely certain about at least one: 'The land,' he said, 'was Ngati Apa's by inheritance, they never were dispossessed of it.'[1486] Ngāti Raukawa only occupied the land 'by the sufferance of Ngati Apa', and this Featherston had heard 'from

[1480] Ōtaki minute book, 1C, 13 March 1868, p 220.
[1481] Ōtaki minute book, 1C, 13 March 1868, p 220.
[1482] Ōtaki minute book, 1C, 13 March 1868, p 221.
[1483] Ōtaki minute book, 1C, 13 March 1868, p 220; 'Native Land Court, Otaki', *Evening Post*, 16 March 1868, p 2.
[1484] Ōtaki minute book, 1C, 25 March 1868, p 350.
[1485] Ōtaki minute book, 1E, 16 April 1868, pp 645–46.
[1486] Ōtaki minute book, 1E, 16 April 1868, p 646.

all the tribes, whom I have seen at meetings'.[1487] Indeed, he told the Court, 'Ihakara has often said that the land belongs to Ngati Apa.'[1488]

By his own admission, then, Buller was not particularly concerned with establishing whether or not those who signed the deed had any right to it; his only concern was to obtain as many signatures as he could, and the evidence of others suggests he was prepared to use unsavoury methods to attain his desired end. For his part, Featherston assumed the role of someone quite distant from all these proceedings – as he said, 'The negotiations were all settled before I had anything to do with it, I had only to pay the money'[1489]; and someone of little importance who relied on others ('Mr Buller gave me the information'[1490]) for his knowledge. It was grandly disingenuous.

7.8.4 The judgment of the Court

Given the complexities of the case, the Court's judgment was a relatively short one, in part at least because the judges did 'not consider it necessary here to review in detail the mass of evidence' it had heard, nor to 'advert to the arguments contained in the addresses' of Williams and Fox.[1491] All these matters had, of course, been 'carefully considered' by the Court in reaching its decision.[1492]

No decision could be given at to the ownership of Hīmatangi, the Court declared, without first adjudicating on the 'conflicting tribal claims asserted by the Ngatiraukawa on the one side and the Ngatiapa and Rangitane on the other to the country lying between the Manawatu and Rangitikei rivers'.[1493] In deciding the point, the Court declared that it was indicating 'a principle which may be conveniently and justly applied by this court in dealing with other cases of claims in the Rangitikei Manawatu Block'.[1494] On this basis, the Court's decision took on a whole new import, essentially determining as it did claims yet to be heard. Having made this point, the Court then rendered its decision:

> Looking at the evidence it is clear to us that before the period of the establishment of British Government the Ngatiraukawa tribe had acquired and exercised rights of ownership over the territory in question. The prominent part taken by this tribe in connection with the cession of the North Rangitīkei and Ahu o turanga blocks, the sale of Te Awahou and the history of the leases prove also that these rights have been maintained up to the present time.

[1487] Ōtaki minute book, 1E, 16 April 1868, p 646.
[1488] Ōtaki minute book, 1E, 16 April 1868, pp 646–47.
[1489] Ōtaki minute book, 1E, 16 April 1868, p 646.
[1490] Ōtaki minute book, 1E, 16 April 1868, p 645.
[1491] Ōtaki minute book, 1E, 27 April 1868, pp 717–18.
[1492] Ōtaki minute book, 1E, 27 April 1868, p 718.
[1493] Ōtaki minute book, 1E, 27 April 1868, p 719.
[1494] Ōtaki minute book, 1E, 27 April 1868, p 719.

> On the other hand the evidence shews that the original occupiers of the soil were never absolutely dispossessed and that they have never ceased on their part to assert and exercise rights of ownership.
>
> The fact established by the evidence is that the Ngatiapa-Rangitane, weakened by the Ngatitoa invasion under Te Rauparaha, were compelled to share their territory with his powerful allies the Ngatiraukawa and to acquiesce in a joint ownership.
>
> Our decision on this question of tribal title is that Ngatiraukawa and the original owners possessed equal interests in, and rights over the land in question at the time when the negotiations for the cession to the Crown of the Rangitikei Manawatu block were entered upon.[1495]

Here, then, was the Court's response to the varied and contradictory evidence it had heard over the course of six weeks. Ngāti Raukawa had, prior to the signing of the Treaty, conquered and taken possession of the land, and they had maintained their mana over the land since then. Yet, and at the same time that Raukawa's mana extended over the land, the weakened but not, seemingly, entirely vanquished Rangitāne and Ngāti Apa tribes were never 'absolutely dispossessed' and continued to 'exercise rights of ownership'. And so the three tribes, the Court concluded, shared the mana over the land equally, even if Rangitāne and Apa did so under duress. Such was the Court's judgment. Whether or not it made sense to suggest an equality of standing when one tribe had imposed itself on two other tribes, compelling their acquiescence, did not seem to enter into the judges' cognisance.

Having delivered itself of the main issue at stake, the Court then turned to the question of who, of the Ngāti Raukawa, had a legitimate claim to Himatangi. The Court determined that only that 'section of the tribe which has been in actual occupation' could stake such a claim – all others were excluded.[1496] This, in practice, meant that 'Parakaia and his co-claimants comprise that section of the Ngatiraukawa tribe which acquired rights by occupation over the Himatangi block'.[1497] The 'tribal interest therefore,' declared the Court, 'vests solely in them.'[1498]

The Court then ordered that Parakaia and 26 co-claimants were entitled to a certificate in their favour for one half of the block, less two-twenty-sevenths (a deduction for two co-claimants who had signed the deed of cession) which amounted to 'a parcel of land at Manawatū containing by estimation five thousand five hundred (5,500) acres, being part of a block of land known to the Court as the Himatangi Block'.[1499] There was, however, a caveat attached to this

[1495] Ōtaki minute book, 1E, 27 April 1868, pp 719–20.
[1496] Ōtaki minute book, 1E, 27 April 1868, p 720.
[1497] Ōtaki minute book, 1E, 27 April 1868, p 720.
[1498] Ōtaki minute book, 1E, 27 April 1868, pp 720–21.
[1499] Ōtaki minute book, 1E, 27 April 1868, pp 721–22..

award: the certificate would only be granted if the claimants provided the Court with a satisfactory survey of the land awarded within six months.[1500]

And so here, for the time being, the matter ended.

7.9 The campaign for a rehearing

Unsurprisingly, the Court's decision came as a shock to those who had campaigned so long to have their claims referred to it. Hadfield's criticism was trenchant, describing the decision as a 'lasting disgrace, not only to the Native Lands Court, but to the Government of the Colony.' Only the rights of Ngati Raukawa, Ngati Apa and Rangitane had been given any recognition whereas Whanganui and others had signed the deed; there remained many non-sellers (nearly 400 as opposed to the 65 recognised); and the process had been entirely unfair. 'An investigation had been refused while it was possible to adjudicate on the disputes existing between one Maori and another; or between one tribe and another.' This had been permitted only when Featherston considered that enough signatures had been collected and 'the question before the Court [had] become complicated, … a question between the Crown and some Maori claimants, with one scale already weighted with £25,000, *plus* an unknown amount of expenses …' Then the Court had decided the 'principle' on which tribal rights could be determined in the whole of the Rangitīkei-Manawatu region when it had supposed to have been considering only the claims of Te Pouepa and his hapū to the portion at Himatangi.[1501]

It was equally unsurprising that Featherston should see the court's judgment as a vindication of his purchase. In his address to the Wellington Provincial Council in May, he lauded the ruling as 'most completely' refuting that 'case so industriously circulated … by Mr Williams, the Editor of the Canterbury *Press,* and the Missionary body, who entirely ignored the title of Ngati Apa and Rangitane, and asserted the exclusive ownership of the resident and non-resident Ngatiraukawa'.[1502] (It is argued in this report that, more accurately, what was contended, was that the mana of 'Ngati Raukawa' including Ngati Kauwhata and allied groups who had come in the heke extended over the whole of the territory on which they had settled and that Ngati Apa could only sell with their permission.) Featherston continued: 'It most fully establishes the propriety of the course pursued by me in negotiating with the several tribes as joint owners of the district and it particularly corroborates my action in giving the claims of the

[1500] Ōtaki minute book, 1E, 27 April 1868, p 722.
[1501] *Wellington Independent*, 30 May 1868, p 4.
[1502] *Wellington Independent*, 31 May 1868, p 4, cited Hearn, 'One past, many histories', p 439.

Ngatiapa and Rangitane the weight which I attribute to them.'[1503] On the other hand, as Hearn has pointed out, Featherston thought that the Court's principle as applied to Parakaia's case was 'illogical, inconsequential and in practical operation, unjust'. Given that occupation was the determining factor, he thought the court should have awarded the area occupied by Parakaia at Hīmatangi to his hapū and the remainder to Ngati Raukawa as a whole rather than to Ngāti Apa (and thus the Crown). Hearn comments, 'The result of the application of the same line of reasoning to Ngati Apa's claim he chose to leave untouched.'[1504] We note that Featherston complained, too, that Parakaia's hapū had been awarded the 'available land' while the government was left with the 'swamp and sand hills'.[1505] We return to this matter in chapter 8.

In May, T C Williams applied for a rehearing on his clients' behalf on the grounds that 'for thirty-three years they have held sole possession of the block which they claimed by conquest and that they cannot see why the land should now be taken from them and restored to Ngatiapa and Rangitane the vanquished survivors'. Williams argued further that the court had distorted the customary reality: 'whereas the question before the Court … was the claim of Parakaia and others to Himatangi, the Court in giving judgement divided the tribal title to the whole of the country lying between the Rangitīkei and Manawatū Rivers as one block'. In his clients' view, however, Himatangi was 'a part of their portion of the country which fell to their share at the time of the conquest, the other part being on the other side of the Manawatū River, opposite to Himatangi.' Noting that the Court had deemed Ngati Apa and Rangitane 'as being compelled to acquiesce in a 'joint' ownership' with Ngati Raukawa, he argued that 'Ngati Raukawa' had considered themselves 'relieved' from any obligations that might imply by their sanction of the earlier sales by those tribes to the Crown and, thus, entitled to be left in 'undisputed' possession of the land that remained. Referring to the claim by right of conquest that had been rejected by the court, Williams argued further, that the Government of New Zealand had always recognised the validity of such a title as reflected in a very large proportion, if not all of its purchases up to that point. Williams quoted the 'admirable' words of Featherston (in 1860) with reference to the Waitara purchase that 'whatever rights, especially territorial, the Natives possessed at the time the Treaty was made, the Government [was] bound to preserve inviolate'.[1506]

Nor did the Native Land Court decision bode well for others with applications before the court. There were ten of these, from rangatira on behalf of themselves and their hapū, a number of which we have already mentioned:

- Rāwiri Te Wānui for Kākānui;

[1503] *Wellington Independent*, 21 May 1868, p 4, cited Hearn, 'One past, many histories', p 439.
[1504] Hearn, 'One past, many histories', p 439.
[1505] *Wellington Independent*, 21 May 1868, p 4.
[1506] T C Williams to Colonial Secretary, 7 May 1868, MA 13/73b.

- Kooro Te One for Mangatangi;
- Te Ara Tākana for Awahuri-Rakehou;
- Hāre Hēmi for Ōmarupāpaka; Arapita Te Tewe for Hikungārara;
- Kerimīhana Wairaka for Tāwhirihoe;
- Paranihi Te Tau for Reureu and Pukekōkeke;
- Pumipi Te Kākā for Makōwhai;
- Te Angiangi for Kaikōkopu; and
- Hēnare Te Waiatua for Oroua.[1507]

Kooro Te One and others protested the decision and the adjournment of the court to Rangitīkei. Like Parakaia and his hapū, they felt their case had not been treated fairly and that the Native Land Court had reached a judgment on the whole of the region based on evidence that related to their specific interest in a specific portion of that wider area. While their counsel had been told repeatedly to confine himself to matters pertaining to Hīmatangi, the Court had effectively ruled for the whole of the Rangitīkei, declaring that 'it must be divided'.[1508] That assertion was denied by Judge Smith in a margin note that read, 'The court has rendered no opinion on the question of tribal title between the Rangitīkei and Manawatū Rivers.'[1509] Te Kooro and his co-writers were given no encouragement (despite a measure of sympathy from Rolleston – as noted below) and reminded only of their earlier promises to accept the court's decision whether for or against them; these were matters outside the government's purview.[1510] Henere Te Waiatua, Hare Hemi Taharape and others also protested the adjudication.[1511]

The decision as to whether to grant a rehearing of Parakaia's claim rested with the Chief Judge rather than the government. Rolleston did consider it unfortunate however, that the court had consented to an adjournment to Rangitīkei, and further, that the other cases referred by the Governor should have lapsed rather than merely postponed. He thought it 'very desirable that the Chief Judge should be requested to hold another court on his return and that a fresh order be made out'.[1512] The panel of judges who had delivered the judgment in Parakaia's case rejected his application for rehearing. He had failed to prove that he and his

[1507] Williams to Russell, 18 April 1868, MA 13/73b; see also Hearn, 'One past, many histories', p 434.
[1508] Kooro Te One and others to Head of the Government, 2 and 19 May 1868, MA 13/73b.
[1509] T H Smith margin note, Kooro Te One and others to Head of the Government, 2 May 1868, MA 13/73b.
[1510] T M Haultain (Minister of Defence) to E W Puckey, 5 May 1868, MA 13/73b.
[1511] Henere Te Waiatua and others to the government, 28 April 1868, MA 13/73b.
[1512] Rolleston memorandum, 10 May 1868, MA 13/73b.

people had 'held sole possession of the Himatangi block or that they obtained it by conquest'. They advised that it had not been shown that:

> [T]he Himatangi block as defined and described in the evidence formed part of a portion of country which fell to the share of Parakaia and his people or that formal possession of it was taken by him until very recently The evidence brought before the Court did not prove any conquest of Ngatiapa and Rangitane by Ngatiraukawa, or any forcible dispossession of the former by the latter of the country lying between the two rivers.[1513]

The application was refused.[1514]

However, this still left the cases which were unheard because Williams refused to appear. While the government was predisposed to refer them to the Court again, the judges concerned advised that any such hearing should be put on hold until the 'present excitement' had died down.[1515]

There seemed little chance of this happening immediately. In July 1868, there were differing reports of some sort of fight in the interior. In one account Taratoa, tired of waiting for his reserve, had leased land to Wanganui settler, John Gotty. The latter's flock had strayed into lands held by other run-holders, and while an attempt to drive them off had resulted in a general melee with Taratoa's people, the fracas had nothing to do with repudiating the sale. [1516]In other accounts, however, the confrontation had been between Parakaia's hapū and Ngati Apa. In this more alarmist version, Te Pouepa was reported to have leased a large area within the Crown's purchase of Rangitīkei-Manawatū to John Gotty for £250 for the first year. It was claimed that Featherston had asked Ngati Apa to drive off Gotty's sheep, resulting in a confrontation with 'Ngati Raukawa' – in which many of the flock were smothered or slaughtered and Gotty was forced to find pasturage elsewhere. The report was of 'a very strong force of Ngati Apa' under Kawana Hunia, who built and occupied a pa, claiming that 'precautionary measures' were necessary so long as 'Hauhau were in the district and mixed up with the Ngatiraukawas…'[1517]

The *Wanganui Chronicle* report on what it referred to as the 'Manawatu imbroglio' suggested that Featherston had ordered Gotty to remove his sheep to the Ngati Apa side of the Rangitīkei, where they had been intercepted and slaughtered in 'brutal' fashion by some 100 Ngati Apa egged on by William McDonnell. They then burned down a whare belonging to 'Ngati Raukawa' and commenced throwing up rifle pits at Matahiwi (on the southern side).[1518] When Ngati Raukawa complained to the Native Office, Halse advised Kāwana Hūnia

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[1513] T H Smith, J Rogan and W B White memorandum, 14 May 1868, MA 13/73b.
[1514] See Hall's note to Haultain on Halse to Hall, 16 May 1868, MA 13/73b.
[1515] Hall to Fenton, 20 May 1868, MA 13/73b.
[1516] See *Wanganui Chronicle,* 7 July 1868, p 2.
[1517] *Hawkes Bay Herald*, 21 July 1868, p 4, *Wanganui Times*, 14 July 1868, cited in Hearn, 'One past, many histories', p 443.
[1518] *Wanganui Chronicle*, 14 July 1868, p 2

against crossing the river and interfering with Ngāti Raukawa. In a letter to Featherston, published by the *Wellington Independent*, Hūnia and Te Rātana objected that they were only doing what they had been asked: looking after the 'land that belongs to the Crown….We are here to see that the Queen's mana reigns over the land as it is now here. Also blaming us for bringing our guns with us. We look upon the guns as our property whilst we have them, and can take them where we please… We have left Parewanui, and we are now living at this new settlement on the Queen's land.'[1519]

The *Press* called for Featherston's commission to be withdrawn and for the whole matter to be referred to an independent tribunal.[1520] Questions were raised in the House. Fox told the members that the Himatangi judgment had 'not by any means settled the question to be actually decided by the [*Native Land*] Court' and had created 'a strong feeling of dissatisfaction' among Maori which would 'only lead to great difficulty and complication'. He thought, however, that government agreement to have the case reheard would also 'only lead to further complication of the matter, and be productive of a very unsatisfactory issue'.[1521] In response to a question from Fox, Richmond (Native Minister) referred to Kooro Te One's request to have Parakaia's case reheard. He revealed to the House that the government was intending to hear the ten withdrawn claims but not Parakaia's. He suggested that the 'claimants to the land at Manawatū seemed to altogether object to any decision of any Court which fell short of granting their claims in full'.[1522] Hearn points out the difficulty now facing the remaining claimants under the 'Ngati Raukawa' banner:

> [T]he Crown had taken upon itself directly to establish the ownership of the Rangitīkei-Manawatū block and to pursue its purchase accordingly, while acting in support of those who opposed Ngati Raukawa's account of the region's history. Since the Native Land Court had declared that the Himatangi ruling would guide all other claims involving Rangitīkei-Manawatū, the strong likelihood was the same result would follow.[1523]

In the meantime, Hearn notes, the Wellington Province was in financial crisis, with only the on-sale of a completed Rangitīkei-Manawatū purchase, its sole prospect of extricating itself.[1524]

At the same time, the non-sellers petitioned for the removal of Featherston from the position of land purchase commissioner. McDonald (an increasingly influential agent in the district enjoying a close relationship with Ngati Kauwhata) made some serious accusations about Featherston's role, alleging that he had come only to buy land, not to settle tribal fighting, that he had threatened to allow Ngati Apa to destroy the sheep stations on the block, and had 'urged

[1519] *Wellington Independent*, 28 July 1868, cited in Hearn, 'One past, many histories', p 444.
[1520] *Press*, 14 July 1868, p 2.
[1521] *NZPD* 1868, vol 2, p 107.
[1522] *NZPD* 1868, vol 2, p 107-108.
[1523] Hearn, 'One past, many histories, p 445.
[1524] Hearn, 'One past, many histories, pp 440-1.

Ngati Apa on to a serious breach of the peace.' In the case of Gotty, only the 'determination of Ngatiraukawa not to be forced into a collision with the Government Ngatiapa having repeatedly stated that they were acting under the authority of the Commissioner, Dr Featherston' had prevented an outbreak of fighting [1525] Featherston denied the charge and pointed to McDonald's own dismissal from the Provincial Government's services (as a sheep inspector) for repeatedly interfering in the transaction.[1526] Hearn recounts that a very large hui was held at Manawatū, on 25 October 1868, where all political dispositions were represented. The 'extreme selling party' was led by Ihakara and Tapa Te Whata and the non-sellers by the gazetted claimants, while 'Hau Hau' Wī Hapi and Hereni were also in attendance. The assembly decided that the final settlement of the Manawatū question should be left with the Court, which should be asked not to make an arbitrary division of the land but to ascertain and separate the land of the sellers from the non-sellers; and that the Hau Hau claimants should attend the court or forfeit their claims.[1527]

7.10 The impact of the South Waikato and Maungatautari awards

The hapū who had settled the upper Manawatū and Rangitīkei found themselves dealing with important issues on several fronts, attempting to engage with the new way of deciding who owned land while navigating rules which seemed to be unevenly and inconsistently applied at a time of intra-hapū political division. Added to this, rights in smaller blocks also had to be protected in the new system of law.

In the same month (November 1868) as the remaining applicants for title in Rangitīkei-Manawatū came on, so too, did the hearings for the southern Waikato-Maungatautari blocks, their 'homelands' from which they had migrated in a series of heke spanning two decades. For Ngati Kauwhata, Ngati Wehi Wehi, Ngati Turanga and other hapū based in the interior, many of whom were non-sellers, the approach of the two courts seemed to be contradictory, their capacity to engage properly with both of them impeded, and the outcome unjust. The Court found in the case of Hīmatangi that 'Ngati Raukawa' as an iwi had no rights, only certain hapū who were living on particular portions that had not been 'sold' because they had not participated in the deed signing and whose title was, thus, confined to areas where they could demonstrate actual residence. They had no wider rights by conquest. In the southern Waikato, in contrast, the Native Land Court seemed to give far more weight to *take raupatu*, and Ngāti Kauwhata, Ngāti Wehi Wehi, and those sections of Ngati Raukawa who had participated in the heke south were deemed to have been forcibly expelled and to have lost all rights. It was acknowledged, there, that rights might be retained in

[1525] McDonald to Richmond, 26 September 1868, MA13/73b.
[1526] Featherston to Richmond, 13 October 1868, MA 13/73b.
[1527] *Wanganui Chronicle*, 29 October 1868, p 2, cited Hearn, 'One past, many histories', p 446.

lands long departed, but 'Ngati Raukawa' who had migrated had previously refused offers to return and, thus, it was argued, had lost all rights despite evidence of continuing movement back and forward This interpretation of the matter was unsuccessfully refuted by Parakaia, who argued that his representation of the case was inhibited by the absence of many of those with interests in these lands being tied up in the second hearings for the Rangitikei-Manawatu (discussed in the following section) and who thought that the Cambridge sessions would be adjourned. For their part, Ngāti Kauwhata later argued that Parakaia did not represent them, nor could he speak on their behalf.[1528] The whole process was entangled with the differing political allegiances that had developed in response to colonisation and the Crown's manipulation of those 'loyalist' sections of the tribe based on the West Coast, drawing in those based in the interior where hapū links with the Kīngitanga remained live and active. Anxiety about how they might be regarded, and whether their lands might be subject to confiscation when sections of the tribe had supported the 'rebels' in Waikato, was an important context to the Rangitīkei-Manawatū situation.

These issues will be explored in R Boast's report in some detail but the salient features of title determination in the Southern Waikato blocks are discussed as part of this overview as illustrative of the difficulties being faced by the leadership and aa a source of on-going grievance for the hapu.

When the Native Land Court opened in Cambridge on 3 November 1868, it was the third attempt to bring the Maungatautari lands through for award of title. Attempts to survey the Maungatautari area into discrete blocks for lease by the 'friendly portion of Ngati Haua' had been disrupted at Pukekura by the 'murderers of Sullivan', who objected to the dividing of the block, arguing that it ought not be surveyed, being 'outside the confiscation boundary'.[1529] The court at that date (October 1866) had to be adjourned because it was reported that Hauhau had stopped witnesses in order to prevent them from bringing the case through the Native Land Court. As noted earlier, Parakaia had asked for an adjournment of all the cases at the next attempt to have title of the Maungatautari lands awarded (in November 1867). The Court reopened on 3 November 1868 under Judge Rogan. According to James Mackay, who was in the district to investigate the circumstances surrounding Sullivan's death: 'The natives who attended were chiefly of the friendly, or surrendered rebel class, and a few hauhaus, equally mistrusted by the Queen rebel Natives.'[1530]

[1528] Ngatikauwhata Claims Commisssion, *AJHR*, 1881, G-2a, pp 9-10.
[1529] MacKay to Native Minister, 10 July 1873, *AJHR,* 1873, G-3, p 1.
[1530] MacKay to Native Minister, 10 July 1873, *AJHR,* 1873, G-3, p 2.

7.10.1 The Evidence

'Pukekura', which was situated immediately to the west of the confiscation line, came on first and was heard over two days. Te Raihi claimed on behalf of Ngāti Haua and Ngāti Kauwhata residing on the Maungatautari lands. He stated that although a number of Ngāti Kauwhata had remained there (whom he recognised), the other sections of the tribe who had left had no rights extant. Parakaia Te Pouepa conducted the case for 'Ngatiraukawa, Ngatikauwhata, and Ngatiharua'.counterclaimants. He recited the places he claimed along with others 'viz, myself, Te Watene Karanamu, Te Rau, Te Wireti, and Hirawanu'.[1531] He recounted how they had co-habited with Waikato in peace after the fighting ended in 1824, before his section of Ngati Raukawa had decided to migrate to Ōtaki;

> [M]yself. and my uncle, Matauruao, my father's elder brother, left the land in possesion of Ngati kaukura, i.e.,Kuruaro, Te Tapae, and all the lands in the map; we left it in possession of Te Toanga, and Tapararo, Te Iwihara, Te Pae, Pango, Te Amo, and Huka… we were not driven away; the word spoken at the time was – When we get guns, some of us will return to Maungatautari, and those who wish to remain south will stop; in 1841, Ngatikauwhata came to look after Ngatihuia, and they came to us; their word was that they would look after (tiaki) this land; they took a woman of Ngatihuia to wife and returned to this land; her name was Toia…[1532]

Questioned by Te Rahi, Parakaia said that 'some of us came back to Ngatikoroki and lived at Te Whaatu, but not in this land [Pukekura]'.[1533]

When asked by the court why those he named had failed to appear, Parakaia claimed that the others had been held back by the 'Hau Hau' though, he himself, held a 'pass' ('He tur eke toku').[1534] His evidence was supported by Te Watene Te Whena (Ngati Wehi Wehi) Karanama ('Ngatiraukawa'), and Te Rau of 'Otaki' who gave evidence that they had left Ngati Kauwhata and Ngati Kaukura in possession and that they had not been forced to leave the region. Te Whena stated that he had a claim to 'all the land on the map, conjointly with those mentioned by Parakaia; this land was not taken by conquest' and that when he lived on the land as a boy, peace had long been made. Waikato and 'Ngatiraukawa' were living together; their departure for Kapiti was made peaceably; and Huka had been left in possession of the land. When notice of the case had been published, Huka had written to him to come. Under questioning by Te Waata, he stated that some of the invading Hauraki tribes had been killed before they (Ngāti Wehi Wehi and Kauwhata) had left, but that 'Ngatimaru took the whole district, your lands and ours also.'[1535]

[1531] MacKay to Native Minister, 10 July 1873, *AJHR,* 1873, G-3, p 13.
[1532] MacKay to Native Minister, 10 July 1873, *AJHR,* 1873, G-3, p 13.
[1533] MacKay to Native Minister, 10 July 1873, *AJHR,* 1873, G-3, p 13.
[1534] MacKay to Native Minister, 10 July 1873, *AJHR,* 1873, G-3, p 13.
[1535] MacKay to Native Minister, 10 July 1873, *AJHR,* 1873, G-3, p 13.

According to Mackay's report, he claimants and counterclaimants asked questions of each other about what they had said. For example, a question asked by Parakaia of one of the Ngati Koroki witnesses elicited the answer that Waharoa had invited Ngāti Raukawa back from Kapiti but they had refused to come; they had said, 'He aha te ngako &c.' Ihaia Tioriorii (the witness concerned) asserted that 'I had the sovereignty over the land when the Queen came here; I have heard that the Government invited the Maoris to give in claims for their lands; but your claim must be for your land; this land is mine.'[1536] Another Ngati Haua witness told the court that the land had formerly belonged to Ngāti Raukawa and Ngāti Kauwhata but now belonged to him. Another stated that the only claim he recognised was one by conquest. [1537]

The court reserved its decision, advising 'both parties' to settle it among themselves if they could, and then moved on to hearing the 'Maungatautari' blocks where 'conquest' was even more strongly asserted by 'queenite' Ngāti Haua claimants. Parakaia Te Pouepa again led the Ngāti Kauwhata-Ngāti Raukawa counterclaim, naming co-claimants and 'many others'; and denying that they had been conquered. Te Rei Te Paehua, who described himself as Ngāti Raukawa and living in Ōtaki, identified the many requests for them to return, naming those who had done so:

> Te Awaitaia asked me to return to Maungatautari; afterwards Te Whero Whero did the same; Kiwi and Te Roto did likewise; some of our people came back on these invitations; some of those persons are dead, some of them are here; Kingi Hori, Te Matia, and Wareta returned…[1538]

They had been given land. 'These are the reasons,' he told the court, 'why Ngati Raukawa are here today.'[1539] Another witness living at Otaki (Te Rikihana) spoke of the several times he had returned to the district prior to 1853. He and several other witnesses had been children at the time of the heke and, thu, had little or no knowledge of the lands they had left.[1540]The evidence for both sides was heard over two days (4–5 November), the court again adjourning to consider its decision.

Puahoe (or Puahue) was up next, with Parakaia immediately objecting that 'some of the owners were away amongst the Hauhaus'.[1541] The claimants, mostly from Ngāti Haua with some Ngāti Kauwhata, again argued their rights of conquest. One of the Ngāti Kauwhata witnesses (Hōri Wirihana) gave evidence: 'I conquered the land and took it; Ngati Raukawa did not leave the land peaceably.'[1542] This assertion was repeated by a number of others; and again, it

[1536] MacKay to Native Minister, 10 July 1873, *AJHR,* 1873, G-3, p 15.
[1537] MacKay to Native Minister, 10 July 1873, *AJHR,* 1873, G-3, p 15.
[1538] MacKay to Native Minister, 10 July 1873, *AJHR,* 1873, G-3, p 19.
[1539] MacKay to Native Minister, 10 July 1873, *AJHR,* 1873, G-3, p 19.
[1540] MacKay to Native Minister, 10 July 1873, *AJHR,* 1873, G-3, pp 19-20.
[1541] MacKay to Native Minister, 10 July 1873, *AJHR,* 1873, G-3, p 21.
[1542] MacKay to Native Minister, 10 July 1873, *AJHR,* 1873, G-3, p 21.

was strongly denied by Parakaia Te Pouepa. The claimants may have defeated Ngāti Maru but Ngāti Raukawa had not been involved in that conflict. He told the court that Waharoa's invitation to them to return 'did away with the conquest'. He discussed other offers for them to return. In 1857, eleven had done so at the invitation of Porokoru and Haunui; 'the chief men were Te Nguhioharakia, Hatiera, Hoera; Kawa and Hukarahi went afterwards, just before the Waikato war; these men all died natural deaths, during the war; they died on the land. their children all returned to Otaki.' This had been followed by visits by others who were also named (Te Rou, Te Hunopoko, and Te Maunahura) but were not in court because they had joined the Hauhau party. Parakaia also said that '[H]e wished judgment to be suspended until he could go to the King's party and get a meeting of all the old chiefs to consider the question of conquest raised by the opposite side.'[1543]

Included among the witnesses for the Ngati Raukawa counterclaim at Puahue was Wiremu Pomare of Ngapuhi and Ngati Raukawa who acknowledged that he had not resided on or cultivated the land but considered that rights could be retained over two generations.[1544] Mātene Te Whiwhi gave details of former boundaries before the disturbance of traditional occupation patterns by the Ngapuhi invasions. and the later conflict with the Hauraki tribes. He described the invitation of Te Rauparaha to join him at Kapiti Island and the invitation by Potatau for them to return to Waikato: "Me nuku a Waikato." While Te Whiwhi did not know if this was the sentiment of all Waikato, Potatau was the chief and his word was remembered by all. Te Whiwhi went on to discuss more recent events as well: 'the power of the Queen prevailed … and the mana Maori was put down; but a boundary has been struck by the General … are we to stay outside the boundary,' he asked and then continued, 'perhaps sometime hence Rewi and Matutaera will come out of their "nohohanga pouri," then perhaps, there will be "raruraru" amongst the Maoris about their land.'[1545]

When the evidence was complete, Judge Rogan stated that each side would have an opportunity to address the Court which he then closed. Then, on the following day (7 November), Parakaia withdrew the claims of his party to the Pukekura and Maungatautari blocks in favour of the resident claimants but refused to renounce Puahue.[1546] He gave no explanation, although it is likely this decision was the result of out-of-court discussions. At the same time, he repeated his request for Puahue to be deferred until the opinion of the King Natives towards Ngāti Raukawa could be ascertained. Te Raihi of Ngati Haua and Ngati Kauwhata also addressed the court on behalf of Ngati Haua.

[1543] MacKay to Native Minister, 10 July 1873, *AJHR,* 1873, G-3, pp 23-4.
[1544] MacKay to Native Minister, 10 July 1873, *AJHR,* 1873, G-3, p 23.
[1545] MacKay to Native Minister, 10 July 1873, *AJHR,* 1873, G-3, p 24.
[1546] MacKay to Native Minister, 10 July 1873, *AJHR,* 1873, G-3, p 25.

Judge Rogan delivered the court's judgment on 9 November proceeding to award all three pieces (including Puahue) to the mainly Ngati Haua residents as owners. The court adjourned again on 16 November because the Ngati Haua could not agree on whose names should be entered into the title.

7.11 The Rangitīkei-Manawatū hearing is reconvened, November 1867

On the West Coast, the case for the other non-seller claimants at Rangitīkei-Manawatū that had been deferred by the court's adjournment also came on for hearing in November at a Native Land Court sitting at Bulls. Fox appeared again for the Crown. McDonald for the claimants, asking that their applications might be withdrawn but the court refused – according to the *Evening Post*, 'determined to proceed with the investigation or dismiss the cases finally and absolutely'.[1547] McDonald thought Fox had no right to be there as the Crown's interest derived from the sellers' and in a letter to Stafford, objected also to the presence of Featherston. He complained that the Crown was lodging technical objections.[1548] In response, the Native Office drafted a letter to Featherston, suggesting that Fox 'waive all formal objections and expedite the conclusion of business as much as possible'.[1549] The Government emphasised 'the importance of obtaining decisions on broad grounds of equity as by such means alone can any permanent settlement be effected'.[1550]

McDonald's objections to the appearance of the Crown were overruled, prompting Henare Te Herekau and others to petition that '[T]hey found their claims opposed by all the power, prestige and influence of the Crown represented by the Superintendent of the Province, the Resident Magistrate of the District, an official Interpreter of the Resident magistrate's Court at Wanganui, and an English barrister recently Prime Minister of the Colony.' While they were called upon to 'prove a perfect title to their land', the Crown didn't have to prove a thing. The petitioners called the Governor's attention to 'the oppression which [had] been practised upon [them] now for nearly 5 years in the name of the Crown'. They alleged that Fox was attempting to 'defeat their just claims by a form of judicial procedure'.[1551] Richmond assured McDonald that the court was evidently acting upon the conviction that their duty could only be effected by taking 'a comprehensive view of the history of the whole title and the principle of the decision in Parakaia's case [was] drawn from an examination of the claims of all the parties'. He did not doubt, though, that the current case would be argued on 'narrower grounds', commenting that the Native Land Court had been acting

[1547] *Evening Post*, 18 December 1868, p 2.
[1548] McDonald to Stafford, 7 November 1868, MA 13/73b.
[1549] Draft of letter to Featherston, 8 November 1868, MA 13/73b, cited Hearn, 'One past, many histories', p 447.
[1550] Draft of letter to Featherston, 8 November 1868, MA 13/73b, cited Hearn, 'One past, many histories', p 447.
[1551] Petition of Te Herekau and others, 13 November 1868, MA 13/73b.

as a commission of general enquiry'.[1552] Fox, in turn, accused McDonald of creating an 'emergency' and that his clients were known to be Hau Hau and unlikely to accept any adverse decision by the court, while postponement might have a 'very prejudicial effect on the sellers who [were] already very sore at the delays which have arisen in the settlement of this long-standing dispute'.[1553] Native Minister Richmond decided that it might be best to let the claimants withdraw their applications and advised both Fox and McDonald of that decision.

In December, there were further indications of trouble. At Pakapakatea, where Featherston had reportedly promised Hūnia a reserve, the latter had pulled down a timber mill operating on the land, confiscated the sawn timber, and was said to be strutting about with a government revolver slung over his shoulder, making threats of further action unless his rights were immediately acknowledged.[1554]

In the meantime, with the decision not to risk another unpalatable and unsustainable Native Land Court decision, Richmond began exploring the idea of an independent commission of inquiry to look into, and report on, 'the whole purchase and make recommendations for satisfying the outstanding claims'.[1555] He intended that the panel would determine which persons who had not signed the deed had customary rights, or title in the Rangitīkei-Manawatū block, and to establish, also, which part or parts they owned – all things that should have been done before Featherston paid the monies over! There was growing anxiety in the government regarding the unsettled nature of the question and the grievance felt by hapu affiliated with the Kīngitanga (and links into Taranaki where Wī Hapi's people had joined in Tītokowaru's war (1868-69). Richmond, who had long harboured doubts about the conduct of Featherston's purchase, informed the Defence Minister (Haultain) that the Crown's priority was 'peaceful settlement' of the case 'far more than for the acquisition of land'.[1556] The interior was seen as unsecured (with Te Kooti still at large), and these concerns would also inform McLean's subsequent approach (see chapter xx). At the time, McLean refused to get involved, declining his nomination by Featherston as a commission member (as one of four, joining Fenton, Maning, and another member to be proposed by the claimants). Upon this, the idea was abandoned and it was back to the Native Land Court.

It would be another six months before the Native Land Court would hear the case, not in Rangitīkei but in Wellington with the full panoply and arsenal of the British legal system arrayed against the claimants. During this time, Provincial Government finances deteriorated further, resulting in a programme of

[1552] Richmond to McDonald, 14 November 1868, MA 13/73b.
[1553] Fox to Colonial Secretary, 18 November 1868, MA 13/73b.
[1554] James Bull to G S Cooper, 17 December 1868 and A McDoanld to E W Stafford, 17 December 1868, MA 13/73b.
[1555] Richmond, Manawatū block, 28 November 1868, MA 13/73b.
[1556] Richmond to Haultain, 28 November 1868, MA 13/73b.

retrenchment in late March 1869.[1557] Contesting on the ground – and the possibility of fighting, which the purchase had meant to forestall – was apparently unabated. Even Featherston had to acknowledge this when opening the Provincial Council that month; it remained in 'as unsatisfactory state as ever', plagued by delays, which he blamed on the claimants. There was growing discontent and distrust among Maori, including the 'loyalists'. As for the idea of a commission; that had proved to be 'utterly impracticable'. The province was in 'depression'.[1558] Even the *Wellington Independent* acknowledged that the purchase could be seen as a 'blunder' – although one which the government had been attempting to rectify since.[1559]

The undefined nature of the inland boundary and the promised reserves continued to cause trouble on the ground. In a number of instances, Maori intentions came into conflict with existing cases, In May 1869, Kooro Te One with five other named rangatira (Te Ara Te Kawa, Karehana Tauranga, Takana Te Kawa, Hoeta Te Kahuhui and Henare Te Waiatua) announced their intention to 'squatters within the boundaries of the land of Ngatikauwhata' of retaining a portion of that land as 'a livelihood in these days in which our money and all our means of living is stopped'.[1560] Complaining that their kāinga has been burnt down by Kawana, Mateawa (of Ngati Tūkorehe) said that they were planning to return to Pakapakatea.[1561]

'Ngati Raukawa' collected themselves and their wrongs under the wing of an English lawyer, this time engaging W T Travers to argue their claims, opposed this time, by the Attorney General (James Prendergast) and sitting before Chief Judge Fenton and Judge Maning. [1562] In July, shortly before the hearing got underway, Travers attempted to amend the Native Land Act 1867, pointing out the implications of section 40, which allowed non-sellers to bring their lands before the Native Land Court; and section 41, which confined the right of selection by holders of New Zealand Company orders to lands over which native title had not been extinguished. Non-sellers might, therefore, find themselves with land subject to selection after all the costs and trouble of securing title to it. Travers, who was strongly critical of Featherston's conduct, accused the government of attempting another instance of trickery; Richmond, who agreed that the amendment was necessary, thought confusion in the committee stages

[1557] Hearn, 'One past, many histories', p 450.
[1558] 'Opening of the Provincial Council', *Wellington Independent*, 30 March 1869, p 6.
[1559] *Wellington Independe*nt, 3 March 1869, p 2, cited Hearn, 'One past, many histories', p 451.
[1560] 'Letter of Manawatū Natives to squatters', *Wanganui Herald*, 10 May 1869, p 2.
[1561] McDonald to GS Cooper, 8 May 1869, MA 13/73b.
[1562] 'Correspondence', *Evening Herald*, 11 May 1869, p 2, cited Hearn, 'One past, many histories', p 452.

was the more likely explanation.[1563] A second reading of the Bill was set down for 13 July 1869 but was withdrawn on 31 August.[1564]

7.12 The second Hīmatangi hearing, July–September 1869

The second Hīmatangi hearing – 'another attempt … to effect a final settlement of the long pending Manawatū dispute' – commenced on 12 July 1869.[1565] As noted above, it was held in the Supreme Courthouse in Wellington before the Chief Judge of the Native Land Court, Francis Fenton, and Frederick Maning.[1566] William Travers was assisted by Alexander McDonald. The Crown was represented by the Attorney-General.[1567] In contrast to the detailed reporting the newspapers gave of the first hearing, the press was much less prepared to give the second hearing, moving as it was 'slowly and tediously', much space at all.[1568] 'As the whole of this evidence was published in this journal during the progress of the Himatangi case at Otaki last year,' the *Wellington Independent* observed, 'it would weary our readers to repeat it; and we shall therefore confine ourselves to a short notice from time to time of the proceedings in Court.'[1569] Still, sufficient detail was given, particularly when it came to the Court's judgment, to attain a reasonable sense of how matters proceeded.

In all, there were ten claims before the Court, those of Akapita Te Tene, Keremihana Wairaka, Paranihi Te Tau, Pumipi Te Kākā, Wiriharai Te Angiangi, Henare Te Waiatua, Hāre Hēmi Taharape, Rāwiri Wainui, Te Kooro Te One, and Te Ara Tākana.[1570]

7.12.1 The case for the claimants

The case for the claimants was, in fact, put with the utmost concision by Travers in a letter he wrote to the *Wellington Independent* for the purpose of correcting that paper's erroneous reporting:

[1563] *NZPD* 1869, vol 5, pp 372-76.
[1564] Hearn, 'One past, many histories', p 453.
[1565] *Wellington Independent*, 13 July 1869, p 2.
[1566] *Wellington Independent*, 13 July 1869, p 2; 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess I, A.-25, p 3.
[1567] At the time, William Thomas Locke Travers was the member of the House of Representatives for Christchurch City. He was, in addition, an able botanist, ornithologist, geologist, and ethnologist, and a keen amateur photographer.
[1568] 'Local and General News', *Wellington Independent*, 17 July 1869, p 4. On 27 July, the *Wellington Independent* reported, 'Since we last noticed the proceedings of the Native Lands Court, a number of prolix witnesses have been examined, and the dreary sittings still continue.' – *Wellington Independent*, 27 July 1869, p 2.
[1569] 'Local and General News', *Wellington Independent*, 17 July 1869, p 4.
[1570] 'Notice of Sitting of Native Land Court at Wellington', *Wellington Independent*, 10 July 1869, p 3.

> We say that Ngatiapa were the original possessors of the land in question. That they were completely conquered and reduced to subjection by Ngatitoa and Ngatiraukawa. That they consequently lost their dominion over the land, and that they never regained it. That Ngatitoa abandoned their interest in the conquered country in favor [*sic*] of Ngatiraukawa. That certain hapus of Ngatiraukawa occupied in pursuance of conquest. That if any of the Ngatiapa acquired rights subsequently to the conquest they were merely such individuals as actually occupied, and that they were absorbed into Ngatiraukawa or the occupying hapus.[1571]

The claimants' case, in other words, differed in no wise from their case as it had been presented at the first hearing. Ngāti Raukawa claimed the lands of the Rangitīkei-Manawatū on the basis of conquest and occupation. Any occupation and use of the land by either Ngāti Apa or Rangitāne were done with the express permission of Raukawa – unequivocally, the mana was theirs.

But Travers was not only having to ensure the claimants' case was heard clearly and understood fully; he was also having to contend with the issue of exactly who had a legitimate claim to a share in the Hīmatangi block. On 26 July, he submitted to the Court a list of the 'claimants-in-chief and co-claimants' on whose behalf he was appearing. But, he told the Court, there were 'many other members of the Ngatiraukawa tribe' for whom he was not instructed to appear, but 'whose right to share in the block' was acknowledged by his clients.[1572] Travers then argued against a process that was intended to finalise all claims, regardless of the wishes of the claimants:

> The learned counsel contended that the Governor had exceeded his power under the act in referring to the Court for adjudication all outstanding claims, and that in terms of the first order of reference the Court could only entertain such claims as were actually preferred by the natives themselves. He argued therefore that the Court had now only to deal with the claimants whom he represented, leaving other claimants to any remedy they might choose to adopt.[1573]

The response of the Chief Judge to Travers' proposition was to express the 'earnest hope' that no claims would be held back, as it was 'desirable on every ground that there should ... be a final adjudication'.[1574] Travers insisted that he would only represent his 'immediate clients and those claiming under them', adding that he himself believed that 'the attempt to effect a final settlement of this question would prove abortive'.[1575]

[1571] 'Manawatu Land Dispute', *Wellington Independent*, 12 August 1869, p 2.
[1572] *Wellington Independent*, 27 July 1869, p 2.
[1573] *Wellington Independent*, 27 July 1869, p 2.
[1574] *Wellington Independent*, 27 July 1869, p 2.
[1575] *Wellington Independent*, 27 July 1869, p 2. This sceptical attitude caused the *Wellington Independent* to explode with much indignation: 'To what purpose, we may ask, is the colony being put to this heavy Court expenditure? If at the close of this long, tedious, and expensive investigation, when the present claims have been disposed of, another crop of claimants may appear to demand a fresh Court, and then perhaps another, it is difficult to foresee the end, unless

The question of these further claims was then tied – by the *Wellington Independent*, at least – to that concerning the grant of land the Church had apparently sought from Ngāti Raukawa. There was no doubt, the paper claimed, that it was the work of 'those who advise the natives' that was encouraging possible claimants from eschewing the Court.[1576] 'If left to themselves,' the paper stated, 'all *bona fide* claimants will avail themselves of the present sittings of the Court, and will come in.'[1577] Now it may be recalled that during the first Hīmatangi hearing, Archdeacon Hadfield had conceded that he had entered discussions with Ngāti Raukawa, on behalf of the Bishop, for a grant of land (some 10,000 acres) to be used for a 'native ministry'.[1578] There was some uncertainty, however, as to whether or not it had been intended to pursue the scheme following the death of Nēpia Taratoa – according to the Court minutes, Hadfield had stated that the scheme had been dropped, while according to a newspaper report, he had instead given the impression that the scheme might still go ahead.[1579] In any case, when asked again during the course of the second hearing about this possible grant, Hadfield reportedly said that Ngāti Raukawa had indeed 'promised a grant of ten thousand acres in the disputed block to the Church', that the matter was merely 'in abeyance for the present', and that he still expected that Raukawa would fulfil the promise made.[1580] In light of this, the *Wellington Independent* then speculated as to the relationship between the Archdeacon, the reluctant claimants and the possibility of that grant:

> In justice to the Archdeacon we would add that no one will for a moment doubt his assertion that he has no private or personal interest in the matter of this grant. But the fact of the "promised land" remains, and we are tempted to ask whether it would not have paid the province in the long run, to have bought up this Ngatiraukawa opposition by giving the Church the coveted ten thousand acres?[1581]

Putting it rather more bluntly, the paper was indelicately implying that Hadfield was colluding with the recalcitrant claimants so as to ensure that the Church got its land.[1582]

A week later, however, and it seems the matter had been resolved. 'The attitude assumed by the claimants,' said the *Independent*, 'has changed since we last wrote on the subject, and there now seems a prospect of the adjudication being a final one.'[1583] Travers had, on behalf of his clients, 'agreed to leave with the Court the responsibility of deciding whether the Ngatiraukawa, as a tribe, were

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it be an arbitrary intervention of the Government to extinguish the Native title altogether.' – *Wellington Independent*, 27 July 1869, p 2.

[1576] *Wellington Independent*, 27 July 1869, p 2.

[1577] *Wellington Independent*, 27 July 1869, p 2.

[1578] 'Investigation of the Dissentients' Claims', *Wellington Independent*, 17 March 1868, p 4.

[1579] Ōtaki minute book, 1C, 13 March 1868, p 215; 'Investigation of the Dissentients' Claims', *Wellington Independent*, 17 March 1868, p 4.

[1580] *Wellington Independent*, 27 July 1869, p 2.

[1581] *Wellington Independent*, 27 July 1869, p 2.

[1582] Indelicately, perhaps, but delicately enough that it might avoid being sued for libel.

[1583] *Wellington Independent*, 3 August 1869, p 2.

sufficiently represented' in the case before it.[1584] To this the Chief Judge had then replied as follows:

> [I]nasmuch as the claimants were claiming as members of the Ngatiraukawa tribe, and in virtue of an alleged dominion established by conquest, it would be necessary for the Court to investigate and decide on the national title of the Ngatiraukawa, before it could consider the claims of certain hapus as against other hapus; and that the decision of the Court on this great preliminary question would be binding on every member of the Ngatiraukawa tribe whether present or not. Any hapus of Ngatiraukawa not represented by Mr Travers, and not included in the lists now before the Court, could only be regarded in the light of hostile claimants, and unless they appeared to prosecute their claims, would be for ever after shut out of Court.[1585]

According to the *Independent*, the ruling 'appeared to be satisfactory to the counsel on both sides'.[1586] 'As we understand it,' the paper continued, 'Mr Travers claims now on behalf of the members of certain hapus of Ngatiraukawa tribe, who have improved by actual occupation of the land, the general tribal right established by conquest.'[1587] The paper then summed up the case, as it saw it:

> Apart from the inter-tribal question of Ngatiraukawa *versus* Ngatiapa, the case reduces itself to one of *resident* as against *non-resident* hapus. Then comes the further question – which is simply one of fact – as to who of the former have signed the deed of cession and who have not, and the proportion the one bears to the other. … The separate claims of Akapita and others to certain specific portions of the block have been abandoned, or at any rate no attempt has been made to establish them in evidence; and the Court is asked to decide what hapus of the Ngatiraukawa are entitled to a share in the disputed block and to what extent.[1588]

'By this means,' the paper portentously concluded, 'a very great evil is prevented.'[1589]

7.12.2 The case for the Crown

The case for the claimants was closed on 4 August. The following morning, the Attorney-General opened the case for the Crown in a 'clear and concise speech'.[1590] He began by declaring that 'conclusive evidence' would be produced to the Court demonstrating unequivocally that Ngāti Raukawa had never, in fact, taken the land in conquest, as claimed – indeed, there 'never was a single fight between that tribe and Ngatiapa'.[1591] Quite simply, Ngāti Raukawa had 'never had possession of the land in dispute'.[1592] Having thus begun, the Attorney-General

[1584] *Wellington Independent*, 3 August 1869, p 2.
[1585] *Wellington Independent*, 3 August 1869, p 2.
[1586] *Wellington Independent*, 3 August 1869, p 2.
[1587] *Wellington Independent*, 3 August 1869, p 2.
[1588] *Wellington Independent*, 3 August 1869, p 2.
[1589] *Wellington Independent*, 3 August 1869, p 2.
[1590] *Wellington Independent*, 7 August 1869, p 2.
[1591] *Wellington Independent*, 7 August 1869, p 2.
[1592] *Wellington Independent*, 7 August 1869, p 2.

then set out an alternative history of Ngāti Raukawa's arrival and settlement at Kapiti that could not have been more different from that which was understood by Ngāti Raukawa.

Ngāti Raukawa, the Attorney-General declared, having been defeated by Ngāti Kahungunu and driven back, 'humbled and dispirited', to Maungatautari, and now 'dreading an incursion of the powerful Waikato tribes', had come to Kapiti in 1829 as 'fugitives'.[1593] Here they had placed themselves under the protection of Te Rauparaha and Ngāti Toa. Prior to this, Ngāti Toa and Ngāti Apa had established a 'firm friendship and alliance' which had been 'cemented by the marriage of Rangihaeata with Pikinga, a Ngatiapa woman of high rank'.[1594] And, in consequence of this friendship, neither Ngāti Apa nor Rangitāne had ever been 'disturbed in the possession of their lands north of Manawatū'.[1595] According to Prendergast, the arrival of Ngāti Raukawa did not affect the harmonious relationship existing between Toa and Apa in the slightest.

When conflict did occur, at Haowhenua in 1834, Ngāti Apa fought alongside Ngāti Raukawa, not as a 'tributary tribe', but rather as an 'independent body, under their own chief and general'.[1596] And then, following the fighting, said the Attorney-General, certain 'small parties' of Ngāti Raukawa 'squatted down on the land side by side with the Ngatiapa, cultivating the same ground, living in the same pas, and fishing in the same lagoons'.[1597] On this basis, it was reasonable to concede that 'certain permissive rights of ownership were thus acquired by a section of the Ngatiraukawa'.[1598] But this was no great concession, for the 'rights to share in the land' of this section of Ngāti Raukawa had, he insisted, 'all along been recognised by the Crown'.[1599]

At this juncture, the Attorney-General introduced, inadvertently or otherwise, a note of confusion into his account:

> This location of Ngatiraukawa, to the extent admitted, was with the tacit assent of the Ngatiapa, who, if not of themselves in a position to resist, were backed by the numerous and powerful Wanganui tribes, ever ready for a pretext to make war upon the Ngatiraukawa.[1600]

[1593] *Wellington Independent*, 7 August 1869, p 2.
[1594] *Wellington Independent*, 7 August 1869, p 2.
[1595] *Wellington Independent*, 7 August 1869, p 2.
[1596] *Wellington Independent*, 7 August 1869, p 2. The newspaper report refers to the 'Horowhenua fight', which it says took place in 1835. This is, presumably, a mistaken reference to the battle of Haowhenua (which took place in 1834). It is unclear if the mistake was that of the Court reporter or the Attorney-General.
[1597] *Wellington Independent*, 7 August 1869, p 2.
[1598] *Wellington Independent*, 7 August 1869, p 2.
[1599] *Wellington Independent*, 7 August 1869, p 2.
[1600] *Wellington Independent*, 7 August 1869, p 2.

This is somewhat odd. If Ngāti Apa were 'not of themselves in a position to resist' the Ngāti Raukawa 'fugitives', this would imply they were not quite as 'independent' as the Attorney-General had previously asserted. Tribes that are genuinely independent and capable of asserting their mana over their land do not allow other tribes simply to take, by occupation, that land. Put in another way, if one is not in a position to resist the power or force of another, then one is not in a position to grant assent, whether tacit or otherwise, at least not in those circumstances when force is recognised as a legitimate means of taking possession. So it makes no sense at all to say, as the Attorney-General did, that Ngāti Apa granted possession of the land to Ngāti Raukawa by 'tacit assent', while at the same time conceding that they could not have resisted Raukawa even had they wished to. And if Ngāti Apa were backed by the 'numerous and powerful Wanganui tribes' who were, seemingly, awaiting the least justification for attacking Ngāti Raukawa, why did they not then do so when Ngāti Raukawa occupied Ngāti Apa land?

Still, none of this confusion apparently troubled Prendergast Instead, he continued with his narrative by observing that the fact that Ngāti Apa chiefs had signed the Treaty in 1840 showed that 'at that period the Ngatiapa and Rangitane were in absolute possession of the Rangitīkei-Manawatū block' (with the exception, granted, of the 'small permissive holdings that had been acquired by the Ngatiparewahawaha and other hapus of Ngatiraukawa').[1601] He also drew attention to the leases of the land granted to Pākehā, the negotiations for which, he said, were 'conducted by the Ngatiapa'.[1602] Some of these leases were solely in the name of Ngāti Apa, while 'others were granted by themselves and Ngatiraukawa, acting jointly – while in one or two of them the Rangitane also took part'.[1603]

Having set out the case for the Crown, the Attorney-General then set about trying to diminish the number of potential Ngāti Raukawa claimants. Observing that the 'counsel for the claimants had thrown overboard some 500 or 600 of his party', he remarked that, nonetheless, the 'bulk of the claimants … were residents of Otaki, Ohau, and Waikanae, and belonged to hapus that never acquired rights by occupation over any part of the block in dispute'.[1604] None of these, he suggested, could possibly assert a claim to the land at issue.

With that, the Attorney-General concluded his address and prepared to begin examining his witnesses. Before he could do so, however, the Court made it clear that, on one issue at least, it was satisfied that the Crown had no case to answer:

[1601] *Wellington Independent*, 7 August 1869, p 2.
[1602] *Wellington Independent*, 7 August 1869, p 2.
[1603] *Wellington Independent*, 7 August 1869, p 2.
[1604] *Wellington Independent*, 7 August 1869, p 2.

> The Chief Judge intimated that it would not be necessary to examine the witnesses for the Crown on the alleged subjection of the Ngatiapa to a condition of slavery and dependence, as it appeared to the Court from the evidence before it that the case for the claimants had entirely failed on that point.[1605]

Over the course of the next two weeks, the Attorney-General examined witnesses, beginning with Tāmihana Te Rauparaha, whose evidence was to substantiate the claims he had made in his opening address.[1606] At the conclusion of the Crown's case, the Court withdrew to consider its judgment.

7.12.3 The first judgment

The Court had sat for six weeks to hear the case. It retired for just one hour to make its judgment.[1607] In its judgment, the Court addressed itself in turn to each of the specific issues that had been raised by the claimants:

> 1. Did Ngatiraukawa, prior to the year 1840, by virtue of the conquest of Ngatiapa, by themselves or others through whom they claimed, acquire the dominion over the land in question, or any or what part or parts thereof?
>
> *The Court.* – No.
>
> 2. Did that tribe, or any and what hapus thereof, acquire, subsequent to conquest thereof, by occupation, such a possession over the said land, or any and what part or parts thereof, as would constitute them owners according to Maori custom; and did they, or any and what hapus, retain such possession in January, 1840, over the said land, or any and what part or parts thereof?
>
> *The Court.* – The words "subsequently to conquest thereof" must be erased. Ngatiraukawa, as a tribe, has not acquired, by occupation, any rights over the estate. The three hapus of Raukawa, Ngatikahoro, Ngatiparewahawaha, and Ngatikauwhata have, by occupation, and with the consent of the Ngatiapa, acquired rights which will constitute them owners according to Maori custom. These hapus retained such rights in January, 1840. There is no evidence before the Court which would cause it to limit these rights to any specified piece or pieces of land.
>
> . . . .
>
> 3. Were the rights of Ngatiapa, or any of them, completely extinguished over the said lands so acquired by conquest and occupation, or over any and what part thereof; or did they, in January, 1840, have any ownership according to Native custom over the said land, or any and what part or parts thereof?
>
> *The Court.* – The rights of Ngatiapa were not extinguished, but they were affected in so far as the above three hapus have acquired rights.
>
> 4. Was such ownership of the Ngatiapa hostile to, independent of, or along with, that of the Ngatiraukawa, or any and what hapu or hapus thereof?
>
> *The Court.* – The ownership of the above three hapus was along with that of the Ngatiapa.[1608]

[1605] *Wellington Independent*, 7 August 1869, p 2.
[1606] *Wellington Independent*, 7 August 1869, p 2.
[1607] *Wellington Independent*, 24 August 1869, p 2.

On the question of whether or not Ngāti Apa had acquired any of the land, whether by occupation or otherwise, of the 'said land so acquired by Raukawa', the Court declared it did not require answering.[1609] And, finally, the Court then turned itself to the list of claimants, with a view to determining which of the Ngāti Raukawa might be admitted as having an interest in the land. It 'proceeded,' in the words of the official report, 'to sift the list of claimants before it, to the number of 500, or more, and taking the names seriatim, heard the evidence on both sides, and decided, in each case separately, either to admit or reject the claim'.[1610] When the Court had finished its work, of the more than 500 original claimants, a mere 62 were admitted as having 'any right, title, or interest in the lands'.[1611]

7.12.4 Between judgments

At this juncture, it appears that counsel for the claimants saw fit to object to a flaw he perceived in this process. At least some of the claimants whose claims had just been denied were not present in the Court, and their claims were only 'imperfectly represented by their friends'.[1612] The Court agreed that this was less than ideal, and so an adjournment was granted for a week, with a view to giving 'any of the defeated claimants, who might wish to do so, an opportunity of bringing forward any fresh evidence in support of their respective claims'.[1613] The Agent for the claimants was then asked by the Court to communicate with all potentially interested parties. The Court further expressed the hope that the admitted parties might reach an agreement as to how much land was to be granted to the Ngāti Raukawa hapū.[1614]

As the 'accredited Native Agent', Alex McDonald left immediately for the Rangitīkei to 'put himself in communication with his Native clients'.[1615] The ever-busy Dr Featherston and his able assistant Buller followed suit, with a view to 'coming to some amicable arrangement with the admitted claimants'.[1616] It soon became apparent, however, that the week's adjournment would be insufficient, and so the Court extended it until 25 September.

In the time given them, Featherston and Buller were busy, holding meetings at various places with Ngāti Apa, seeking to determine the extent of land they

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[1608] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 3.
[1609] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 3.
[1610] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 3.
[1611] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 3.
[1612] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 3.
[1613] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, pp 3-4.
[1614] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 4.
[1615] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 4.
[1616] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 4; 'The Manawatu Block', *Daily Southern Cross*, 18 September 1869, p 5.

would be prepared to grant to the non-sellers among the Ngāti Raukawa whom the Court had admitted. At the first meeting, held at Oroua, the assembled Ngāti Apa chiefs proposed that the non-sellers receive 10 acres each. This offer was 'at once' rejected, and Featherston proposed instead an award of 100 acres for each claimant (thereby confirming the expressed view of the *Wanganui Times* that Dr Featherston would 'deal most liberally with the parties concerned').[1617] This proposal was unanimously accepted by those present. The following day a meeting with some of the Ngāti Raukawa claimants was then held at Matahiwi, but it met with less success – the claimants rejected the offer. They would, they declared, 'take nothing except at the hands of the Court'.[1618] At this, Dr Featherston reminded them when the Court would resume sitting and advised them to be present.[1619]

In fact, when the Court did resume, at least one key individual for the claimants was not present: Alexander McDonald.[1620] Nor was any new evidence offered in support of the claims that had been rejected by the Court. It did hear, however, statements from certain Ngāti Raukawa who were in attendance to the 'absolute requirements of the hapus for whom provision was about to be made'.[1621]

After a brief adjournment, Judge Maning returned to deliver an 'elaborate' judgment.[1622]

7.12.5 The second judgment

After briefly recapitulating the basis of the claim before it and the nature of the Crown's rejection of that claim, Maning commenced to give a lengthy rehearsal of the history, as he understood it, of the settlement by the various tribes of the Kāpiti coast. Prior to 1818, he began, Ngāti Apa had held the land in question, according to Māori custom as part of their tribal estate. Around that year, Te Rauparaha and Ngāti Toa had come from Kāwhia, and Ngāti Apa had been driven 'back to the fastnesses of the mountains'; they were 'obliged to retreat before an enemy with firearms'.[1623] There, then followed a 'series of battles,

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[1617] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 4. The view of the *Wanganui Times* was reported in 'The Manawatu Block', *Daily Southern Cross*, 18 September 1869, p 5.
[1618] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 4.
[1619] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 4.
[1620] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 4. It is unclear why McDonald was absent from the Court.
[1621] Robyn Anderson and Keith Pickens, *Rangahaua Whānui – Wellington District*, Waitangi Tribunal, August 1996, p 131.
[1622] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 4.
[1623] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 4. See also 'Rangitīkei-Manawatū Land Claims', *Wellington Independent*, 2 October 1869, p 2 (Supplement).

onslaughts, stratagems, and incidents', at the conclusion of which Te Rauparaha was possessed of 'a large territory to the North and South of Otaki'.[1624]

Thus settled, Te Rauparaha returned to Kāwhia to bring down more of his people to Kapiti, at the same time 'inviting the whole tribe of Ngatiraukawa to come and settle on the territory'.[1625] Having earlier given the impression that he thought Te Rauparaha had complete dominion over the lands he had recently conquered – after all, the former owners had all been 'defeated, killed, or driven off'[1626] – Maning now suggested otherwise, observing that Te Rauparaha had only 'partially conquered' the land.[1627]

In any case, as he was returning to Kāwhia, Te Rauparaha met with chiefs from Ngāti Apa and established amity between the tribes. This was marked by the exchange of prisoners and gifts, and, most particularly, by the marriage of Te Rangihaeata to Pikinga, 'a chieftainess of the Ngatiapa tribe'.[1628] Te Rauparaha spent about a year gathering his people, and then they returned to Kāpiti. It is noteworthy that, at this point of his narrative, Maning now concluded that Te Rauparaha had 'merely overrun' the area – which, presumably, is less compelling even than partially conquering it.[1629]

Ngāti Raukawa, meanwhile, accepted the invitation to come south. Any Ngāti Apa they met with along the way were either killed or taken prisoner, although the number of such victims was few, because the 'prudent but brave war chief of the Ngatiapa had withdrawn the bulk of the tribe into the fastnesses of the country whilst these ruthless invaders passed through'.[1630] Maning suggests that the 'prudent but brave' chief might have attacked Ngāti Raukawa, but for the fact that they were allies of Te Rauparaha, with whom Ngāti Apa had only recently made 'terms of peace and friendship'.[1631] Still, as they went, the Ngāti Raukawa now took a '*pro forma*, or nominal possession' of the Ngāti Apa lands.[1632] Maning explained this subtle distinction as to Raukawa's tenure of the land by stating that their claim would only be good against marauders such as themselves. Against the Ngāti Apa, the claim would have no credence, because Ngāti Apa, 'though weakened, remained still unconquered'.[1633] More significant than this, however, at least in Maning's eyes, was that Te Rauparaha had made peace with them, and thus he had waived any rights he might have claimed to their lands (thereby

[1624] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 4.
[1625] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 4.
[1626] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 4.
[1627] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 4.
[1628] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 4.
[1629] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 5.
[1630] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 5.
[1631] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 5.
[1632] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 5.
[1633] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 5.

ruling out the possibility that Ngāti Raukawa might claim through him).[1634] And so the peace held 'for a long period afterwards', disturbed only by the occasional and regrettable killing of a 'few men of the Ngatiapa' by some Ngāti Toa.[1635]

Lest anyone at this point in Maning's narrative fall under the misapprehension that Ngāti Raukawa's casual killing of individuals from Ngāti Apa could be taken as evidence of Ngāti Apa's 'helpless subjection', Maning here spoke at considerable length as to how 'the state of society (so to call it) was in those days':[1636]

> The Ngatiraukawa parties would, as a mere matter of course, act as they did, without anticipating any reference whatever to the matter by Te Rauparaha, to whom they were bringing what he most wanted, a large accession of physical force, and who would not, therefore, have quarrelled with them at this time for such a small matter as the destruction of a few individuals, no matter who they were, provided they were not of his own particular tribe. It was the pride and pleasure of the Raukawa to hunt and kill all helpless stragglers whom they might fall in with: it was customary under the circumstances, and being able, also, to do it with impunity, they were, according to the morality and policy of those times, quite within rule in doing so.[1637]

But again, in seeking to make sense of his narrative, Maning appears only to confuse things. Ngāti Apa, he wrote, would have accepted this state of affairs as being perfectly just and, indeed, 'they themselves would have done the same if in the same position'.[1638] But what position, we might here ask, is that exactly? Surely it is one of dominion over a subject people? Or, at the very least, one of overwhelming power over a far weaker and helpless people. Yet, Maning refused to even approach this conclusion. On the contrary, he wished to maintain precisely the opposite:

> I have made these remarks, which are applicable to the actions and proceedings of all the different Raukawa parties when on their way South to join Te Rauparaha at Kapiti, for the purpose of showing that no acts of the Ngatiraukawa Tribe previous to the arrival of their whole force at Kapiti, whether by killing or enslaving individuals of the Ngatiapa, or by taking a merely formal possession of their lands, did give them (the Ngatiraukawa) any rights of any kind whatever over the lands of the Ngatiapa Tribe according to any Maori usage or custom.[1639]

Maning's curious narrative then proceeded, detailing the ill-judged attempt to kill Te Rauparaha by Muaūpoko and Rangitāne, the apparent destruction of the latter tribe at Rauparaha's vengeful hands, the arrival in full of Ngāti Raukawa from the north, and the settlement of these people on the Kāpiti coast. Having achieved the object of establishing themselves 'on their allotted lands,' said Maning, Ngāti Raukawa then dispersed:

[1634] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 5.
[1635] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 5.
[1636] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 5.
[1637] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 5.
[1638] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 5.
[1639] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 5.

> [B]ut having at least accomplished this object [*of settlement*], the different sections of the tribe separated, and each section went to, and took possession of, and settled on, that particular portion or district of the conquered country which had been granted or allotted to them by the paramount Chief Rauparaha.[1640]

In the meantime, however, Ngāti Apa had succeeded in arming themselves, 'probably', said Maning, to 'as great an extent as the Ngatiraukawa had been able to do'.[1641] The fact that Te Rauparaha allowed this to occur, Maning went on, demonstrated his intention not to subject Ngāti Apa to his dominion, but to allow them to continue to exercise their mana.[1642] Te Rauparaha – famous for his 'wiles and stratagems' – no doubt did this as a means of putting a check on any possible ambitions of the Ngāti Raukawa, while at the same time using both Apa and Raukawa to create a barrier 'against his far more dangerous enemies in the North'.[1643] That, at least, was Maning's interpretation of this.

As to whether or not Te Rauparaha had granted or allotted any land to Ngāti Raukawa 'within the boundaries of the Ngatiapa possessions, between the rivers Rangitikei and Manawatu or elsewhere', Maning was unequivocal: it had never happened.[1644] It would have made no sense, said Maning, for Rauparaha to have done so, because Ngāti Apa were his allies, and taking land from them in this way would have been 'clearly inconsistent with the relations then subsisting' between the tribes.[1645] In any case, Rauparaha had 'never claimed or exercised the rights of a conqueror' over Ngāti Apa lands.[1646] When Ngāti Apa had sought the shelter of the mountains and the forests, they had done so only 'reluctantly' and for want of guns.[1647] Now that they were armed, there was no question of these 'fierce and sturdy' warriors leaving their land.[1648]

Notwithstanding this state of affairs, certain of the Ngāti Raukawa did make themselves a home on land that had been Ngāti Apa's:

> It is, however, a fact that, soon after the year 1835, we find three distinct hapu of the Ngatiraukawa Tribe settled peaceably and permanently on the Ngatiapa lands, between the Manawatu and Rangitikei Rivers, unopposed by the Ngatiapa, on terms of perfect alliance and friendship with them, claiming rights of ownership over the lands they occupy, and exercising those rights, sometimes independently of the Ngatiapa, and sometimes conjointly with them … [1649]

[1640] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 6.
[1641] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 6.
[1642] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 6.
[1643] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, pp 5-7.
[1644] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 6.
[1645] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 6.
[1646] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 6.
[1647] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 6.
[1648] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 6.
[1649] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 6.

And how was it, Maning asked, that these three hapū came to be located on these lands? It was not, he answered his own question, by conquest or force. Rather, two of the hapū, Ngāti Parewahawaha and Ngāti Kahoro, were 'simply invited to come by the Ngatiapa themselves' (although why they should have done so Maning never explains).[1650] With respect to Ngāti Kauwhata, said Maning, the situation was slightly different:

> The lands allotted to them by Rauparaha were on the South side of the Manawatu River, the lands of the Ngatiapa were on the North, and, to quote the very apt expression of one of the witnesses, "they stretched the grant of Rauparaha, and came over the river;" the facts appearing in reality to have been that they made a quiet intrusion on to the lands of the Ngatiapa, but offering no violence, lest by so doing they should offend Rauparaha. … The Ngatiapa, on their part, for very similar reasons, did not oppose the intrusion, but making a virtue, apparently, of what seemed very like a necessity, they bade the Ngatikauwhata welcome, and soon entered into the same relations of friendship and alliance with them which they had entered into with the other two sections of Raukawa.[1651]

It was, to put it in other terms, a calculated exchange on the part of Ngāti Apa – they would give up some of their lands, and in return they would increase their potential fighting strength. That, at least, was Maning's view.[1652] And so these three hapū of Ngāti Raukawa alone had acquired 'the status and rights of ownership', such rights which 'constitute them owners, according to Maori usage and custom, along with the Ngatiapa Tribe, in the block of land the right to which has been the subject of this investigation'.[1653]

And so the judgment was delivered, and it remained only for the Court to make its order. For the Ngāti Kauwhata, 4.500 acres were set aside; for Ngāti Kahoro and Ngāti Parewahawaha, a much smaller block of 1.000 acres. Two smaller grants were also made: one of 500 acres to Te Kooro Te One and his people, the other of 200 acres to Wiriharai Te Angiangi.[1654] In sum, in other words, Ngāti Raukawa were granted just 6,200 acres.[1655]

7.12.6 A sound judgment?

'The decision of the Court', wrote the *Nelson Examiner*, 'is a most complete vindication of the Manawatu purchase, and establishes the justice and propriety of all Dr. Featherston's proceedings in this matter.'[1656] In this, it echoed the lavish praise given by the *Wellington Independent*. Under the by-line, 'The Estate

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[1650] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 7.
[1651] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 7.
[1652] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 7.
[1653] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 7.
[1654] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 7.
[1655] Anderson and Pickens, *Rangahaua Whānui – Wellington District*, p 137.
[1656] 'The Manawatu Purchase', *Nelson Examiner and New Zealand Chronicle*, 2 October 1869, p 3.

belongs to the Ngatiapa', that paper's editorial could hardly contain its triumphal ecstasy:

> Those were the words of Chief Judge Fenton, and they are, in fact, an epitome of the judgment that was delivered last week. That one sentence contains the most complete answer to all that has been said and written about the Ngatiraukawa "conquest and dominion," and proves conclusively that Dr Featherston purchased the block from the rightful owners. Not only is it a triumphant vindication of the purchase, but it gives the lie to the statements that for several years past have been industriously circulated by the opponents of the purchase. It proves that Williams' pamphlet is a tissue of the veriest trash, and that Archdeacon Hadfield is entirely ignorant of Maori law and custom.[1657]

Still, it is possible to take a quite different view of the judgment, one that sees it not so much as 'elaborate', but rather as muddled, confused, confusing, and, potentially, as one driven by political exigencies, rather than concerns of justice. The Court had found that Ngāti Apa had maintained their mana over the lands in question, it is true, but in order to reach this finding, it appears to have contorted itself at great length.

As noted earlier, Maning's judgment progressively diminishes the extent to which Te Rauparaha and Ngāti Toa conquered and took possession of the lands of the Kāpiti coast quite contrary to Te Rauparaha's own well-known views as expressed throughout the 1840s and early 1850s. At first, Maning described Rauparaha as having 'succeeded in possessing himself of a large territory to the North and South of Otaki'.[1658] The former possessors were either 'defeated, killed, or driven off'.[1659] A little further on in his narrative, and Maning described Te Rauparaha has having only 'partially conquered the land'.[1660] Finally, according to Maning, Te Rauparaha had 'merely overrun' the area, whatever that might have meant exactly.[1661] In the first judgment, the Court had declared that, prior to 1840, Ngāti Apa had not been conquered.[1662] On the basis of Maning's first characterisation of Rauparaha's arrival at Kāpiti, one has the distinct impression that Ngāti Apa had, in fact, been conquered, thus contradicting the conclusion of the first judgment. But by the time Maning is suggesting that Ngāti Toa had merely overrun the area, the first and second judgments appear to be edging closer, if not yet being in complete concord. As it is, Maning insisted that Te Rauparaha had waived any rights he may have claimed to Ngāti Apa lands when he entered into an alliance with them (which, at the same time, implies that Te Rauparaha *could* have claimed rights over Apa land).[1663]

[1657] Editorial, *Wellington Independent*, 4 September 1869, p 4. The official record says that it was Maning who delivered the judgment. The motto, incidentally, of this newspaper, was 'Nothing extenuate; nor set down aught in malice'.
[1658] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 4.
[1659] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 4.
[1660] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 4.
[1661] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 5.
[1662] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 3.
[1663] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 5.

In any case, what of Ngāti Raukawa? Had they not conquered Ngāti Apa themselves as they had migrated south? Maning, it is true, did allow that Raukawa killed or took prisoner any Apa they came across, but most had escaped to the 'fastnesses of the country', led by their 'prudent' chief.[1664] So while they had no power to resist Ngāti Raukawa, they were not, Maning maintained, a conquered people. Any possession Ngāti Raukawa might have taken of the land was, Maning said, merely '*pro forma*, or nominal', or, as he later put it, 'a merely formal possession'.[1665] Maning never explains what he has in mind by calling the possession 'merely formal' or 'nominal'; he simply takes it for granted that it will be understood to mean that it was a form of possession that conveyed no legitimacy or long-term rights or anything in the way of permanent possession on those who claimed it. Yet he perhaps ought not to have taken it for granted, because in terms of Māori customary land tenure, such a notion of 'nominal possession' simply does not exist. It was, truth be told, a convenient fiction.

We then come to the question of Ngāti Raukawa's settlement on the coast and, in particular, the settlement of the three hapū that Maning recognised as having a claim to Ngāti Apa land. In his narrative, Maning states that different sections of Raukawa 'took possession and settled on' different parts of the 'conquered country' that Rauparaha had 'granted or allotted to them'.[1666] How else is this to be understood other than that Te Rauparaha had indeed conquered the land in question, that he then gave some of this land to Ngāti Raukawa, and that they in turn then possessed it, unequivocally? But, of course, it not so simple. Te Rauparaha, said Maning, never granted Raukawa any of Ngāti Apa's land between Rangitīkei and Manawatū, or 'elsewhere'.[1667] That being the case, how was the presence of three Raukawa hapū on Ngāti Apa land to be explained? For Maning, simply enough: two were invited to settle there by Ngāti Apa, while one went beyond the land grant they were given by Te Rauparaha, and Apa, although retaining dominion, allowed them to remain. Why Ngāti Apa should have invited the two Raukawa hapū is never explained by Maning, it is merely stated as fact. And as for Ngāti Apa seemingly being powerless to prevent Ngāti Kauwhata from stretching their grant, this was not the case at all. Rather, they made virtue out of a necessity and 'bade the Ngatikauwhata welcome'.[1668]

It is an altogether unsatisfactory account. It is also one that relies on a degree of ambiguity concerning particular points in time. Had it focused solely on the state of affairs at 1840, it would have been difficult to deny Ngāti Raukawa's dominance. But the advent of Christianity and British law after 1840 altered things. McLean later made this very point at the Kohimarama conference in 1860:

[1664] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 5.
[1665] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 5.
[1666] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 6.
[1667] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 6.
[1668] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 7.

> It was true that Christianity introduced a different state of things. By its influences the conquered were permitted to re-establish themselves on the lands of their ancestors. In the process of time, however, the conquered encroached too far on the formerly recognised rights of the conquerors, occasioning … much bitterness of feeling between the two classes of claimants.[1669]

And some years earlier, McLean had even explicitly recorded that Ngāti Apa had been defeated by Raukawa, observing that 'several of the Ngatiapas inhabiting the country from Rangitikei to Wangaehu escaped the vengeance of the conquerors whilst others were saved by them or taken prisoners'.[1670] It was only the intervention of Christianity that had prevented Apa from being 'entirely subdued'.[1671] And McLean was not the only one to think so. Richmond, too, believed Ngāti Apa had been a conquered people:

> After some years of slaughter and violence, the expelled tribes the Ngatiapa and Rangitane were suffered by the conquerors to return. They came back as slaves, but gradually resumed more and more of equality with the conquerors, intermarried with them and cultivated the land.[1672]

Maning's judgment, in other words, was not only a muddle, but it also portrayed a history that was quite at odds with that which was generally understood.[1673] But it is one thing to note this, it is quite another to explain, conclusively, why this should have been so. Still, one obvious explanation – one which, in the absence of unequivocal evidence, can be an inference only, however obvious – is that the judgment of the Court was driven largely by political exigencies, rather than sound reasoning on the basis of the facts. It would be difficult to overstate the pressure being brought to bear on all those involved – at least, those involved on the side of the colonial government – to have the Manawatu purchase settled. The Wellington Provincial Government, aside from anything else, was in a state of financial crisis.[1674] The importance to the government is also evidenced in the role taken by a leading politician and its principal legal adviser in conducting the case against the claimants. Had the Court found that Ngāti Raukawa had conquered Ngāti Apa and taken possession of their lands, then the legitimacy of the Crown's purchase would have been called into question and, in short, chaos would have ensued. And so the Court ignored the fact the Crown's alleged purchase had been made possible by gaining signatures from individuals of Ngāti Apa, Whanganui, Kahungunu and Ngāti Raukawa, many of whom were non-residents, while it dismissed the claims of over 400 Ngāti Raukawa non-sellers on the grounds that they were not resident at 1840.[1675] It invented a form of land tenure never before

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[1669] 'McLean's Speech at Conference of Native Chiefs', 1860, Turton, *Epitome of Official Documents*, 1883, p 17.
[1670] McLean to Fox, 12 April 1849, NZC 3/10, p 3.
[1671] McLean to Fox, 12 April 1849, NZC 3/10, p 3.
[1672] Richmond, 'Memorandum on the Petition of Parakaia et al. to the Queen', 20 July 1867, MA 13/73B, p 1.
[1673] See Anderson and Pickens, *Rangahaua Whānui – Wellington District*, p 135.
[1674] See Hearn, 'One Past, many histories', p 440.
[1675] Anderson and Pickens, *Rangahaua Whānui – Wellington District*, p 136.

heard of (*'pro forma'* or 'nominal'), the exact nature of which it never explained, and it insisted that Ngāti Apa had never been defeated – neither by Ngāti Toa nor by Ngāti Raukawa – despite giving an account of history which suggested otherwise. It is in light of all these oddities that it becomes difficult to avoid the conclusion that the outcome of the case was a *fait accompli*.

7.13 Native title is extinguished, October 1869

The judgment of the Court, delivered on 25 September 1869, affirmed the validity of Featherston's purchase and an interlocutory order was issued for lands, amounting to 6200 acres, to be granted to those among the non-selling hapu and their leaders deemed to have demonstrated rights in the parent block. This stated:

> It is ordered that a certificate of land shall be issued for the following blocks of land, viz., –
>
> To the Ngatikauwhata people, mentioned in list A annexed hereto 4,500 acres
>
> To the Ngatikahoro and Ngatiparewahawha, mentioned in list C annexed hereto 1,000 acres
>
> To Te Kooro Te One and others, mentioned in list B annexed hereto 500 acres
>
> To Whiriharai Te Angiangi hereto 200 acres
>
> as marked in the survey plan before the Court, all of which blocks shall be inalienable by sale for the period of 21 years from the date of this order: provided that within six months a map of the whole block, on which the position of these blocks shall be accurately represented from actual survey made on the land, shall be delivered to the Chief Judge of the Native Land Court: and provided also that if it shall be proved to the satisfaction of the Chief Judge of the Native Land Court that the survey has been prevented by force, then, in that case, the Court, by virtue of the discretion which is given by "The Native Lands Act, 1865" will dispense with the survey, but on no other account will the survey be dispensed with.[1676]

Immediately afterwards, on 27 September, the Superintendent of Wellington wrote to the General Government, requesting that the Native title might be declared extinguished. In response, the Attorney-General advised that:

> [B]efore the usual notice of extinguishment of Native title was published, the boundaries of the land awarded to those of the claimants who (being non-sellers) had been found by the Court to be entitled, should be ascertained with sufficient accuracy to enable those lands to be defined; because the land over which the Native title was extinguished could not be defined until the parts excepted were defined.'[1677]

Fox minuted that the Superintendent must satisfy the Government that the boundaries of the land – excepted for the persons entitled under the award of the

[1676] 'Memorandum on the Rangitīkei-Manawatū Land Claims', *AJHR*, 1870, Sess 1, A.-25, p 7.
[1677] Cited in 'Report on the Claim of the Province of Wellington in Respect of the Manawatu Reserves', *AJHR*, 1874, H-18, p 5.

Court – had been laid down, and were agreed to by the parties concerned, before the notification could go ahead. Featherston informed the Government that he had 'furnished the Attorney-General with a tracing of the boundary of the lands awarded by the Native Land Court'. The government again consulted with the Attorney General and on 16 October, it was notified that: '[T]he Native title has been extinguished over the block of land whereof the boundaries are described in the schedule hereto, subject, to the exceptions therein specified.'[1678] Each of the four reserves were set out, but this did not include the area awarded to Parakaia Te Pouepa and his co-claimants (under the earlier 1868 judgment), which was legally forfeit because the survey had not been carried out. As discussed in the next chapter, many Maori considered this to be grossly unfair – in effect, a confiscation of land – a view shared by a number of officials and politicians.

7.14 Disbursement of the impounded rents, October1869

The costs that had been incurred by Māori in proving title, win or lose, and more particularly the associated, questionable practices of Alexander McDonald acting supposedly on behalf of the increasingly indebted non-sellers were beginning to bite hard. In the meantime, they still didn't have their rents. There were a number of costs noted in the documentary record. J C Richmond had promised unidentified 'claimants in the Rangitīkei Manawatū case' £50 to assist them in 'procuring legal assistance', intending that this sum be recovered when the arrears of impounded rents were distributed.[1679] In late August, Te Kooro Te One and 'Ngatiraukawa katoa' wrote to Buller, acknowledging Buller's 'kind word' to the custodian of the Native Hostelry so they could eat, one particular night, and asking for £150 so they 'may be able to pay for their own food during the rest of their stay in Wellington to attend the Native Land Court'. Their plight revealed that McDonald had not paid the hostelry bill out of advances given over to him, and Buller requested £200 on their behalf, 'for the use of the Natives now in attendance at the Native Land Court'. This was agreed to as a loan to be repaid out of the rents owed on Rangitīkei Manawatū when they were 'received'. Buller said he had been urged by Kooro Te One to include the non-sellers in the requisition as they had 'received nothing from Mr McDonald out of the advance of £150 that the Government had made to him'.[1680] Other claims came in; notably from Hadfield for £50, which had been promised to him by the government to engage legal services for the claimants. He, too, had seen nothing of the advances to McDonald.[1681] Fox was reluctant to pay, however, arguing that the government would be doing it twice over.[1682]

[1678] Cited in Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, p 5.
[1679] Fox to Cooper, 30 June 1869, MA 13/73b.
[1680] Te Kooro Te One to Te Pure [Buller], 30 August 1869, MA 13.73b; Buller memorandum, 2 September 1869, MA 13/73b; Buller memorandum, 7 February 1870, MA 13/73b.
[1681] Hadfield to Cooper, 2 December 1869, MA 13/73b.
[1682] Cooper to Hadfield, 22 December 1869, MA 13/73b.

At the same time, a schedule of rents owed by various leaseholders and of advances made by Featherston, Buller, and Native Secretary Cooper was prepared so that the impounded rents could be distributed. This showed some £4700 to be owed by nine leaseholders:

- J Daniell owed £649 for his run at Pukenui;
- J Cameron £340 for Pohatatua;
- T U Cook £531 for Kaikokopu;
- Trafford £473 for Mingiroa;
- Swainson £473 for Te Rakehou;
- Francis Robinson £569 for Omarupapako;
- Treewick £792 for Taikoria;
- J Alexander £346 for Makowhai, and
- Jordan and Tagg £528 for Waitohi.[1683]

Far more difficult to determine was how these monies should be divided. A year earlier, Fox had suggested that Nepia Taratoa's allocation should be adopted since he had acted, as Fox put it, 'as a sort of middle man between the two tribes'.[1684] He had suggested that this be undertaken by the Governor to satisfy the demands of Ngati Apa, frustrated by the delays in settling the title. At the time, Fox predicted trouble; that Ngati Apa might otherwise seize the stock of the run holders bringing them into conflict with the 'nonselling Ngatiraukawa' who also claimed 'these rents, or part of them.'[1685] Of concern, too, was that Ngati Apa were arguing that the Provincial Government could not consider itself as owner until the rents had been paid out.[1686] Richmond also thought Taratoa's division could stand for the period up to a decision being made by the arbitration commission, then under consideration, with the Crown keeping any portion for lands sold.[1687]

In effect, Crown officials acknowledged the mana and authority of Nepia Taratoa but this would be overturned in response to Ngāti Apa who wanted 'all the rents', arguing that it was enough for Ngāti Raukawa to have received them in the past,

[1683] See schedule, undated, MA 13/73b.
[1684] Fox to Governor Bowen,, 25 November 1868, MA 13/73b.
[1685] Fox to Governor Bowen,, 25 November 1868, MA 13/73b.
[1686] Fox to Governor Bowen,, 25 November 1868, MA 13/73b.
[1687] Richmond to Haultain, 28 November 1868, MA 13/73b.

along with £10,000 of the purchase money, and a 'piece of land'.[1688] A large meeting took place in October 1869. It was reported that after 'six days of angry wrangling in the Maori runanga' no agreement could be reached between the different parties, and so the matter was left in Featherston's hands by 'unanimous decision' and with the promise to abide by his decision, the three 'Ngatiraukawa hapus stipulating that they be regarded as one hapu'.[1689] The basis on which Featherston came to his assessment is, however, unclear; he reported only that he came to it 'having previously carefully considered the matter'.[1690] There was £4699 due, the bulk (some 54%) of which he determined should go to Ngāti Apa, £2545; £1600 for 'those hapus of Ngatiraukawa who were admitted by the court', some 34%, and £550 for Rangitane.[1691] That latter sum included £300 promised to them by Ngati Apa because they had not received their fair share of the purchase price, This means that Ngati Raukawa received a lesser proportion of the rents than they had of the purchase price and that Ngati Apa were deemed to be entitled to some 60% of the rents that had been impounded. According to Featherston, his decision 'seemed to give general if not universal satisfaction'. The *Wellington Independent* reported that 'the settlement of the question was celebrated by a grand *haka* performance in which nearly all the adult males took part'.[1692] Ngāti Apa, then, had reason to be pleased, while the non-sellers became increasingly desperate. The division between the 'hapus of Ngatiraukawa' and between selling and non-selling parties, and the complications of advances received, required outside arbitration – and Featherston, of course, was the only avenue open. Having first deducted £476.10 for advances, and topping up the amount by £100, to a total of £1700, he awarded £900 to Ngāti Kauwhata and £800 to the other two hapū.[1693] According to his report to Fox, they, too, 'expressed themselves perfectly satisfied with the division.'[1694] Then deductions and adjustments completed, Featherston handed over in cash, £604.10 to Ngati Kauwhata, £610 to Ngati Parewahawaha and Ngati Kahoro, £525 to Rangitane and £751 to Ngati Apa who were to receive the remainder as soon as they had appointed chiefs to receive it.[1695] As the *Wellington Independent* described it: 'Chiefs were appointed by the tribes to receive their respective shares, and when Dr Featherston left the district the various sections of the claimants had retired to their own kaingas to "korero" and squabble over the ultimate distribution of the money.'[1696]

[1688] Ratana Ngahina and others to Fox, 12 October 1869, MA 13/73b.
[1689] Featherston to Fox, 5 November 1869, MA 13/73b.
[1690] Featherston to Fox, 5 November 1869, MA 13/73b.
[1691] Featherston to Fox, 5 November 1869, MA 13/73b; *Wellington Independent*, 28 October 1869, p 2.
[1692] *Wellington Independent*, 28 October 1869, p 2.
[1693] Featherston to Fox, 5 November 1869, MA 13/73b.
[1694] Featherston to Fox, 5 November 1869, MA 13/73b
[1695] Featherston to Fox, 5 November 1869, MA 13/73b
[1696] *Wellington Independent*, 28 October 1869, p 2.

There was money outstanding, however, and the balance of arrears would be paid out in February 1870, but as we discuss in the following chapter, there were ongoing complaints that some owners whose lands were under lease had missed out. In late May 1870, McDonald was asked to account for the monies that had been advanced to him.[1697] This received a rather vague reply, stating that his clients had authorised him to spend the money on their behalf, which he had done to their satisfaction; and that the money had been subsequently refunded to the government.[1698] Further complaint from those owed money and investigation by Native Department officials revealed that £138 was still owed for food and accommodation at the Native Hostelry for twenty-four of the 'non-sellers' while attending the Native Land Court hearing.

7.154 Interruption of survey

The opposition to putting Featherston's purchase into effect and having their rights confined to ;reserves' and the efforts of government officials to get them to accept that the bulk of their land was now gone was detailed by F D Bell, in 1874, in order to assess a claim by the Wellington Provincial Government against the General Government for expenses and losses incurred as a result, entailing as it did, the granting of more reserves in an attempt to settle their dissatisfaction – a dissatisfaction that Featherston maintained was unjustified. We draw on this extensively for the following account.[1699]

Bell's report begins in October 1869. No sooner had the surveyors reached the Rangitīkei-Manawatū block to set out the reserves than they were turned away. A letter dated 18 November 1869 from 'Native dissentients' at Awahuri informed McLean as much: 'We have sent back Stewart, the surveyor…. Because we are not at all clear about the judgment of the Court … on the 25th of September, nor about the proclamation of the Government, which says that the native title has been extinguished,' These proclamations, they were certain, were based on the 'erroneous belief on the part of the Court and the Government, that all the rightful owners… agreed to the purchasing work and the reserve work of Dr Featherston'.[1700] They asked that 'some clear person' be sent to hear their concerns. The letter was signed by Te 'Kooro Te One, Hoani Meihana, Mekeruka Te Aewa, Epiha te Moanakino, Reupene Te One, Taimona Pikauroa, Hakaraia Whakaneke, Te Ara Te Tahora, Takana Te Kawa, Tapa Te Whata, Peeti Te Awe Awe, Kerei Te Panau and Hoeta Kahuhui. A letter from their solicitor, Travers, had accompanied that message, warning 'that they would take all lawful proceedings which they might be advised to take, for the purpose of resisting the adjudication of 25th September'.[1701] Further letters from dissentients 'to the same

[1697] Letter to McDonald, 28 May 1870, MA 13/73b.
[1698] McDonald, Halse (assistant Under-Secretary), 14 June 1870, MA 13/73b.
[1699] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, pp 5-10.
[1700] 'Manawatu,' *Evening Post*, 27 November 1869, p 2.
[1701] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, pp 5-6.

effect' were also received. Wi Hapi for one, wrote in, saying that the proclamation extinguishing native title was an 'act of robbery', because only some of Ngāti Raukawa had agreed to the sale, while the purchase monies had been distributed among Ngāti Kahungunu, Ngāti Ruanui, Whanganui, Ngāti Toa, and Te Ati Awa. 'On which part of Rangitikei,' he asked, 'do these tribes possess an acre?'[1702]

The Wellington Provincialists wanted the block surveyed and on-sold and settled, but the underlying concern for the General Government (and McLean in particular) was the effect that dissatisfaction with, and disturbance arising from, the purchase would have on the attitude of the Kīngitanga and on its support. The fear was two-fold. The limited award of the Court and the failure to set aside proper reserves might push the dispossessed into the arms of the Kīngtianga and upset the occupation patterns of the region. At the same time, the activities of government officers in pushing ahead with survey – and it was reported, enlisting the support of Ngāti Apa – was continuing to threaten the peace of the district and the colony as a whole.

Robert Ward (R.M.) had written to Fox, earlier in October 1869, that he had ascertained that:

> [A]bout 300 able bodied men besides women & children altogether about 600 persons have decided to go away to Tokangamutu Waikato. They intend coming to Rangitikei to grow some potatoes & wheat as food on their journey to Waikato and will leave about the middle of December. The principal chiefs are Wi Hapi, Heremia Te Pihi, Hema Te Puke, Kiharoa, Hakopa Te Mahanariki, Ta Kerei, Ngawaka (Tahaute), Merete Hae and Rawiri Te Koha of Kakariki.[1703]

Rawiri was, however, uncertain as to whether to go, or not, and another meeting would be held. Ward told Fox, 'I believe they will go.'[1704]

In particular, the actions of Featherston and the decision of the Native Land Court had left the hapū based at Te Reureu nowhere to live. This is an important issue that is discussed specifically in the Husbands' report; but we mention it briefly here as an integral part of our overview; and the links these hapū maintained with the Kīngitanga made them of some concern to a government endeavouring to establish and maintain its control. Fox, who had his estate there and knew the local circumstances, was sympathetic when Noa Te Rauhīhī wrote in, requesting 'wahi tapu' reserves. The rangatira was clearly anxious that 'Ngati Pikiahu, Ngati Maniapoto and Te Mateawa' (hapū affiliated to Ngāti Tukorehe) had not been allocated reserves like other tribes. He warned that he was 'not able to hold back Ngawaka, Rawiri and their hapus', who were planning, he said, to go to Waikato

[1702] Wi Hapi to G S Cooper, 21 November 1869, *Nelson Examiner*, 22 December 1869, p 2, cited Hearn, 'One past, many histories', p 479.
[1703] Ward to Fox, 10 October 1869, MS-Papers-0032-0619.
[1704] Ward to Fox, 10 October 1869, MS-Papers-0032-0619.

and Hauraki: 'The reason they are going is their grief on the subject of Rangitikei for they have no abiding place here.' He asked that Onepuehu and Te Reureu should be left for 'us to live upon'[1705]

Fox, to whom the letter had been addressed, thought at first that this should be done, identifying them as long connected with the general 'Ngati Raukawa' heke into the region:

> The natives whose names are mentioned are among the oldest Ngatiraukawa residents in Rangitīkei (living nearly opposite to my place). They have been loyal all through the troubles, & I think a small reserve in the two selections mentioned should meet the case. There are also some other old residents in other parts of the district who ought to be provided for though excluded from ownership by the Court.[1706]

Featherston objected strongly, Ngāwaka, he said, had fought against the government and he accused Alexander McDonald of being behind the letter. Further, he considered it 'highly impolitic to grant any lands to Hapus excluded from the block by the Native Land Court'. He thought Rawiri and his hapū intended to leave the district as they had 'made a present to Governor Hunia of their runanga house'.[1707] Fox changed his mind as a result, and instructed G S Cooper to reply to Te Rauhīhī that the 'word of the Court about that land must be respected'.[1708] Te Rauhīhī was to be reminded that he and Ngawaka had signed the deed 'though the Native Land Court has decided that the land is not theirs'. The chief was warned, too, about the 'evil Pakeha' who was 'lurking about Rangitīkei & not to let him persuade the natives to cause trouble'. He was told that he could go to the Waikato 'if he chooses' or stay in the Rangitīkei but 'the land [was] still with Dr Featherston'.[1709] The matter was, however, to be of increasing concern to McLean as Native Minister.

The intention 'of some of the Ngatiraukawa, who were dissatisfied with the judgment of the Court, to obstruct the survey, and … to break the surveyor's chains and instruments' was tabled on 15 November in the Resident Magistrate's Court by Knocks, a court officer – though with the proviso that 'it was not considered by the leading chiefs to be a "determined opposition"'.[1710] Fox then declared in a carefully worded letter to the dissentients that the Government intended to uphold its final judgment, calling particular attention to the near 50 days that the Native Land Court had spent hearing their claims.

Featherston, blaming all his problems on McDonald, made his views clear in a speech to the Provincial Council on 22 November:

[1705] Te Rauhīhī to Fox, 4 November 1869, MA 13/73b.
[1706] Margin note Te Rauhīhī to Fox, 4 November 1869, MA 13/73b.
[1707] Margin note Te Rauhīhī to Fox, 4 November 1869, MA 13/73b.
[1708] Margin note, Te Rauhīhī to Fox, 4 November 1869, MA 13/73b.
[1709] Margin note, Te Rauhihi to Fox, 4 November 1869, MA 13/73b.
[1710] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, p 6.

> I regret … to inform you that the same parties by whose unprincipled opposition the settlement of this question has been so long delayed and the peace of the province so repeatedly jeopardized, are still persisting in their attempts to excite the Natives to prevent the survey of the land. … Until these parties find themselves liable to the pains and penalties of the Disturbed Districts Act, as I trust they shortly will, it is hopeless to expect them to cease from their vile intrigues.[1711]

He was inclined, however, to wait to hear Buller's impressions rather than rely on information sent to him by the surveyors. He also had announced his departure for England 'for the purpose of arranging sundry grave matters with the Imperial Government'.[1712] Before departing, he made a 'farewell visit' to Parewanui where he praised Ngāti Apa and Whanganui as the two tribes on whom he could 'thoroughly rely'; the preservation of the peace was in large part attributable to the fear of the 'disloyal tribes' had of them.[1713]

Buller's take on the matter came via a telegram dated 27 November. Of the survey team, he thought that 'Stewart … ought not to have left Oroua: it amounted to an admission that he was afraid.' He noted than another surveyor, Carkeek, had wanted to remain. The latter had also provided him with observations on the lie of the land: '[He] says that Peeti and Kerei were drunk the whole of the time.' Nor were all hostile to the survey:

> Tapa was not opposed … but was anxious for Stewart to commence on the Rangitikei side, in order to give time for a reply to the Ngatikauwhata petition asking for a fresh trial. Tapa's wife was very clamorous to have her reserve marked off at once: Hoeta supported her.[1714]

While the opposition was largely 'good-humoured', the ex-constable, Miratana, proved 'the most troublesome, and we threatened, if he did not desist, to bind him hand and foot'. Buller recommended starting on setting out the Ngatiapa reserves and to 'work steadily on'. If necessary, he would stay in the district until the surveys were done: '[T]his duty will therefore take precedence of everything else'. As a precaution, he had sought written instructions from Fox, who had supplied a letter for the people of Oroua, 'telling them distinctly that no fresh trial will be allowed by the Government'.[1715]

Next, Bell points to Knocks' report of 29 November, which noted the emergence of more signs of 'intended resistance' from 'part of the Ngatiraukawa and Rangitane Tribes'. This had been triggered by the dissatisfaction of 'Tapa Te Whata and Peeti Te Aweawe … with the number of acres awarded, and with the

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[1711] Report on the Claim of the Province of Wellington *AJHR*, 1874, H-18, p 6.
[1712] 'Opening the Provincial Council', *Wellington Independent,* 23 November 1869, p 4. Note that he was accompanied on this trip by F D Bell.
[1713] 'Dr Featherston's farewell visit to the West Coast Natives', *Wellington Independent*, 27 November 1869, p 1.
[1714] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, p 6.
[1715] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, p 6.

reserves for them and their people'. Their opposition had the support of Parakaia Te Pouepa, who 'had not received the back rent for the Himatangi'.

The Attorney-General became involved again. He examined the dissentients' claims, 'and clearly pointed out that the question of the reserves was not yet settled'. He declared that Parakaia was not entitled to back rents, but questioned whether it might be prudent to give him the land that had been awarded to him, despite his refusal to take it. He added, 'I believe … that other reserves are to be made as soon as the land is surveyed; possibly, if this were understood, the Natives might be satisfied.' However, those parts of the block 'that have been excepted out of the proclamation of extinguishment of Native title, are not properly called reserves; they are a proportionate part of the land, representing the shares belong [*sic*] to non-sellers'. The creation of reserves 'for the benefit of the Natives have yet to be made; they cannot be made before survey'.[1716]

Matters came to a head. Turned away at Oroua, the survey party had gone on to lay off Hunia's reserves at Pakapakatea and Makowhai; an area to which, so Fox asserted, 'the Ngatiraukawa did not pretend the smallest right'.[1717] A large party of about 100 Ngāti Apa gathered to assist on the ground and according to Buller, were 'prepared for anything', while his instructions had been to 'avoid a collision'.[1718] The government's difficulties lay not just with the non-sellers. Hunia Te Hakeke had been provided with a reserve by the Land Purchase Commissioner, but he now 'demanded 10,000 acres, having previously agreed to 1,000.' Kahau was the next reserve to be dealt with, an area of 500 acres for 'the Ngatiapa Tribe', also designated by the Commissioner. Survey work was underway when the trig station was destroyed by the troublesome Miratana, amongst others. He was arrested, while two of his accomplices 'voluntarily answered to a summons'. On 8 December, he was convicted and directed by Resident Magistrate Buller and two Justices to pay a penalty of £25, 'and in default committed for three months without hard labour'. On the promise of good behaviour, his partners in crime were let off more lightly, with a fine of a shilling each. The survey of Kahau was then concluded with no further opposition. Fox in a minute dated 8 December 1869, noted that, 'Buller has been instructed by telegram to feel his way to a compromise, by offering Miratana a remission of the penalty, if the tribe promise not to offer any further resistance.'[1719]

McLean reacted with alarm to a report in the *Daily Southern Cross* that suggested:

[1716] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, p 6.
[1717] Fox to McLean, 5 November 1869, MS-Papers-0032-0278. Although the letter is dated 5 November, the events described by Fox took place in December and it seems he mistook the month.
[1718] 'The Manawatu survey'*, Evening Post*, 2 December 1869, p 2.
[1719] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, pp 6-7.

> Meantime it has been resolved to carry on the survey of the land, if necessary by force and Mr Buller the Resident Magistrate at Whanganui has proceeded to the Manawatu at the head of 100 armed Ngatiapas. It is not very probable however that fighting will be the result, the party of Natives opposing is much weaker than the other.[1720]

The report drew a stiff rebuke from McLean as jeopardising his negotiations:

> From the progress of the negociations with the Waikatos a few words from them would settle the Manawatu difficulty, not however, if the above course is adopted, which will be regarded as a direct violation of the compact recently entered into with them that fighting should cease.
>
> If the attainment of peace is to be frustrated by proceedings so utterly at variance with the professed non aggressive policy of the Government I cannot until I hear further from Wellington see my way to proceed with the negociations in which I am now engaged.
>
> My only hope is that the above report is unfounded. I cannot conceive that the Government at Wellington would decide upon a course involving fresh hostilities without reference to the Minister who is directly responsible for the conduct of Native affairs.[1721]

Fox hastened to assure McLean that the report that had so alarmed him was an 'invention'. He, like Featherston, saw Alexander McDonald as being behind it all. He explained to McLean that a 'low caste fellow called Meritana, an ex-policeman, and two others' had been caught in the act of pulling up pegs. Buller summonsed them to Whanganui, but according to Fox, they had not appeared, again acting under McDonald's advice, On this, Buller issued warrants for their arrest, and a Pākehā constable was about to be despatched when Fox had arrived in town and decided to take direct charge:

> No resistance was anticipated and but for an accident I don't think there would have been any. I did not think after the law had been openly defied by the contempt of the summons it would be right to prevent the arrest, but feeling the great responsibility, I determined to go down myself, and gave orders that no weapons should be used or any large number of Ngatiapa taken with the constable.[1722]

The resulting fracas had been much exaggerated by the press.

> To make a long story short, just before the constable and Mr Buller got to [the] kainga where Mertiana was, a strong party of Otaki Ngatiraukawas arrived, on their way to a hui at Kakariki, just opposite my house where there is a [runanga house] dedicated to Rawiti and myself some months ago. Matene Te Whiwhi and Parakaia were with them. After explanations, Buller called on Martin to order Meritana to go with the constable, he was going to do it when some of the lowest caste of the lot, pulled off coats and proceeded to rescue him. Ngatiapas came rushing in and a free fight was begun with [?] and sticks. Matene shouted, but old Parakaia rushed in and fought most valorously on our side. Ultimately they gave him up – he was taken away and sent onto Wanganui – on the charge of destroying a trig. station, a special affair under a local act. The whole thing

[1720] *Daily Southern Cross*, 29 Novemner 1869, p 3.
[1721] McLean telegram to Fox or Gisborne, 1 December 1869, qMS-1201.
[1722] Fox to McLean, 5 November 1869, MS-Papers-0032-0278.

> amounted to no more than a police(?) row – and was quite understood as such by the natives.[1723]

Fox then went to a hui at Kakariki, attended solely by 'Ngatiraukawa', which he had called earlier 'to give them a "palaver"' about McLean's visit to Waikato and his own to the Whanganui. He did not anticipate any difficulty arising from Miratana's arrest, claiming, 'I know these natives very well, and I am on excellent terms with the Hau Hau and nonselling part of them.' Fox also recorded that he had been warned away by Wi Hapi because the 'tribe was "pouri"' about the matter, but he had ignored him as an 'interloper' whom he never considered as their 'mouthpiece'. Nonetheless, Wi Hapi managed to delay proceedings, and Fox's letter described continuing challenges to the government's right to undertake the survey, which he attributed to the 'stirrings' of McDonald, fuelled by the alcohol readily available at the meeting:

> I gave them a long account of your visit [?] to Waikato and mine to Wanganui. It was listened to with the greatest interest and [?] "pai". I purposely avoided the land question, but Akipiti te Rewa(?) and old Parakaia got up afterwards and tried to force it on. I gave them both a good "wigging" for their bad taste in doing so at a meeting of "aroha" – and then shook hands all round and came away. Akapiti following me out and begging first my pardon and secondly a shilling to drink, the first of which I gave, and the second refused.[1724]

Both Featherston and Fox continued to advocate MCDonald's arrest under the Disturbed Districts Act and said that such a move would be supported by Parakaia. That chief, however, still wanted the purchase overturned.

While McLean was concerned that relations with the Kīngitanga not be enflamed given the close links with the Waikato, Fox's countervailing view was that to give in to obstruction and delay the survey that the provincial government was so desperate to complete. would only encourage further opposition and undermine the Native Land Court:

> The present position of affairs is this. After what you say about its standing in the way of your negociations with the King party, I cannot have a moment's hesitation in stopping the survey, though I believe after Mertiana's arrest it could with common prudence and care be carried on. The immediate consequence of stopping it will be to encourage [?] the "wakahe" of the opponents and [?] McD. to persuade them that if they only stand up(?) the decision of the Land Court will be set aside whiich he now promises them.
>
> Many of the chiefs and even some of them who have assisted in obstructing the surveys tell us privately that they are only trying it on and that if we persevere, they will give in.
>
> Another difficulty in this. In exact proportion as we conciliate the Raukawas we offend the Ngatiapas who have behaved so well through the peace(?). It is <u>their</u> survey which has been stopped and I shall be afraid to meet them when they know we have given it up. It involves a great difficulty about paying the balance of the rents, which I had told them I would pay as soon as the reserves were surveyed, and I must either pay it at once,

[1723] Fox to McLean, 5 November 1869, MS-Papers-0032-0278.
[1724] Fox to McLean, 5 November 1869, MS-Papers-0032-0278.

> which gives up a great security(?) for getting the surveys done, or have their [?] at not getting it.
>
> To all this you may reply that it is Featherston's own fault for undertaking the surveys. But he was assured by Travis(?) and all parties that the decision of the Court would be accepted as final and that there would be no opposition. The awarded land (to the 3 hapus) was agreed to between him and them, and the surveyors [?] sent up till it was so. So that there really was no reason in anticipating any opposition.
>
> Now they will try to ignore or upset the decision of the Court, which it would be a fatal policy on our part to allow. Old Parakaia said yesterday "Let the land be all given back to these three tribes, Raukawa, Ngatiapa, Rangitane. Let them divide it among them, and give Featherston a very little piece – that will do." This is no doubt what McDonald is encouraging them to believe with ardour(?).
>
> The whole Ngatiraukawa north coast from Otaki to Rangitikei inclusive had after the decision made up their minds to return to Maungatautari and had gone so far as to arrange about the preparation of food etc. I hear that now this has been countermanded by the King, lest it should appear to the Pakeha that they were going to the Bush for fighting. After stopping the surveys I think there will be no chance of their going; but if in your negotiations with the King party, such a solution could be secured it would be a very satisfactory one.[1725]

Given that priority, Fox issued a direction that for now, 'no further attempt be made to forward the "general survey"'. Buller, too, was of the opinion 'that it was useless to proceed with the trig. Survey', and on 6 January 1870, he determined that the surveyors 'should only go on laying out those reserves which were likely to be unopposed'. When asked by the provincial authorities about the reasoning behind this, Buller gave a detailed reply. The survey had been stopped by instructions from Fox, and these were his 'duty to carry out'. He had been ordered 'to proceed cautiously, and to stop the survey and report the moment any fresh opposition was offered'. This he had done. Approval was then granted by Fox 'to proceed with Hunia's block and the other reserves on the Rangitikei River, all of which can be tied to the trig. Survey on the opposite side [of the river], so as to ensure accuracy'. A surveyor, Mitchell, was instructed to begin work immediately on Hunia's reserve, leaving Stewart to continue to lay out the Awahou reserve. 'I think no greater mistake could be made than to remove the surveyors from the block,' pronounced Buller. 'A report has come in that all opposition is to be withdrawn; I only hope it is true.'[1726]

This indeed seemed to be the case, as evidenced by Buller's telegram of 10 January 1870:

[1725] Fox to McLean, 5 November 1869, MS-Papers-0032-0278.
[1726] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, p 7.

> Noa Te Rauhihi reports positively that all opposition to the survey is withdrawn. I infer from this that the reply from the King [who thus seems to have been appealed to by the Natives for orders] is in our favour.[1727]

Isolated 'attempts at obstruction' could now be dealt 'with a firm hand', said Buller, but if any case of 'determined opposition' arose, 'or such resistance as might lead to actual collision', the surveyors were to 'suspend operations'.

It was a short wait, Bell's report explains, as in early January, the Mount Stewart trig station was targeted and destroyed, and there were 'other signs that mischief was brewing'. On 10 January, on receipt of information from Napier, J D Ormond (a Wairarapa based run-holder and close ally to McLean) felt compelled to advise that 'the question of the survey should not be pushed; and that if it were deferred for a time, Mr. McLean might effect a settlement with the dissentients'. His suggestion found favour with the Government, and McLean was urged 'to come soon and try to settle the difficulty'.

By the end of the month, things had quietened down again, allowing the survey to proceed unimpeded and leading Buller again to inform the Government, on 1 February, that 'all opposition on the part of the Natives was for the present at an end', though it 'would take very little to renew it in certain quarters'. He remained of a mind to steer well clear of surveying the Oroua reserve till the work on all the others was complete, for 'any apparent anxiety to hurry it would tend to provoke the hostility which was now latent, and might place us just where we were two months ago'. Bell notes there was a difference of opinion as to who had responsibility for the survey, as Fox's minute of 3 February explains:

> [E]ither Mr. Buller must be allowed to have the control, or the General Government must withdraw altogether from interfering in the matter. Divided responsibility can only end, as it always does, in conflict and confusion. Of course I mean so far as the survey of the Native reserves and trigonometrical [work are concerned]. When these are done, the Provincial Government will be able to do the rest without difficulty.[1728]

The Provincial Government agreed. They were 'equally desirous that Mr. Buller should exercise a general control'. The surveyors had been issued 'strict instructions to obey any orders received from Mr. Buller'.

Another quiet spell followed – yet again to be broken, on 1 April. The surveyors had shifted their camp to a site near Te Reureu Pa, and had driven in two pegs, which 'were immediately pulled up by Hapa and Akewa', who then ordered that the party leave. On 4 April, a meeting was held between 'the officer who was interpreter to the Bench at Marton, and about forty natives'. Speaking on their behalf, Eruini Te Tau spelt out the reasons for their obstruction, announcing also that 'he had brought his dray down to cart over the surveyors' things and tents to the other side of the river', from whence they must not return until another sitting

[1727] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, p 7.
[1728] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, p 7.

of the Court had occurred. There would be no further hearing, responded the interpreter, as the case 'was finally settled'. He explained:

> … that the land was no longer theirs, and now belonged to the Government; that the Native title had been extinguished … ; and that if they removed the tents, it would be at their peril, and he would take the names of any who dared attempt it.[1729]

In the meantime, Noa Te Rauhihi advised caution, and 'strongly recommended them not to stop the survey',[1730] but again Eruini threatened removal of the camp by dray. He would be there every morning unless the surveyors left of their own volition, and 'if any more pegs were put down he would pull them up again'. He would allow the survey to go ahead, however, if the Government gave him 'a certain reserve'; but before consenting to anything, 'he would have some more talk with his people'.[1731]

It was Bell's opinion that although the months of February and March had been free of disturbance, the Government had had 'ample warning' of brewing dissatisfaction 'of a dangerous kind'. A telegram sent by Buller to the Attorney-General on 9 March underlined this. Buller first reminded him of the condition imposed by the Native Land Court on its judgment: that the 'awards to three hapus, amounting in all to 6,200 acres', were subject to a time constraint of six months and that

> if it shall be proved to the satisfaction of the Chief Judge that the survey has been prevented by force, then, in that case, the Court (by virtue of the discretion given by 'The Native Lands Act, 1865,') will dispense with the survey, but on no 'other account will the survey be dispensed.[1732]

Indeed, 'violent opposition of the Natives' had delayed the survey, Buller's telegram continued, 'and there is now no possibility of getting the awards defined on the ground within the time prescribed'. Only two of the awards had been surveyed. Buller anticipated 'further trouble' for the Government '[i]f the judgment of the Court is allowed to lapse for want of survey (as in the Himatangi case)'. Furthermore, 'The Natives will doubtless be advised that they are entitled to a fresh hearing, and will agitate for it.' On the advice of Fox, he was seeking the Attorney-General's guidance on how 'to prevent any further complication'. Would a trip to Auckland be advantageous, with one of the surveyors in attendance, to 'give evidence before the Chief Judge, in order that the interlocutory order may be made final, or the time extended?' The trip had been Judge Maning's suggestion, which Buller had also floated with Fox. If the plan was deemed acceptable, he would telegraph Colonial Secretary Gisborne for his approval.

[1729] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, p 7.
[1730] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, p 7.
[1731] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, p 8.
[1732] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, p 8.

The promised telegraph to Gisborne was sent a few days later, on 17 March. Buller repeated – to a word – his précis of the interlocutory order from the previous telegram, and again predicted 'further complications' should the judgment of the Court lapse. 'This must be avoided', he concluded. He explained he had, at the behest of Fox, consulted the Attorney-General, who had advised him to proceed to Auckland, and 'prove that every reasonable effort has been made'. He would set off the next day, if Gisborne approved of his going. Would the Under Secretary '[a]scertain and reply'.

Gisborne agreed to this step, minuting that, 'the Provincial Government is decidedly of opinion that Mr. Buller's presence at the Native Land Court at Auckland is necessary'. Buller was authorised to make the journey and on 22 March, the Chief Judge made 'an order extending the time for the survey to be completed'.[1733]

Bell observes, however, that there was no apparent attempt 'to afford the dissentient Natives an opportunity of accompanying Mr. Buller to Auckland', nor any indication that the Government 'thought it necessary to wait, as they had decided in January to do, till Mr. McLean should come'. The survey proceeded without difficulties, as a telegram in early April from Buller to Fox attested. Buller again anticipated no future opposition. He then discussed the further survey of the Hīmatangi block, for which he had received government approval. It was the view of his chief surveyor that the trig stations, destroyed by 'the Natives' must be re-erected, as they were essential for the accuracy of 'trigonometrical operations' beyond Hīmatangi itself. The chief surveyor wanted Buller 'to induce Parakaia and Kooro to permit the trig. Survey to proceed', but nothing more than that. Buller would defer to Fox on the matter. There followed in the telegram, Buller's analysis, at some length, of the vexed issue of Parakaia's claim, but he concluded that:

> [W]hile the question is in abeyance, I am unwilling to let the trig. survey proceed on Himatangi. It is, no doubt, important to keep the triangulation right, but far more so to keep right with the body of the Natives in the district. Negotiations with Parakaia in the present attitude of the question would only place me in a false position, without much chance of my succeeding.[1734]

He must, telegraphed Buller, 'solicit further instructions. If I remember aright, the Attorney-General agreed in my view as to Himatangi'. Bell then provides a recap of the Attorney-General's opinion: that although Parakaia had been awarded a piece of Himatangi, the judgment of the Court 'had failed to become effective by reason of his neglect' – neglect that rendered the judgment worthless; and 'although the reasons given by the Court would exclude him from all share', not only at Himatangi but also in the whole block; 'it was a question whether it would not be politic to give him the land that had been awarded to

[1733] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, p 8.
[1734] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, p 9.

him, notwithstanding his refusal to accept it.' We return to this issue in the following chapter.

Despite 'so serious a representation by Mr. Buller', Bell mentions there is no indication that orders were given to halt the survey, which continued unabated. Fresh violence soon erupted, resulting in the destruction of a trig station on the right bank of the Oroua Stream, in early May. This was reported by the district surveyor on 10 May, but neither were the perpetrators identified nor any information about them forthcoming from a pair of 'white men' who were squatting on the block. Another act of violence was quick to follow, as a telegraph, dated 17 May, from Buller to the Colonial Secretary bore witness. On arrival at Te Reureu, surveyors Downes and Ward had discovered 'that Hopa had pulled up seven pegs along two miles of line; he then pulled up in their presence three [more] pegs', before destroying 'pegs for about two miles and a half more'. It was ultimately with Ngāwaka's sanction: he had asked Downes to remove his camp and when this was refused, he had ordered the tents be taken down 'under his personal supervision' and taken across the Rangitīkei. Buller added:

> The Natives concerned in this outrage were declared by the Native Land Court to have no title or interest in the block; and the promise of a reserve made to them by Mr. Fox was conditional on their good behaviour. Ngawaka is brother to Noa Rauhihi, the Assessor. There is less excuse for him, as he actually signed the deed of cession.[1735]

The next day, 18 May, McLean received a letter from Parakaia, in which he acknowledged ordering the removal of the pegs. 'Not one little bit of the Himatangi claim will be given up to the Government,' Parakaia pronounced. The matter should be looked into again, he continued, adding:

> I and all the people wish you to go into the question respecting this land, and then an amicable settlement will be arrived at. Let us do it together. I have said to you at Wellington that if you and I do it, it will be settled properly.[1736]

Also on 18 May, Te Whiti (Wi Hapi) and Ngāwaka wrote to inform the Government of the removal of the survey pegs, Ngawaka also reiterating, 'I told Mr. Fox … not to let the chain be taken across to the south side of the Rangitīkei. I will not allow the chain to be laid down.'

Fox minuted a response on 31 May, noting of Ngāwaka that he was among those whose title had been 'expressly negatived by the decision of Judges Fenton and Maning'; that he had sold land that he had 'pretended to have' to Featherston; that he had indeed signed the deed of cession; and that during the Waikato war, he had been 'in open rebellion'.

Fox's minute then directed the relevant papers to be kept with his 'memorandum for Ministers of this day's date … on the Manawatu surveys', a document to

[1735] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, p 9.
[1736] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, p 9.

which Bell had no access, it being a Cabinet paper. Bell also identifies that it is at this point that the flurry of papers suddenly came to an end, as 'it was then that the Government finally decided to postpone the whole question, and put a stop to the survey, until Mr. McLean should go to the district'.[1737]

As Bell summarised, it would be a considerable time, however, before the arrival of McLean. The delay meant the province suffered through 'the loss of the land revenue which had been expected from opening the block for sale' and Treasury assistance was requested.

7.16 Conclusion

The leadership of the non-sellers among Ngāti Raukawa and Ngāti Kauwhata had long agitated for an investigation of the title of the lands south of the Rangitīkei River, confident that their claims based on conquest, and entrenched by occupation would be upheld, Their experience with the trusted McLean suggested this would be so and this seemed to be confirmed by the Land Court's rejection of a Ngāti Apa, Muaupoko counter-claim to land at Otaki. Their early experience in the Court had been relatively benign and nothing that had happened there, prepared them for the Himatangi hearings; an astute and ruthless Crown counsel, a host of witnesses including government officials and former friends arrayed against them (but no McLean in their support), forty days of evidence and cross-examination, general sarcasm and invective directed against their missionary champions as well as themselves. In the meantime, costs escalated reducing their capacity to weather the aftermath.

This was no usual case, of course. While in theory, Ngāti Apa, Rangitane and Muaupoko were the counter-claimants, in reality it was the Provincial Government, anxious to protect its purchase and calling witnesses to maximise its interests. Parakaia's party thus found themselves faced by a combined force of Crown, traditional tribal rivals and sellers among the Ngāti Raukawa and Ngāti Toa ranks. In this instance, then, the Crown's responsibility for outcome went beyond creating the Native Land Court system; it was directly engaged as a litigant, trying to persuade the Court to make findings detrimental to Ngāti Tūranga and the other non-sellers.

It largely succeeded in doing so. Although the case was about Himatangi, the Court made findings on the wider region, denying any right of Ngāti Raukawa as an iwi and rejecting the argument of conquest which would require, in its view, 'absolute dispossession'. Instead they had been compelled to 'share their

[1737] Report on the Claim of the Province of Wellington, *AJHR*, 1874, H-18, p 9.

territory' and 'acquiesce in joint ownership'. The interests of the three tribal groups were deemed to be equal 'at the time when the negotiations for the cession to the Crown … was entered upon' but the basis for this conclusion is not at all clear; there was no reasoning given in the brief judgment. Importantly, the Court placed emphasis on occupation as the basis of a legitimate title – a difficult matter to prove in a large territory considered by Europeans to be largely 'unoccupied' and likely to confine the rights of 'Ngati Raukawa' to the dissentient hapu actually resident on the block and the rights of those hapu to particular confined sites. All the rest (once the remaining cases were dealt with) was likely to go to the government.

The second hearing dealing with the remaining applications in which the Crown's case was conducted by the Attorney General produced no better result for Ngāti Raukawa, Ngāti Kauwhata and associated hapu. Maning's judgment in the form of an historical narrative can be fairly described as crude and tendentious, falling far short of a considered judicial statement. The 'reasoning' if it can be described as such, rested on the doubtful assertion that Ngāti Toa and Ngāti Apa were in alliance, existing on friendly terms throughout the successive waves of the heke, with the result that Te Rauparaha had 'waived any rights he might have been supposed to claim over their lands.' This undoubtedly would have come as a surprise to the chief if the anger he expressed at Ngāti Apa's sale of the lands north of Rangitikei River is anything to go by, he had been very clear in his discussions with McLean that he considered them to be a ;conquered' people, In Maning's narrative, however, they were a 'brave and sturdy race' and any victories of the 'ruthless Ngati Raukawa invaders' were in the nature of opportunistic slaughtering of imprudent individual 'stragglers' – a matter of little concern to the barbarous Maori. The occupation by the 'invaders' of the territory on which they settled was purely 'nominal' and dependent ultimately on an invitation by Ngati Apa to the three resident parties of Ngati Parewahawaha, Ngati Kahoro and Ngāti Kauwhata. A very limited award was made while hapu who had settled at Te Reureu post-1840 were denied any rights there (even though in the first hearing certainly, the court's judgment seems not to have been based on the state of tenure at that date, but developments that had taken place in the intetim).

Featherston and the Wellington colonists were delighted. The commissioner, arguing that the Native Land Court judgment affirmed his purchase, persuaded the general government to gazette the extinguishment of native title before boundaries and reserves were properly defined and while many still opposed the sale. Survey was interrupted immediately. Dissatisfaction with the court's judgment and how it had been reached continued to be keenly felt, though the

focus was now on the very limited nature of the award to non-sellers within the general rubric of 'Ngāti Raukawa', and on getting these expanded and then protected in law. As we discuss in the following chapter, however, the pressure of settlement after a premature gazetting of Featherston's purchase and the debts incurred in trying to defend their rights in court undermined their capacity to hold onto the limited gains they would be able to achieve as the Crown sought to settle their grievances and dampen an opposition that was drawing in sellers and non-sellers alike.

There was a third blow inflicted upon Ngāti Raukawa and Ngāti Kauwhata in this crucial period by the procedure adopted and awards made at Maungatautari and Waikato where they had been unable to attend the hearings in numbers because of the Himatangi case and where their arguments of having retained ahi kaa rights were rejected by a court that placed emphasis on take raupatu. They had left people on the ground, had visited, had not been driven away, they argued, nor had they been exterminated; yet, in this case, the Court decided that they had been 'conquered' and had lost all rights at Puahue, Pukekura and the Maungatautari. They were being told by Ngati Apa to go back to their former homelands, but the court's decision was that they now had no other home to which go; The apparent injustice and inconsistency of this different reasoning aggrieved Ngāti Raukawa and Ngāti Kauwhata and would continue to simmer throughout the following decades,

CHAPTER 8

GRIEVANCES ARISING FROM THE RANGITĪKEI-MANAWATŪ PURCHASE AND THE STRUGGLE FOR JUSTICE

8.1 Introduction

The Rangitīkei-Manawatū purchase continued to cause great dissatisfaction among 'non-sellers' and 'sellers' alike. In this chapter, we look at the problems that still remained even though native title had been proclaimed to have been extinguished. Throughout the 1870s and into the 1880s there was continuing protest, either directly in the form of obstruction of survey, or through letters and petitions. We discuss the increasing reliance of Maori on agents, whose services proved essential in gaining some redress but whose own interests were not always to the benefit of their clients; and the Crown's vacillating and tardy response as provincial and general government continued to fight over who should take responsibility and pay for setting matters right.

Our discussion focuses largely on the 'non-sellers' because the grievances of those who had signed the deed centred more exclusively on the issue of reserves – which is the subject of a separate report. That distinction cannot be rigidly maintained, however. The portion of the Himatangi block awarded to Parakaia Te Pouepa and his co-claimants of Ngāti Tūranga, Ngāti Rākau, and Ngāti Te Au, which had been taken into the provincial government's demesne because of their failure to comply with the court's survey requirements, would be handed back to them with restrictions on alienation in the title. Extra lands would also be set aside to augment the paltry allocations that had been made by the Native Land Court for the non-signatories among Ngāti Kauwhata, Ngāti Parewahawaha, and Ngāti Kahoro. There were also Ngāti Maniapoto, Ngāti Rangatahi, and Ngāti Whakatere, who had been living inland on the south bank of the Rangitīkei River, but not considered to have any rights by the Native Land Court. Their associations with the Kīngitanga and the possibility that they might abandon their peaceful stance or return to their 'former' homes were issues that McLean saw as making it imperative to give them a place to live in the district under Crown grant.

The distinction between seller and non-seller became less meaningful as time passed. There was a shared sense among all the hapu of disillusionment with the government, in general, and increasingly, with McLean as well. All groups had to deal with the Crown's failure to carry through on promises, frustration at the delays in getting a useable title, and deepening dissatisfaction with the Native

Land Court's application of rules regarding customary title and the different treatment of Maori and Pākehā.

These negotiations and petitions further highlighted the core shortcomings of the conduct of the initial purchase, which had, in effect, incrementally dispossessed a number of hapu by a process in which they had not consented, except for the necessity to protect what they could of their land and resources and, it may be, enjoy some of the 'benefits' forced upon them; namely, the advantages of a 'legal' court-recognised title that they could utilise commercially. There were mounting debts and still further delays in the fulfilment of promises, which left them vulnerable as settlement proceeded apace. Ultimately, both sellers and non-sellers found themselves in possession of a confined area under a title that was alien to them and subject to the same difficulties of individualisation and debt.

An important context resulting in government pressure on hapu, especially those based at Oroua, was the on-sale of land in the Rangitikei-Manawatu block before disputes had been fully resolved. We note, in particular, the on-sale of the heavily-timbered 'Manchester block' to the Emigrant and Colonists' Aid Corporation. That block centred on the Oroua valley, comprising 106,000 acres lying between the Manawatu and Rangitikei Rivers and was 'surrounded by native reserves at intervals'.[1738] The corporation had been established to assist unemployed working men and farm labourers in England. The corporation sent its representative, Colonel Feilding, to the colonies with a view to selecting a suitable site for an experiment in assisted emigration on a 'large scale'. Meeting a lukewarm response in Australia he came onto Wellington where he met Fitzherbert who 'offered to place every facility in his way for the acquisition of a suitable block of land.'[1739] The Upper Manawatu was inspected and the purchase negotiated in Decmber1871 at 15 s per acre, or three times what the Provincial Government had paid for it.[1740] This was to be paid in instalments in consideration of the Corporation's agreement to bring out 2,000 immigrants within the next five years, while the General Government undertook to pay for their passage. [1741]

The first settlers would arrive in 1874 and a year later there were 1,000 persons living on the block.[1742] A 'travelling contributor' described the block in March 1874 and the survey activity underway as the road line was cut, and sections and, eventually, the Three towns – Feilding, Ashhurst and Halcombe – - laid out. He approached the block via Awahuri 'the home of the Ngatikawatua', the 'famous Maori-man', McDonald, and the surveyor, Drummond. Both men were reported to have 'leased considerable tracts of land from the tribe'; in the case of

[1738] 'Rural notes' m *Wanganui Herald*, 6 March 1874, p 2.
[1739] 'Rural notes' m *Wanganui Herald*, 5 March 1874, p 2.
[1740] G C Petersen, *Palmerston North. A Centennial History*, Wellington, 1973, p 195.
[1741] Rural notes' m *Wanganui Herald*, 6 March 1874, p 2; Knight, *Ravaged Beauty; an environmental history of the Manawatu*, 2014, p 79.
[1742] 'Feilding', *Wanganui Herald*, 21 August 1875, p 2.

Drummond, some 500 acres for £25 per annum. He also commented on the number of Maori 'idling about the public house' run by Schultze at Awahuri. He came next to the prosperous homestead of Messrs Whisker and Hughey who had arrived in the area some eight years earlier and had 'remained … all through the troublous times on the West Coast unmolested by the natives.' At Feilding there was a general store run by the Corporation, Settlers were arriving, house building underway and at the western boundary there were 'surveyor's lines and pegs all over the country.'[1743]

8.2 McLean's Intervention and the Meetings of Late 1870

The land known as Oroua comprised two blocks:, Aorangi and Taonui Ahuaturanga. The latter block was created as a result of an agreement reached between Ngāti Kauwhata and McLean during a series of meetings that McLean held in late 1870 in an effort to resolve the impasse concerning the Rangitīkei-Manawatū Block. During the course of these meetings, the profound dissatisfaction felt by all Ngāti Kauwhata with respect to the Rangitīkei-Manawatū purchase was expressed in precise, unambiguous terms.

In late October 1870, McLean informed Governor Bowen that he would be leaving the following week for the 'Manawatū and the West Coast'.[1744] Beyond this notice, he had given no real indication, it seems, of how he intended to resolve the impasse.[1745] Certainly, at least in the mind of the former Provincial Secretary, Halcombe, no one had anticipated that McLean would make the reserves that he did.[1746] He had, however, when speaking privately to the Provincial Secretary, 'expressed his belief that the purchase made through Mr. Buller was not fully completed', and had further stated 'as his impression that Dr. Featherston, in making the purchase, had been misled'.[1747]

McLean's first meeting took place on 10 November 1870, when he met with Ngāti Raukawa at Manawatū.[1748] McLean received a cordial enough welcome, being told several times that, in the words of Ihakara, 'We the Ngatiraukawa are few but we keep to what was settled by the old men.'[1749] But it was also made clear to him that Raukawa were a tribe that had suffered:

> Welcome, come and see the representatives of those who are dead. Come and see the land which you settled long ago. Come and see your children. Come and see the name only of Ngatiraukawa. You said long ago "My friends I shall return by and bye to see

[1743] 'Rural notes' m *Wanganui Herald*, 5 March 1874, p 2.
[1744] McLean to Bowen, 26 October 1870, MS-Papers-0032-0302.
[1745] Evidence of A Follett Halcombe, *AJHR*, 1874, Sess I, H.-18, p 19.
[1746] Evidence of A Follett Halcombe, *AJHR*, 1874, Sess I, H.-18, p 19.
[1747] Evidence of A Follett Halcombe, *AJHR*, 1874, Sess I, H.-18, p 19.
[1748] Notes of Meeting, Manawatū, 10 November 1870, MA 13/72a.
[1749] Notes of Meeting, Manawatū, 10 November 1870, MA 13/72a.

> you". It is true you have come, but Hukiki is gone and the rest. Come and see the orphans of Ngatiraukawa.[1750]

When he, in turn, spoke, McLean did so at length, although he began by observing, 'I have nothing to say to you Ngatiraukawa.'[1751] In fact, he had a great deal to say, including the following observation:

> Although the old men are dead you should have regard to their words. I said to you long ago: "Give up the other side of Rangitikei and hold on to this". Some of you are holding because you have probably been told to do so by evil advisers. Look at Waikato they were advised to "be strong", to "be brave", what has the strength or the bravery led to but the loss of their lands. That is all I have to say to you. Salutations Ngatiraukawa.[1752]

Following this rather extraordinary speech, Hāre Tauteka spoke. 'You have spoken correctly,' he addressed McLean, 'about the maoris losing their land through their own folly and presumption.'[1753] And yet, he continued, 'I wish to say to you that I am annoyed with my friends for acting without me', for the 'sale of a portion of Taupo in the absence of fifty of us at Whanganui'.[1754] Then he continued:

> Never mind that can be settled, I am not going to cause confusion about it. I will act quietly and it can be settled quietly. But I repeat that all the people should have been there. … I am annoyed with Poihipi and his party only. I will talk to them when I return. I hear that there is still a portion of the purchase money unpaid.[1755]

'Yes,' McLean responded, 'there is.'[1756] Then Kīngi Te Herekiekie spoke. He, too, spoke of his anger at the sale. 'I am annoyed with Te Poihipi and Hohepa,' he said, 'because the land they have dealt with is a sacred place'.[1757] To this, McLean replied, 'Hare and Kingi, you should go to Taupo and settle with Te Poihipi'.[1758] But the speakers for Ngāti Raukawa were not yet done with their expressions of frustration. Henare Te Herekau spoke next:

> You said formerly that the other side of Manawatu should be retained and this side sold. You said so at the time of the sale. We have not forgotten it, perhaps you may have heard that there is a man coming here to ruffle my hair against my will. Of course that report disturbed me. Perhaps a man may come with the intention of clipping my hair but I will not consent to it. We heard you say at this very place without our asking it. Let the other side of Manawatu be for Raukawa and let this be sold.[1759]

Several others spoke, and then Moroati, who had spoken previously, again voiced his thoughts:

[1750] Takerei Te Nawe, Notes of Meeting, Manawatū, 10 November 1870, MA 13/72a.
[1751] McLean, Notes of Meeting, Manawatū, 10 November 1870, MA 13/72a.
[1752] McLean, Notes of Meeting, Manawatū, 10 November 1870, MA 13/72a.
[1753] Hāre Tauteka, Notes of Meeting, Manawatū, 10 November 1870, MA 1 13/72a.
[1754] Hāre Tauteka, Notes of Meeting, Manawatū, 10 November 1870, MA 13/72a.
[1755] Hāre Tauteka, Notes of Meeting, Manawatū, 10 November 1870, MA 13/72a.
[1756] McLean, Notes of Meeting, Manawatū, 10 November 1870, MA 13/72a.
[1757] Kīngi Te Herekiekie, Notes of Meeting, Manawatū, 10 November 1870, MA 13/72a.
[1758] McLean, Notes of Meeting, Manawatū, 10 November 1870, MA 13/72a.
[1759] Hēnare Te Herekau, McLean, Notes of Meeting, Manawatū, 10 November 1870, MA 13/72a.

> … when Rangitikei was bought you told Raukawa to give up that land and cross the river, they did so, and after that, the new Commissioner came and did not act in accordance therewith. I want you to settle the boundaries of our Reserves of the little pieces for us. This is about Taupo. If Te Huka is the land that has been sold, I tell you that the name of one of my children is in it.[1760]

Karanama followed Moroati, and he, too, made reference to the 'new Commissioner':

> Mr McLean asked me to come with him because the Ngatiraukawa settled with him about the boundary. Since that [*sic*] a new Commissioner came and the words of you and Raukawa were trampled on.[1761]

Quite simply, the line that Raukawa were advancing was that while they had kept their side of the agreement, Featherston, the Commissioner, had not kept the government's commitment.[1762] As Hearn notes, assuming the record of the meeting is accurate, then McLean at no time attempted to refute what Raukawa were saying with such persistence regarding Featherston's having violated the 'boundary'.[1763]

And the people of the district were not yet done. Pitihira of Ngāti Te Au then spoke directly of Himatangi:

> I speak of it [Himatangi] to our favourite, Mr McLean. I say that I was in occupation of that land. I was not clear about that land passing into the hands of the European. Had I myself offered it for sale, well and good, but as another interfered I was vexed. I wonder now whether you have this Himatangi or whether I have.[1764]

After Pitihira, the meeting continued on a little longer before being brought to a close, with nothing being determined one way or the other. Four days later, McLean met first with Ngāti Apa at Parewanui, and then later that same day with Ngāti Raukawa and Ngāti Kauwhata at Bulls.[1765] At the latter meeting, Te Kooro Te One spoke first and asked McLean that more time be set aside so that the issues they confronted could be discussed at greater length. He suggested they meet again at Awahuri in two or three days' time. McLean agreed to this and after a brief word from Aperahama Te Huruhuru, the meeting closed.[1766] In the interim, it appears McLean then met with the 'Rangitane sellers', although no date or place is given in the record.[1767]

[1760] Moroati, Notes of Meeting, Manawatū, 10 November 1870, MA 13/72a.
[1761] Karanama, Notes of Meeting, Manawatū, 10 November 1870, MA 13/72a.
[1762] Hearn, 'One past, many histories', p 504.
[1763] Hearn, 'One past, many histories', p 504.
[1764] Pitihira, Notes of Meeting, Manawatū, 10 November 1870, MA 13/72a.
[1765] Notes of Meeting, Parewanui, 14 November 1872, MA 13/72a; Notes of Meeting, Bulls, 14 November 1870, MA 13/72a.
[1766] Notes of Meeting, Bulls, 14 November 1870, MA 13/72a.
[1767] Meeting with 'Rangitane Sellers', MA 13/72a.

The meeting requested by Te Kooro followed, at Oroua, on 18 November. The meeting was large and involved many of those who had participated in the Rangitīkei-Manawatū transaction. Although hosted by Ngāti Kauwhata, representatives from Ngāti Apa, Rangitāne and Ngāti Raukawa were present.[1768] After the initial speeches of welcome, McLean gave a short response, drawing to their attention the fact that 'he had not much time at his disposal, and could not delay long'.[1769] Nēpia Taratoa then spoke:

> Welcome the head of the law, and see Ngatiraukawa who are living under the law. … Dr Featherston wanted Ngatiraukawa to act outside of the law, but the Ngatiraukawa would not. Featherston did the wrong, but now that you my parent have come you see that Ngatiraukawa are still under the law, come and save the people who are still under the law.[1770]

After some rather poetical words from Mātene Te Whiwhi, Te Kooro addressed all those assembled in rather more prosaic terms: 'The sellers,' he said, 'are to speak first, the nonsellers afterwards.'[1771] The first to speak, then, was Hoani Meihana Te Rangiotu, but his words suggested a more complicated and complex picture than Te Kooro had implied:

> Te Kooro has said that there are two parties here, I speak of the affliction of the tribes: on this block here at Oroua are the Ngatikauwhata and Rangitane; on other parts of the block there are others, there are sellers and nonsellers among all. Formerly you were the Commissioner who dealt with the lands, and you settled the blocks of North Rangitikei, Te Ahuaturanga and Awahou, there never were any subsequent difficulties; all those blocks are now in the hands of the Queen, everything was satisfactorily arranged. Then you left this part, and went away to another place; at the same time you knew of the disputes on this side, there were disputes between the Native occupants, and Dr Featherston came from Wellington and saw the pas &c.; then he asked for the land to be given into his hands, then Ngatiapa gave it into his hands, then nine of the Ngatiraukawa were appointed and they laid it before them. They did not give up altogether to him. They said this land is given to you but have eyes and ears; when you see the lightning and hear the thunder then it will be finished. These nine were only commencing the matter, we thought it would be settled, as you settled the other adjacent blocks.[1772]

So all had been well enough under McLean, but then the disputes among the iwi had begun, and Dr Featherston had arrived to settle manners after his own idea of what was right, but this, Hoani Meihana suggested, was not an idea of right shared by everyone:

> Then he [Featherston] went to Manawatu and held a meeting, some were willing to sell and some objected to the sale and he saw that. After that he told me, that this block had been settled, I said, "It is not": he said, "the money is to be paid shortly", within the week the money was paid to shut the mouths of the non-sellers, but they are open yet.

[1768] Hearn, 'One past, many histories', p 50.
[1769] McLean, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1770] Nēpia Taratoa, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1771] Te Kooro Te One, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1772] Hoani Meihana, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.

> Ngatiraukawa said that they would go to law, Featherston said they could not; for a long time, this block remained unsettled.[1773]

And now McLean had returned, Hoani Meihana said, he wished to repudiate the sale: 'This block is still unsettled and all are alike in affliction, both sellers and nonsellers.'[1774]

Then Nēpia Taratoa again rose to speak, echoing those words:

> I am one of the sellers, I was deceived into parting with my land. I was an objector to the sale but I was deceived and became a seller. Rauparaha and Hoeata [*sic*] are dead, the Ngatiraukawa remained and you dealt with them, and settled them properly. Now Sir, I am dead, my selling the land killed me, had I been well treated by my parent Featherston it would have been well, but as it is I am broken to pieces. … we the people who sold the land, as well as those who did not sell, are in affliction.[1775]

And, again, as with Hoani Meihana, Nēpia Taratoa turned his ire fully on Featherston:

> We thought that Featherston would act as you did, I now tell you that I am at enmity with my friend (Featherston); I have sought you to ask you to relieve me this day because I was humbugged by a promise of a reserve, but I only got 50 acres – how can I now say that the sale was a good one?[1776]

The next speaker, Te Peeti Te Aweawe, repeated these sentiments.[1777] Tapa Te Whata, for his part, attributed the confusion to Featherston's having 'come here himself to make a fifth hapu to the land marked off'; in other words, instead of allowing the people to divide the land among themselves as the Court had instructed, Featherston had imposed his own division: 'that was the reason why the dispute still exists, had it been done as the Court ordered, the dispute would before this have ceased to exist'.[1778] He concluded, 'Te Peeti and Hoani Meihana say truly that all sellers and non-sellers are alike in affliction.'[1779] Kerei Panau also pointed to Featherston's involvement in the division of the land: 'Featherston stepped in,' he said, 'and gave a crumb to this one and a ¼ acre to that.'[1780] Speaker after speaker then followed, all with the same account of Featherston's involvement (and that of his willing assistant, Buller) and the chaos that followed hard upon it. Featherston had pressured and cajoled the tribes into selling, then he had come 'in a mad way to mark off reserves', and now all was confusion.[1781] Some, even, found themselves all but landless: 'After it was sold,' said Aperahama, 'I wondered where I was to have some of the land, and what

[1773] Hoani Meihana, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1774] Hoani Meihana, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1775] Nēpia Taratoa, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1776] Nēpia Taratoa, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1777] Te Peeti, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1778] Tapa Te Whata, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1779] Tapa Te Whata, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1780] Kerei Panau, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1781] Areta, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.

have I got? 100 acres!'[1782] Several, too, expressed great anger at Featherston's repeatedly having told them that the title to the block would never be investigated by the Court.[1783] And, it was clear there was a sense that trust placed in the representatives of the law had been betrayed by the nature of the Rangitīkei-Turakina purchase: 'At the purchase of North Rangitīkei,' Hakaraia Pouri said, 'you called all the tribes to meet at Te Awahou you said, "leave this side of Rangitīkei, but let me have the other side".'[1784]

When the numerous speakers were done, McLean rose to his feet. 'I have heard what you have to say, we have been four days talking,' he began.[1785] Then, he said, he wished for delegates to be appointed, for this appeared to him 'to be the best course to pursue', as the matter could not be resolved at such a meeting as was then taking place.[1786] But, he continued, he would say this: 'I am not going to interfere with the past or with what has been concluded by the Court.'[1787] His sole wish, he said, was to 'effect such a settlement' as would prevent any future disturbances.[1788] Finally, he counselled them all to settle their differences amicably and without recourse to weapons, relying instead on the Court and himself to bring matters to a peaceful resolution (although, in truth, these statements were aimed, most particularly, at Kāwāna Hūnia and Te Keepa Rangihiwinui).

McLean may have thought he had ended the meeting at this point, but Te Kooro Te One immediately disabused him of that misunderstanding:

> The people have not given you all their grievances, and they cannot now arrange for a deputation. You have not remained so long as we expected, the old women and all were to speak.[1789]

With those words spoken, Erina Kooro stood:

> Welcome Mr McLean, welcome to me in my wrong and your own, come in our evil, do not think that I have given up Rangitikei … The Europeans only listened to the chiefs and not to the common people. … Ten doctors have treated Rangitikei and it is not well, yet perhaps you have the medicine or perhaps not. Hearken, I uphold the boundary of my land, of the three hapus of Kauwhata, Ngatiapa and Rangitane, I am still holding on to these lands, I have nothing to say beyond that I stick to my boundary.[1790]

[1782] Aperahama, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1783] See, for example, Kereama Paoe and Takana's Brother, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1784] Hakaraia Pouri, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1785] McLean, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1786] McLean, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1787] McLean, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1788] McLean, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1789] Te Kooro Te One, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1790] Erina Kooro, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.

Te Ara, a non-seller, spoke next, and again it was Featherston who was the focus of ire:

> If I had heard a word of the Superintendent's that was right, I would have agreed with it, I don't wish widows and orphans to suffer. The sellers say they are chiefs. I say they are beggars, because we whom they looked upon as common persons have got 4,500 acres, and they are begging for a few.[1791]

It was also clear, by this point, that some were frustrated at McLean's apparent wish to bring the meeting to a close and limit the number of those with whom he would discuss their concerns. Erina Kooro again stood, this time saying, 'As for what you say about delegates, you were called here, to hear what all, old and young had to say.'[1792] And then Harenga spoke: 'You were invited to see the old women and men, you have seen but not heard them, you must not go today because you have not heard all.'[1793] And then Reupena Te One said simply, 'Mr McLean wants to go, so I have nothing to say.'[1794] And several others then spoke, until finally Nēpia Taratoa interposed, declaring, '… we cannot keep Mr McLean any longer'.[1795] Still others insisted on speaking, and then McLean responded:

> I have come here, to this place, after being invited by Kooro's letter to do so. I also had letters from Mr McDonald. You have chosen to say that I have come about Himatangi, I did not, I may have to consider that, but if you talk about driving people off, I can have having nothing to say to you. Hunia asked me to consider the case of Ngawaka, who ought to have some land, and said that there would be no trouble there. This will receive attention. But if you, Henare and Parakaia, are going to act in an obstructive obstinate manner, you cannot expect to get any thing by doing so. Teachers like you should not threaten or talk of delaying this question in order to get some distant authority or person to settle it, it is much your own fault that a settlement is prolonged, Parakaia has damaged his own case, and the less he interferes with other people's affairs the better for them.[1796]

And so the meeting ended. The next meeting took place at Bulls, on 22 November. At this meeting, McLean was asked by the sellers to create for them further reserves. 'I ask you now for more,' said Tapa Te Whata straightforwardly, 'there are others to follow me.'[1797] And so they did, emphasising their lack of land: 'There is no land for any of us now, only the word of the court.'[1798] Nēpia Taratoa, for his part, asked that their land 'be surveyed so that the Superintendent may get no more than the value of his money'.[1799] Featherston, in other words, had claimed far more than he had paid for, including cultivations:

[1791] Te Ara, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1792] Erina Kooro, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1793] Harenga, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1794] Reupena Te One, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1795] Nēpia Taratoa, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1796] McLean, Notes of Meeting, Oroua, 18 November 1870, MA 13/72a.
[1797] Te Whata, Notes of Meeting, Bulls, 22 November 1870, MA 13/72a.
[1798] Maraka, Notes of Meeting, Bulls, 22 November 1870, MA 13/72a.
[1799] Nēpia Taratoa, Notes of Meeting, Bulls, 22 November 1870, MA 13/72a.

> I ask that reserves should be made. I consider they should be our cultivations at Ohinepuhiawe and Matahiwi, Maramaihoea, all those cultivations, gone to the Government, we got nothing outside of the door of the house.[1800]

McLean began, in response, by suggesting that Nēpia had 'spoken to damage your case'; and that '… Taratoa speaks very foolishly about resurveying'.[1801] Then, after making reference to some of the other speeches, he then returned to Nēpia Taratoa's words, that had clearly riled him: '… If Taratoa had not made such a foolish speech, but however it does not matter as he is only talking the thoughts of some other man'.[1802] McLean's irritation was not enough, however, to prevent further speakers from yet again criticising Featherston. Te Ahitana's words, in fact, summarise the grievances of many of those who had earlier spoken, both at Bulls and previously:

> I asked Mr Buller for land and he said the 'old man' [Featherson] would arrange it. I applied without success. I afterwards wrote to Featherston, after the last Court at Wellington. Featherston came and said that all the investigations were over. We applied again to Dr Featherston but did not get a satisfactory answer.[1803]

Hareta had similar words for McLean: 'I asked Mr Buller for land to be given back to me,' she told him, 'and he said "yes old woman, yes, give it all to your 'old man' and he will give part back to you."'[1804] Then she added, 'I now say that Featherston has destroyed a lot of us and you should be as liberal to us as you appear to be to other sellers.'[1805] Other speakers then followed, again and again demanding that they be given adequate reserves, repeatedly decrying the manner in which Featherston had gone about his business. Some, such as Erina, even suggested duplicity:

> Featherston bought the land thievishly; he gave money to tribes who had no claim over the land; "Kahuhunu" [*sic*] had no right, Ngatirawa, Ngatihau, and all the tribes whom Featherston fed with money had no title, the hapus living on the block were only three, Kauwhata, Ngatitauira and Rangitane, these are the real owners of the land.[1806]

McLean, in response, was blunt:

> I wish to tell you (three hapus), the non-sellers, that I came to see you in accordance with your request, to make some arrangement. If this had been a new negotiation for the sale of land, your speeches would have been right, but this is near the conclusion of the affair, I will carefully consider your propositions and see you the nonsellers alone. The sellers I have nothing to do with. I requested you at Awahuri to send delegates to meet me but you have all come, tonight or tomorrow some decision must be arrived at.[1807]

[1800] Hēre Rēweti, Notes of Meeting, Bulls, 22 November 1870, MA 13/72a.
[1801] McLean, Notes of Meeting, Bulls, 22 November 1870, MA 13/72a.
[1802] McLean, Notes of Meeting, Bulls, 22 November 1870, MA 13/72a.
[1803] Te Ahitana, Notes of Meeting, Bulls, 22 November 1870, MA 13/72a.
[1804] Hareta, Notes of Meeting, Bulls, 22 November 1870, MA 13/72a.
[1805] Hareta, Notes of Meeting, Bulls, 22 November 1870, MA 13/72a.
[1806] Erina, Notes of Meeting, Bulls, 22 November 1870, MA 13/72a.
[1807] McLean, Notes of Meeting, Bulls, 22 November 1870, MA 13/72a.

And so the meetings continued on until November ended and December began. On 23 November, McLean met again with Ngāti Kauwhata, and after Alexander McDonald told him that the non-sellers wished to have land awarded to them proportionate to the number of sellers (that is, about 12,000 acres), in addition to the award of the Court, McLean responded at length:

> I agree to that but perhaps it will take too long, if it is carried out, the land will have to be taken everywhere, good and bad alike; not only where the good land is, that won't do; I think that we want a settlement, and I am sure you, Kooro, do also; some persons are very impatient but that will only lead to loss; you have carried this affair on quietly, I have always heard that the Ngatikauwhata have acted in a temperate manner, some persons having no land are impertinent, their tongue is their only property. If you want your land all to be good, the number of acres will be fewer, if not, then you will have to take good and bad alike.[1808]

Following McLean's statement, speaker after speaker then stood to assert their particular claims, the precise number of acres each wished reserved, the particular eel fishing places, and so on. There could have been no doubt in McLean's mind that any settlement of the impasse would require the creation of further reserves. And, indeed, under the heading, 'Rangitikei-Manawatu Block, 21st Novr. 1870', a file note, presumably by McLean, makes this point explicit:

> Under these circumstances the only course open to the Government is to make such reasonable additional reservations as will satisfy the natives and if this is done promptly I think the question can be settled by giving up, in different places to the respective tribes, about 10 or 12,000 acres. I believe it would be quite delusive to expect that any other course will lead to a conclusive termination of this question; at any rate, I believe this will be the only peaceable solution that can be suggested.[1809]

Still, having conceded this point, the file note then goes on to exculpate Featherston of any wrong-doing – indeed, he is portrayed as demonstrating Solomonic wisdom – laying the blame, instead, at the feet of Ngāti Raukawa and Ngāti Apa:

> In connection with the purchase the fact should not be overlooked that nothing short of the general extinguishment of the native title to the whole of the block would have sufficed to prevent the periodical threatening of hostilities between the Ngatiapa and Ngatiraukawa tribes with reference to the title. It was during one of these periods when both parties were arming for the strife that Dr Featherston interposed and suggested the idea to the contending parties that they should cede the land to the Government as a means of averting strife and preserving the peace of the district. The Ngatiapa were the first to agree and the others in course of time followed.[1810]

So Featherston was to be lauded for preserving the peace in the past, and reserves were to be granted to maintain that peace into the future. As it happens, it seems, that as early as 24 November, McLean had concluded that, provided the

[1808] McLean, Notes of Meeting, [location not specified], 23 November 1870, MA 13/72a.
[1809] File Note, 'Rangitīkei-Manawatū Block, 21st Novr. 1870', MA 13/72a.
[1810] File Note, 'Rangitīkei-Manawatū Block, 21st Novr. 1870', MA 13/72a.

additional reserves were made, all would be well. On that date, he sent the following telegram, which was then published in the press:

> You will be glad to hear that the main difficulties of the Manawatu question have been removed. The Ngatikauwhata non-sellers and their agent, Mr A. McDonald, signed a deed yesterday relinquishing all further claim and opposition, on having certain land adjoining [the] award of the court made over to them. The extent given in this particular instance has been 1,500 acres. Other reserves of considerable extent have been made in different parts of the block; no settlement would be effected without doing so. To-day I intend to complete arrangements with the rest of the non-sellers, and settle other details. … The question has been a most difficult one, but I have endeavoured to make the best arrangements I could to secure the future peaceable occupation of the district by both races.[1811]

McLean said much the same thing in a letter to the Governor in early December. The Manawatū dispute, he said, had been the 'most complicated and difficult of any out standing question', but it would not give 'any more anxiety or trouble'.[1812] He then continued, 'At present I am engaged with the chiefs of this district and although they have not much to complain of their grievances whether real or imaginary require attention.'[1813]

It was not, however, merely the grievances of Ngāti Kauwhata with which McLean had to contend. He might, perhaps, have expected Featherston to show at least a little gratitude for his having settled the matter while so completely absolving Featherston of any malfeasance, but Featherston and the Provincial Council were not of a mind to be gracious. On receiving word of what McLean (and the general government) had arranged, the Provincial Secretary responded:

> Received your telegram. Extent of concessions is alarming until we know the character of the country given up. Chief Surveyor believes that the alteration of the northern boundary a few miles to the southward gives the great bulk of the land ceded. Is this the case? And does the settlement include the Himatangi dispute: I wish to have more particulars before communicating your telegram to the Council, which sits to-day at 3 p.m.[1814]

Fox was clearly annoyed:

> I do not understand what you mean by 'the extent of concessions being alarming.' The province will get ten-elevenths of the district after all reserves by the Court, Dr. Featherston, and Mr. McLean. I consider the settlement as a most favourable one, and if the Provincial Government is not satisfied it does not deserve to have an acre. The northern boundary is not altered.[1815]

[1811] McLean, Marton, 24 November 1870, quoted in *AJHR*, 1874, Sess I, H.-18, p 10.
[1812] McLean to Bowen, 3 December 1870, MS-Papers-0032-0169.
[1813] McLean to Bowen, 3 December 1870, MS-Papers-0032-0169.
[1814] Cited in 'Report on the Claim of Wellington in respect of the Manawatu Reserves', *AJHR* 1874, H.-18, p 11.
[1815] Cited in 'Report on the Claim of Wellington in respect of the Manawatu Reserves', *AJHR* 1874, H.-18, p 11.

Three days later, he pointed out that it was not a bad result for the province and an important one for the country as a whole. While the Province would get 'ten-elevenths of the district', the success of McLean's negotiations was also of 'vital consequence' to Wellington and the whole colony, 'as it obviates all risk of future disturbances, and will entirely detach the Cook Strait Natives from the King party'.[1816] Settlement could now proceed.

The Provincial Council noted Fox's pronouncement but took no action, waiting for the return of Featherston still in pursuit of a loan in England. In the meantime, McLean left the district, instructing one of the department's officers, H T Kemp, as to the reserves he intended to be put aside. Certain 'large cultivations' were to be 'secured to the Natives in the places they had occupied along the banks of the river', but they were to be told that 'while the Government would make sufficient provision for their actual wants, they were not to expect any lands, not being cultivated, extending back from the first range of hills'. He was to follow McLean's principles, namely:

> … to avoid any re-opening of the past affecting either purchase, title, or decisions of the Native Land Court, and to confine himself to such arrangements as would lead to the peaceable occupation of the district by giving additional reserves to the Natives where he had found it absolutely necessary to do so.[1817]

Finally, if any difficulty arose, Kemp was to provide adjustments.[1818]

The need for a correction resulted in an addition of some 4000 acres to McLean's arrangements at Te Reu Reu for the hapu who had been left out of the award by the Native Land Court. This matter is discussed more fully in the reserves report but briefly stated, McLean had already acknowledged that something would need to be done, but the assumption was that most had sold. He directed Kemp to set aside no more than 3000 acres.[1819] Kemp contended, however, that the arguments put forward by resident non-sellers were 'both cogent and reasonable'.[1820]

Featherston took the opportunity to fully set out his dissatisfaction, sending McLean the following telegram:

> I find that you have given away to sellers, non-sellers, and parties excluded by the Native Land Court, some 12,000 acres of the Manawatu. Kemp, by whose authority nobody knows, has since given away another 4,000 acres. Part of the land thus given away is swamp, sandy, and not of much value, but by far the greatest portion is the choicest and most valuable land in the whole block. I deny the right of the Government thus to deal

[1816] Cited in 'Report on the Claim of Wellington in respect of the Manawatu Reserves', *AJHR* 1874, H.-18, p 11.
[1817] Cited in 'Report on the Claim of Wellington in respect of the Manawatu Reserves', *AJHR* 1874, H.-18, p 12.
[1818] Cited in 'Report on the Claim of Wellington in respect of the Manawatu Reserves', *AJHR* 1874, H.-18, p 12.
[1819] McLean to Kemp, 2 January 1871, MA 13/72a.
[1820] Cited in Hearn, 'One past, many histories', p 522.

> with the provincial estate. I have claimed, on behalf of the province, payment for the whole of this land at the upset price of £1 per acre, and that the expense of the survey of these 16,000, and of yours and Kemp's mission, should not be charged provincially. The Cabinet, consisting of Fox, Gisborne, and Sewell, yesterday refused to admit this claim, or any claim whatever. I do not know whether they have consulted you and Bell, but it is a matter of deep regret to me that I shall be obliged, under these circumstances, to record my protest, as Superintendent, against the Manawatu arrangement.[1821]

McLean now found it necessary to defend his own actions, and he did so fulsomely in a response to Featherston's complaint:

> To effect any arrangement of the Manawatu question which would lead to the peaceable occupation of this district by Europeans, it was absolutely necessary that additional reserves should be made for the Natives. With the exception of 1,800 acres adjoining the award of the Native Land Court at Oroua, the greater portion of the reserve made by me is composed of sand-hills, swamp, and broken bush. I have written to Mr Kemp for an explanation of his reasons for increasing the extent of land which was deemed sufficient for the tribes living opposite to Mr Fox's, and I hope soon to get his report. … I had no conception when I undertook the duty that the question was surrounded by so many difficulties – not the least among them being an attempt o the part of a considerable section of the sellers to repudiate the sale altogether. The non-sellers whose claims were reconsidered by the Court, computed the area to which they were entitled at 19,000 acres, besides which they sought compensation for the losses and expenditure of time in vindicating their titles. These claims were all reduced to the lowest extent which the Natives would accept. Under these and many other adverse circumstances, and taking into consideration how troublesome and expensive the delay in settling these disputes had been to the interests of Wellington, I did my utmost on behalf of the province and colony to bring about as reasonable an adjustment of these interminable questions as could possibly be effected, consistently with a peaceable occupation of the district by European settlers. The question might have been left in abeyance, but then it would have proved a source of lingering irritation and annoyance, which at any moment might eventuate in a rupture with the Natives. I feel certain that were you on the spot, and cognizant of the increasing obstacles in the way of a settlement, you would support the only adjustment by which the evil consequences mentioned above could have been averted. I therefore feel surprised and disappointed that you propose to protest against the action taken in the matter, as interfering with the provincial estates, especially as the Government did not move till subjected to considerable pressure from the people of the province. It was quite obvious that the provincial interest in the Manawatu-Rangitikei Block was valueless until the Native difficulty was removed. Previous expenses connected with this duty were defrayed by the province, and I do not now see the justice of charging differently the surveys and subsequent expenditure connected with the settlement of the question.[1822]

Featherston was by no means placated and, arguing that since the General Government had expanded the reserves to keep the peace of the colony the

[1821] Featherston to McLean, 9 February 1871, cited in 'Report on the Claim of Wellington in respect of the Manawatu Reserves', *AJHR*, 1874, H.-18, p. 14.
[1822] Mclean to Featherston, 15 February 1871, cited in 'Report on the Claim of Wellington in respect of the Manawatu Reserves', *AJHR*, 1874, H.-18, pp 14-15.

liability fell on it not the province, made an unsuccessful claim for £15,300, including £14,300 as payment for the additional reserves.[1823]

The awards (at 1872) are set out below.

Table 8.1; Reserves created by Featherston, McLean and Kemp

By whom Awarded	Contents (acres)
The Hon. the Native Minister	14,379 ½
Dr Featherston	3,361
The Native Lands Court	6,226
Total	**23,966 ½**

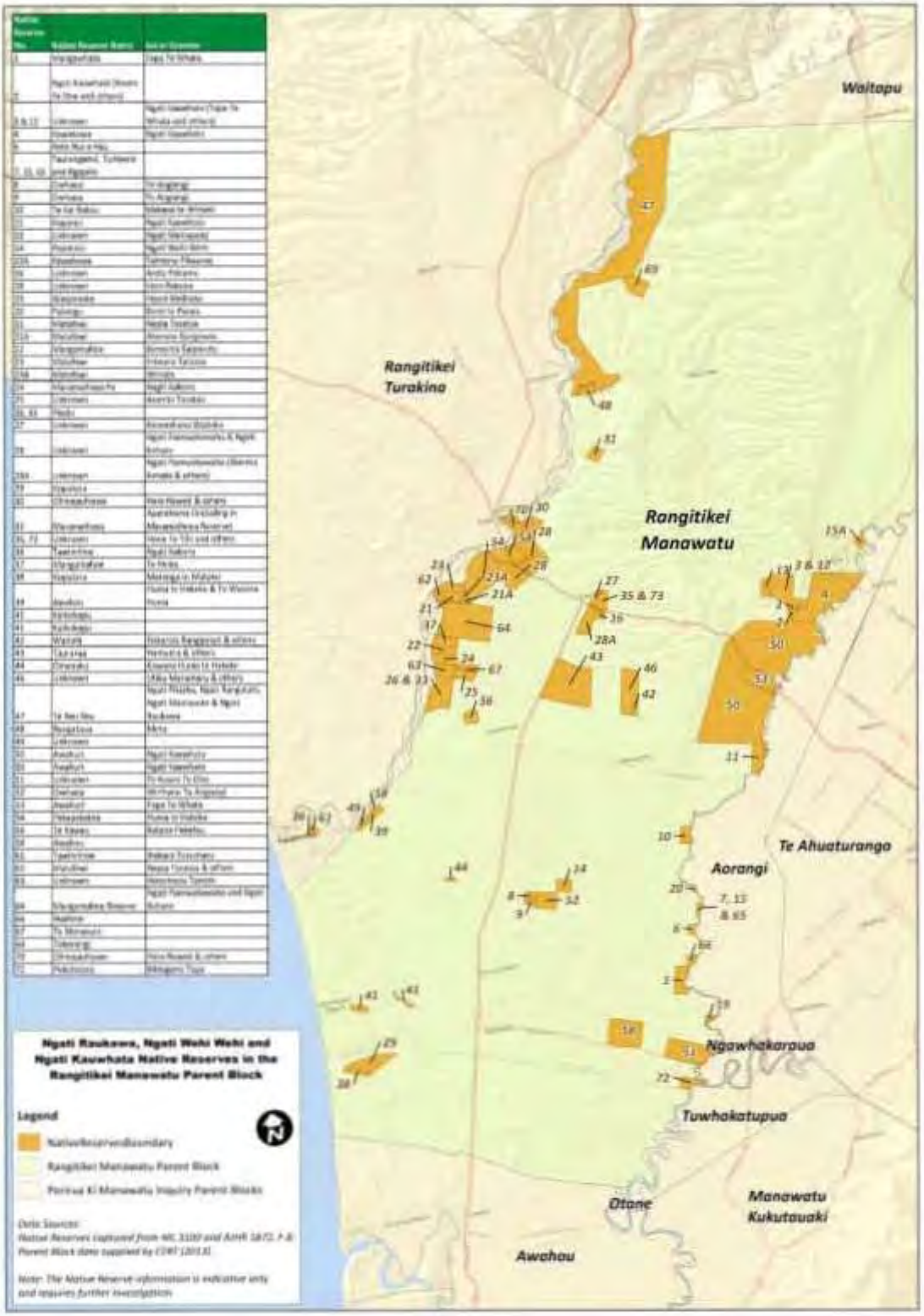
Source: MA 13/75a

Table 8.2; Reserves created for different hapu/iwi

Hapū	Number of Reserves	Aggregate area: acres
Ngāti Kauwhata sellers	4	700
Ngāti Kauwhata non-sellers	11	2,170
Ngāti Kahoro and Ngāti Parewahawaha	14	2,581
Ngāti Pikiahu, Ngāti Rangatahi, Ngāti Maniapoto, Ngāti Raukawa	1	4,400
Rangitāne	4	1,650
Ngāti Apa	11	1,960

Source: MA 13/75a

[1823] Cited in 'Report on the Claim of Wellington in respect of the Manawatu Reserves', *AJH*R, 1874, H.-18, p 15; Featherston to Gisborne, 14 March 1871, *AJHR*, 1872, G.-30, p 9. For discussion of the claim see Hearn, 'One past, many histories', pp 522-525, 538-540.


Waitapu
Rangitikei Turakina
Rangitikei Manawatu
Te Ahuaturanga
Aorangi
Ngawhakarua
Tuwhakatupua
Otane
Manawatu Kukutauaki
Awahou
Ngati Raukawa, Ngati Wehi Wehi and Ngati Kauwhata Native Reserves in the Rangitikei Manawatu Parent Block
Legend
Native Reserve/Boundary
Rangitikei Manawatu Parent Block
Porirua Ki Manawatu Inquiry Parent Blocks

8.3 Increasing Maori impatience

Maori soon came to the conclusion that Featherston and the Provincial Government had overturned the arrangements they had negotiated with McLean and the Native Department. Alexander McDonald, who had been involved in the Oroua-based opposition to Featherston's 'purchase', the obstruction of survey of boundaries and reserves on contested ground, and the negotiation with McLean, continued to advocate on their behalf. In July 1871, he wrote to McLean as 'Agent for the Native Claimants'. McDonald described his clients as belonging to that class of Maori who had not agreed to sell their interests in Rangitīkei-Manawatū and who had had their claim recognised by the Court, but who were dissatisfied with the quantity and position of the shares of land awarded to them. McDonald sought the return of 11,500 acres, a figure that he had arrived at by taking the area of the parent block at 240,000 acres, deducting 30,000 acres for Himatangi and the sandhills – which were dealt with as a separate matter (discussed below) – and dividing the balance by the number of owners (650) recognised by the Native Land Court. That gave an average of 323 acres per person; there had been 63 non-sellers, representing a total of 20,349 acres. Then deductions were made for the existing government provision (6200 acres by the Native Land Court and the 2550 acres of 'reserve' awarded by McLean and Kemp). This left an 11,500-acre shortfall, not all of which his clients sought or expected to receive; but 'any proportion that McLean might consider fair and reasonable'.[1824] He also asked that they receive some allowance in their share of costs in the long and expensive proceedings forced upon them by the actions of Featherston as Land Purchase Commissioner; a plea that would be repeated in the context of the further expenses they were obliged to meet in gaining redress.

McDonald argued that they had accepted a more limited award than that to which their numbers entitled them, 'in the interests of peace and with a view to assist in making provision for the large number of residents whose claims having been disallowed had no other means of living'. They now wanted a speedy completion of 'arrangements' so they could utilise what they had been left with.[1825]

The clear hostility of powerful politicians, notably Fox and Featherston; the subsequent delays in giving effect to McLean's promises, more especially verbal ones; and frustration at the impediments to gaining the economic benefits that were supposed to compensate them for a much reduced tribal estate resulted in a sense – a 'narrative', to use Hearn's term – of betrayal, described by the latter as 'almost palpable'.[1826] It was clearly deeply felt as hapū came to realise that many Crown promises – even those of men personally known and trusted – were mutable, easily forgotten, and liable to reinterpretation, or that they required further considerable effort and expense on their part to realise.

[1824] McDonald to McLean, 24 July 1871, MA 13/72a.
[1825] McDonald to McLean, 24 July 1871, MA 13/72a.
[1826] Hearn, 'One past, many histories', p 545.

A large hui was held at Matahiwi on the Rangitīkei River in mid-September, which Clarke from the Native Office attended. Its purpose was to hear a report from McDonald, who had been in Wellington trying to get progress on the post-purchase agreements. He informed the gathering that he had told McLean that they were in 'the greatest distress and perplexity' caused by 'the delay in completing the arrangements' made in December of the preceding year. He had explained that several matters had been left unsettled by Kemp, and then, those arrangements had been repudiated by both Fox and Featherston, leaving them in doubt as to whether they would be carried into effect. McLean had admitted the fact of Featherston's opposition but had assured him that a new superintendent in office meant that 'probably the whole matter could be arranged satisfactorily'. Subsequently, an appointment to meet with the superintendent had been cancelled and after waiting five weeks in vain for a definite reply, he had come away from Wellington without 'any clear assurance of Mr McLean's power to carry his arrangements into effect', or even that he admitted his earlier promises at all.[1827] He told the gathering that the only clear result of McLean's earlier negotiations was that while the Government had profited by his arrangements to the extent of £11,000 for land sold to settlers, 'the natives had got nothing but promises upon which they could not realise a single shilling.'[1828]

The gathering then entered into a nine-hour discussion reviewing what had happened to their lands at Manawatū. According to the report in the *Evening Post*, four points were unanimously agreed upon:

> 1st. That when the non-sellers, whose title had been admitted by the Court, demanded their full share of the general estate, Mr. McLean had replied, "If you persist in that demand, you will put it out of my power to make provision for (Atawhai) your tribe;" that Miritana answered, "What tribe? My tribe lying in the Rangitīkei River?" And Mr. McLean replied, "Yes!" Then Miritana said, "My tribe to the South?" And Mr. McLean again answered, "Yes!' Then Miritana said, "Good! I am content to be food for my tribe. If you make provision for (Atawhai) my tribe who have been slain (disallowed) by the Court, I am content to have nothing, though I, having been admitted by the Court, am entitled by your law to my full proportionate share of the general estate."
>
> 2nd. That while the previous injustice to the natives was admitted generally by Mr. McLean, he had called upon them to agree to a final settlement according to the proverb "Ko maru kai atu ko maru kai mai, ka ngohe ngohe," without entering into the special merits of the case, or into the injustice or otherwise of the previous proceedings.
>
> 3rd. That Ngatiraukawa had been too credulous and sanguine in trusting so completely to verbal promises, and in comparing, as they had done, the previous proceedings and the visit of Mr. Mclean to the first and last notes of the Pipi Wharauroa[1829].
>
> 4th. That whether Mr. McLean had intended to deceive them, which was contrary to all their past experience of him, or whether he was unable to fulfil his promises, the effect

[1827] *Evening Post*, 30 September 1871, p 2.
[1828] *Evening Post*, 30 September 1871, p 2.
[1829] The first and last calls of the shining cuckoo; the spring call giving hope, or the last signalling departure and the coming of winter. Interpretation provided by Piripi Walker.

> upon them (the natives) was the same, viz: they were being starved by the delay and uncertainty, while the Government were enjoying the fruits of his promised settlement.[1830]

After another day of discussion a number of resolutions were also adopted, again unanimously, for Clarke to take back to the Government; that:

- the survey and settlement of the block had to be stopped 'at all hazards' until McLean's arrangements were put in place;
- the government be asked to do this voluntarily;
- any attempt to arrest them for obstruction would be resisted but they must obey any summons to attend a competent court; and
- these resolutions be conveyed not only to the government but to all persons intending to settle on the block.[1831]

Two weeks later, when no response had been received, a second meeting was called at Oroua, at which it was resolved to prevent the transfer of their land into settler ownership. The time had come to stop the surveys until the promises made to them had been fulfilled. A fine line had to be walked between defence of their rights and compliance to the law; the goal by this stage was not to stop settlement but ensure that they participated in the benefits. In the view of the first speaker – described as a Ngāti Kauwhata chief but unnamed – before any step was taken, it would be 'expedient' to come to agreement with Rāwiri who, 'with a small party of Ngatimaniapoto', had obstructed the survey of the railway at Kākāriki. That action was not endorsed: 'The railway merely went across the land alike of Maoris and Europeans … No single person or hapu had a right to stop a road which was required by all the tribe, but was for the benefit of all.' What was proposed, now, was a different matter: preventing the government from taking native land for settlement before it had honoured its promises. Until this was done, it was not the property of the Crown:

> The Government had purchased the individual interests of some of the native owners, and in November last, Mr McLean had made an arrangement by which a proportion of the general estate was allotted, as the share of those owners whose title had been admitted by the Court, and who had not sold their interests.[1832]

At the same time, arrangements had been made to fulfil Featherston's promises of reserves for the sellers, and for 'a large number of natives, whose title had been disallowed by the Court, but who had lived upon and cultivated' the land for many years. While they had trusted McLean implicitly, the government had started the survey and sold a portion of the block to settlers, who were now building houses on it. They would not interfere but would prevent any more settlement. Force might be required since 'the Government had tied up the resources of the tribe for so many years, and their (the natives) title was still

[1830] *Evening Post*, 30 September 1871, p 2.
[1831] *Evening Post*, 30 September 1871, p 2.
[1832] *Evening Post*, 7 October 1871, p 2.

uncertain…' Consequently, they 'could get no money to pay their debts, or fee lawyers to protect their interests in the Supreme Court.'

A deputation of Ngāti Maniapoto, who had been invited to the meeting, replied, explaining their stance and outlining the circumstances of the arrangements made by Kemp as McLean's 'substitute', which Fox's government had repudiated. At the same time:

> … this railway line … without a word of explanation, thrust right across the threshold of a runanga house which had been built by Rawiri, and which had been solemnly dedicated by Mr Fox himself to peace and goodwill, at a time when the rest of the country was in a blaze of war.[1833]

The distinction had escaped the young men of the tribe, and Rāwiri, who was now a very old man. Coming as it did immediately upon the repudiation of Kemp's arrangements, it was seen as 'indicating an intention of driving him away altogether, notwithstanding the assertions to the contrary of the surveyor, who was only a servant doing the work for which he was paid by masters who had already broken their word.' The delegation promised to convey the wish of the tribe ('Ngati Raukawa') to both Rāwiri and Wī Hape, who had supported his decision; and, it was thought, probably they would be guided by it. But:

> If they (the old men) did not agree to the advice of the deputation, a meeting of Ngatiraukawa would be called at Kakariki (Rawiri's place) and the tribe could advise him; Ngatiraukawa, however, must speak the old man fair; his hapu (Ngatimaniapoto), would not permit his ideas to be rudely trampled upon; he was an old man, and he had just cause to be grieved and dark, but Ngatimaniapoto would second the friendly advice of Ngatiraukawa.[1834]

Another unanimous vote being taken, a party of twenty men proceeded to the survey camp to inform them that they should stop their work; that they did not want to send them off 'rudely, but civilly and deliberately'. They accepted Mr Dundas' promise to suspend work until he received orders from Wellington but would remove him to the other side of the Rangitīkei if he attempted to continue the survey before they had 'satisfactory assurances that Mr McLean's arrangements with them would be carried out'.[1835]

The editorial of the *Evening Post* was sympathetic to their cause, debunking the suggestion (offered by McLean when questioned in the House) that the obstruction arose out of inter-tribal dispute. That was a separate issue. In this instance the survey had been stopped because 'they consider and with justice that the Government has broken with them, that they are being cajoled and bamboozled and led on with delusive hopes, until it is too late for them to help

[1833] *Evening Post*, 7 October 1871, p 2.
[1834] *Evening Post*, 7 October 1871, p 2.
[1835] *Evening Post*, 7 October 1871, p 2.

themselves'. [1836] For once the land was sold to settlers, there was little chance of redress.

Another hui was held at Awahuri on 10 October, and again, Maori were moderate in their demands, ready to compromise. It was agreed that any 'modifications' desired by the government ought to be considered, but the gathering reaffirmed their determination to halt the survey until whatever engagements were reached were put in place. [1837] Two days later, they began removing the tents and equipment belonging to the survey party, apparently to some effect.[1838] A few weeks later, as will be discussed in Paul Husbands' report, the government surveyor, Carkeek, started laying off reserves.

In January 1872, McLean returned to the district to discuss the reserves again with Ngāti Raukawa, Ngāti Pikiahu, Ngāti Maniapoto, and Ngāti Apa at Marton. He met with the non-sellers of Ngāti Kauwhata, Ngāti Parewahawaha, and Ngati Kahoro at Wanganui on 23 January. According to Hearn's analysis, an agreement was reached on the following points. The Crown would pay £1500 to McDonald 'on behalf Te Kooro Te One and the other claimants … in settlement of their claims and disputes in relation to Rangitikei-Manawatu'. They received another £200 towards the cost of the building of a mill at Oroua and £500 for agricultural tools. A loan of £1,500 was also made on the security of their reserves. For this mix of cash, goods and encumbrance, the people at Oroua agreed to give up all claims to the disputed land at Hoeta's Peg (1,150 acres), all claim to 547 acres at Te Raikihou, all claims within the Rangitīkei-Manawatū block other than the awards made by McLean, and any right to reimbursement for costs entailed in prosecuting their claims.[1839] McDonald assured the Native Minister that there would be no more trouble provided that these arrangements were carried out immediately.[1840]

McLean also spent this time in settling the inland boundary, agreeing to shift it, over the objections of Fitzherbert, who claimed that this would mean the loss of some 67,000 acres.[1841] McLean defended this decision – and his agreement to run the boundary of the Crown's earlier Ahuaturanga purchase along the Taonui Stream (discussed at section 8.6) on the grounds that it would make the purchase of adjoining lands easier.[1842] In March, he informed the provincial government that the issues pertaining to the Rangitīkei-Manawatū inland boundary and the reserves had been 'removed', although the urupā and eel lagoons had yet to be defined. The 'main difficulties' solved, McLean advised Fitzherbert that the

[1836] *Evening Post*, 7 October 1871, p 2.
[1837] *Evening Herald*, 12 October 1871, p 2 cited Hearn, 'One past, many histories', pp 530-1.
[1838] Hearn, 'One past, many histories', p 531.
[1839] Hearn, 'One past, many histories', pp 545-=6.
[1840] McDonald to McLean, 7 February 1872, MA 13/75a.
[1841] Fitzherbert to McLean, 31 January 1872, MA 13/74a.
[1842] McLean to Fitzherbert, 6 February 1872 (draft), MA 13/74a; McLean to Carkeek, 3 February 1872, MA 13/75a.

Wellington Provincial Government could resume management of the Rangitīkei-Manawatū block.[1843]

There were further delays and increasing unease among Maori when the provincialists managed to thwart McLean's first attempt to introduce legislation giving effect to his extra arrangements (see below). Although they refrained from interfering with the surveys going on within the block, they now sought certainty and compensation for the losses they had incurred while they waited for the defined title they had been promised.[1844] In May of the following year, Hāre Hēmi Taharape and Ngāti Tukorehe wrote to Williams seeking justice. None of their 50 members had signed the deed or received any part of the purchase moneys or reserve. Yet they had incurred £110 in legal costs and needed assistance.[1845]

There was bitter criticism of McLean as well as of their old foe, Featherston, in two hui held at Awahuri and Matahiwi in July 1872.

Major Willis (RM) had been invited to the meeting at Matahiwi 'to carry' their 'words back to Wellington as the previous government delegate had 'never reported' what he had heard.[1846]

Willis' notes of the Matahiwi hui indicate declining confidence in, and respect for, McLean, although Featherston remained the subject of their greatest anger. There were repeated accusations of 'deceit' by both officials, and threats of driving off settler stock and of repudiating the purchase altogether. Tapa Te Whata, who spoke first, accused Featherston of 'deceit (tito)', claiming that he had promised the vendors at Rangitīkei-Manawatū the return of half of their land rather than the scanty reserves which they had ended up with. According to Te Tapa, no acreage had been stated but the equivalent of half the price of the block, in land, was to be returned under a Crown Grant. Until this promise was fulfilled, the district would remain in a disturbed state, he warned. 'Although it is said that Rangitīkei is settled, it is not settled, it quakes. If this land is not returned it will be unsettled, if it is returned all will be firm.' And as for McLean, he was 'all the same as Dr Featherston, his promises too [were] unfulfilled'.[1847]

Hoeta Kahuhui also said that Willis had been invited to listen to their 'complaints of the deceit of Dr Featherston and Mr McLean'. He, too, was unhappy that the government had been more concerned to lay off the boundary of its purchase than with defining the reserves that had been promised and the delay in the issue of

[1843] McLean to Fitzherbert, 30 March 1872, *AJHR*, 1872, F.-8 p 3.
[1844] McDonald to Bunny, 24 August 1872, MA 13/74a.
[1845] Taharape to Williams, 17 May 1873, in Williams, 'A letter', appendix, p civi.
[1846] Notes of the speakers at a meeting held at Matahiwi in Rangitikei by Ngatikauwhata and Ngatiparewahawaha on July 28th 1873, MA 13/74a.
[1847] Notes of the speakers … at Matahiwi, MA 13/74a.

Crown grants. They had been 'deceived first' by Dr Featherston and then by McLean:

> He came to us and then he gave land to all who were making a disturbance for it amongst the four hapus that sold the land. He then said as soon as the survey was completed they should get Crown Grants. That promise was made in 1871. The survey is all complete. I waited till 1872 that year all the survey was completed. In 1872 Mr McLean went to Wanganui and asked all the Māoris to meet him there. . . . Mr McLean's words to us were, 'Let us finally settle Rangitikei', we said that we were not clear that we could say that the question was settled. Mr McLean then said 'Sign your names, that will be a means by which you may get Crown Grants.' We agreed. Then he sent us to a representative of the Government, Col. McDonnell. We brought him with us from Whanganui to Oroua. Col. McDonnell said, 'All of you sign your names as a means by which you may receive Crown Grants.' We all signed and the names were carried to the Government. Then we stopped and waited. 1872 ended and 1873 is here. This is the deceit of Mr McLean that I spoke of and this is the reason that Rangitikei is still on a balance.[1848]

In the words of Aperahama Te Huruhuru, Featherston had given them 'a shadow' and 'retained the substance.'[1849]

The refrain was taken up by Hare Reweti; they had been betrayed three times: first by Featherston, then by the Court and finally by McLean. Tiara Te Ara Takana then threatened to drive off the stock of settlers living on land 'that I know is mine still' and 'send them back to the Government ground'. She, too, complained that the grants that had been promised by McLean had failed to materialise. 'I will reoccupy my land,' she said. 'Although the fault is not with the settlers but with the Government, still I will drive off all their stock. My hand is strong enough to do this, and my legs shall not be weary. This is my last word.'[1850] Wereta Kimate also argued that the settlers should be put off while others wanted the matter referred back to the Native Land Court. This was the view of Maraki Te Rangikaitu, who thought that they should not ask for the Crown Grants but for 'a Court to come to Rangitikei to investigate' their 'claims and allegations.' Kereama also suggested that they 'return at once to the verdict of the Court, which was that the four tribes should have time to divide the land and apportion its share'. In his view, Featherston had 'hindered and evaded that verdict and obtained another verdict by misrepresentation'.[1851]

Tapa Te Whata closed the meeting, stating that 'the promised share of this land should be returned to the three tribes', namely Ngāti Kauwhata, Ngāti Kahoro, and Ngāti Parewahawaha. 'Let it be ascertained what portion is ours and we will accept it.' He warned the government, however, that this would need to be more that the present reserves. 'The half of the block was to be ours,' he stated, 'as

[1848] Notes of the speakers … at Matahiwi, MA 13/74a.
[1849] Notes of the speakers … at Matahiwi, MA 13/74a.
[1850] Notes of the speakers … at Matahiwi, MA 13/74a.
[1851] Notes of the speakers … at Matahiwi, MA 13/74a.

agreed upon by Featherston.' Like a number of prior speakers, he advised settlers not to pay any more for the land because it was not yet the government's to sell:

> The reason we say we will disturb the settlers and their stock is that it is not clear which is our land. If there is any money due by any settlers for land to the Government my advice is not to pay it because the land is mine, it does not belong to the Government. My word is determined. Let the money remain with the settlers till an investigation has shown whose is the land, let it go to that person. If a settlement is delayed I must be compensated for my loss, which is great.[1852]

The meeting ended with a commitment to start driving off stock if no word had been received within the month.

In his accompanying letter to McLean, Willis commented that it appeared that 'the demands of the natives' had 'grown since the commencement of the meetings' that were being held and were 'likely to increase with delay'. From what Willis has been able to 'gather', he thought that the owners of the reserves had incurred considerable losses by not being put in possession of their titles, as they could not execute valid leases, or sales. They also had had problems in dividing the reserves amongst themselves, causing quarrels which had at times threatened to become serious.[1853] Willis also pointed to the demands 'made by more than one speaker' that settlers on deferred payments should be advised not to pay any more, demonstrating that 'the natives [were] fully aware of the means by which . . . they [could] annoy the Government'. Their quarrel was with it, not the settlers, and, in Willis' view, 'what they do will be in assertion of what they believe to be their rights and in their endeavour to force the Government to do what they only consider justice'. He described the orators as voicing their grievances 'quietly and determinedly'.[1854]

8.4 Rangitīkei-Manawatū Crown Grants Act 1873

In late 1872, McLean introduced legislation to give effect to the various post-deed arrangements that been made by Featherston, Kemp, and himself. This was done on the advice of the Attorney-General that Crown grants could not be issued for any of the 'additional' reserves since those lands belonged, in law, to the provincial government. This gave the latter another opportunity to press for compensation for 'recklessly' giving away reserves, the grant of the Hīmatangi block to Parakaia Te Pouepa as an act of grace, and the alteration of the inland boundary (both of which are discussed in following sections), plus the losses incurred by disruption to survey.[1855] The House voted for the inclusion of an arbitration clause, but this was defeated by a narrow margin in the Legislative Council, where Buckley gave the idea of compensation short shrift:

[1852] Notes of the speakers … at Matahiwi, MA 13/74a.
[1853] Willis to McLean, 26 July 1873, MA 13/74a.
[1854] Willis to McLean, 26 July 1873, MA 13/74a.
[1855] *Evening Post*, 5 October 1872, p 2.

> There could be no doubt the Provincial Government in the negotiations … made a great muddle of it. The parties employed by the Provincial Government not only purchased the land from the wrong persons, but paid the wrong persons, and it had to be paid for twice over.[1856]

Instead, a new clause was included providing for the appointment of an arbitrator to inquire into the Province's claims.[1857] Another heated debate followed, with bitter exchanges between Fox and Fitzherbert. The amendments were rejected and the Bill defeated, resulting in further delay, and, Fox warned, the possibility of the whole transaction being repudiated.[1858]

The two administrations came to an agreement that F D Bell should investigate the claim for compensation. (Ultimately he found it not to be valid and we do not discuss this further here.[1859]) The Bill was reintroduced in 1873. In the debates that followed, McLean outlined the circumstances that had resulted in such an Act being required. He followed the standard coloniser's line of argument, emphasising the conflicting tribal interests, tribal disputes over rents, the danger of fighting, and the eventual agreement by 'a considerable majority of the tribes' to sell the land to the Crown.[1860] He was extremely critical of Featherston's failures of procedure, however; a number of 'most important details' – namely the definition of the reserves and the inland boundary – had remained unsettled in spite of the purchase price of £25000 being handed over. The Native Minister reminded the House that:

> These were preliminary proceedings necessary in all Native land purchases, which, if omitted, were sure to lead to subsequent difficulties; and that had unfortunately been the case in this Rangitikei-Manawatu block. In 1868 the question still remained unsettled, although the people of Wellington were led to believe it had been fairly adjusted. The Court had sat at Otaki to adjudicate on the title, but no final arrangements had been arrived at. A clause was inserted in the Act of 1867, authorizing the Native Lands Court to make further inquiries if necessary, and after a long, patient, and exhaustive investigation, the Court came to a decision and made certain awards. The Natives interested, and those who were non-sellers in the block disagreed subsequently as to the manner in which the awards should be carried into effect. He had, during this time, on more than one occasion been asked by Dr. Featherston to undertake the task of settling this matter, but he had declined to do so, because he had not the time to take up a difficult question to the solution of which Dr. Featherston had devoted all his energies, but in which he had failed. He did, however, eventually agree to the request, and he believed that he had done so at the instance of the Provincial government, although he had no direct personal communication with them on the subject. He entered upon the task without prejudice in reference to it, but with the feeling that it was a very troublesome duty. He found a large section of the Natives, both of those who had sold and of those who had not sold, together with those whose rights had not been recognized

[1856] *NZPD,* 1872, vol 13, p 926.
[1857] *NZPD,* 1872, vol 13, p 928.
[1858] *NZPD*, 1872, vol 13, p 940.
[1859] See 'Report on the Claim of Wellington in respect of the Manawatu Reserves', *AJHR*, 1874, H.-18.
[1860] *NZPD*, 1872, vol. 13, p 889.

> but who had received a portion of the purchase money, anxious to repudiate the whole transaction; and taking into consideration the feeling of certain Europeans, he saw that, if such a disposition gained ground amongst the Natives, repudiation, however unjust it might be, would become inevitable. Under these circumstances, the difficulties were urgent and pressing.[1861]

He was now determined to see his arrangements carried out.

McLean had not impeached the integrity of Featherston, those arrangements would be untouched as would those of the Native Land Court; nor would the purchase be overturned – though McLean acknowledged to the House, there was increasing danger of Maori trying to repudiate it. Nonetheless, he had told 'the Natives' that 'outside of these, if they were still dissatisfied, as he found they were in some instances, a fresh arrangement of an amicable nature could be come to…' He had managed to persuade them to modify their demands bringing them down to 14.000 acres over and above what Featherston had promised. 'Difficulties' had arisen during his absence in the north, and the survey had been obstructed – 'mostly frivolous affairs', unlikely to result in hostilities – but 'looking at their past experience of such matters, it would have been dangerous to attempt anything like forcible measures for the occupation of the district'. An arrangement about reserves and boundaries was necessary before the matter could be considered settled. He then warned the House that apart from the tribes generally recognised as occupying the region, there were

> … between 200 and 300 from the Waikato country, who held the inland portion of the block. They had lived there upwards of thirty years, and although their rights were not recognised by the Native Lands Court, they still claimed a right to occupy, and it was evident that they were not to be easily dispossessed of the land which they had led for so long a period of years; in fact, they were resolved to hold their own.[1862]

McLean saw their demands as 'excessive', amounting as they did to some 18,000 to 20,000 acres, but they had been much reduced to only 4,400 acres. He then moved on to defend the native land purchase policy of the government generally. Fitzherbert, Fox, and others defended Featherston's conduct but did not dispute the wisdom and necessity of creating further reserves, challenging only the responsibility of the Wellington Province to pay for them.

We particularly note in the course of the debates over the Bill the speech of Wī Parata as providing a commentary from an important Maori political observer on the government's decision to exclude the block from investigation by the Native Land Court and its subsequent purchase conduct:

> He did not wish the Superintendent to think that this was not a Native matter with regard to the return of those lands – he was speaking in favour of the return of those lands. In 1862 the Native Lands Act was passed, and by that Act the Rangitikei-Manawatu land was excluded from its provisions. In 1863 the news of the Rangitikei dispute came to the

[1861] *NZPD,* 1872, vol 13, p 889.
[1862] *NZPD*, 1872, vol 13, p 889.

> Government and to the House. Neither the Superintendent, nor the Government, nor the provincial authorities, thought fit to leave it to the Native Lands Court. Perhaps they did not believe in the Native Lands Court, and therefore they left it out of the operation of that Court. In 1866 the money was paid for the Rangitikei block, and the payment for the land was not clear, and then the troubles about that land commenced. The signatures of the people to the deed of cession to Her Majesty were not made clear. Mr. Buller deceived some people, who were not interested in the land into signing the deed. He did not know whether that was owing to ignorance on the part of Dr. Featherston or Mr. Buller. If that land had been brought before the Native Lands Courts, neither the Ngatiawa nor the Ngatitoa tribes would have been declared entitled to any part of it. During the investigation of the Native Lands Court, the honourable member for Rangitikei was present, and upheld the cause of the Province and Dr. Featherston. Perhaps he found that the matter was wrong afterwards, and therefore he left it to the Native Minister to prevent any trouble arising with reference to the Province of Wellington. He thought it was a very good thing for the Superintendent that these lands had been returned. If it had been left as the Superintendent desired, the money which had been paid for the Rangitikei block would have been as so much money thrown into the sea. He thought it would be a very good thing to give Crown grants for those lands under the authority of that House. He did not wish it to be left to any one outside to decide on the matter; – he wished the question to be decided by that House and decided at once.[1863]

Hearn points out that; 'Dissatisfaction among Maori, particularly Ngāti Kauwhata, was scarcely allayed by the passage of the Rangitikei-Manawatu Crown Grants Act 1872.'[1864] They asked Resident Magistrate Willis to 'urge' McLean to come to Awahuri as they had 'been led to expect' so they could discuss a number of matters regarding Rangitīkei-Manawatū that were 'not clear' and which could 'only be made clear by talking them over face to face'. There was a mixture of concerns shared by the hapu and their leaders, both 'sellers' and 'non sellers', concerning boundaries, unfulfilled commitments, and debts either contracted in pursuing their claims, or by delays in getting what they had been promised:

- The Taonui boundary which had been surveyed 'as directed', but Maori had been 'unable to obtain possession of it from the Provincial Government';
- 'Certain claims' by Tapa Te Whata and others sellers 'upon alleged distinct promises of Dr Featherston';
- The fishing lagoon at Rotonuiahau, which was 'alleged to have been promised (at least conditionally) to Ngati Kauwhata' by McLean;
- 'The loss of £500 cash caused by the neglect of the Government in incautiously advancing money to the contractors for the creation of a Flour Mill at Oroua, and the loss occasioned by the non completion of said contract';

[1863] *NZPD*, 1872, vol 13, p 893.
[1864] Hearn, 'One past, many histories', p 548.

- A ‘claim of £2500 with interest’; £1500 has been advanced by McLean to the Maori;

- ‘A personal claim’ by Te Kooro Te One regarding ‘an alleged promise’ by McLean.[1865]

As the year (and indeed, the decade) wore on, so, too, did discontent, which was reported to be manifest at both Awahuri and Puketōtara.[1866] McDonald was arrested for destroying a trigonometrical station at Awahuri in March 1874, convicted, and penalised £10 and costs.[1867] Two years later, Ngati Kauwhata was still pressing the government to implement the arrangements reached with McLean. The key issue was the extent and position of the reserves awarded, and these are discussed further in that context. We note, however, that obstruction continued of the survey of boundaries at Aorangi (Ngati Kauwhata’s largest remaining block of land) and certain public works as the infrastructure for Pākehā settlement of the district was put in place. ‘The Aorangi Native obstruction is not over,’ the *Rangitikei Advocate* lamented in mid-1879.[1868]

We return to these matters in chapter 11.

8.5 McDonald’s abuse of trust

It is clear that the ‘famous Maori man’, Alexander McDonald, had by now assumed a great deal of influence within local affairs and among Ngati Kauwhata; in particular, with Te Kooro Te One. James Booth. a ‘Native Magistrate’ who was employed by the government as a land purchase officer and had dealings with him, suggested that McDonald’s relationship to the tribe was in the ‘nature of a family character, rather than that of an agent.’ Although he had not married into a whanau, according to Booth, McDonald was held as a chief who ‘exercised rights in Kauwhata’; ‘ I know of no other European in any part of the country having such a position’ Booth said.[1869] It was generally acknowledged that McDonald had been adopted into the hapu and he seems to have been consulted over all Ngati Kauwhata transactions. A judge of the High Court (Richmond) who later looked into some of McDonald’s financial dealings with reference to blocks granted under the above Act, considered his influence was ‘extraordinary’ and his position vis a vis his Ngati Kauwhata clients one of a ‘fiduciary’. Richmond remarked. too, on his pivotal position when it came to the

[1865] McDonald to McLean, 27 January 1874, MA 13/74a.
[1866] Young to Clarke, 16 March 1874, MA 13/74a.
[1867] Hearn, ‘One past, many histories’, p 548.
[1868] *Rangitikei Advocate*, 10 July 1879.
[1869] Te Ara Takana v McDonald, NZSC,16 December 1887.

colonists' interests in this period; that 'during Kooro's lifetime, no European could have obtained a footing' without McDonald's sanction.[1870]

The depth of regard Ngati Kauwhata had for McDonald as a result of his championship of their rights at Rangitiekei-Manawatu found concrete form in the gift of Raikopu (850 acres) which he sold subsequently for £10,000 and the payment of £960 in support of McDonald's wife which was secured by a mortgage, dated 29 September 1875. on a portion of the land that had been awarded to them at Awahuri. In Richmond's opinion their trust in McDonald had been demonstrated, too, by the 'delivery to him intact of £4,500 in bank notes given into the very hands of the Natives' to be held by him on their behalf (on 10 May 1878).[1871]. That same influence resulted in a tangle of financial dealings from which he benefited directly to the detriment of those who had engaged his services as agent and who had accepted and elevated him to a trusted position within their community.

It is apparent that McDonald who had been declared bankrupt in October 1875, began to abuse the trust that had been placed in him. We shall see here and in the following chapters that there was considerable ambiguity about who exactly McDonald was acting for at any given time, under what authority and in whose interests. He was by turns, and, at times, agent and adviser, lessee, lender, purchaser, and government employee engaged to acquire interests in a number of blocks and to assist in getting public works through resistance in the Oroua region in spite of the serious allegations that had been made by officials and politicians as to his conduct. Was he, in his various dealings acting for the Crown, the hapu, individuals within the hapu, or himself? The final answer in the case of Awahuri was that McDonald was acting for himself; this while he was supposed to be working on behalf of Ngati Kauwhata. Exactly when and why is unclear. It seems, at some point, McDonald's intentions changed, seemingly with the loss of the patronage and protection of Te Kooro Te One, and as his ascendancy – and his land arrangements - came under perceived threat.

A prosecution later brought against McDonald by the successors of the original grantees at Awahuri, in 1887, in an effort to recover their land revealed some questionable transactions on McDonald's part. Although the Rangitikei-Manawatu reserves fall outside the main scope of this report, McDonald's dealings there, also demonstrate matters of general concern; namely the lack of protection for Maori within the title and purchase system that had been created by the Crown and their vulnerability to the activities of unscrupulous agents such as McDonald and, we shall see, Buller as well. As the judge commented in this particular case, referring to one of the plaintiffs, Te Ara Takana: she was a woman 'of great natural ability' but 'destitute of the formal knowledge necessary

[1870] Te Ara Takana v McDonald, NZSC, 16 December 1887.
[1871] Te Ara Takana v McDonald, NZSC, 16 December 1887.

for her own protection in such affairs as these.'[1872] That Maori should not be permitted to be the unwitting authors of injury to themselves had been a cornerstone of official Crown policy in New Zealand from Normanby onwards. Yet protections remained slight. Government officials and competing Crown purchase agents might deplore the influence and tactics of private agents, but they worked with them, and the system was such that transactions were not scrutinised with any thoroughness, unless prosecutions were later brought for fraud, or cases for the validation of title. The government would also engage the services of such men, using their influence for its own purpose of colonisation. Much of the action took place in Wellington, or towns such as Napier, in the financial houses the committee room, and the auction block. Maori on the whenua were dependent on the advice, promises, and integrity of their various agents while being deliberately entangled in mortgage arrangements, with the government turning a blind eye unless forced to look. Even then avenues of redress favoured the interests of settlers and were offered too late, and so in the end, there was none, or little for the Maori affected.

In short: Maori landowners were persuaded to raise money by means of mortgage, colonists took up leases in the same lands which Maori then relied upon to make their re-payments. They also relied on a Pakeha agent to manage their business. If the mortgage payments stopped for whatever reason, the land was put up for sale on short notice and sold at knock-down prices, sometimes, to persons already with interests in it; the lessee, or lender, or both. Nothing changed on the ground immediately and occupation remained undisturbed until the price was right and on-sales started. By that time, however, bona fide purchases had been made and a limitation of seven years seems to have been applied. Just how extensively this system of 'underhand profiteering' operated is unclear. Certainly it was acknowledged to exist; and certainly McDonald's dealings in lands extended into many blocks including Aorangi (on his own behalf) and Kaihinu (for the Crown) which we discuss in the following chapters.

We briefly traverse these matters, below, but the complex private financial transactions at Awahuri and the legal reasoning of Richmond the judge who decided the case brought against McDonald for his dealings there, require more research and analysis - as do private purchase and syndicate operations in the region generally.[1873]

There were five original grantees in the Awahuri block: Te Kooro Te One, Te Ara Takana, Takana Te Kawa, Karehana Tauranga, Hepi Te Wheoro. They were tenants in common, and the block held in unascertained shares, occupation being arranged out of court. On McDonald's advice, Ngati Kauwhata had raised a loan £1040 on the whole of the block (excepting Raikopu) for the purpose of fencing,

[1872] Te Ara Takana v McDonald, NZSC, 16 December 1887.
[1873] The following account relies on Richmond's decision in Te Ara Takana v McDonald, NZSC, 16 December 1887.

stock and improvements. This was in addition to a mortgage already secured on 29 September 1876 on a part of it (2,350 acres) to secure the money for Mrs McDonald's support, her husband being declared bankrupt the following month. This deed did not comply, however, with section 84 of the Native Land Act 1873 which regulated compliance of mortgages with the Land Transfer Act. The mortgages were at first held by different financiers but both ended up in the hands of a Mr Common of the firm, Murray, Common and Company, based in Napier.[1874] The mortgage was secured by a bank guarantee for £2,500.[1875]

The money raised by the mortgages was placed in McDonald's account where it could be drawn on, from time to time, by the Ngati Kauwhata leadership. Then a few days after a sum of £4,500 was received, a meeting was held on 12 May 1877, at which McDonald made a statement as to the financial position of the Ngati Kauwhata non-sellers and as to his own. This resulted in an agreement that McDonald could occupy the land at Awahuri and that he would pay the interest on the mortgages while Ngati Kauwhata would meet any shortfall. A 21-year lease was signed on 17 June 1878 for all but 67 acres. The terms were 3/- per acre for the first seven years, 4/- per acre for the next seven, and 5/- for the final seven. The lease contained a further provision, that if there was a default in repaying the principal or the interest, the lessee would pay the rent directly to the mortgagor or lender.[1876]

When Te Kooro Te One died a few weeks later, McDonald's control seems to have come under direct challenge from Te Kooro's successor, his sister, Enereta, who had been married in a key alliance with Rangitane rangatira, Te Rangiotu; another strong-minded woman who had engaged Walter Buller as her agent. The contest apparently spread over several land matters including Aorangi, and with reference to her succession to the interests of Reupena Te One, McDonald arguing that she had lost her rights upon her marriage.[1877] She refused to pay the interest on the mortgage for Awahuri on the grounds that Te Kooro had received no benefit from it. Upon this, McDonald advised the other grantees that the land should be subdivided. The attempt to do so seems to have failed because of the opposition of Enereta and Buller who refused to produce the Crown grant and stated, also, that he acted on behalf of Mr Common whose interests would not be served by subdivision.[1878]

McDonald now stopped paying interest; he said that he had attempted to get the necessary authority from the owners but had been unable to come to any arrangement. Richmond, however, dismissed this as a pretext. In his view

[1874] Te Ara Takana v McDonald, NZSC, 16 December 1887
[1875] Te Ara Takana v McDonald, NZSC, 16 December 1887
[1876] Te Ara Takana v McDonald, NZSC, 16 December 1887
[1877] Te Ara Takana v McDonald, NZSC, 16 December 1887
[1878] Te Ara Takana v McDonald, NZSC, 16 December 1887

McDonald's idea had been to cause the land to be sold in order to thwart Enereta and Buller.

Some six months later, on 19 January 1879, McDonald wrote a letter to Common, which Richmond described as 'remarkable'. In it, McDonald states:

> I regret very much to say that both what the Native Land Court at Palmerston has done, and what it has not done, is quite unsatisfactory. It has not individualised the title to any of the Blocks here, so as to enable any part to be sold: or, in fact, dealt with in any way; and it has appointed successors to several owners who had died, which successors, acting under the advice of Buller, cannot at present be dealt with by me. His advice to them appears to be simply to obstruct progress of any sort, with a view of obtaining for themselves higher terms than I think them entitled to, and which it will be very hard to make me submit to. I would, most willingly, have avoided a contest of any kind, but since it seems to me we are to have one, I propose to strike the first blow, and make it as hot and heavy as I can, with a view to get the fight over as quickly as possible. What I mean to do is this: decline any longer to pay the interest on your mortgage of £2,000; and I shall ask you to take whatever consequent proceedings may be necessary as promptly and firmly as may be. I think I am quite justified in taking that course, because I am no longer agent for all the mortgagors, Dr. Buller being now agent for the successors recently appointed. Perhaps he will pay the interest, or, at any rate, things must be brought to a more definite action than at present. Have you the mortgage at Napier? If so, I will run over expressly to see it, and take advice as to the exact steps it might be right or proper for me to take in the matter. If you have it not there, will you send for it, or send me authority to see if it is in Wellington. But I would rather see it with you. I hope you will not take alarm and fancy things worse than they are. I shall win this fight yet, though I would have avoided it had it been possible. [1879]

The matter was further discussed by the two men at Napier, McDonald, giving the grantees to understand that he had saved the block from falling into the hands of Enereta, her Rangitane husband, and Buller. It was Richmond's view that, in taking the steps that he had to this point, McDonald thought that he was acting in the best interest of both the hapu and himself; he considered Enereta's party to be a 'foreign influence into the affairs of Awahuri … threatening to disturb every previous arrangement respecting the block' and, indeed, elsewhere in Ngati Kauwhata holdings.[1880] He had been 'incensed' and by getting his 'friend', Common, to sell the block, had been intent on getting rid of the opposition as quickly as possible. There was, however, an increasing divergence of interest between McDonald, and Ngati Kauwhata from this point onwards.

The immediate up-shot was that Common sent a demand for £48 forcing a sale. In January 1880, both mortgages were transferred to McDonald by deed and almost immediately afterwards, an arrangement seemed to have been reached with Enereta and Buller, that the Court could go ahead and determine interests in

[1879] McDonald to Common, 19 January 1879, Te Ara Takana v McDonald, NZSC, 16 December 1887.
[1880] Te Ara Takana v McDonald, NZSC, 16 December 1887

the block and that she would give an order on the rents to meet the payments on the interest.[1881]

Then, two months later, arguing that Enereta continued to fail to pay her share of interest and expenses associated with the land, McDonald instructed his lawyers to start foreclosure proceedings and the block (excluding the area that the hapu had already set aside for him at Raikopu) was put up for sale. Leaving for Wellington where the auction was to be held, McDonald was alleged to have promised to 'bring the land back'; instead he purchased it himself for £5,100, well aware, the plaintiffs subsequently argued, that it was worth far more. (They said £20,000.) The court found, however, that there had been nothing untoward or unfair in the way the auction had been conducted. Although the price was low, it had been properly advertised and McDonald had not been the sole bidder. Essentially this was a foreclosure. On the other hand, McDonald's conduct meant, in effect, that his failure as lessee to pay interest to himself as mortgagor resulted in its sale to himself. This at a time when he was holding funds on behalf of the owners from which interest payments might easily have been covered. Richmond rejected the suggestion that the decision to stop paying the interest came from anybody but McDonald and found that it was 'undeniable' that a 'fiduciary relation had existed in regard to the disposal of the rents'. In his view, the grantees would be entitled for relief even if such a relation had not existed; or would have been, had it not been for the delay in brining proceedings.[1882]

There was no Trust Commissioner certificate endorsing the transfer and, at first, the hapu were not aware that they no longer owned the land. They continued to live upon it; McDonald told the court that he had informed them that he had purchased it, but that he would 'not disturb them in their own homes' for the present. Evidence was heard, however, that Ngati Kauwhata had only been informed of their legal position, in February 1881, by government officer, James Mackay, when they had attempted to have restrictions removed from the title of their reserve at Kawa Kawa and to show that they had sufficient lands elsewhere so that it could be sold. Mackay suggested that part of the payment for Kawa Kawa should be used to buy back their kainga and cultivations at Awahuri As a result, £5,000 of the proceeds of that sale were paid to McDonald for the transfer of 1,250 acres of Awahuri to the Public Trustee comprising portions that were in the 'actual occupation' of the grantees, to be held in trust for them. Enereta took her share for Kawa Kawa in money.

Between 1881 and 1885, McDonald started selling portions of the block including to his own wife. When he threatened legal action against Hara Tauranga who had not obtained a succession order; she had not been part of the Kawa Kawa arrangements and had continued to occupy the portion that had been originally allotted to her father, the hapu seem to have been galvanised into an

[1881] Te Ara Takana v McDonald, NZSC, 16 December 1887
[1882] Te Ara Takana v McDonald, NZSC, 16 December 1887

effort to get the rest of their land back but it was mostly, too late. Although the court was critical of much of McDonald's behaviour the rules favoured the interests of the bona fide purchasers who had acquired their properties from McDonald in good faith and a seven year period of limitation was deemed to apply. Any unsold shares were, however, ordered to transfer to the plaintiffs and two others having interests, Adjustments were also ordered to be made to the accounts held between them and McDonald Enereta, however, Richmond considered to be in a different position, having had the benefit of advice from Buller and, thus, to have no case.[1883] The research to date, does niot show how many unsold shares, if any, were received back.

[1883] Te Ara Takana v McDonald, NZSC, 16 December 1887

Crown Action and Maori Response: **Taonui Ahuaturanga**

Cartography by Geospatial Solutions Ltd. Map Number CFRT - CAMR 038 Map projection: New Zealand Transverse Mercator Date: 16/05/2017

8.6 The creation of Taonui Ahuaturanga block

The small block known as Taonui Ahuaturanga was created in the wake of McLean's meeting with Ngāti Kauwhata on 18 November 1870 at Oroua in an attempt to appease their anger at what had happened with reference to Rangitikei-Manawatu.[1884] At that meeting, McLean had agreed that the Taonui boundary, which marked the division between the Te Ahuaturanga land purchased by the Crown and Aorangi, which had been retained by Ngāti Kauwhata, rather than being a straight line as originally surveyed, would follow the course of the Taonui stream, as Kauwhata had always maintained it should.[1885] The adjustment created an additional 'strip of land, nearly nine miles long with an average width of half a mile'.[1886] While this satisfied the wishes of Ngāti Kauwhata, McLean was not prompted entirely by concern for their wishes. As noted earlier, he explained to surveyor Carkeek that the altered boundary would make easier the later acquisition of the land by the Crown.[1887] Furthermore, although the arrangement was meant to help compensate Ngāti Kauwhata for their losses, ultimately, they found they had to share equally with Ngāti Apa and Rangitāne.

Not everyone, however, was satisfied with the arrangement. The Wellington Provincial Government had objected to the boundary when the land came before the Native Land Court in March 1873. Regardless of the fact that the Native Minister and the Native Secretary had given their consent to the new line, a legal nicety stood in the way: because the Crown had, in fact, purchased the land before deciding to return it to Ngāti Kauwhata, the land could only be returned by a legislative enactment.[1888] And so, to this end, the Taonui Ahuaturanga Land Act was passed, although it took some seven years for this to happen.[1889] Noting that the 'Native owners … have always complained, and do still complain, that the … boundary line is wrongly described, and that the boundary line should follow the course of the Taonui River', the Act provided that the Native Land Court was to investigate and determine the Māori title to the block 'in the same manner as if the said lands had never been conveyed to Her Majesty, and the Native title thereto had not been extinguished'.[1890]

8.6.1 The Native Land Court hearing, 1881

The Taonui-Ahuaturanga Block then found its way, in September 1881, before the Native Land Court. The hearing began, on 20 September, at Waipawa, but

[1884] According to the Taonui Ahuaturanga Land Act 1880, the block contained around 3070 acres.
[1885] Takana Te Kawa, 30 September 1881, MLC3/27/32.
[1886] Judgment, Taonui Ahuaturanga, MLC3/27/'32..
[1887] McLean to Carkeek, 3 February, 1872, MA13/75a.
[1888] Otaki minute book, 1A, pp 213-4. See P Husbands, '"The Oroua Reserve", Ngati Kauwhata and Aorangi and Taonui Ahuaturanga', draft chapter, p 29.
[1889] Taonui Ahuaturanga Land Act 1880.
[1890] Taonui Ahuaturanga Land Act 1880, Preamble and s 2.

was then removed, at the request of the applicants, to Palmerston North.[1891] Having reconvened at the new location, the hearing resumed on 23 September, but only to be adjourned again, owing to the absence of some of the parties.[1892] The hearing finally got properly underway on 27 September.

At this point, however, Ngāti Kauwhata found their claim to be sole owners of the block challenged by both Rangitāne and Ngāti Apa. Hāmuera Raikokiritia, for Apa, claimed the land from Tuanini, telling the Court as he did so, that his descendants had 'always lived on the land', and that they had 'never been disturbed' in their possession.[1893] No other tribe had settled on the land, he continued, other than Ngāti Kauwhata, to whom he had given 7,200 acres. On this basis, he denied that Ngāti Kauwhata had 'any rights on this piece'.[1894] Kāwana Hūnia then spoke next, if only briefly. He did not, he said, oppose Hāmuera, rather he claimed the land with him.[1895] He did, however, claim from Rangiwhakaipo, rather than from Tuanini.[1896] At this juncture, however, the hearing was adjourned, as there was 'great confusion prevailing'.[1897]

When the hearing resumed the next day, the 'many claimants of Rangitane' were called upon by the Court to appoint one of their number as kaiwhakahaere for their case.[1898] Te Peeti Te Aweawe having been duly chosen, he then addressed the Court. The block, he said, contained three pieces. One of these should be for Ngāti Tauira, one for Rangitāne, and one for Ngāti Kauwhata, a point he reiterated several days later.[1899] An objection to this was immediately lodged by counsel for Hāmuera, on the basis that he rejected the claim of Rangitāne altogether.[1900] Hanita Te Aweawe then gave evidence and was cross-examined by Te Peeti. 'Ngatikauwhata and Rangitane had disputes,' Hanita stated, 'but not after they lived together on the land.'[1901] The river was laid down as a boundary by Neri Te Rangiotu, he continued, and the land was divided into three, a piece for each of the three tribes.[1902]

Again, an objection was raised to this suggestion that the land might be divided three-ways, in the same way as Aorangi had been.[1903] The Court, in turn, then responded with a statement as to how it viewed the issue:

[1891] Native Land Court Minutes, Waipawa, 20 September 1881, MLC3/27/32.
[1892] Native Land Court Minutes, Palmerston North, 23 September 1881, MLC3/27/32.
[1893] Hāmuera Raikokiritia, 27 September 1881, MLC3/27/32.
[1894] Hāmuera Raikokiritia, 27 September 1881, MLC3/27/32.
[1895] Kāwana Hūnia, 27 September 1881, MLC3/27/32.
[1896] Kāwana Hūnia, 27 September 1881, MLC3/27/32.
[1897] Native Land Court Minutes, Palmerston North, 27 September 1881, MLC3/27/32.
[1898] Native Land Court Minutes, Palmerston North, 28 September 1881, MLC3/27/32.
[1899] Peeti Te Aweawe, 28 September and 30 September 1881, MLC3/27/32.
[1900] Native Land Court Minutes, Palmerston North, 28 September 1881, MLC3/27/32.
[1901] Hanita Te Aweawe, 28 September, 1881, MLC3/27/32.
[1902] Hanita Te Aweawe, 28 September, 1881, MLC3/27/32.
[1903] Native Land Court Minutes, Palmerston North, 28 September 1881, MLC3/27/32.

> That it had become evident that the case would depend chiefly on the way in which the subdivision between the three tribes was made.
>
> If in the judgment of the Court number one [Aorangi] was supposed to be bounded by the Taonui River, then it is clear that this piece [Taonui] is included, and on that was the carrying out of an agreement between the three tribes, it cannot be disturbed. But if at that time the straight line was accepted by the Court and (for the sake of that judgment) by the claimants, then this piece lies outside of the division and is open to the proof, either of its belonging in common to all or to either one by occupation or other special claim.[1904]

In other words, if the original boundary of Aorangi was supposed to have been the Taonui River, then the Taonui-Ahuaturanga block was supposed to have been part of the Aorangi block that was divided between Ngāti Kauwhata and Ngāti Tauira, and, if that was the case, then Taonui-Ahuaturanga ought itself to be so divided, in accordance with the original agreement. But if the alternative straight-line boundary were accepted, then Taonui-Ahuaturanga became a discrete block in its own right, and its division or otherwise would have to be determined in the ordinary manner.

After the Court's statement, the hearing was adjourned, resuming two days later on 30 September. During the course of the day's hearing, Alexander McDonald, who had for 'some years' been the 'recognised agent' of Ngāti Kauwhata, gave evidence at some length.[1905] He had been present, he said, at the meeting at Awahuri at which it had been agreed to divide the Aorangi block between the three tribes. The land now before the Court was, he added, part of Aorangi. The parties to the agreement, McDonald continued, 'did not know the area but they perfectly understood that the land in discussion was the strip of land lying between the Ahuaturanga (otherwise called Upper Manawatū Block) and the Rangitīkei Manawatū Block, and they all believed the boundary to be the Oroua Stream on one side and Taonui Creek on the other'.[1906] McDonald then elaborated on what had occurred next:

> The Northern Block would be more than twice the size of the Southern Block. I had seen the deed of the Ahuaturanga purchase and informed the natives that the boundary would be a straight line. The natives objected, they understood the Taonui Stream to be the boundary. I explained that according to the said deed which I had seen the boundary would be a straight line from Waikuku to Ruapuha. The words "the line of the Queen" were suggested by me. "The line of the Queen" was clearly understood to be the Taonui. At this time there had been no survey. The whole meeting repudiated that line and insisted that Taonui river was the boundary, on this account I used the words "te Raina o te Kuini" so as to be right wherever the line was fixed. As there was some doubt application was immediately made to Sir Donald McLean at my instance to settle it. Sir Donald recognized the importance of this and promised in November 1870 at Awahuri that the boundary should be at the Taonui Stream. … After the meeting in 1870 at my instance the natives applied to the Native Land Court to have it investigated and

[1904] Statement of the Court, 28 September 1881, MLC3/27/32.
[1905] Alexander McDonald, 30 September, 1881, MLC3/27/32.
[1906] Alexander McDonald, 30 September, 1881, MLC3/27/32.

> confirmed. The Court sat at Foxton in March 1873. It was then found that the boundary should have been at the river but the [strip] now before the Court was technically Crown land, therefore the Court could not adjudicate on it. It was proposed to withdraw the claim till the matter could be set right, but I induced the natives to adjudicate the portion free as native land.
>
> The Court allotted the land according to the agreement. Kawana Hunia who had always opposed the agreement, applied for a rehearing. I was informed by Government that the application was refused. I was afterwards informed that a second application was made by Kawana Hunia and Te Keepa. On behalf of Ngatikauwhata I sent word to [the] Government that the Ngatikauwhata had no objection. In 1878 it was reheard in Palmerston North in the presence of a full meeting of all the tribes round. The Maoris only conducted the proceedings and after a very full hearing the original judgment was confirmed. … There is no doubt that the division was understood to include all land up to the Taonui Stream.[1907]

This version of events was then supported by the evidence of Takana Te Kawa of Ngāti Kauwhata. 'We knew no other boundary,' said Takana, 'than the Taonui River.'[1908] Given that the block now before the Court had been improperly excluded from the Aorangi award, Takana then stated that it ought to be divided in the same way, that is, between Ngāti Kauwhata and Ngāti Tauira.[1909] The following day, Hoeta Te Kahuhui, also of Ngāti Kauwhata, spoke in support of what both McDonald and Takana Te Kawa had said:

> Ngatitauira, Rangitane and Ngatikauwhata were present. The chief men of Rangitane were present, Honi [*sic*] Meihana alone being absent. They spoke. The boundary of Rangitane was fixed at Ohungarea as a permanent and final boundary. … It was the boundary place that was agreed on and not the acreage. The land had not been surveyed and the area was not known. The area of the remainder for Ngatikauwhata and Ngatitauira was also unknown. …. Rangitane knew perfectly well that the portion cut off was for them. So did Ngatikauwhata and Ngatitauira theirs. The boundaries were understood to be the Taonui and the Oroua rivers. There was afterwards a survey, we only knew the Taonui River. All the discussion at the meeting at Awahuri referred to that boundary. We heard of the other boundary from Mr MacDonald. We repudiated it. None of us knew it. I assert that the only boundary known to the three hapus was the Taonui Stream.[1910]

Kāwana Hūnia gave evidence on 4 October, and when he did so, he simply claimed the entire block for Ngāti Apa, stating along the way that no one had lived on the land 'in ancient times'; that when those with no rights to the land had tried to settle on it, they had been driven off by his ancestors; and that neither Kauwhata nor Rangitāne had 'any right on this piece'.[1911] With respect to the

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[1907] Alexander McDonald, 30 September, 1881, MLC3/27/32.
[1908] Takana Te Kawa, 30 September 1881, MLC3/27/32.
[1909] Takana Te Kawa, 30 September 1881, MLC3/27/32. The reason for this proposed division is that Lower Aorangi was cut off for Rangitāne, while Kauwhata and Tauira then shared the remaining portion of Aorangi between them, and Taonui-Ahuaturanga would, had matters proceeded as the tribes had intended, have been part of that portion of the block divided between Kauwhata and Tauira.
[1910] Hoeta Te Kahuhui, 1 October 1881, MLC3/27/32.
[1911] Kāwana Hūnia, 4 October, 1881, MLC3/27/32.

rūnanga that had taken place at Awahuri, Hunia was simply dismissive: I heard [the land] was divided by friendly agreement but I consider it was a deceit.'[1912]

On 5 October, the Court gave its judgment. It noted that Ngāti Kauwhata, Ngāti Tauira, and Rangitāne had 'settled on the land in consequence of the Ngatiraukawa invasion', that the three tribes had 'lived together on friendly terms', and had become 'intimately connected by inter-marriages and occupied together many settlements all over the land'.[1913] It further noted that the 'original right over the whole district had no doubt been with the Ngatiapa and Rangitane tribes, but the Ngatikauwhata had been admitted to an equality of right with them, and they had lived together as equal owners'.[1914] Were these to be the sole facts on which it based its judgment, the Court then said, it would not hesitate in dividing the land now before it between these three tribes. But the fact of the Awahuri meeting had altered the matter because it had been determined then, that Rangitāne were to receive 'only that portion of the land lying to the south of Ohungarea'.[1915] In light of this, it would seem that the remaining portion before the Court ought to be divided only between Ngāti Kauwhata and Ngāti Tauira. But then, the Court continued, there had been hearing and the rehearing into the Aorangi Block, during the course of which the distinction between the Taonui as the supposed boundary agreed and the actual boundary as decided was brought into the light. And even if all the parties to the agreement had accepted its terms, they had done so without any knowledge of the actual area of each division of the block. '[I]f it had been known that the shares' of Ngāti Kauwhata and Ngāti Tauira were to be 'four and a half times greater than that of the other,' the Court stated, 'the Rangitane would never have agreed to it.'[1916] Then the Court made the statement on which it finally based its judgment:

> It is clear that the partition at Awahuri was not based on any ancestral right or on any occupation other than [quite] recent. It was conducted as many witnesses have said through "aroha" and there is every reason to believe that it was intended to be approximately equal.
>
> The Court therefore thinks that this piece ought to be so divided as at least not to increase the inequality of the division made by the parties in ignorance of the areas. And it awards this land [to] be equally divided between the three hapus namely Rangitane, Ngatikauwhata, and Ngatitauira.[1917]

Having delivered its judgment, the Court then divided the block into eight sections. On the basis that the land had 'never been occupied' and was 'only

[1912] Kāwana Hūnia, 4 October, 1881, MLC3/27/32.
[1913] Judgment of the Court, 5 October 1881, MLC3/27/32.
[1914] Judgment of the Court, 5 October 1881, MLC3/27/32.
[1915] Judgment of the Court, 5 October 1881, MLC3/27/32.
[1916] Judgment of the Court, 5 October 1881, MLC3/27/32.
[1917] Judgment of the Court, 5 October 1881, MLC3/27/32.

adapted for sale in sections', no restrictions on alienation were imposed by the Court.[1918]

Table 8.3: Taonui Ahuaturanga subdivisions

Taonui Block No.1	Acreage	Grantees
1	463	Ngāti Kauwhata (44 individuals)
2	200 'more or less'	Ngāti Kauwhata (44 individuals)
3	334	Hoeta Te Kahukahu, Enereta Te Rangiotu, Areta Hemokanga, Takana Te Kawa, Kerema Paoe, Hepi Te Wheoro
4	5	Tapita Matenga, Hanapeka Mahina
5	624	Ngāti Tauira
6	395	Ngāti Tauira
7	505	Rangitāne
8	305	Rangitāne

Significantly, from the point of view of Ngāti Kauwhata, all three of their sections adjoined the railway line, in keeping with the request made on their behalf by Buller.[1919] Starting from May 1887, the numerous Ngāti Kauwhata owners began the process of having these valuable blocks subdivided, so as to enable them to identify their own particular parcel within each block. As Husbands observes, this 'inevitably led to the fragmentation of the tribal estate into smaller and smaller sections'.[1920] This process, in turn, inevitably made the increasingly uneconomical sections vulnerable to alienation, a process that would occur with dramatic effect in the twentieth century. Taonui Ahuaturanga 1 was first subdivided in May 1887, when six new sections were created out of it. Five of these (1A–1E) were vested in just one or two owners and subsequently sold soon after. Section 1F, much larger than the others (341 acres), was vested in 29 owners.[1921] It underwent further partitioning in 1890 into nine divisions. Of these nine divisions, Section 1F9 (120 acres) was further divided in 1894 into three sections, each of which was declared by the Court to be inalienable.This restriction did not prevent further partitioning, however. In 1897, Section 1F9A was divided into two.[1922] The Walghan analysis shows that all this partitioning took place within the context of private purchasing within the block and the

[1918] Judge Heale to Chief Judge, 4 November 1881, MLC3/27/32.
[1919] Application by Dr Buller, 5 October 1881, MLC3/27/32.
[1920] Husbands, 'Oroua Reserve', p 32.
[1921] Walghan Partners, Block Narratives, draft, 19 December 2017, vol 3, p 311.
[1922] Walghan Partners, Block Narratives, draft, 19 December 2017, vol 3, pp 311-2.

district at large. By 1900, there had been 13 purchases, in no. 1 block and another 3 in no. 2, mostly of small sections.[1923] There is little known about exactly how these purchases were conducted at this point in research.

As we discuss in more detail in chapter 9, the other major block of land left to Ngati Kauwhata after Crown purchasing – the upper Aorangi – was also rapidly transferring out of their hands in the early 1880s as a result of debt, Native Land Court processes, and the activities of purchase officers and native agents. The Walghan block narratives indicate that 13 subdivisions totalling just over 1,372 acres were sold to three different settlers between 1882 and 1883.[1924] It was then apparently agreed that another 1200 acres of the land awarded to them as Aorangi no 1 should be sold. As a result, 400 acres were sold to pay for the survey of the planned subdivisions of the rest. When the subdivisions did not eventuate, this sum was used by the iwi's agent, Alexander McDonald, to pay other costs the hapu had incurred. A further 400 acres were sold to another settler to pay debts 'contracted in litigation' during Ngāti Kauwhata's drawn-out fight with the Crown over Rangitīkei-Manawatū.[1925] The last portion of 400 acres was then held, to be sold by McDonald at a suitable time, with the proceeds being used 'for the benefit of the tribe'.[1926] By the end of the century, little land would remain in their hands, prompting a plea to Sir James Carroll for relief for Ngati Kauwhata under the Landless Natives Act 1906 (to no avail since this legislation was intended for the South Island Maori only). By 1885, it was alleged, thousands of acres' had been wrongly sold by those named in the Crown grants, and then:

> After that land disappeared through sale, it was only after we grew up and became knowledgeable adults we realised how badly off we had been left. We have now no ancestral land at all from our ancestors, down through our parents, down to us today. We have no land interests anywhere in the country. So we are now forced to live among our relatives here on the basis of Māori kindliness.[1927]

At this stage, we know little about the how the private purchase system was operating in the district although, as we discussed earlier, it was clearly active with a number of agents, publicans, and syndicates active in the market. Clearly adding to the difficulties under which Ngati Kauwhata, Ngati Wehi Wehi and others based in the Oroua area were labouring, as a result of the introduction of an alien court and title system – one which had been 'sold' to Maori as giving greater security than a customary tenure, open to challenge by those asserting different take - was the questionable role being played by 'native agents'. Despite the suspicion and opprobrium heaped upon him by Fox, Featherston and others,

[1923] Walghan Partners, Block Narratives, draft, 19 December 2017, vol 3, pp 318-9.
[1924] Walghan Partners, Block Narratives, draft 19 December 2017, vol 2, p 42.
[1925] Evidence of Tapa Te Whata, 11 December 1879, Ōtaki minute book, 4, p. 156.
[1926] Evidence of Tapa Te Whata, 11 December 1879, Ōtaki minute book, 4, p. 156.
[1927] Kīngi and others to Carroll, 22 July 1908, MA1 1908/45,954.

earlier questions about his charging practices, an arrest for obstruction of survey, bankruptcy and a bad reputation McDonald would be employed by the government and its surrogate, the Wellington Manawatu Railway Company to acquire land on their behalf. In the meantime, he also gained a considerable land interest of his own; a matter to which we will return in subsequent chapters.

8.7 The grievances of Ngati Turanga, Ngati Rakau, and Ngati Te Ao

We have discussed the findings of the Native Land Court in the preceding chapter. Here we turn to the impact on the hapu of Ngāti Tūranga, Ngāti Rākau, and Ngāti Te Au, who had refused to sell to the government and now found themselves confined, in law, to a small portion of the lands in which they had exercised rights. As we have seen, at the beginning of 1868, the Native Land Court confirmed the validity of the Provincial Government's purchase, making an extremely limited finding in favour of Parakaia and his section of unsatisfied claimants, for which an interlocutory order was granted in April 1868. This stated that they were entitled to one half of the block, less two-twenty-sevenths, which amounted to 'a parcel of land at Manawatū containing by estimation five thousand five hundred (5500) acres, being part of a block of land known to the Court as the Himatangi Block'. The deduction stemmed from the fact that there were 27 persons found to be 'jointly interest with Parakaia' before the Court, but two of these had signed the deed of cession and were not, therefore, entitled to be considered owners.[1928] The certificate would only be granted if the claimants provided the Court with a satisfactory survey of the land awarded within six months.[1929] The three hapū rejected the award, complaining that they had been given insufficient time to bring evidence forward challenging the original award and to survey.

In the meantime, the other claims that had been before the Court were withdrawn, not to be heard until July the following year. However, within three weeks of the court delivering its second judgment, in September 1869, awarding (and reserving) 6200 acres to the non-sellers among Ngāti Kauwhata, Ngāti Parewahawaha, and Ngati Kāhoro, native title was declared to be extinguished to the rest of the Rangitīkei-Manawatū block. Included in that notice was the land at Hīmatangi awarded to Parakaia's hapu which they had failed to take up, hoping for a judgment more favourable to the 'Ngati Raukawa' case coming out of the second investigation under Fenton. They had failed to fulfil the court order, and even though they still lived on the land, they had no legal title and, in effect, were landless except for any interests that they might retain in Waikato.

As outlined in the preceding chapter, both the trigonometrical survey (for which the stations at Himatangi were crucial as providing the verification base line) and

[1928] Ōtaki minute book, 1E, 27 April 1868, pp 721-22.
[1929] Ōtaki minute book, 1E, 27 April 1868, p 722.

those of the non-sellers reserves were disrupted over the following year, necessitating the intervention of McLean (followed by Kemp). F D Bell, who had been commissioned to look into these events and the Provincial Government's claim to compensation for lands included in McLean and Kemp's expanded awards, noted that he (Bell) had 'always doubted the policy of including the Himatangi in the proclamation of extinguishment of Native title, although … Dr. Featherston urged it'. While there was 'no abstract injustice' since Parakaia had failed to fulfil the court's orders, the 'action of the Government had the semblance of what was arbitrary'. According to Bell:

> It appeared to Parakaia like taking an unfair advantage of him. He had a right to claim a fresh reference and a fresh adjudication, for he was not a party to the other suit. Practically, it is only a question of some 5,000 acres of indifferent land, and I think it would have been a more dignified course to let Parakaia retain what a previous Court had (in error, as it now turns out) awarded him. This, I believe, is the general feeling of the Natives. They regard our taking of Parakaia's piece, under the circumstances, as a 'muru,' or confiscation. On broad ground of policy and fairness, I would say, give it back to him; not admitting his right, but as an act of grace.[1930]

McLean had made 'concessions' in the shape of additional reserves 'to which they were in fairness entitled on account of unfulfilled promises' while H.T. Kemp had then found it necessary to augment the allocation. McLean was far more reluctant to interfere with, or throw in doubt, the integrity and justice of the Native Land Court than he was to expand the reserves and adjust boundaries to give a more adequate land-base to the hapu represented by McDonald. It was not until Parakaia's hapu employed their own agent – Walter Buller, no less – that they made headway in obtaining any redress, although, as we discuss below, this was to come only at considerable cost not only in monetary terms but also to hapū autonomy.

8.7.1 A promise by McLean?

McLean clearly recognised that something would need to be done for Parakaia's people; that this would be politic even if Parakaia had brought the situation on to himself (and his hapū) by failing to comply with the court's order. We shall see that throughout what followed, most Crown ministers and officials acknowledged defects in the way Featherston had gone about extinguishing native title, but did not question the court's validation of the purchase. Political expediency – the removal of an irritant and a cause for the King party on the west coast – rather than justice was the primary motivation.

In a memorandum of 30 March 1872 to the Superintendent of Wellington, the Native Minister recommended leniency on the matter of Parakaia's failure to comply with the court's survey requirement and the 'exercise of a liberal policy'

[1930] 'Report on the Claim of Wellington in respect of the Manawatu Reserves', *AJHR*, 1874, H.-18, pp 8-9.

with regard to the return of land, which McLean thought might usefully include the area that had originally been awarded to the government (the half deemed to belong to other tribes and hapu which the government had purchased). Noting that the court award had been conditional on a proper survey within six months, he advised:

> It appears that this proviso has not been carried out; but I should feel inclined with your Honour's concurrence, to the opinion that it would be hardly judicious to take advantage on technical grounds of the non-completion of the survey within the prescribed time, as the Natives, though acquainted with the decision, were not aware of its stringency, and did not anticipate that any penalty would be enforced in consequence of their neglect.
>
> I further have to point out … that the half allotted to Parakaia contained the best portion of the block, and that part of it which reverts to the Government is almost of a valueless character. I am certain that your Honour will agree with me that in these matters it is better to exercise a liberal policy, which will set at rest difficulties incident to them, than to keep open a disputed question for the sake of some land of but little value.
>
> In this case I should feel disposed, if your Honour's views coincide with mine, to allow the claimants the whole of the block.[1931]

No response has been located, but Featherston challenged the right of either McLean or Kemp to make any arrangements in excess of what he had negotiated, arguing that the costs should not fall upon the Wellington Province. It seems unlikely that he would agree to McLean's advice regarding the return of Hīmatangi, and it was Bell's later assessment (in 1874) that Featherston was 'averse to giving Parakaia a single acre'.[1932] Nothing was done.

The hapu believed, however, that they were to get the whole of Hīmatangi when the block was eventually surveyed, and later argued that such a promise had been made when McLean and Parakaia met kanohi ki te kanohi at the Thames in 1871. Parakaia died in 1872 and a few years later (in 1876), McLean acknowledged the meeting and having promised to return the land, but only the portion that had been awarded to Parakaia (and his co-claimants) by the Native Land Court – that part forfeit to the Provincial Government because of their failure to survey. This fact – that no lands were legally theirs – was only revealed to them in the course of new purchase operations instituted by the Provincial Government. Notwithstanding the legal situation, Herbert Wardell had been instructed to acquire Hīmatangi and he reported back to Fitzherbert, in November 1872, that he had started negotiations and managed to reduce Maori demands down to £1000 plus a 500-acre reserve, while some (he said) also wanted to sell all but 100 acres out of what remained at Te Awahou. The price was to 'be kept strictly private'.[1933] Proving unable to conclude those arrangements, Wardell had informed Maori that as they had failed to fulfil the court's survey requirement,

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[1931] Memorandum for Superintendent, 30 March 1872, *AJHR,* 1872, G.-40, p 13.
[1932] 'Report on the Claim of Wellington in respect of the Manawatu Reserves', *AJHR*, 1874, H.-18, p 9.
[1933] Wardell to Fitzherbert, 23 November 1872, MA 13/75b.

the whole area reverted to the Crown, which was willing, however, to pay a 'reasonable sum to settle the question'. His offer of £750 and a 5600-acre reserve was refused.[1934]

8.7.2 Pitihira Te Kuru and 35 others petition

In 1875, Buller had been engaged by the leadership of Ngāti Tūranga, Ngāti Rākau, and Ngati Te Au to act as their agent in the matter.[1935] He claimed to have spoken to McLean on several occasions – and had been led to understand that he had decided to 'give back to Maori the whole of the Himatangi block'. It seems that McLean had intended to bring in a Bill to give effect to his proposal (or promise or both) to have the block awarded to the original grantees, and his successor, Daniel Pollen, recalled having talked with him about such a measure.[1936] Before this was done, Pitihira Te Kuru presented a petition to the Assembly, in 1876, complaining of their ill-treatment and McLean decided not to proceed.[1937] According to Buller, the Native Minister had been 'irritated' by the allegations and had 'then washed his hands of the matter'.[1938] Certainly, he resiled from his earlier stated disposition to return the 'whole of the block'.

This was one of a number of petitions dealing with various aspects of the Rangitīkei-Manawatū purchase that were sent in, during the year, by both sellers and non-sellers. Rāwiri Te Whānui and 14 others sought the restoration of a block of 18,000 acres in the Rangitīkei-Manawatū district, which they alleged had been 'taken unjustly' by Featherston. The petition was declined; the Native Affairs Committee considered that the case had been 'fully heard by the Native Land Court' and did not 'see their way to recommend an alteration' of the court's decision.[1939] Moroati and eight others petitioned for an investigation of Featherston's purchase on the grounds that the land had not been sold by the right owners. Again the Committee declined to intervene; this was one of numerous petitions involving 'very complicated questions of title' on which the Committee did not feel 'competent to make any recommendation' and which should be dealt with by a legal tribunal.[1940] Utiku Marumaru and 97 others complained that they had been deceived about the sale of lands at Rangitīkei-Manawatū and that promised reserves had been kept back. In the absence of evidence, the Committee declined to make any recommendation.[1941] The petition of Ihakara Tukumaru and

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[1934] Wardell to Fitzherbert, 16 December 1872, MA 13/75b.
[1935] See 'Native Affairs Committee Report on the petitions of Rēnata Rōpiha and others and Hera Tuhangahanga and others', *AJHR*, 1885, I-2A, p 7.
[1936] Pollen to Premier, 8 June 1877, Himatangi Papers, 1874-1886. MA 13/37.
[1937] Pollen to Premier, 8 June 1877, MA 13/37.
[1938] Buller memorandum, 29 May 1877, MA 13/37.
[1939] Reports of Native Affairs Committee, *AJHR*, 1876, I-4, p 8.
[1940] Reports of Native Affairs Committee, *AJHR*, 1876, I-4, p 8.
[1941] Reports of Native Affairs Committee, *AJHR*, 1876, I-4, p 19.

two others also complaining that Featherston and Buller's promise of reserves had not been fulfilled met with the same response.[1942]

The petition that particularly concerns us here, and which the Native Affairs Committee did choose to investigate, was that of Pitihira Te Kuru and 35 others. This stated that their hapu had not joined in the sale of Rangitīkei-Manawatū. They had received none of the purchase moneys and had been 'unjustly deprived of … Himatangi. … [T]hey suffer undeserved wrong in consequence as they have always lived on the land.'[1943]

The Native Affairs Committee, chaired by John Bryce, considered the petition in August 1876. McLean appeared, and gave his opinion that the failure of Parakaia to survey was a 'technical' matter rather than evidence of his rejection of the court's award, recommending that he should not be penalised for that failure. He did not, however, acknowledge any larger commitment:

> I did make a promise to Parakaia Te Pouepa that he should have given back to him a portion of Himatangi block to which he had laid a claim but to which he had forfeited his legal title in consequence of his not having completed his survey as ordered by the court within six months. His failure to do so seemed a mere technical matter and I did not consider it fair that he should be deprived of his land owing to a mere technicality. Therefore I recommended the Superintendent of the Province withhold the Himatangi block from sale till a settlement of the case was come to with Parakaia. The conversation I had with that chief took place at Ohinemuri on the Thames and my recollection is that I then promised that four or five thousand acres which had been originally awarded to him subject to survey should be given to him.[1944]

McLean then answered a number of questions about the location of the block, whether the claim was on behalf of a hapū, whether it had been brought before a 'Tribunal appointed for the purpose', what quantity of land had been claimed (to which McLean replied that his memory did not extend to that), and whether the Court had awarded the full claim or not. To this, McLean replied that his 'impression' was that only half of the land now claimed had been awarded. The original award was 'all they are fairly entitled to'.[1945] Questioned by Mr Karaitiana, McLean stated that when he had spoken with Parakaia at Ōhinemuri, 'I said to him the Government would not deprive him of his land on that account' – that is the failure to survey it. When asked if he thought the claimants had sent in the petition fearing that they would get nothing at all, McLean answered, 'It may be but that is not correct. The land was promised to be given back at Ohinemuri.' Questioned as to whether the 11,000 acres had been excepted from the sale, McLean responded, 'He may have claimed other land. I have heard nothing about it.' Nor could he answer a question about the principle on which the court had divided the block; he had been absent in Hawke's Bay at the time.

[1942] Reports of Native Affairs Committee, *AJHR*, 1876, I-4, p 19.
[1943] Reports of Native Affairs Committee, *AJHR*, 1876, I-4, p 9.
[1944] Native Affairs Committee, Le 1/1876/7.
[1945] Native Affairs Committee, Le 1/1876/7.

McLean was then asked who would be prejudiced should Parakaia get the whole area, to which he replied, 'The province of Wellington', and that the government had attempted to get authority from parliament to issue grants for a number of pieces of land in the block but had been opposed. When asked about the price that had been paid, he maintained that the government had 'made every endeavour' to 'meet this claim fairly'.[1946]

On this evidence, the Native Affairs Committee reported:

> That there appears to be no difficulty in the way of the petitioners' hapu receiving the land awarded to them by the Court which investigated their claim; but as their object is to obtain an additional quantity to that awarded, it would seem that this petition is virtually an appeal from the decision of the Court.
>
> The Committee believe that it is not desirable that they should act in the capacity of a Court of Appeal from the Native Lands Court, inasmuch as it is manifestly impossible that they can take sufficient evidence or devote sufficient time to a single case to enable them to come to a satisfactory conclusion. In the present instance the Committee do not feel justified in making any recommendation to the House in favour of the petitioners which might be regarded by them as a re-opening of their claim.[1947]

On the same day (23 August 1876), Bryce issued a general report on the petitions that were being referred to the Committee: most of them were in the nature of virtual appeal from the decisions of the Native Land Court and since this situation was likely to continue, a competent Court of Appeal ought to be established and would be 'conducive to that fair and just redress of grievance which it is the desire of this Committee to see extended to the native race'.[1948]

The following month, another petition was received from Rāwiri Te Whānui and 'other members of the Ngati Raukawa tribe', which was reported as being 'somewhat vague in terms', but from the evidence it was concluded that they wanted 'certain lands included in their tribal boundaries which were not included by the Court … in order that they may receive payment for the same'. The Committee considered this, also, as a virtual appeal and made no recommendation on the matter, but referred to their general report and the need for a Court of Appeal.[1949] (A Native Appellate Court replacing the rehearing system was not established until 1894 under the Native Lands Act of that year).[1950]

McLean proceeded on the basis of the Committee's recommendation to put the hapu in possession of the original award but nothing more. Informing Buller that, as it was desirable to have the Hīmatangi question settled, and in 'the interests of justice', the government would give Pitihira and his hapu 6,000 acres next to the

[1946] Native Affairs Committee, Le 1/1876/7.
[1947] Reports of Native Affairs Committee, *AJHR*, 1876, I.-4, p 9.
[1948] Reports of Native Affairs Committee, *AJHR*, 1876, I.-4, p 9.
[1949] Reports of Native Affairs Committee, *AJHR*, 1876, I.-4, p 10.
[1950] R Boast, *The Native Land Court, 1862-1887*, Brookers Ltd, 2013, p 103.

Awahou block on condition that they give assurance that they had no further claim regarding the area.[1951] This they declined to do, pointing out that they were still owed their share of the rents impounded by Featherston. They calculated this amount as £500 and demanded, also, the 10 per cent interest they had been promised on the sum, now amounting to a further £500.[1952]

In early 1877, letters were sent threatening to seize Captain Robinson's stock if their demands were not met, and also naming the people who would act on their behalf, to confer with the government and their lawyer (Buller). These representatives were Pitihira Te Kuru for Ngāti Te Au; Rēnata Rōpiha for Ngāti Rākau; and Roiri Rangiheuea for Ngāti Tūranga.[1953]According to Buller, he had tried to induce them to accept McLean's offer but they continued to rely on the government fulfilling what they regarded as a definite promise to Parakaia.[1954] In the meantime, the government had agreed to the award of further 'compensation' to Ngāti Kauwhata, and he had advised his clients that as named owners they were entitled to the same and should demand a settlement on the same basis.[1955]

8.7.3 Himatangi Crown Grants Act 1877

Daniel Pollen (Colonial Secretary and Native Minister) decided to take a more generous view of the matter – and a pragmatic one, acknowledging that the original purchase had been deeply flawed. He chose to believe that McLean, who had died in January 1877, had made a promise to return the whole of the block, citing his letter to the Superintendent of Wellington in 1872 and searching the official papers, but apparently overlooking the evidence before the Native Affairs Committee.

He introduced the Himatangi Crown Grants Bill to give effect to the proposed return of land in 1877. In moving the second reading, Pollen outlined his view of the history of the case: that the block had formed part of the Rangitīkei-Manawatū purchase and had for 'a long time been held as Crown land', although it was known to be 'disputed'. The purchase itself he acknowledged as the 'subject of heart-burning among the Native people of that District, and a source of very great embarrassment and difficulty to the Government'.[1956] Of particular concern, however, was the fact that it had 'for a long time' seriously impeded the

[1951] Mclean to Buller 30 September 1876, Himatangi papers, 1874-1886, MA 13/37.
[1952] Pitihira Te Kuru and 34 others to Ministers of Government, 19 January 1877, Himatangi papers, 1874-1886, MA 13/37.
[1953] Pitihira and others to Ministers of Government, 19 January 1877 and Retimana Te Kama and 31 others to [?], 20 January 1877, Himatangi papers, 1874-1886, MA 13/37.
[1954] Buller memorandum, 29 May 1877, Himatangi papers, 1874-1886, MA 13/37.
[1955] Pitihira Te Kuru and others to Government, 19 January 1877 and Buller memorandum, 29 May 1877, Himatangi papers, 1874-1886, MA 13/37.
[1956] *NZPD*, 1877, vol 25, p 87.

'progress and settlement of a very important district in the colony'. According to Pollen:

> There was no direct evidence of this promise having been made, but there were circumstances – some of them within his own knowledge and evidence of a documentary character which rendered it almost certain that a promise of the kind had been made by the Native Minister on behalf of the Government to Parakaia and his people that this long disputed land should be restored to them.[1957]

He then read out McLean's 1872 memorandum to the Wellington Superintendent (cited above), which had recommended a 'liberal policy' and to allow the claimants the 'whole of the block'. Although it seemed unlikely that the province had agreed, given the poor relationship with the Native Department, Pollen argued that it showed that a promise really had been made. Buller supported that contention, while Pollen told the House that:

> There was a very strong desire on … McLean's part that the several questions of the Manawatu purchase, which had caused so much disturbance, such frequent breaches of the peace, and difficulties of one kind and another, should be settled as speedily as possible and in the session of 1876, it was, he believed, the intention of the Native Minister to have introduced a measure for the purpose of authorising a grant for this land.[1958]

The Minister outlined the recommendation of the Native Affairs Committee, the offer of 6,000 acres and the claimants' refusal of it. Since then, they had consistently urged the return of the whole block in a 'peaceful manner'. He then turned to clause 17 of the Bill. This referred to a proposed waiver of the claim to the impounded rents and accrued interest if the land was restored. It was later revealed, however, that Buller had made the offer without the knowledge of his clients – he said, because he had 'given up all hope of getting anything like justice at the hands of the government'.[1959] Not only did they deny any such offer made by them, but the clause was attacked, on principle, by Walter Mantell, and modified when it came before the Legislative Council as discussed further below.

Pollen intended that the land be made inalienable except by lease, arguing that the government would not only be fulfilling its promise and putting a troublesome matter to rest, but also making 'a permanent provision for a very improvident people, which it was exceedingly desirable should be made, not in this instance only, but in a great many cases of a similar character'. There was, however, no intention that the land be retained in corporate or communal title, or that Maori protection be at the expense of the expansion of the colony: the rents would be distributed upon determination of their relative interests, while there was also 'alternative' provision for the Individualisation of title and for the Governor to authorise the sale of the block. This had been considered 'desirable … in the interests of settlement, inasmuch as the land was in the neighbourhood

[1957] *NZPD*, 1877, vol 25, p 87.
[1958] *NZPD*, 1877, vol25, p 88.
[1959] Reports of Native Committee, *AJHR*. 1885, I-2A, p 8.

of Foxton, and it might be locked up for a long time if under lease, and thus interfere with the progress of settlement.[1960]

Mantell supported the Bill in general terms, largely because it would set a precedent for the case of Ngāi Tahu (to whose case he devoted his whole speech in the third reading). Although he doubted that any promise had ever been made to Parakaia, it being merely a suggestion by McLean to the provincial authorities that since the land in question was 'worthless', it might as well be 'thrown in for peace and quietness' sake', he still favoured the whole block being restored. He argued that this should have been done 'from the moment that they [the government] became aware that the native owners of this block had been no parties to the sale of the Manawatu-Rangitikei block and had received no portion of the proceeds'. In Mantell's opinion, the measure still fell short of providing justice to 'the Natives who for some time had been kept out of land the title to which they had never conceded'.

Nor could he see any justification for a portion of the rents being relinquished:

> From the Colonial Secretary's statement it appeared that at the time the land was taken …. it was not pretended to have been purchased or acquired in any other way, but simply to have been taken with a high hand, although perhaps innocently at the time – the Natives were deriving a certain annual profit from it, in the way of rents … £500 of these rents came into the hands of the Government; and … on these rents the Government was to pay 10 per cent per annum, which for ten years would amount to £500, making the total sum of £1000. He thought that it hardly came up to the dignity of the rest of the Bill to put in a clause at the end by which natives who took advantage of the provisions of the Act should in respect of getting back their property forfeit the main part of it, to which the Gocernment could not allege any claim.[1961]

Mantell also highlighted the inconsistency of making the land inalienable on the one hand, and on the other, enabling the Governor to allow its sale – as well as conferring a similar power on trustees in the case of minors – although this did not cause him concern because he thought Ngāti Raukawa had sufficient experience of Pākehā, and the dangers of alcohol, for the prudent to retain their land; 'the rest must necessarily, like the weak and improvident of all races, go to the wall.' It was impossible in his view (and in that of most of his contemporaries) to legislate to;protect the weak from their own vices'.[1962]

Pollen defended the enabling of sale, despite the appearance of protection, on the grounds of guarding against the possibility of 'inconvenience' should the block, a portion of which was of 'considerable value', be ever required for settlement. He argued that this would be in the interests of Maori themselves, as well as settlers, suggesting that provision could be made for re-investment of the proceeds.[1963]

[1960] Native Affairs Committee, Le 1/1877/5.
[1961] *NZPD*, 1877, vol 25, p 89.
[1962] *NZPD*, 1877, vol 25, p 89.
[1963] *NZPD* ,1877, vol 25, p 90.

When the Bill was examined by the Native Affairs Committee (in October 1877), Pollen acknowledged that: 'No doubt the natives have been very hardly dealt with in regard to that purchase, and it is worth while even stretching what is right and equitable in order to have a final and satisfactory settlement of the thing.'[1964] Asked whether he, or the government, had 'any reason to suppose that the court awarded an insufficient amount by the evidence before them', Pollen replied 'I think so.'[1965]

He saw the judgment as a 'sort of politic compromise' between two strongly opposing positions – not between different tribal entities, but between that of Featherston and the provincial government as purchaser and the non-sellers. This was the only land remaining to the petitioners other than their claims within the Waikato confiscations and, in Pollen's view, they should 'get all that is valuable in the block'. Pollen told the Committee: 'To my mind that is a smaller consideration than the removal of the sense of wrong under which they have been labouring for six or seven years. No doubt as to the equity of the matter exists in my mind.'[1966] He assured the Committee that the quantity of land to be returned was not too large; nor did he think that a precedent would be set by the court's decision being overridden in this way: 'There are no circumstance similar in the colony to this purchase or likely to be again. It is hardly now so much the worth of the government as of the parliament itself. I don't think any precedent can be made out of it, because the circumstances are altogether exceptional.'[1967]

The principal point on which the Committee sought Pollen's evidence was as to whether the land, if granted to Maori, should be made inalienable except by lease. On being informed earlier of the intention to introduce such legislation, Buller had expressed himself as generally well-pleased, suggesting that it would strengthen the confidence of West Coast Maori in the government. He was far less pleased, however, with the intention to restrict the land from permanent alienation, arguing that this would 'prejudice the rights of his clients'.[1968] (It was later revealed that Buller was more concerned with his own rights, since he thought to recover the fees for his services through a sale of a portion of the block.) He argued at the time that no restrictions had been placed in the original award, that the general practice was to assign 50 acres of land as a sufficiency, and that the 25 Hīmatangi claimants would be amply provided for if only 5000 acres of the block were made inalienable.[1969] These views had been rejected by HT Clarke, to whom they had been addressed. Clarke pointed out that the original order was to recommend such a restriction be entered upon a portion of the land until it should be subdivided under section 15 of the Native Land Act

[1964] Native Affairs Committee, Le 1/1877/5.
[1965] Native Affairs Committee. Le 1/1877/5.
[1966] Le 1/1877/5.
[1967] Le 1/1877/5.
[1968] Buller to Clarke, 3 July 1877, Himatangi papers, 1874-1886, MA 13/37.
[1969] Buller to Clarke, 3 July 1877, Himatangi papers, 1874-1886, MA 13/37.

1865.[1970] Buller continued to object, arguing that the return of 6000 acres to Ngati Kauwhata and the Rangitīkei-Manawatū Crown Grants Act 1873, which enabled the Governor to execute grants to fulfil the promises made by McLean, did not contain any such restriction, and querying why his clients should be treated differently.[1971]

Clarke and Pollen were unmoved. Clarke had informed Pitihira Te Kuru and his hapu of the intention to make the land inalienable except by lease, so that the 'land should remain your property forever' – a step to which Buller objected as going 'over his head'.[1972] Pitihira expressed himself as 'pleased' with the proposal, and the Bill was brought to the House with the restriction intact (although Buller's objections were also tabled.)[1973] When the question was brought before the Committee, the Native Minister was insistent that the restriction should be retained, maintaining that the original proposal had been greeted 'with great rejoicing'.[1974] They had changed their minds on this point, undoubtedly as a result of Buller's persuasions, protesting that it would mean the block would 'die a second death'.[1975] Pollen argued before the Committee that any permanent alienation should be allowed only by special Act of Parliament – and for the benefit, primarily, of the colony rather than for the needs of the grantees. He could see circumstances for the promotion of settlement of the colony when a portion of the land might be sold, but thought it 'quite proper and right that it should be subject of a special Act'. In his view, the wish for the block to be alienable came from 'friends of theirs' rather than Maori themselves.[1976]

The Committee reported on the proposed Bill that they approved of its general scope and intention and had 'no material alteration to recommend'.[1977]

Clause 15 of the Bill, whereby the Governor could consent to land being disposed of, was dropped. In its final form, under section 5 the Governor could cause a Crown grant to issue to the persons interested as 'tenants in common in undivided shares of the defined proportions specified in the report', with the condition that the land not be disposed of, except by lease not to exceed 21 years. Alternatively, under section 6, the Governor in Council could instead direct a subdivision of the block and award to each of the members of entitled hapu one or more of the subdivisions, and define the extent and boundaries of the land to

[1970] Note by Clarke, 4 July 1877 on Buller to Clarke, 3 July 1877, Himatangi papers, 1874-1886, MA 13/37.
[1971] Buller to Clarke, 4 July 1877, Himatangi papers, 1874-1886, MA 13/37.
[1972] Clarke to Pitihira Te Kuru and others, 30 June 1877; Buller to Clarke, 10 July 1877, Himatangi papers, 1874-1886, MA 13/37.
[1973] See Buller to Clarke, 4 July 1877, Himatangi papers, 1874-1886, MA 13/37.
[1974] Le 1/1877/5. See also Pitihira te Kuru to Clarke, 5 July 1877, Himatangi papers, 1874-1886, MA 13/37.
[1975] Pitihira Te Kuru to Clarke, undated, Himatangi papers, 1874-1886, MA 13/37.
[1976] Le 1/1877/5.
[1977] 'Reports of Native Affairs Committee', *AJHR*, 1877, I.-3, p 30.

which they were entitled. The Court was to inquire if any person interested in the block was under disability and in such case, the Maori Real Estate Management Act 1867 would apply, enabling the appointment of a trustee with the power to sell, with the consent of the Governor.

The other area of concern was clause 17, which had been challenged by Mantell in parliament. This had explicitly stated that the three hapu would waive their claim to the back-rents if the block was returned. Several members expressed disapprobation, and the phrase was struck out in committee. Instead, section 16 stated:

> The passing of this Act shall be deemed and taken to be a full and complete satisfaction of all actions, suits, claims, damages, and demands whatsoever, both at law and in equity, which the said hapus, or the members thereof, now, have agasinst Her Majesty or the colony in respect of or arising out of or concerning the said block.[1978]

The first schedule described the boundaries of the land which was stated as containing '11,000 acres more or less'.

8.7.4 Defining interests and further transformation of customary ownership

Within months the land had been leased although the grantees had not yet been determined.[1979] On 1 June 1878, the Governor signed an Order in Council directing the Native Land Court to ascertain the share or shares to which each member of Ngāti Te Au, Ngāti Tūranga, and Ngāti Rākau was interested.[1980] The following month, Pitihira Te Kuru, Roiri Rangiheuea, Rēnata Rōpiha, and their hapū applied for surveyors to define the boundaries of the block in order to make the land 'free from any future trouble', the original pegs having been removed some time earlier.[1981] While the court relied on a private plan, the final survey was to be done at the government's expense.[1982]

The hearing for Hīmatangi (stated to be 11,781 acres) was held at Foxton under Charles Heaphy from 20 to 24 November and 3 to 6 December 1879. As names were put forward, discussed, and deleted if their signatures appeared on the deed of cession, this process inevitably entailed a further step in the transformation of their customary title. The case opened after a short adjournment to allow time for Buller to arrive, followed by a further delay of a day to allow the hapū 'to arrange names and to mark off on sketch portions of land they wished to be put in the

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[1978] Himatangi Crown Grants Act 1877, 41 Victoriae 1877, no 37.
[1979] According to the *Evening Post* 13 February 1878, p 2, a Mr Barber had arranged for the lease of about 10,000 acres.
[1980] *NZ Gazette*, no 51, 1 June 1878, p 718.
[1981] Te Kuru, Rangiheuea and Rēnata to Hone Hiana, 8 July 1878, Buller to Clarke, 3 July 1877, MA 13/37.
[1982] Under-Secretary Crown Lands to Heaphy, 13 October 1880, Himatangi papers, 1874-1886, MA 13/37.

order'.[1983] On the following day, the three designated leaders appeared. Te Kuru, for Ngati Te Au, pointed out, on the plan, the portions they wished for each hapū and stated that 'he was entitled to the largest share'.[1984] Te Rangiheuea, appearing on behalf of Ngāti Tūranga, stated that 'all the hapu' had agreed to five equal divisions of 2,356 acres and handed in a list of the members of that hapū. Rēnata Rōpiha appeared for Ngāti Rākau and handed in two separate lists for different sections of the hapu. He also stated that he had given 100 acres to Ngāti Whakatere to 'cultivate permanently' and that he wanted the court to make an order for them, although some of his hapu had objected.[1985] The other two leaders supported the allocation. Te Kuru handed in a list of Ngāti Whakatere names, while Roiri told the court that it was 'perfectly just that the 100 acres should be given to Ngatiwhakatere & the hapu's have all consented. We are all pleased at the gift.'[1986]

The next matter raised by the hapu leadership was the presence of a burial ground located at the extreme south-east corner of the land that was to be allocated to Ngāti Rākau and which Rēnata asked to have fenced off. Then Pitihira Te Kuru informed the Court that he was leasing the surrounding area – the south-east portion of the Ngāti Rākau land – to H Simmons and that 'all had agreed that they should receive the rent'. The Court informed them that they 'must give in names of Trustees and have it measured off so as to know how much it contains'. The Court then adjourned for the day so that this could be done.

The Court opened again on the Monday (24 November). Next followed a process of checking whether individuals were to be included or excluded from the list of to-be-grantees. The minutes record:

> Arona Te Hana having applied to judge to have his name in the Himatangi and the Court not having the Original deed of Session was unable to compare it with the names given in by the persons on Friday.
>
> The whole of the documents with deed of Session having been sent for examination the case would stand adjourned until the Court returns from Palmerston.[1987]

The necessary documents had arrived by the time the Court reopened at Foxton (3 December) and that being the case, Rēnata Rōpiha stated that they wished the claim to be gone on with and finished within the day. The deed was produced and, then, the 1,700 or so signatures examined to see whether any of the hapu members were included. As a result of this procedure, Reverend Arona Te Hana stated that 'it was his signature to the deed of sale and therefore had no more to say'.[1988] The Court then 'informed Natives that it would be necessary to compare

[1983] Ōtaki minute book, 4, 21 November 1879, p 112.
[1984] Ōtaki minute book, 4, 21 November 1879, p 112.
[1985] Ōtaki minute book, 4, 21 November 1879, pp 112–3.
[1986] Ōtaki minute book, 4, 21 November 1879, p 113.
[1987] Ōtaki minute book, 4, 24 November 1879, p 120.
[1988] Ōtaki minute book, 4, 3 December 1879, p 138.

the names of those given in with those in the Deed of Cession'. This resulted in no sellers being included. As a result, Hariata Hamareta [?] and several others who also acknowledged their signatures to be on the deed, had withdrawn their claims and they came off the ownership list as well.[1989] The minutes only state:

> Objectors challenged.
>
> Lists of names as given in being read. Several names were found to be included in the deed of cession.
>
> Court adjourned until next day in order that Lists, as handed in, could be compared with signatures (1700) in Deed to see that no name in Lists were in deed of purchase.[1990]

The next day, the three rangatira handed in their hapu lists, each swearing that all those named were adults and the lists correct. Pitihira Te Kuru handed in 10 names for Ngati Te Au, while Roiri Rangiheuea handed in two lists for Ngati Turanga; one (no. 2) of 18 persons whom 'we wish to go into a piece by themselves' and no. 3 of 20 named persons whom the hapu had similarly decided should 'go on a piece by themselves'. Ngāti Rākau also handed in two separate lists; no.4 contained 16 persons; and no. 5, for a different section of the hapū, also named 16 people. Roiri Rangiheuea stated that Horiana Roiri's name should be swapped from Ngāti Tūranga and placed on no. 4 for Ngāti Rākau.

The Court checked that all persons named were of sound mind (as required by the law to be an owner), and then the claimants requested that the 'grants issue to them as tenants in common'. The Court adjourned again for a short period to allow them to decide whether 'the individual shares should be equal or in what proportions'. This proved difficult to decide. When they appeared again, in the afternoon, Ropiha and Rangiheuea both stated that their hapu wanted equal shares as hapu tenants in common. Te Kuru testified that:

> The Runanga sat to determine the area for each member. Roiri wished the land to be given equally that each subdivision for each hapu should be equal. I represent the smaller hapu. Roiri wished each hapu to have the [?] number of acres. I gave my consent to what Roiri states as to the subdivision of the Block.[1991]

Rēnata Rōpiha then stated: 'I think that each member of the hapu's should be equal as to the share in the land that they all should share alike', and that the wahi tapu should be granted to the three representative men.

The Court then issued a judgment along the out-of-court determinations that:

> … no more names could be received and that the share of each person in the lists as given in shall be equal and that Roiri Rangheaurea Petihira Te Kuru, & Renata Ropiha be trustees for wahi tapu of 3 acres at Ahimatu [?]. That with respect to the piece of land shown on the plan as being cut off from the frontage to the Railway the Court will see

[1989] Buller memo to Heaphy, 3 June 1880, MA 13/68/37B.
[1990] Ōtaki Minute book, 4, 3 December 1879, p. 138.
[1991] Ōtaki minute book, 4, 5 December 1879, p 141.

> justice done to the hapu's and as the Court is not satisfied as to the Southern boundary the final decision will not be given until the Court has the old plan which is attached to papers in Wellington.[1992]

In fact, this never seems to have been produced.[1993]

However, the survey by Carkeek, dated 11 May 1880, showed an area of 872 acres of Crown land sandwiched between the northern boundary of Te Awahou block and Hīmatangi no 5 which had been allocated to Ngāti Rākau.[1994] It was later revealed that this land had already been on-sold. The government came to the conclusion that this area represented the 2/27th shares that had been taken out of the Native Land Court award to represent the interests of the two signatories; shares that had been acquired undefined and without the consent of the hapu and their leadership. The explanation was not readily understood, or explicable, to them, and they were continue to argue against the government's assumption that the area was within its right to sell.

The lists that were put in named 87 persons as entitled to equal shares in the Hīmatangi parent block, and five subdivisions were made in varying sizes depending on the number of persons within each list. This meant that although Pitihira Te Kuru received the same as others, his hapu, being the smallest, went into the smallest block. The blocks were allocated as follows:

- 10 persons of Ngati Te Au were thus awarded shares in the northern portion; (no 1) and surveyed at 1,264 acres.
- 28 members of Ngati Tūranga to the south of that in no. 2 (3,540 acres).
- another 18 Ngati Tūranga allocated their shares further south in no. 3 (2,276 acres).

The interests of Ngāti Rākau were also divided into two separate portions with:

- 16 grantees allocated their shares to the south of those awarded to Ngati Tūranga (in no 4) of 2,023 acres and
- the final 15 went into the southern-most portion of the block in no 5 (1,896a 2r).[1995]

The urupa of three acres was set aside and granted to the three leading men as trustees and restricted from alienation.[1996]

Pitihira remained unhappy about the allocation into shares within the block, writing to John Bryce (Native Minister) querying whether it was right that

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[1992] Ōtaki minute book, 4, 5 December 1879, p 142.
[1993] We examined the Ōtaki minute books over the succeeding years, and all matters indexed to Hīmatangi pertain to succession. The last reference found to Ōtaki was in November 1886, in minute book 11.
[1994] ML 500.
[1995] Heaphy to Sir George Robinson, 22 January 1880, Himatangi papers, 1874-1886, MA 13/37.
[1996] Rolleston memorandum, 14 July 1880, Himatangi papers, 1874-1886, MA 13/37.

children and people of unsound mind should be put into the Crown grant and complaining that persons acting for the hapū had been wrong in doing so. He then identified one person that he alleged was unsound in mind and a number of children. He thought that grantees should be 'grown up people only'.[1997] Inquiry was made, and Pitihira was duly informed that the law under the Maori Real Estate Management Act 1867 provided protection for the interests of children and persons of unsound mind.[1998] This resulted in a request for rehearing, which was refused. According to Heaphy, to whom the application was referred (as was standard practice), the Court had gone over the list of owners name by name to ascertain if any fell within the category of disabled, but none appeared to require mention in accordance with section 11 of the Act. Pitihira Te Kuru had been present and had not opposed their inclusion although he did object to the shares all being equal, wanting 1,000 acres 'for himself'.[1999] According to Heaphy, there had been no person shown to be of unsound mind.[2000]

An application for rehearing was received from the three hapu leaders (Rēnata Rōpiha, Te Kuru, and Rangiheuea), claiming the 781 acres that had not been included in the award.[2001] As noted earlier, this land had been deemed sold and, officials said, represented the interests of the two members of the hapū who had signed the Rangitīkei-Manawatū deed. In Heaphy's view, the term used in the legislation '11,000 acres more or less' could be held to describe the land that had been awarded, and it was not within the court's power to go beyond the statutory description and the area mentioned.[2002] This request for rehearing was also denied.[2003]

Then, in March 1880, Rēweti Te Hiko and 11 others asked for the case to be reheard because they considered that three mistakes had been made. The government had wrongly kept the 781 acres; minors had been placed in the title, which meant that their parents had received a larger portion; and the subdivisional survey had not been properly laid.[2004] The application was again refused.

Buller in a memorandum addressed to Heaphy stated that, as counsel for the claimants, he had been satisfied with the court's conduct. Evidence had been

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[1997] Pitihira te Kuru to Bryce, 6 December 1879, Himatangi papers, 1874-1886, MA 13/37.
[1998] Morpeth to Native Minister, 5 January 1880, Himatangi papers, 1874-1886, MA 13/37.
[1999] Heaphy report application, undated, Himatangi papers, 1874-1886, MA 13/37.
[2000] Heaphy to Sir George Robinson, 22 January 1880, Himatangi papers, 1874-1886, MA 13/37.
[2001] Heaphy report on application of Rēnata Rōpiha, undated, Himatangi papers, 1874-1886, MA 13/37.
[2002] Heaphy report on application of Rēnata Rōpiha, undated, Himatangi papers, 1874-1886, MA 13/37.
[2003] Note dated 3 March 1880 on Rēnata Rōpiha, Pitihira Te Kuru and Roiri Rangiheuea, 5 February 1880, Himatangi papers, 1874-1886, MA 13/37.
[2004] Rēweti Te Hiko and 11 others to Fenton, 16 March 1880, Himatangi papers, 1874-1886, MA 13/37.

taken on oath for every claimant as to their being full age and without disability. The signatures attached to the Rangitīkei-Manawatū deed had been carefully examined to ensure that no sellers were included. According to Buller, the enquiry had been exhaustive and his clients were satisfied. None of them had mentioned a rehearing to him. He had explained to them that the court could not exceed its jurisdiction and award land outside the area described in the schedule. While several claimants had asked for their children's names to be included, the judge had refused their request on the grounds that it would make their shares disproportionate and was opposed to the principle laid down by the court.[2005] Heaphy also maintained that the question of whether the head of a family should receive a share for himself and each adult child had been discussed in court, it being decided that he should only get one. The divisional lines had also been decided by Māori and drawn in an open court. According to Heaphy, everybody had been satisfied until two weeks after the judgment once it was found that the block contained only 11,000 acres, when their expectation based on earlier estimates had been for rather more.[2006] The following month, Rangiheuea wrote stating that the hapū interested in Hīmatangi consented to receipt of the Crown grants. This was considered to be a withdrawal of the application for rehearing, and Heaphy's award was duly gazetted in July.[2007] Before the grants could issue, the subdivisions had to be completed and this was undertaken at the government's expense in May 1880. The Crown grants were eventually issued on 3 August 1881.

A total of 126 acres were partitioned out of no. 3 block for Wereta Kahoriki in 1896, with the other 26 owners remaining in Hīmatangi 3A (2,221 acres). There was no other title activity or sales until the twentieth century.[2008]

As far as the hapū were concerned, however, a number of matters remained outstanding; namely the back-rents impounded by Featherston and the sale of the southern portion of the block when, they said, their hapū had never endorsed any sale of any of their lands, We return to a discussion of these matters later, but first turn to a series of petitions in the form of letters presented by a wide cross section of 'Ngāti Raukawa' in 1880.

8.8 Ngāti Raukawa petitions, 1880

On 21 August 1880, the Governor, Sir Hercules Robinson, met with certain rangatira of 'Ngāti Raukawa'. The Premier, John Hall, was also present. The rangatira—Hēnare Te Herekau, Toatoa, Rāwiri Te Wānui, Wiremu Te Whatanui, Ehetere Matene and Eruera Tahitangata—presented the Governor with five

[2005] Buller memomorandum to Heaphy, 3 June 1880, Himatangi papers, 1874-1886, MA 13/37.
[2006] Heaphy memorandum, 3 June 1880, Himatangi papers, 1874-1886, MA 13/37.
[2007] *NZ Gazette*, no 69, 15 July 1880, p 1012.
[2008] Walghan Partners, 'Block Narratives', vol 1, p 77 and vol 2, p 129.

'letters'.[2009] Some of these were addressed to the Governor; some were intended for the Secretary of State for the Colonies. In introducing the deputation, Te Herekau explained that they had come because they had heard that the Governor was shortly to return to England. They had heard, too, of what had happened at Parihaka, and it was this, in particular, that had prompted them to address the Governor now. We cite the petition in full:

> We the following Natives are willing to hold a conversation with you if you desire it. The wife of Matene Te Whiwhi grand-daughter of Te Rauparaha and the real grand-daughter of Te Whatanui Henare Harawira, Te Herekau, Rawiri Wanui, Ehetere Matene and Eruera Tahitangata.
>
> We the above were chosen by our tribe to bring our Petition to the chief of the colony of England and to you also the chief of the colony of New Zealand, as we have heard that you are going to England and that another Governor is coming to New Zealand to take over the governorship of New Zealand.
>
> When the new Governor arrives here will you shew him our Petitions and will you also ask him to look into our wrongs after you leave.
>
> When you arrive in England will you make known our wrongs there.
>
> We, on this day, give our Petitions into your hands, the words contained in them are by the whole of the Ngatiraukawa tribe, there are 575 of our names signed to that Petition, we have not all signed at this time of signing, after you leave we will send in the names of our tribe to the Governor.
>
> Our wrong was caused by the Governor; the Treaty of the Queen has been lost sight of as regards us and also as regards our land that had been made sacred to us by the Treaty of the Queen. We have been sitting in darkness during these last two years, we have heard that the people of Te Whiti are being made prisoners by the Government through the lands that were taken by conquest, that that land has been occupied by Europeans, it was simply gazetted. As to our land Ngatiraukawa has resided on it for forty years, we are doubly right, firstly, by conquest secondly by occupation, thirdly by rightful ownership, the Treaty of the Queen and the Queen's protection of us and our land. You are the Governor of the Queen sent to this island that is why we send our petition to you personally, that you may look into our wrongs.
>
> Perhaps it was because it was a conquest by Europeans of land not afterwards occupied that the natives were taken prisoners at Taranaki, perhaps in the Governor's opinion the Maori conquest had no authority (mana). We and our tribe actually lived upon the land for forty years, that land was taken by the Governor and the judges of the Court and given to the people that were driven out by us, perhaps it was because the Treaty of the Queen protected the natives and their land that it was thought lightly of by the Governor and the judges of the Court. After the unjust award by the Court respecting our land our tribe sent a petition to the Governor, it was not regarded, afterwards we sent again to the Government and Native Minister, it was not regarded, the whole tribe the thought that they were wronged. Ngatiraukawa sent a petition to the Queen respecting this land, perhaps it was not clear to the Queen, in consequence of her people in New Zealand not making it clear to her respecting this great wrong, the work of Te Rauparaha and others was one of extermination in this island and in that (the Middle Island) at the selling they alone sold the same process of killing was carried on in the other island, they their own

[2009] Ngatiraukawa Tribe – Petitions etc, undated, Translation of Petition, MA13/25/16a.

> selves sold eight million acres. We preserved the lives of the people extending from Manawatu to Rangitikei and on to Whangaehu.
>
> Our coming to you is not to ask for money or for land but to ask you to inquire of us and investigate the matter so that the right or the wrong may be seen.
>
> We were represented by our lawyer (agent) at the first adjudication of our lands, it is the imprisonment at Taranaki that has aroused us and our lawyer (agent).[2010]

On receipt of the letters, the Governor 'intimated' to the delegation that the petition to the Secretary of State would be duly sent 'Home'.[2011] He asked, too, that he be sent a written statement by Thomas Williams of 'exactly what they wished for'.[2012]

Williams duly obliged.[2013] His letter concisely conveyed the foundations of their grievance:

> What these natives say is this: They have always dwelt in peace and have never given any trouble. That they have lost their country through no fault of their own and have suffered for many years in consequence. That every effort they have made hitherto to obtain justice has failed. . . . Assuming that an investigation will be granted that it will be found that great injustice has been done to these people. That the purchase of their country the Manawatu-Rangitikei block was a most fraudulent purchase. That their lands at Horowhenua [discussed at chapter xx] were taken from them a peaceably disposed people after more than forty years undisturbed occupation and given to natives of other tribes because armed with government rifles and ammunition they threatened to fight if the land were not given to them. The question then it appears to me is not what this native might ask for or that native might wish to have done, but what is the duty of those in authority, what should they cause to be done with a view to the future welfare of these people. Their lands at Horowhenua they would naturally expect to have returned to them. The Manawatu-Rangitikei block has long since been sold and occupied by the settlers. To give natives money is as a rule to do them an injury. . . . What they need is justice and good government, to know there are those over them who taken an interest in their welfare.[2014]

A few weeks later Williams received a reply. He was informed by the Under-Secretary that 'upon the petitions and letters being submitted by Mr Hall to the Governor, His Excellency desired that, as he was on the eve of his departure from the Colony, they should be retained, and laid before his successor, which will accordingly be done'.[2015]

[2010] Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2011] Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2012] Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2013] Williams to Private Secretary (Government House), 23 August 1880, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2014] Williams to Private Secretary (Government House), 23 August 1880, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2015] Under-Secretary to Williams, 8 September 1880, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.

It appears that it was, indeed, done accordingly, but only after much time had passed. In early January 1881, Williams again wrote to the Governor's Private Secretary, informing him that Ngawiki, the wife of Matene Te Whiwhi, was in Wellington and wished to have an 'interview' with the Governor regarding the Ngāti Raukawa petition' which was granted.[2016] The Governor later recorded that the petitioners had come to request that a reply to their petition submitted 'some months ago' might be given.[2017] He had 'assured them' that the delay was owing 'chiefly' to his predecessor's request that the petition be held over until such time as the new Governor had assumed office.[2018] The petitioners could count, he had told them, on a reply being 'speedily' returned, along with the justice of any decision taken.[2019]

In the view of the outgoing Native Minister, Bryce, all that justice appeared to require was a 'simple acknowledgement'.[2020] It is not recorded, however, whether any acknowledgement was ever sent. In any case, eight months later, on 18 August 1881, Bryce's successor, Rolleston, did send an anxious inquiry to the Premier as to what was to be done regarding the petition:

> I do not understand from these papers whether His Excellency desires that the natives should be informed that their petitions have been forwarded to the Secretary of State but that ministers consider that the matter is one in which they cannot advise the interference of the Imperial Government. Such an interference would of course be equivalent to the resumption of responsibility in native matters by the Home Govt. which would be directly at variance with the past action of the Imperial Govt. who in the time of our extremity cast upon us the full responsibility in this as in other matters of administration, a responsibility which was cheerfully adopted by the colonists under circumstances of great difficulty. Any deviation from the policy then deliberately adopted wold involve serious claims upon the Imperial Govt consequent upon the raising of false hopes in the minds of the natives and the protracting of native difficulties which now appear to be in a fair way of settlement by the Legislature and Gov. of the Colony.[2021]

Hall's response—scrawled as a note at the foot of Rolleston's letter—was brief: 'I have seen His Exy. on this subject,' he wrote, 'he has no wish that any further steps should be taken in the matter by ministers.'[2022]

No further steps were then taken, although this appears to have been less to do with instructions and more to do with the incoming Native Minister's having

[2016] Williams to Private Secretary (Government House), Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2017] Governor (Arthur Gordon), File Note, 6 January 1881, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2018] Governor (Arthur Gordon), File Note, 6 January 1881, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2019] Governor (Arthur Gordon), File Note, 6 January 1881, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2020] Native Minister (Bryce), File Note, 11 January 1881, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2021] Rolleston to Hall, 18 August 1881, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2022] Hall to Rolleston, 30 August 1881, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.

'overlooked' the petition at the time of his taking office. It was stressed, however, that the oversight was through 'inadvertence', for 'of course, no minister would intentionally order to be put aside a paper to which a reply was required by His Excellency'.[2023] No reply had been sent to the petitioners—but it was considered that they ought 'at least' to be informed that the petition had been forwarded to the Secretary of State.[2024] The Minister now recommended, however, that the petitioners ought also to be told that it was his opinion that it was not a matter for the Imperial Government, as it had been 'dealt with by the law and the Courts of the Colony'.[2025] Allowing the petitioners to think that the Imperial Government might involve itself in the matter would only permit of hopes to be raised that could never be realised. Furthermore, wrote the Minister, 'should such hopes be imparted to considerable sections of the Maoris, any final or satisfactory settlement of native grievances by the Colonial Government would be impossible'.[2026]

The petition had, indeed, reached the Secretary of State for the Colonies, who responded to it in early October 1881. The contents of his letter, addressed to the Governor, would have come as no surprise to him, and would have tended to calm the anxious Native Minister:

> I request that you will inform the Petitioners that I have received their Petition, but that the question to which it relates is one which it belongs to the Government of the Colony to deal with, as stated by you at the time when the Duplicate Petition was placed in your hands.[2027]

All of this, it seems, was conveyed to Ngāti Raukawa. In January 1882, Te Herekau then wrote to Rolleston, again pleading the Ngāti Raukawa case. He noted that their petition had been away 'for a very long time, for one year and five months', and that it was 'only now that it has been wakened out of its sleep'.[2028] 'We again ask the Government,' he wrote, 'to speedily take some action with reference to our petition.'[2029]

On receipt of Te Herekau's letter, Bryce, sent it on to the Under-Secretary with a brief note—'I don't think the question herein involved should be reopened'.[2030] The Under-Secretary then asked what he was to do with the matter—'Shall I inform the Revd. H.H. Te Herekau that the matter cannot be reopened or simply file the papers?'[2031] Bryce's response was concise: 'File'.[2032]

[2023] File Note, Rolleston, 4 August 1881, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2024] File Note, Rolleston, 4 August 1881, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2025] File Note, Rolleston, 4 August 1881, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2026] File Note, Rolleston, 4 August 1881, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2027] Kimberly to Gordon, 6 October 1881, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2028] Herekau to Rolleston, 9 January 1882, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2029] Herekau to Rolleston, 9 January 1882, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2030] Bryce to Lewis, 14 January 1882, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2031] Lewis to Bryce, 17 January 1882, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.

8.9 The question of back-rents and lost lands at Hīmatangi

For Ngāti Tūranga, Ngāti Te Au, and Ngāti Rākau several matters remained outstanding. One concerned the rents which Featherston had impounded as well as the interest accrued. There had been a supposed distribution in November 1869. The three hapū claimed, however, that they had never received their rightful portion, even though Hīmatangi was one of the leases concerned. Also a question had arisen as to whether Heaphy's award affected the government's claim to an extra chain-and-a-half proclaimed as part of the railway line (three chains as opposed to the standard one-and-a-half) on the western boundary, which would involve the removal of fences that had been erected by Māori considering it to be their land.[2033] There was the matter of the portion of the block found to have been sold and also their mounting debts in getting their grievances to the attention of the government..

As to the first of these issues, Buller had raised the question of rents owed within a few months of the Himatangi Crown Grants Act passing, despite section 16, which stated that it was to be regarded as 'a full and complete satisfaction' of all claims concerning the block.[2034] The matter would drag on for several years as papers were sought, interpreted and disputed. Buller, seeking a way to have his claims for his earlier services satisfied, obtained a promissory note for £600 signed at Foxton by the three representative chiefs on 24 November 1879. £300 of this sum was to be paid in three months' time. [2035] Then, on 5 December, he also obtained written authorisation from the hapu leadership to negotiate on their behalf on the matter of the impounded rents and any interest that had accrued and to 'make such terms of compromise … as he may think fit, and … receive the amount when settled, and to sign receipts or acquiescence for the same in our names and on our behalf'. This had been signed at Foxton and was witnessed by Charles Heaphy in his capacity of trust commissioner. [2036]

Almost immediately after the court award was gazetted, Buller raised the issue of the moneys paid by Captain Robinson for grazing at Himatangi and impounded by Featherston until the purchase could be effected. The amount due at the time was £500, with agreed interest at 10 per cent per annum. Featherston had agreed to accept £400 because he had compounded with several of the other run-holders who were unable to pay in full. With interest over the past ten-and-a-half years,

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[2032] Bryce to Lewis, 18 January 1882, Ngatiraukawa Tribe – Petitions etc, MA13/25/16a.
[2033] McLean to Heaphy, 9 December 1879 and 17 February 1880, MacLean to Under-Secretary Native Department, 17 February 1880, Himatangi papers, 1854-1886, MA 13/37.
[2034] For initial inquiry, see Buller to Clarke, 17 November 1877, Himatangi papers, 1874-1886, MA 13/37.
[2035] Promissory note, 24 November 1879, Himatangi papers, 1874-1886, MA 13/37.
[2036] Pitihira Te Kuru, Rēnata Rōpiha and Roiri Rangiheuea to Heaphy, Trust Commissioner, 5 December 1879, Himatangi papers, 1874-1886, MA 13/37.

Buller calculated that £820 was now due, which he would be willing to accept in settlement.[2037]

Bryce, who had been appointed Native Minister the preceding year (in 1879) and whose views were, according to Riseborough, 'hopelessly at variance with the aspirations of Maori', was not immediately sympathetic. Buller later insisted that he had considered the matter as good as settled, that Bryce had promised to meet him in 'fair spirit', and that he had thought the moneys would be paid forthwith if they agreed to take five per cent interest instead of the initial ten (an interpretation that Bryce disputed).[2038] Whatever Buller took away from private conversations with Bryce, the Minister acknowledged only his commitment to go through the papers carefully. Alexander McDonald had been asked to furnish any information he might have about the matter. Buller described McDonald as having been generally considered the 'white chief' of the non-sellers and an opponent of the government during the Rangitīkei-Manawatū negotiations.[2039] However, his connection lay with Kooro Te One rather than Parakaia Te Pouepa. As noted earlier, he had begun working for the general government to acquire lands from his old Ngāti Kauwhata and Ngati Wehi Wehi clients, and both he and Buller were engaged in getting the railway through the West Coast lands. There was a bitter irony that Buller and McDonald should be at odds still but working for different sides of a Crown-Maori divide.

McDonald reported back that Buller was mistaken. Featherston was not responsible for the tribal distribution of the rents, nor had Maori expected him to be. Moreover, both sellers and non-sellers had received their share. This included the son of Nēpia Taratoa, who was the 'principal Ngati Raukawa lessor' in that part of the block, his hapū generally, and Ngāti Kauwhata, whom Buller had mentioned specifically as having been left out.[2040] There were also letters on file from Te Whiwhi that contained a number of names, including that of Parakaia Te Pouepa, indicating their agreement to the rents being paid over and distributed among sellers and non-sellers alike.[2041] Bryce concluded that the claim had 'never had foundation in reality'; that the impounded rents had been 'all duly paid and there was never an equitable claim for arrears'; and even if it was real, the claim had been extinguished by the 1877 legislation.[2042] He thought that it had resurfaced because Pollen had used language in passing the Act that had given

[2037] Buller to Bryce, 23 July 1880, Himatangi papers, 1874-1886, MA 13/37.
[2038] Reports of Native Committee, *AJHR*, 1885, I-2A, pp 2-4. For discussion of Bryce see Hazel Riseborough, Dictionary of NZ Biography, Te Ara.
[2039] Reports of Native Committee, *AJHR*, 1885, I-2A, p 5.
[2040] McDonald to Under-Secretary Native Department 6 August 1880, Himatangi papers, 1874-1886, MA 13/37; Reports of Native Committee, *AJHR*, 1885, I-2A, p 2.
[2041] Te Whiwhi and 46 others to Richmond, 23 February 1869, Himatangi papers, 1874-1886, MA 13/37; see also Tapa Te Whata and others, 27 February 1869, Himatangi papers, 1874-1886, MA 13/37.
[2042] Bryce note, 29 July 1880, on Buller memorandum, 23 July 1880, Himatangi papers, 1874-1886, MA 13/37.

the impression that the government would still recognise the claim. The Minister of Lands, William Rolleston, who had responsibility for the matter, concluded that the case had not been made out and instructed that if Buller raised the matter again he should be so informed.[2043] In effect, having fostered the idea of individual rights of ownership, the Crown left it to Maori to sort out for themselves, this, being done at a time of hapū debt and shortages created in large part by the need to protect and give proof of such rights. Just as signatures of individuals had been collected for undefined rights in undefined lands without hapū consent, so, too, had moneys for rents been handed over to certain leaders without thought as to whom they represented among hapū.

Buller found a ready political ally in the Legislative Council, in the person of Mantell, who moved that copies of any receipts purporting to have been signed by the Hīmatangi claimants be tabled.[2044] The material produced, included letters from Rātana Ngāhina as well as from Featherston and McDonald, but no receipts, prompting a further motion from Mantell, who requested a return be tabled showing names of owners as identified by the Native Land Court with 'notes showing which, if any … have given receipts for the moneys due…'[2045] The return that was provided in August 1881 showed eight names of Maori whom the Native Land Court reported to be the rightful owners (Parakaia Te Pouepa, Roera Rangiheuea, Pitihira Te Kuru, Hakopa Te Tehe, Nirai Taraotea, Amiria Taraotea, Kipa Te Whitu, Mirika Te Kuru) but no receipts were recorded as having been signed by them.[2046] This prompted a further question from Mantell who asked the Attorney General whether the government regarded the papers that had been tabled as 'containing proof that the moneys owed to the owners … have been paid … and, if so, what are the grounds on which the Government regard them as capable of having such an interpretation'. This produced the reply that the Native Office considered that the tabled papers showed that the back-rents had, indeed, been paid for the block.[2047]

A statutory declaration by Buller and a response to McDonald's statements were also tabled at Mantell's request. His declaration outlined the history of the claim:

- his involvement with the purchase as assistant to Featherston for three years gave him the ability to 'speak with some degree of positiveness' and the authority subsequently given to him by the three claimant hapu to negotiate on the matter;

[2043] Rolleston to Bryce, 8 December 1880 and Rolleston to Lewis, 11 December 1880; Lewis to Buller, 19 January 1881, Himatangi papers, 1874-1886, MA 13/37.
[2044] 15 July 1881, *AJLC* 1881, p 35; Clerk of Legislative Council memorandum, 15 July 1881, Himatangi papers, 1874-1886, MA 13/37.
[2045] 27 July 1881, *AJLC* 1881, p 60; Clerk of Legislative Council memorandum, 27 July 1881, Himatangi papers, 1874-1886, MA 13/37.
[2046] Lewis copy of return, 2 August 1881, Himatangi papers, 1874-1886, MA 13/37.
[2047] 5 August 1881, *AJLC* 1881, p 80.

- the difficulties caused to the purchase by the illegal occupation of graziers and the impounding of rents, 'by prohibiting, under threat of expulsion, all payments to the Natives pending the completion of the purchase';
- the accumulation of rents over an extensive period as the purchase eluded the government;
- 'fresh difficulties' after the 'completion' of the deed in December 1866 when opposition from the Hīmatangi people and other 'dissentients' necessitated referral to the Native Land Court;
- the inability of several of the run-holders to pay the whole of their arrears on the day of reckoning, obliging Featherston to compound most of them, 'although acknowledging his liability for the full amount due in each case';
- Captain Robinson, who had been the lessee at Hīmatangi, had owed £500 and had paid Featherston £400 on 12 January 1870;
- the vendors had been paid in full but 'no payment whatever was made… to the Himatangi natives or Ngatikauwhata and other sections of non-sellers';
- Featherston's statement in his final report that he had settled in full with Maori referred only to the vendors, 'the Commissioner declining to have anything more to do with those who had resisted the sale';
- Dr Pollen's 'pledge' before the Legislative Council to pay the accrued rents of some £1000 notwithstanding the return of the whole block;
- the further problem of determining who was entitled to the rents, many of the original lessors having died, which required the matter to stand over until the Native Land Court could report on the title.[2048]

As to McDonald's letter, according to Buller, this was 'full of mere assumptions and inferences', and he questioned whether Parakaia had ever signed, or even knew of the letter, headed by Te Whiwhi, since only a copy had been produced to which a list of names had been appended. He pointed out that Parakaia had been awarded an equal interest with his co-claimants and, thus, could not be called the 'principal owner', while no attempt had been made either by the Crown or Ngati Raukawa to set up Taratoa's interests in the land. Furthermore, Featherston's own correspondence referred only to Ngāti Parewahawaha, Ngāti Kauwhata, and Ngāti Kāhoro as participating in the Ngāti Raukawa contingent and dealings in

[2048] Statutory declaration, 23 July 1880, Reports of Native Committee, *AJHR*, 1885, I-2A, p 1.

which Buller himself had been directly involved. All the receipts had been signed only by vendors. There was, he argued, 'absolutely not one tittle of proof that Parakaia's people got any share of the rent money paid over by Dr Featherston; and what Mr McDonald may have "understood Dr Featherston to mean" in regard to "an equitable individual or subsectional division" has nothing whatever to do with the matter'.[2049]

Mantell continued to pursue the issue and succeeded in passing a motion that the Legislative Council, having taken into consideration the papers before them, was of the opinion that the payment of back-rents to the recognised owners should not be delayed any longer.[2050] The general administration continued to resist the claim, acknowledging an outstanding balance of only £66 2s 1d, which was appropriated by parliament to comply with the recommendations of the Legislative Council Select Committee and clear the debt.[2051] Then, in August 1882, Mantell had another motion passed, enquiring how the figure of £66 had been reached.[2052] Not admitting the claim, this sum represented the difference between the rents that had been due on the purchase of the block – £4699 12s 1d – and the 'advance' of £4633 10s that had been paid in 1872, without assessment of the claims of non-sellers to rents on lands awarded to them.[2053]

A different series of petitions followed. In 1882, Rēnata Rōpiha and 86 others petitioned Parliament, stating that the three hapū who were owners of Hīmatangi had neither signed the deed, nor taken any money for the land, and claiming that the amount due to them was £500, which, with interest accrued, now amounted to a debt of £1250. They outlined the history of their claim, the support given within the Legislative Council to their grievance, and the government's offer of the unpaid balance of £66, which they had refused on the grounds that the papers tabled showed that none of the rightful owners had joined in the receipt for the payment of the back-rents.[2054] It was too late in the session for the Native Affairs Committee to consider the matter, but it recommended that the government investigate carefully and do what might be equitable towards the settlement of a long-standing dispute.[2055] Bryce maintained that he had already gone carefully into the question, but agreed that if there was fresh evidence, he could look at it

[2049] Reports of Native Committee, *AJHR* 1885, I-2A, p 3.
[2050] 15 September 1881, *AJLC* 1881, pp 194-5; Clerk of Legislative Council memorandum, 15 September 1881, Himatangi papers, 1874-1886, MA 13/37.
[2051] Native Office minute on memorandum of Clerk of Legislative Council, 16 September 1881, Morpeth memorandum, 1 October 1881, Himatangi papers, 1874-1886, MA 13/37.
[2052] Clerk of Legislative Council memorandum, 3 August 1882, Himatangi papers, 1874-1886, MA 13/37.
[2053] Lewis to Native Minister, 9 August 1882, Himatangi papers, 1874-1886, MA 13/37.
[2054] Rēnata Rōpiha and 86 others to House of Representatives, Himatangi papers, 1874-1886, MA 13/37.
[2055] Report of Native Affairs Committee, 8 September 1882, Himatangi papers, 1874-1886, MA 13/37.

again – when time allowed.[2056]This eventually happened, three years later, after further petitioning.

Buller had advised the claimants to memorialise parliament again, and petitions were presented to both Houses in 1883. In August of that year, the administration unsuccessfully attempted to locate copies of the leases.[2057] The petition from the three leading men repeated the substance of the previous one, with some important additional details: namely that land nearly conterminous with Hīmatangi had been leased to Captain Robinson by hapū members 'by authority and on behalf of the owners under native custom', and that Featherston had paid the impounded rents to Ngāti Kauwhata, Ngāti Parewahawaha, and Ngāti Kāhoro (along with Rangitāne and Ngāti Apa) without including the petitioners who had not been present at that disbursement. They also suggested that the clause had been struck out at committee stage that stated that their claim for back-rents would be waived should the land be granted back to them. [2058] As we have seen, Mantell had objected to the clause but wording to this effect had, in fact, been retained in the Himatangi Crown Grants Act, even though a specific reference to £500 of rents being owed had been omitted. According to Mantell's later testimony before the Native Affairs Committee:

> In Committee … that clause [specifically waiving the claim to rents] was erased from the Bill. At the same time some doubts were expressed by some member or members as to whether what remained in clause 16 might not by ingenious legal interpretation be held to give the Government relief from having to repay the money, as if clause 17 stood; but that was allowed to stand. The suggestion was laughed at, because it was thought that no Government would ever do anything of the kind.[2059]

The 1883 Native Affairs Committee drew attention to the recommendation made the previous year while the Legislative Council committee recommended that the government discharge the accrued rents in full and consider the costs that had been incurred by the petitioners in a 'liberal spirit'.[2060] However, as we discuss further below, a government which did not consider itself responsible for ensuring all the non-sellers received their share of rapidly contracting resources did not consider itself responsible, in any wa, for the expenses of ensuring this happened.

Evidence was taken before the Legislative Council during the 1883 session. McDonald was required to attend and was questioned about his earlier report, the circumstances of the sale of Rangitīkei-Manawatū, and the payment of rents. He admitted that the hapū at Hīmatangi were not a subsection of the three hapū

[2056] Bryce minute, 13 September 1882, on Rēnata Rōpiha and 86 others to House of Representatives, Himatangi papers, 1874-1886, MA 13/37.
[2057] Richmond to Bryce, 4 August 1883 and Bryce to Richmond, 7 August 1883, Himatangi papers, 1874-1886, MA 13/37.
[2058] Petition of Roiri Rangiheuea and others, undated, Himatangi papers, 1874-1886, MA 13/37.
[2059] Reports of Native Committee, *AJHR*, 1885, I-2A, p 12.
[2060] Reports of Native Committee, *AJHR* 1883, I-2, p 26; *JLC* 1883, pp 141-42.

identified by Featherston as receiving the rents, and while he believed that some of those non-sellers did get a share, he did not know whether Ngāti Tūranga, Ngati Te Au, and Ngāti Rākau were among them. When McDonald was questioned about the nature of rights in the area, he acknowledged that Parakaia had alleged large interests outside the Hīmatangi block and that he did not think the letter to Richmond, in which Parakaia 's signature appeared, limited him to Hīmatangi in his claims. He did not know whether Parakaia had received any money subsequently from the recipients but acknowledged that the rangatira had not been present at the distribution. In McDonald's opinion, the payment of the rents was not in accordance with the findings of the Native Land Court. However, Parakaia's people had been 'parties to the whole'. Legal counsel (Travers) had been retained by the whole tribe at the court, and they had 'been as much bound as any others'. As to Ngāti Kauwhata, while they were 'always regarded as a hapu of Ngatiraukawa', they were 'not really part of that tribe'. The Himatangi hapū had no claim against the rest of the Rangitīkei-Manawatū block because it had been 'subdivided by arrangement'. McDonald told the committee: 'The Himatangi block had been held by sellers as well as non-sellers. The Court thought these sellers entitled, but I did not.'[2061]

He was also questioned (by Mr Ngatata) about the additional 700 acres that the three hapū thought should have been included in the grant. As we have seen, this area fell within Parakaia's original survey but had been on-sold at Masterton, in the interim; in McDonald's opinion, at a knock-down price because it had been poorly advertised – at little more than £1 per acre, whereas it was worth between £1500 and £2000. And, in fact, he thought the provincial government had acquired the whole of Rangitīkei-Manawatū at a price much less than Maori might have received; for £25,000, in comparison to a private offer of £50,000 – even though the purchase had proved on survey to be a lesser area than expected.[2062]

The Legislative Council found in the claimants' favour, recommending that the whole of the rents with interest be discharged in full. Again the government did nothing, and the following year, there was a further petition – this one headed by Hera Tūhangahanga and signed by 14 others of Ngati Tūranga. They complained that the government had failed to give effect to the earlier recommendations of the Legislative Council and, in the meantime, kept back the survey.[2063] It, too, was reported on favourably by the Legislative Council, which reaffirmed its earlier report.

In 1885, Rēnata Rōpiha petitioned one more time on behalf of all three hapū, once again outlining the history of the claim: the committee findings of 1883 and

[2061] Reports of Native Committee, *AJHR* 1885, I-2A, p 4.
[2062] Reports of Native Committee, *AJHR* 1885, I-2A, p 4.
[2063] Hera Tūhangahanga and 14 others to Parliament, 3 September 1884, Himatangi papers, 1874-1886, MA 13/37.

1884 that the hapū were entitled to their portion of the rents, and that the government should pay not only what was owed to them but also a portion of their legal costs; and the failure of the government to act upon that recommendation.[2064]

8.10 The Native Affairs Committee investigates, 1885

At last, in 1885, the allegations made in this and the three other petitions were fully investigated by the Native Affairs Committee during which examination, evidence was given not only as to the arrangements about the rents, but the nature of right-holding, the purchase, and the methods that had been employed by Featherston and Buller himself.

A number of witnesses appeared: Buller, Rēnata Rōpiha, J C Richmond, Walter Mantell, Dr Pollen, T W Lewis – and even Bryce (briefly), who had also conducted some of the committee examination. Although the Native Affairs Committee eventually found in the petitioners' favour for the sake of disposing of a troublesome matter (as outlined below), the examination conducted in that forum is revealing of the attitudes and practices of the time and is discussed in some detail here.

There were clearly tensions within the Committee, among the Maori members (especially Messers Pere and Te Ao), the chairman, and Colonel Trimble. Pere, Te Ao, and Hakuene wanted to look at issues of sale, the loss of 700 acres of land that the petitioners said should have been returned, and the representativeness of various Maori participants. They sought clarification of who amongthe 'non-sellers' had supposedly received part of the rent distribution, and the opinion of officials as to the justice of various events. The Chairman (Bradshaw) and Colonel Trimble wanted to confine the investigation to rents alone and to 'knowledge' of events rather than to opinion on them. Maori members were rebuked on a number of occasions for the nature of their questions. There were also wide differences between the various witnesses in attitude and interpretation.

Buller again outlined the case of the petitioners, reading out his earlier statutory declaration, and the evidence and papers tabled before the Legislative Council. He was questioned first by Bryce, who challenged his testimony that an understanding between them had been overturned by McDonald's report. Bryce stressed that he had only promised to go through the papers and cited a memorandum to Rolleston in which he refused to place money in the estimates until this was done and Maori had abandoned their claim to the interest.[2065] Buller insisted, however, that he had never agreed to that, and that he had thought the matter settled – in fact, he had written to his clients to that effect – before the

[2064] Petition of Rēnata Rōpiha, 1885, Himatangi papers, 1874-1886, MA 13/37.
[2065] Reports of Native Committee, *AJHR*, 1885, I-2A, p 4.

receipt of McDonald's unfavourable memorandum. The circumstances of the Rangitīkei-Manawatū purchase were then gone into, with Buller stating that he had been directed by Featherston to 'get as many signatures as I could of Maoris who professed any claim, whatever their title might be' in order to effect a purchase for the 'sake of peace and quietness and getting out of the difficulty' of threatened tribal fighting.[2066] Buller explained to the committee that the leases were interfering with the ability to purchase, not because they caused dispute between different hapu (as was so often claimed) but because it meant that right-holders did not need the money. It was no longer convenient to turn a blind eye to these informal and illegal arrangements:

> Dr Featherston saw that there was very little chance of getting the land into his own hands so long as the Natives were getting money from large runholders, and he agreed to pay them ten per cent per annum on the arrears, instead of taking proceedings in Court, for putting an end to the illegal occupation. As his agent I told them that, no matter how long the rents were impounded, they would in the end receive them, with ten per cent added by way of interest.[2067]

As Buller put it later in his evidence: 'The fact was, we were winking at illegalities for the purpose of making a peaceful settlement.'[2068]He also admitted when questioned (by Mr Te Ao) about the effect of holding back the rents that the result had been to 'impoverish' Maori.[2069] He was asked about his earlier offer to waive claim to these moneys, which, he emphasised, had been made without the sanction of his clients; the reasons for alterations to clause 17 of the Bill; and the effect of the final wording contained in section 16 of the Act. As to this, Buller could offer only opinion and referred the Committee to Mantell.[2070]

Buller was also questioned about McDonald: his position, his competence, and his own relationship to him. Buller's view was that McDonald had a 'pretty general knowledge of the whole question', but that this was 'anything but … complete' because at the time, Featherston had been anxious that no communication be held with him as he was considered to be hostile to the provincial government. Buller told the committee that he had succeeded in gaining signatures of many Māori, including Tapa Te Whata, 'in the teeth' of McDonald.

A further point of inquiry was the extent of Robinson's run and whether the rent he paid – a sum of £100 per annum – was for Hīmatangi alone, or included the lease of adjoining land (Buller thought it was for Himatangi alone) and whether he had paid them regularly. Buller's reply to this was that it had been paid to Parakaia and his people, and 'it was not until this dispute with Ngatiapa, when

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[2066] Reports of Native Committee, *AJHR*, 1885, I-2A, p 5.
[2067] Reports of Native Committee, *AJHR* 1885, I-2A, p 5.
[2068] Reports of Native Committee, *AJHR* 1885, I-2A, p 6.
[2069] Reports of Native Committee, *AJHR* 1885, I-2A, p 6.
[2070] Reports of Native Committee, *AJHR* 1885, I-2A, p 9.

they came down and claimed everything, that the payment to Parakaia was stopped'.[2071]

Rēnata Rōpiha corroborated much of this: that they had never agreed to the waiving of their claims to the back-rents, which were owed for Hīmatangi alone and did not involve the lease of adjoining lands westwards to the sea for which Robinson had entered into a separate arrangement with Ngāti Parewahawaha.[2072] The focus of his kōrero was, however, the 700 acres which, he argued, had been wrongly taken and sold, without the knowledge of the owners: 'We were very grieved indeed that a portion of this block should have been taken to the Wairarapa and sold without our knowledge. That trouble has never been removed up to the present time.'[2073] Questioned by Mr Pere on this issue, Rōpiha said that the fault lay with Featherston, and that they had never received any money for the sale of this part of the block. He was adamant that nobody within the hapu had sold it, so acting without his consent; and that the government had no right, but had 'confiscated it' without reason or pretext.[2074]

J C Richmond could add little – or was unwilling to do so. He confirmed Parakaia's refusal to sanction the sale of the Rangitīkei-Manawatū block. or to participate in Featherston's distribution of the rents. He acknowledged that the whole transaction and Featherston's involvement as a specially commissioned land purchase officer were 'anomalous' and that the general government had 'not thought it desirable to interfere' with his operations, 'except that it reserved to itself the right of supplementing those operations so that justice might be meted out to those who objected'.[2075] He refused to be drawn on the question of whether he considered it fair that the government should keep the rent money, arguing that he was not entitled to offer an opinion on the matter.[2076] Mantell, who appeared next, gave details about the discussions that had taken place regarding the waiver of rents in committee stage. As noted earlier, he and others had thought it unfair to make the return of Hīmatangi contingent upon Māori agreement to give up all claims to the rents. He testified that there had been concern about the legal effect of section 17 of the Act, but that it had been thought that no government would be so unjust as to interpret it to mean that there was no responsibility to pay out the rents to the rightful recipients.[2077] He did not, however, have specific knowledge of the Crown's actions with regard to the 700 acres. He thought it unlikely that the area was deliberately excluded from

[2071] Reports of Native Committee, *AJHR* 1885, I-2A, p 6.
[2072] Reports of Native Committee, *AJHR* 1885, I-2A, pp 9-10.
[2073] Reports of Native Committee, *AJHR* 1885, I-2A, p 10.
[2074] Reports of Native Committee, *AJHR* 1885, I-2A, p 10.
[2075] Reports of Native Committee, *AJHR*, 1885, I-2A, p 11.
[2076] Reports of Native Committee, *AJHR*, 1885, I-2A, p 11.
[2077] Reports of Native Committee, *AJHR*, 1885, I-2A, p 12.

the Act authorising the land's return, but 'exceedingly probable, if they had the chance', that the government should wrongfully sell part of it.[2078]

Pollen disputed the evidence of Buller, Ropiha, and Mantell, and was clearly irate that the Act he had sponsored had failed to satisfy the hapu. He did concede that there were a 'good many circumstances' connected with the purchase 'of which nobody need be proud', but he considered himself to have redressed any injustice.[2079] He now testified that there was 'some slight evidence' that McLean had promised the return of the land, on which he had proceeded to effect what he considered to be a final settlement of the issue. He was adamant that 'half a dozen of the principal men, representing all the people' had been present when Buller had offered to waive their claim to the rents, although he was unable to name them; on questioning by Mr Te Ao, he thought that 'Maihana' was one but he did not know to which hapu he belonged. According to Pollen, the petition had arisen only because specific mention of the £500 rents had been dropped from the Bill as it was going through the committee of the Legislative Council, 'but the general words remaining completely and absolutely covered the whole question'.[2080] In his view: 'It is on the erasure of these words from the clause that the subsequent claims have been entirely hinged; but the erasure of these words has no effect, or ought not … have any effect on the agreement made between myself and the Natives.'[2081] Pollen told the Committee: 'I was satisfied that justice had been done. I am satisfied that something more than justice has been done.'[2082] To his mind, any defect in the purchase had been remedied and the claim was 'not a Native's claim, but is a lawyer's claim'.

When push came to shove, it was government land, no matter what the shortcomings in the purchase, or the fairness of Land Court requirements. He told the committee:

> The Natives forget that the whole of this estate was in the hands of the government; that it was included in the Rangitikei-Manawatu purchase from our point of view; that none of the land belonged to the Natives at all. The gift of 11,000 acres was a pure concession on the part of the Government.[2083]

As far as Pollen was concerned, the only outstanding question was whether the right people had received the rents. He did not know, but insisted 'that when a bargain is mutually made, and when one of the parties to the bargain fulfils its engagements, the other party must fulfil theirs'. When asked if he thought the government was liable if the wrong people had been paid, Pollen maintained that this had not been proven. Further, he attempted to throw doubt on the credibility

[2078] Reports of Native Committee, *AJHR*, 1885, I-2A, p 12.
[2079] Reports of Native Committee, *AJHR*, 1885, I-2A, p 15.
[2080] Reports of Native Committee, *AJHR*, 1885, I-2A, p 14.
[2081] Reports of Native Committee, *AJHR*, 1885, I-2A, p 14.
[2082] Reports of Native Committee, *AJHR*, 1885, I-2A, p 15.
[2083] Reports of Native Committee, *AJHR*, 1885, I-2A, p 16.

of Rōpiha and his co-petitioners, arguing, 'There are always some individual Natives who stand out on the chance of something turning up in their favour, as we all know', and pointing to the Native Land Court findings to show that there was no question as to the distribution of interests. He did not agree with the earlier recommendation of the Native Affairs Committee.[2084]

T W Lewis produced a number of papers, which have already been noted in this chapter: McLean's memorandum to the Wellington Superintendent in 1872; the refusal of Rōpiha, Te Kuru, and the other leaders to accept the 5000 acres initially offered; the letter naming three representatives; correspondence with Buller; and various internal memoranda. Most notable in what Lewis had to say was the significance he attributed to the letter sent to Richmond on 22 February 1859 signed by a number of Maori – including Parakaia (although this had been disputed by Buller) – and to the absence of receipts signed by any of those rangatira, or by members of the three hapū during Featherston's subsequent pay-out of the impounded rents.

As discussed earlier, the letter to Richmond pertained largely to the division of rents between the three major tribal groupings. The 'non-sellers' agreed that the government should pay out the impounded rents and authorised it to do so: to make a 'correct division … Ngatiraukawa together with Hoani Meihana and some of the members of the Rangitane tribe, to receive the same amount as the Ngatiapa, with Peeti and some other of the members of the Rangitane tribe'. [2085] The letter stated further that McDonald had been authorised to receive the money on behalf of Ngāti Raukawa. Questioned closely by the Maori members, Lewis testified that he was certain that Parakaia's signature to the letter was genuine, that Buller thought it was, and that it had also been identified by Judge Young as such. The same could not be said, however, of other signatures on the document, two of which Judge Young had also identified as in Parakaia's hand. According to Lewis, at that time, 'a chief would consider himself entitled to sign the names of all his people if he saw fit'.[2086] He did not concede that any questions about the document existed.

He was also questioned about McDonald's role as an agent and whether he had acted on behalf of the three hapu or only on behalf of 'Ngati Kaupara' (certainly, Kauwhata was meant). Lewis relied upon McDonald, who 'knew all about the matter'. He had been 'on the spot' and had showed that the 'rents had reached generally those who were entitled to receive it'. Mr Pere sought clarification from Lewis as to whether he could identify which hapu had received them, to which he replied, 'I have no other information other than what [was] contained in the papers laid before the Legislative Council in 1881.' In fact, the government had

[2084] Reports of Native Committee, *AJHR*, 1885, I-2A, pp 15-16.
[2085] Reports of Native Committee, *AJHR*, 1885, I-2A, p 20.
[2086] Reports of Native Committee, *AJHR*, 1885, I-2A, p 21.

ended up paying out more moneys than it had received from the lessees.[2087] And essentially, in his view, it had been the responsibility of those who had received the rents from Featherston to make sure they were fairly distributed.

He placed no significance on the failure of Parakaia or any members of Ngāti Tūranga, Ngāti Te Au, or Ngāti Rākau to have signed receipts. This would not be expected in the circumstances, he said. That assertion prompted Pere to ask, 'Is it a European custom to pay money without receipts?'; to which Lewis replied, 'In the distribution of rents to Natives in those days, we know that receipts were not always obtained.' Challenged that some sort of record must exist, Lewis retreated from his earlier position; he had no doubt that memoranda in general and receipts in particular 'furnishing full information' had been kept by the Provincial Government. Their offices had broken up, however, and so any such documents could not be obtained by the Native Office.[2088]

Finally, Bryce gave a statement that he had made no definite promise to Buller even though he had been pressed on the matter, and he committed only to go through the papers with care before coming to any decision. He utterly denied that he had formed a favourable opinion as a result of that exercise; he did not have the slightest doubt that the case was bad.[2089]

In the end, though, the Native Affairs Committee did not agree and reported as follows:

> 1. That the petitioners applied for the back-rents and interest … prior to the passing of the Himatangi Crown Grants Act.
> 2. The condition that all claim to this money was to be waived in consideration of the petitioners getting the land was not adopted.
> 3. The Government admitted the principle that the money on account of rents &c was due; and this proved by their having placed a sum upon the estimates for that purpose.
> 4. The report of the Committee of the Legislative Council in 1883 fairly meets the merits of the case.
> 5. Your Committee therefore recommend that the claim for accrued rents and interest should be discharged in full by the Govrnment and that the propriety of reimbursing the expenditure, and discharging the reasonable liabilities incurred by the petitioners in this matter, should be considered in a liberal spirit.[2090]

After this, Parliament allocated £1000 under the Immigration and Public Works Appropriation Act 1885.

[2087] Reports of Native Committee, *AJHR*, 1885, I-2A, p 21.
[2088] Reports of Native Committee, *AJHR*, 1885, I-2A, p 22.
[2089] Reports of Native Committee, *AJHR*, 1885, I-2A, p 23.
[2090] Reports of Native Committee, *AJHR*, 1885, I-2A, p 22.

8.11 Buller receives the rents and the ceremony at Motuiti

The next task from the Native Department's point of view was to arrange a handover of rents and accrued interest while ensuring there were no more 'complications', 'liabilities', petitions, and claims. Included here were the claims held by Buller against the three hapū for his services in dealing with an issue in which he had not been directly involved, but which derived in good part from his own activities as a land purchase officer. There were also the claims of the hapū against the Crown for additional moneys to settle the costs in gaining their rights in the first place (as recommended by the Native Affairs Committee) and the 700 acres that had been sold before the Hīmatangi Crown Grants Act 1877 had been passed.

The immediate question was whom to pay because Buller was holding an authorisation by the chiefs and was known also to have a lien on the block. Lewis cautioned that, for these reasons, there would likely be difficulties in making the payment and cautioned that 'it would not be safe or advisable to make payment without getting a carefully worded receipt in final settlement of all claims to rents and interest or additional land in connection with the Hīmatangi block'.[2091] Lewis saw the authorisation of Buller by the chiefs as barring any claim to direct payment by the persons who had signed it, although he was less certain that it was sufficient to enable the payment to go to Buller instead. Buller protested that he had been authorised to act as their agent in open court and that it would be 'unfair' to him to have the moneys handed over to anyone else.[2092] Legal opinion was sought and approved the authorisation as sufficient for payment to go ahead through – and effectively to – Buller.[2093]

Armed with a government cheque, Lewis travelled up to Ōtaki, where he was met by Buller and invited by Te Rangiheuea and Wi Ngawhenua to come to Himatangi. The meeting – and ultimately, the handover – took place in the house Turanga (at Motuiti) on 6 October 1885 in what the *Wanganui Herald* described as 'one of the most important meetings held on this coast for some years': the 'settling of the celebrated Himatangi case'.[2094] According to Lewis' report, there were 'about 60 or 70 Natives present including 38 of the grantees many of the other grantees being represented'. Lewis explained that 'Parliament in accordance with the recommendations of the Committee of the House of Representatives and Legislative Council had voted a sum of money in settlement of their claims to back-rents impounded … and interest thereon and of any other unsettled claims they might allege in the Himatangi block.' The amount had been agreed upon by Buller, in accordance with the authority they had given him. Further, Mr Ballance had decided that the payment should be made 'in the

[2091] Lewis minute for Native Minister, 23 September 1885 on Ropiha 21 September 1885, Himatangi papers, 1874-1886, MA 13 /37.
[2092] Buller to Native Minister, 24 September 1885, Himatangi papers, 1874-1886, MA 13/37.
[2093] Note from Reid, 25 September 1885, Himatangi papers, 1874-1886, MA 13/37.
[2094] *Wanganui Herald*, 12 October 1885, p 2.

presence of as many grantees as could be got together in order that the matter which had caused so much trouble and inquiry might be definitely set at rest'. [2095]

Buller then made a long statement about the case, read out the authority given to him in December 1879 to 'compromise their claims with the Government' and to receive moneys and sign receipts, and he then read out the receipts that he would sign. These stated that:

> (1) Pursuant to the authority given by the chiefs of Ngati Te Ao, Ngati Turanga and Ngati Rakau, dated 5 December 1879, Dr Buller was the agent for the hapu and made a compromise with the government in regards to the claim mentioned in the authority. Dr Buller acknowledged receipt of the payment from the Under Secretary of Native Affairs of £1000. Payment was for the full satisfaction and discharge of the claims to back rents impounded by Dr Featherston.
>
> (2) in reference to the above receipt, Buller declared the £1000 received in full settlement and discharge of any other claims of the said hapu to this or any other land forming part of or adjoining the Himatangi block.[2096]

In other words, there would be no consideration of whether the government had been entitled to on-sell land within the block decided upon by the Native Land Court; and having had their claims 'compromised' on their behalf, there would be no recompense for the costs entailed in gaining a measure of redress.

The Reverend Mahauariki led the home people, approving the government's intention to pay over the rents but stating that he thought that credit lay with themselves as petitioners, not Buller, and that the money should be paid directly to the grantees. 'Roare' Rangiheueu [2097] wanted any payment to await the arrival of their spokesman, Rēnata, and stated that they had further claims than the rents. A number of others spoke in a similar vein. Lewis refused to entertain either idea. The government was, he said, bound to recognise their signed authority for Buller to make such a compromise, the same as if they were Europeans who had signed such a document; and 'it was out of the question in the existence of such authority that [he] could pay over the money to them. If they objected to the payment being made to their agent Dr Buller … [he] should have to take the money back to Wellington.' Te Rangiheuea read out a letter from Rēnata Rōpiha to the effect that they should not listen to Buller. Then Pineaha asked about the amount of Buller's claim. This was now disclosed to be more than the £100 promised to Buller should he succeed in winning them their back-rents. In what Lewis again described as a 'long statement', Buller maintained that he had been authorised by the late chief 'Te Roore' to undertake their case. Arrangements had been reached at Wanganui when 'most of those before him had been present'; that it had been 'definitely understood' that he would be paid '£500 when the Hīmatangi block had been obtained for them'. When the land had been made

[2095] Lewis to Ballance, 10 October 1885, Himatangi papers, 1874-1886, MA 13/37.
[2096] Lewis to Ballance, 10 October 1885, Himatangi papers, 1874-1886, MA 13/37.
[2097] This is Roore Rangiheueu.

inalienable, a promissory note had been signed by the three hapu representatives. This was done on 24 November 1879 for £600 for 'all his service', which included for the return of their back-rents with interest. It had been left entirely to him to arrange the terms with the government.[2098]

Buller outlined what he had done on their behalf since then, pursuing the matter 'session after session', and, he pointed out, in face of the opposition of Mr Lewis himself, 'because he felt their cause was just'. Lewis spoke again, confirming Buller's statements regarding his services. He also defended the good faith of the government who had thought the moneys had been paid, but had come to accept Buller's contention that it had been to the wrong people. As a result, the Native Minister had arranged for the £1000 in a 'full and final settlement of their claims'. Roore then asked for time to confer and, Lewis reported, 'seemed to intimate that something more still required to be done'. Any such prospect was flatly rejected by Lewis: '[I]t must be understood that all claims would be settled by the payment of this money.' The work of distributing it lay with them. Roore then clarified that he was referring to the acreage sold, which he now stated to be 800 acres. Lewis would not entertain any claim of this nature; the 800 acres had been sold by two members of the hapū to Featherston and belonged to the government. The Native Minister, he said, had dealt 'liberally with them', and the government had paid out more than had been recovered from the run-holders.[2099]

According to the brief account in the *Herald*,:

> After a lengthy debate and two speeches from Mr Lewis explaining matters, they agreed to accept the money. As an expression of their satisfaction, they then brought forward, in accordance with Maori custom, a pair of huia skins, two handsome mats and a valuable greenstone. Mr Lewis accepted the latter only, and said he would take their ancient heirloom as a present to their staunch friend Mr Ballance. This announcement was met with cheers…[2100]

Lewis himself did not report refusing two of the offered gifts but further described Te Roore as removing 'a greenstone ornament which was hanging around the neck of the image of the chief Parakaia Te Pouepa'. He had said:

> We consider this a very important occasion. There has been very great trouble hitherto in connection with the Himatangi block and our unsettled claims. This pounamu (which he held in his hand) has been handed down from generation to generation and was worn during his lifetime by our great chief Parakaia Te Pouepa. We wish to present it to you as a token that all the trouble between ourselves and the Government regarding Himatangi are now at an end.[2101]

[2098] Lewis to Ballance, 10 October 1885, Himatangi papers, 1874-1886, MA 13/37.
[2099] Lewis to Ballance, 10 October 1885, Himatangi papers, 1874-1886, MA 13/37.
[2100] *Wanganui Herald*, 12 October 1885, p 2.
[2101] Lewis to Native Minister, 10 October 1885, NO 85/2621, Himatangi papers, 1874-1886, MA 13/37.

He then expressed their gratitude to the Native Minister for paying over the money on site for if done in Wellington, 'trouble would have followed and we should have remained unsatisfied'. The dispute was 'clear', and they were 'perfectly satisfied'. Lewis replied that the heirloom was to be considered no 'ordinary present' but as a 'token of the friendly settlement of matters which had so long caused trouble'. He would give it to the Native Minister on their behalf, who he was certain would 'always retain and value it as a mark of their friendship and as a memento of their chief'. Lewis described them as 'perfectly unanimous at the close of the meeting', 'very enthusiastic', and 'highly delighted….' They also wished to express their welcome to the Governor, who was touring 'as the train passed…'[2102]

Buller, too, wrote approvingly of the arrangement, which meant that two-thirds of the moneys that had been received by the petitioners was kept by him for his 'services'. What the initial £600 was for is not exactly clear, although it seems to have included payment for his role in 1874 and 1875 and, again, in 1877 in getting the block returned. To this was added, of course, the £100 fee for his assistance in getting the rents back. He thanked Ballance for having the matter 'promptly settled' and described how he had accompanied Lewis to Motuiti, where the grantees had assembled at his request, and continued:

> The question of stopping my costs out of the money in terms of the original agreement; the compromise I had come to with you in accepting £1000 in lieu of the larger sum claimed (£1600) and the undertaking I had given to abandon all claim to the 800 acres on the southern side of and adjacent to the Himatangi block, were subjects on which Mr Lewis invited a free expression of opinion and in reference to which I offered a full explanation.[2103]

After a lengthy discussion in which the principal men had all participated, the money, minus Buller's deductions, was paid to the three representative chiefs and equally distributed among the grantees. According to Buller, there seemed at first to be a disposition to repudiate the terms of settlement, 'but in the end there was the most hearty and unanimous concurrence in everything'. He complimented Lewis on his skill, judgement, and accurate knowledge of the Māori character, which had won the 'sympathy of the meeting'.[2104] In a report appearing in the *Evening Press*, 9 October 1885, whose account Buller corroborated: after deductions for 'solicitor's costs and other charges', the money was distributed among the 87 grantees.[2105] This would have been £300 out of the £1000.

A record was kept this time and checked against a list 'furnished by the late judge Heaphy', those present noted, while others were recorded as deceased,

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[2102] Lewis to Native Minister, 10 October 1885, NO 85/2621, Himatangi papers, 1874-1886, MA 13/37.
[2103] Buller to Ballance, 10 October 1885, Himatangi papers, 1874-1886, MA 13/37.
[2104] Buller to Ballance, 10 October 1885, Himatangi papers, 1874-1886, MA 13/37.
[2105] *Evening Press*, 9 October 1885, enclosed in Lewis to Ballance, 10 October 1885, Himatangi papers, 1874-1886, MA 13/37.

represented by another, or absent, being at Waikato, Taranaki, Ōtaki, Whanganui, and Hawkes Bay.[2106] The following year, in 1886, the Native Minister was asked in the House about the £1000 and whether it had been handed over to Buller on the 'strength of some old native orders which he produced?' The reply to this was that the sum had been put on the Estimates on the recommendation of the Native Affairs Committee.[2107]

8.12 Conclusion

The General Government, concerned about the peace of the colony, sought to patch up the confusion and dissatisfaction caused by Featherston's questionable and undoubtedly sloppy purchase practices. Although there were numerous acknowledgements that the conduct of the purchase had fallen well short of good practice; that the Native Land Court award had left some groups essentially landless; and that the declaration of the extinguishment of native title had been premature, with harsh implications for the non-sellers, in particular; redress was offered only as an 'act of grace', not as an acknowledgement of government wrong-doing. The land was gone and that would not change; and any land that was offered back would be under a transformed tenure. By this stage, many of the hapū concerned were heavily indebted and reliant on the services of European advisors in both business and government matters. There were closely interrelated issues.

The role played by McDonald and Buller over the course of the purchase of Rangitīkei-Manawatū and the subsequent loss of land and autonomy is quite remarkable. In the case of McDonald, championship of rights in the Native Land Court was trammelled with costs, and eventually corrupted into an abuse of business arrangements over the land; a betrayal of trust and friendship. His capacity to do this exposes a system of mortgaging that disguised the extent of the alienation that had actually occurred. At the same time, the Crown's attitude to him transformed from condemnation to exploitation of the relationships that he had formed with Ngāti Kauwhata, in particular, and the other non-sellers among Ngāti Wehi Wehi, Ngāti Parewahawaha, AND Ngāti Kahoro, based in the in the Oroua region – a topic to which we return in chapter 11. Buller, on the other hand, a Crown agent complicit in the way Rangitīkei-Manawatū had been acquired by the Provincial Government against the wishes of Parakaia and his hapū, ended up supposedly championing their cause, but acting very much in his own self-interest. A government reluctant to recognise that Parakaia's people had suffered injustice other than by their own mistakes made the engagement of such a skilled political operative seemingly necessary for any chance of success in getting some of their land back and the moneys owed to them. Ultimately, the

[2106] List of persons entitled to shares in the Himatangi block, certified by Morpeth, 30.7.85, Himatangi papers, 1874-1886, MA 13/37.
[2107] *NZ Herald*, 5 June 1886, p 6.

Crown and Buller came to their own arrangements while the hapū were left with what was left over once the costs for Buller's services had been deducted. What happened to Parakaia's hapū and those of Te Kooro Te One highlights the vulnerability of Māori as they negotiated the shifting rules of pre-emption (whether they could legally lease, and to whom they could sell) and changing notions of ownership. The title of Ngāti Kauwhata, Ngāti Wehi Wehi, Ngāti Parewahawaha, Ngāti Tūranga, Ngāti Rākau, and Ngāti Te Au was transformed whether they wanted or not.

Buller, a resident magistrate acting as a government land purchase agent, had actively collected signatures in a way calculated to undermine the rangatiratanga of hapū. At the same time, by Buller's own admission, the capacity of Māori to avoid selling had been deliberately undermined by the impounding of rents; an ability underwritten by the Crown's prohibition of direct leasing of land from Māori by settlers but which it declined to exercise in favour of a move designed to 'impoverish' Māori and force them into selling outright. Buller saw himself as having performed 'extra and arduous duties … in negotiating the purchase and, subsequently, settling claims in respect to the Rangitīkei-Manawatū Block; and in 1877 was to unsuccessfully petition parliament that a bonus of £500, which Featherston had promised, was still owed to him.[2108] Denied that return for his efforts, Buller instead utilised his knowledge of local Māori and the district to his own benefit, gaining them, there, a measure of redress at their own expense and to their cost.

It is not exactly clear when Buller started acting on 'behalf of' the three hapū; according to Galbreath, it was in 1875, when he was approached by Parakaia to act as their agent in obtaining their rights. As noted earlier, there had been declining confidence in McLean, who had seemed to promise one thing but who delivered something rather less. In any case, his death altered the political landscape for Māori. There was little trustworthy advice available to them. It had been Buller who suggested to Pollen that the rents and interest could be waived so as to get the 1877 legislation through. Then, when the land had been made inalienable against his advice (Buller was clearly arguing in his own self-interest), the grantees-to-be found themselves with no way to pay their debts. A promissory note had to be signed for £600 in November 1869, and then shortly after, an authorisation to negotiate the receipt of rents on whatever terms he could effect for another £100; this for their share of moneys withheld to assist in forcing compliance to the sale in the first instance (for the sake, it was said, of keeping peace between the tribes). These moneys were then paid out, without consideration of their particular rights, on nebulous authority, and for which no record was apparently kept. Later, it would be on a promissory note and the authorisation signed in December 1879 conferring absolute discretion on Buller (and approved by Heaphy) that the moneys were paid over to him and his

[2108] Reports of Public Petitions Committee, AJHR, 1877, I-2, pp 13, 38.

expenses taken out first. This, it was suggested in the the House, amounted to '£s … for old orders signed by natives.

Parakaia Te Pouepa's and Te Kooro Te One's people had lost all right in the wider region and over half their area of core interest (lands they had been inhabiting and leasing) through Crown purchase activity backed by Native Land Court determination; then, in the case of Hīmatangi, the rest through the rules that came with that court. In addition (as discussed elsewhere in the report), they had also lost their rights in Maungatautari; In effect, Parakaia's people had been rendered landless: the three hapū had sold nothing but were landless.

The Crown was reluctant to admit any liability, but for reasons of removing an irritant of which the King party might take advantage and concerns about the integrity of Featherston (and Buller's) purchase methods, the Hīmatangi block was returned as an 'act of grace' and a 'liberal' one. It was not returned to them in the same condition, however, but under court-awarded title and separate ownership lists. The discussions around that process show hapū and their leadership attempting to engage with this new system of ownership and the rearrangement of rights into a form that gave them a usable title but which poorly reflected whānau relationships and exercise of rights in the land. It also came back with a piece excised for two of the original claimants who had signed the deed without the knowledge or sanction of the hapū; and with the Crown right to take land for a railway through it. (The Crown's public works powers and takings are the subject of a separately commissioned report and are not discussed here.) That the Crown owned and could on-sell a piece of the land brought to the Land Court by Parakaia and the hapū was not readily understood, or accepted by them – an issue of contention that was taken out of their hands by Buller, to whom they were in financial thrall.

Ministers and officials considered responsibility to Ngāti Turanga, Ngāti Te Au, and Ngāti Rakau had been adequately met by the Hīmatangi Crown Grants Act 1877 and the subsequent awards of the court. Confusion about the status of the back-rents was immediately apparent, and the issue kept alive partly by Buller, who sought to have the debt owed to him paid. Initially, at least, officials seem to have conflated the interests of the 'non-sellers' into the hapū, who were represented by McDonald but who in fact acted largely on behalf of Ngāti Kauwhata – who were in trouble themselves, likewise not of their own making. After repeated petitions and under attack in the Legislative Council, which had made repeated recommendations that the rents should be properly assessed and paid out, a finding also reached by the Native Affairs Committee of the House of Representatives, Ballance's administration reluctantly made arrangements to pay out what was still owed. There was sufficient doubt, it seems, over whether the petitioners had ever agreed to waive the rents, and ultimately, it was judged that they had never received them. After repeated years of petition, Ballance accepted the government's obligation to honour Featherston's promises but at the same

time threatened to withhold the moneys if the grantees failed to accept its terms: the rents had to be paid initially to Buller; there would be no possibility of more money to pay off the expenses incurred in achieving that measure of 'justice' – which completely ignored the recommendation that it also take responsibility for the costs to which the petitioners had been put in gaining redress; and there would be no query as to how it had been determined that '700' acres of the block represented the interests of two signatories to the deed, excised under unexplained circumstances. The government proceeded on the authority signed some five years earlier giving Buller complete discretion to put the moneys in his hands, enabling him to recoup his fees and other expenses; a 'compromise' that saw the petitioners receiving a third of the moneys acknowledged to be owed to them.

Apparently, Lewis kept the pounamu that had been gifted as a token of the 'peaceful settlement' between his hapū and the Crown of their long-standing troubles. He asked for a letter to be sent to Rangiheuea of Hīmatangi that in accordance with the words spoken in their house, Tūranga, 'the greenstone presented at that meeting as a token of the final settlement of the troubles at Himatangi' had been given to the Native Minister, who was 'pleased with the present and the request to meet'.[2109] Recently, descendants of Lewis have approached Ngāti Tūranga regarding the return of this taonga.[2110]

[2109] Lewis to Davies, 11 October 1885, Himatangi papers, 1874-1886, MA 13/37.
[2110] Personal communication of Hayden Turoa, May 2017.

CHAPTER 9

THE NATIVE LAND LAWS AND LAND PURCHASE 1862–1882

9.1 Introduction

Colonial legislators had two main objectives in passing the nineteenth-century native land laws. Their intention was to put Maori land into a form of title that:

- gave security to purchasers, lessees, and lenders, and thus made it usable in the colonial economy; and
- would expedite the large-scale transfer of land to settlers or the Crown.

The Waitangi Tribunal has recently concluded that:

> While historians disagree as to whether individualised title was *designed* to achieve that second purpose, the *effects* were clear within at least 10 years of the passage of the first Act. As a Supreme Court judge put it in 1873, the legislation impacted on hapu like breaking the band holding a bundle of sticks together, enabling each individual stick to be snapped one by one.[2111]

The communal structure of Maori society was broken apart, the relationship between rangatira and hapū undermined, and the capacity of the hapu under the leadership of their rangatira to retain their lands and resources severely weakened. The strength of the bundle of rights that constituted customary ownership and unity of purpose was much easier to break once rights were individualised. That this was the result was widely understood at the time. A later commission of inquiry into the effect of the land laws commented: 'All the power of the natural leaders of the Maori people was undermined. …An easy entry into the title of every block could be found for some paltry bribe. The charmed circle once broken, the European gradually pushed the Maori out and took possession.'[2112]

Although the effect of the individualised title was observed early on, the subject of debate in parliament and commissions of inquiry, and the reason for the introduction of a number of protective measures, the Crown did not alter this fundamental purpose of the native land laws until well into the twentieth century. In the meantime, it took advantage of the new tradeable titles being awarded by the Native Land Court 'to circumvent hapu leaders and obtain as much Maori

[2111] Waitangi Tribunal, *He Kura Whenua ka Rokohanga: Report on claims about the reform of Te Ture Whenua Maori Act 1993*, pre-publication version, 2016, pp 13-15.
[2112] Report of Commission into Native Land Laws, *AJHR*, 1891, session II, G-1, p x.

land as possible, as cheaply as possible'; an enterprise and outcome that the Rees-Carroll and the Stout-Ngata Royal Commission would condemn in 1891 and 1907, respectively.[2113]

As we discuss here and in the following chapters, the individualisation of title for Ngāti Raukawa was strangely accelerated. Many of the blocks brought through in the first years of the court's operation were not the large hinterlands to the north of the Manawatū River, which were the subject of intense inter-iwi dispute, but the many small areas of cultivation and residence at Ōtaki. These had been overlaid by the township allotments, and trading of interests between individual 'owners' had occurred though, of course, they did not yet have a legally cognisable title. These matters often had already been the subject of intense discussion, although there were many problems to be sorted as to encroachment of boundaries, lost and deliberately removed boundary pegs, and counterclaims deriving from a different set of rights being asserted within Ngāti Raukawa, or between them and Ngāti Toa. When the territory lying between the Manawatū River and the Kukutauaki Stream was brought into the Native Land Court in the 1870s and 1880s for title determination in large blocks, they would be awarded to listed individuals and rapidly partitioned and sold. Adding to the pressure on Ngāti Raukawa and their tribal estate were the numerous private purchasers who were active in the region, especially in the 1880s as the Crown stepped away to give them free rein. The overall result would be that by the time the government introduced a form of communal title, they were no longer in a position to take advantage of it, nor indeed, many of the title reforms that Māori themselves advocated.

9.2 Laying the foundational; the Native Lands Acts 1862, 1865 and 1867

The foundation for this new system of tenure and trading in land was laid in the first two Acts, of 1862 and 1865. The Native Lands Act 1862 came into operation in the northern districts of Kaipara and Coromandel, but not in the Rangitīkei Manawatū, which, in any case, was specially excluded from its jurisdiction, as we discuss at chapter 6. Indeed, local Maori were not even aware of the law's existence; nor of its successor in 1865 which repeated that 'exemption'. It was only brought to their notice after the fact, in the course of the purchase negotiations of the Wellington Provincial Government.

There is a very substantial body of evidence on the records of inquiry for different districts in which the intentions behind and impact of the native land laws and court have been examined by the Waitangi Tribunal. Those issues have been hotly debated between claimant and Crown historians and counsel, The Tribunal has duly reported on them, repeatedly condemning many features of the legislation and the institutions and practices associated with it. The Tribunal has

[2113] Waitangi Tribunal, *He Kura Whenua ka Rokohanga*, p 19.

found repeatedly that the impact on Maori social structures was destructive and that the failure to provide for a communal title in any meaningful way undermined their capacity to retain their tribal lands. Notable are the Orakei, Turanga, Hauraki, Central North Island, Wairarapa ki Tararua and Urewera reports. There is considerable academic literature on the subject as well: Alan Ward's seminal work, *A Show of Justice* (1973), Hugh Kawharu's *Maori Land Tenure* (1977), David Williams, *Te Kooti Tango Whenua* (1993), and Richard Boast, *The Native Land Court*, vol 1 (2013) and vol 2 (2015) are landmark studies. All have been critical of the legislation, the court and the practices associated with it.

The following discussion notes some of the key features of the early legislation as it affected Māori in the Rangitikei-Manawatu region.

The 1862 Act set out the principles and structure that characterised the system in the nineteenth century. The Crown recognised Maori customary rights. A Native Land Court was established to ascertain those rights and transform them into Crown-derived certificates of title. Crown pre-emption was waived, and private purchasers could now buy directly from the Māori holders of certificates of title – although the rules surrounding purchase by Crown as opposed to colonists would be repeatedly changed over the course of the next 40 years. As Boast has argued in his study, *Buying the Land, Selling the Land*[2114] and as we explore later in the chapter, when the government found itself back in the land market in 1869, becoming the dominant purchaser of land by a very substantial margin, it began enacting legislation to privilege itself against private competition. Rules about extinguishing title as interests were individualised became a tangled mess.

The new judicial body created in 1862 to control the process of title conversion was made up of local chiefs, with a neutral Pakeha chair; a composition that was changed under the 1865 legislation, to a judge assisted by Maori assessors. The significance of that change has been debated. One school of thought suggests that it had no significant impact on the operation of the Native Land Court; the other, that it constituted a significant step away from the idea of a panel of chiefs determining title for themselves.[2115]

In general terms, the Waitangi Tribunal explains:

> Due largely to circumstances of war, the Act was not fully brought into effect and was replaced in 1865. But the war was in many ways responsible for the Native Land Court's creation. After the well-known Waitara dispute and the outbreak of war in Taranaki, many among both settlers and Maori agreed that the pre-1862 process of the Crown picking owners and dealing with them was no longer viable. But the Crown did not consult Maori about the kind of independent body that might replace that system, and

[2114] Richard Boast, *Buying the Land, Selling the Land: Governments and Maori Land in the North Island, 1865-1921*, Victoria University Press, 2009.
[2115] Agreed Historian Position Statement on Native Land Court Issues, Wai 903, 6.2.5.

> Maori were not represented in the settler Parliament at the time either Act was passed.[2116]

Chief Judge F D Fenton, who drafted the Native Lands Act 1865, retained most of the concepts embedded in the earlier measure, but, as noted above, reconstructed the Native Land Court as a formal court of record. Maori rangatira would sit with judges as 'assessors' but they no longer exercised decision making powers in the same way, but rather a veto, and the potential for the panel to operate in a more customary way was removed.

The most important innovation of the 1865 Act was the form of individualised title that it created; one specifically intended to end Maori 'communism'.[2117] The Act created what was called the '10-owner system' under which land was awarded to 10 or fewer individuals, who in law became its absolute owners. There was no provision in the 1865 Act for those individuals to act as trustees for the rest of the hapu, even though that might be the underlying intention of the applicants. While there was a short-lived provision for blocks over 5000 acres to be awarded a tribal (hapū) title, the court's practice was to award all blocks to 10 or fewer individuals as tenants in common, regardless of block size.

Concern among both Māori and Crown officials about abuses resulting from the 10-owner awards led to an amendment Act in 1867. This provided for the names of the rest of the owners to be listed on the back of the certificate of title. The Act created a trust between the owners on the front of the certificate and the registered owners on the back. The land could not be sold 'until it was partitioned and there were genuinely only 10 owners of each partitioned piece of land'.[2118] This option was available when the Manawatū blocks were first brought through the court for award. However, the court was not compelled to award title on this basis and it had the discretion to continue to apply the 1865 provisions.[2119] Chief Judge Fenton was critical of the 1867 amendment since he thought that it ran counter to the intention of the native land legislation: 'the putting to an end of Maori communal ownership'.[2120]

Title to the Horowhenua block (discussed in chapter 10) was determined under this provision in 1873 and this fact was to be pivotal to the role of Kemp in the sale of the block. Otherwise, section 17 was unlikely to have been seen as appropriate in the first wave of engagement of Māori with the land court in this region, dominated as it was by applications for title to small discrete areas allocated, or gifted to particular persons or whanau - either allotments in the Ōtaki township or nearby cultivation sites. We shall see that as larger blocks

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[2116] Waitangi Tribunal, *He Kura Whenua ka Rokohanga*, pp 19-20.
[2117] Waitangi Tribunal, *The Hauraki Report*, vol 2, pp 683-7.
[2118] Waitangi Tribunal, *He Kura Whenua ka Rokohanga*, p. 21.
[2119] Waitangi Tribunal, *The Hauraki Report*, vol 2, pp 697-702.
[2120] Cited in Waitangi Tribunal, *He Maunga Rongo: Report on Central North Island Claims*, Stage One, 2008, vol 2, p 523.

started to pass through the court, the government's main purchase officer deprecated the use of section 17 and argued against it, in court and privately. The practice of awarding to fewer than 10 owners continued even after the law was changed again (in 1873) to allow all persons to be entered onto the certificate of title.

As well as ascertaining and transforming title, the court had to determine a system of succession for owners who died intestate, and again, the guiding principles were established early on. The Tribunal has noted that this was to have important consequences: The individualisation of title initiated by the 1862=65 legislation was perpetuated by Chief Judge Fenton's Papakura decision in 1867 that each owner's interest would be shared individually and equally among all children upon succession. Children were also entitled to succeed to the interests of both parents which meant that there was a trend for titles to involve people from several whānau and hapū. The result was that over several generations of intestate succession interests fractionated. The Hauraki Tribunal points out, however, that the crux of the problem lay not so much in the interpretation of Maori custom and the rules applied by Fenton as in the nature of the titles being created in which 'every individual named in the title or inheriting an interest in a title was an absolute owner' who could alienate it without reference to the community's wishes.[2121] It also meant an ongoing and expanding role for the Native Land Court after its initial investigation of title with all its attendant costs for Maori.[2122] We briefly note that another important aspect of succession concerns the rights of spouses who under Fenton's rule could not inherit a share in the land. Initially there were issues, too, about customary marriages although the Intestate Native Succession Act 1876 provided an avenue for their recognition by the court.[2123]

Although the effect of Crown pre-emption had not turned out to be particularly protective, now that it was removed, new ways had to be found to safeguard Maori in their land transactions and prevent them from entering into contracts through ignorance that might prove harmful. This was a core obligation acknowledged by the Crown since Normanby issued his 1839 Instructions and a major justification for keeping all transactions with Maori in its hands (the other being to fund colonisation by keeping land prices low). There were a number of supposed protections in the legislation that followed, including the capacity to restrict alienation for 21 years, and protections for minors. The first Native Lands Frauds Prevention Act was passed in 1870. We shall see that the court regularly placed restrictions against outright sale in the titles of blocks it investigated in the early years of its operation, generally at the request of the owners, but the long-

[2121] Waitangi Tribunal, *Hauraki Report*, vol 2, p 693.
[2122] Richard Boast, 'The Evolution of Maori Land Law 1865-1993', in Richard Boast, Andrew Erueti, Doug McPhail, and Norman F Smith, *Maori Land Law*, Wellington, 2004, p 74.
[2123] Waitangi Tribunal, *Hauraki Report*, vol 2, p 692.

term effectiveness of this procedure was doubtful.[2124] As the Tribunal has noted: 'Increasingly, the native land laws were required to perform the uncomfortable dual roles of protection and the facilitation of land alienation for colonisation.'[2125]

9.3 The court sittings and Maori engagement, Ōtaki and Foxton, 1867–1870

Ngāti Raukawa leaders, under the influence of Hadfield and Williams, the Reverend Duncan, their Pākehā, and Crown officers – especially Grey and McLean – had expressed clear interest in acquiring their own secure title to their individual 'properties' and the advantages that they were told came with that. Māori wanted to develop and use their lands in the colonial economy – in the words of Tāmihana Te Rauparaha, it was desirable to 'define the boundaries of our lands, that each family may have its own portion marked off', surveyed and Crown granted, 'so that everything may be clear for us, and that we may be like the Europeans.'[2126]The investigations undertaken by the Native Land Court revealed that they had been transacting in township lands since its formation, and it is unsurprising that they might want a 'secure' and legally recognised title to those properties.

Table 9.1: Return of Persons Occupying Native Lands in Otaki township, November 1863

Lessee	Nature of Tenancy	Area (a.r.p.)	Annual Rental (£.s.d.)	Locality	Lessors
Thomas Bevin	Lease, 15 years	1.0.0	£8.0.0	Otaki village	Kiharoa, Ngatipare
John Lawson	Verbal permission to occupy, no term specified	1.2.0	-	Otaki village	Nihi, Ngatihuri
William Davies	Lease, 14 years	1.1.0	£10.0.0	Otaki village	Tamihana Te Rauparaha, Ngatitoa
Edward Prince	Verbal agreement, no term specified	0.1.0	£12.0.0	Otaki village	Te Poria, Ngatikikopiri, Ngatiraukawa

[2124] Only the Governor in council could remove such restrictions. But just as leases arising out of early title determinations were expiring, in the 1890s; the law made it easier to have restrictions removed. See Takapuotoiroa, in Walghan, 'Block Research Narratives', vol III, pt II, draft 19 December 2017, pp 307-9.
[2125] Waitangi Tribunal, *He Kura Whenua ka Rokohanga*, p 20.
[2126] *Te Karere Maori*, 3 August 1860, p 49.

Lessee	Nature of Tenancy	Area (a.r.p.)	Annual Rental (£.s.d.)	Locality	Lessors
Manuel de Silva	Tenancy for life, with absolute remainder to occupier's son by an aboriginal female	0.1.0	-	Otaki village	Eria, Mateawa
Manuel	Verbal permission to occupy, no term specified	0.2.0	-	Otaki village	Eria, Mateawa
William Edgell Seymour	Free gift	24.0.0	-	Otaki village	-
Charles George Hewson	Land granted by relations of the occupier's wife	10.0.0	-	Otaki village	Three representatives of Hukiri, Ngatiraukawa
Richard Eager	Lease for 15 years	0.1.0	£5.0.0	Otaki village	Tamihana Te Rauparaha, Ngatitoa, Pepe Te Ruapuia, Ngatituara, Ngatiraukawa
	Lease for 15 years	0.2.0	£8.0.0	Otaki village	
Robert Kirk	Written agreement for seven years	0.3.6	-	Otaki village	Ona Warihi, Ngatiraukawa
James Cootes	Free gift	4.0.0	-	Otaki village	-
	Free gift	12.1.0	-	Otaki village	-
	'On 8 November 1863, occupiers	0.2.0	-	Otaki village	-
		1.0.0	-	Otaki village	-

Lessee	Nature of Tenancy	Area (a.r.p.)	Annual Rental (£.s.d.)	Locality	Lessors
	purchased from Te Aomarere Puna and Hinenuitepo. Native title not extinguished. About 3 months since occupiers purchase for £20 10s. from Roera and a half-caste lad named Thomas Harvey. Native title not extinguished.'	2.0.0	-	Otaki village	-
George Faxson	Verbal permission to occupy, no term specified	0.1.0	-	Otaki village	Horomona, Ngatiraukawa

Table based on data from 'Return of Persons Occupying Native Lands', November 1863, *AJHR*, 1864, Sess. I, E.-10, pp. 7–16

When the Native Lands Act was amended in 1867, ending the exception of the Rangitīkei-Manawatū lands, the investigation of title of Himatangi dominated court proceedings, official correspondence and the press from March 1868 onwards. Yet, in the preceding nine months Ngāti Raukawa individuals and whanau had begun bringing many small blocks in the region of Ōtaki through for award of title. Although a number of these blocks were contested nothing that happened in the land court prepared them for the dramatic shift that would come when they brought through the Himatangi case through the court seeking to prove their title against those who had been favoured by the Crown; dozens of witnesses, multiple technicalities argued, the invective, and the opposition of the Crown in the person of William Fox and subsequently, the Attorney General, William Pendergrast.

The Native Land Court opened its doors in Ōtaki in a courthouse built on land gifted by Maori in the course of laying out the township as discussed below. The first hearings took place over the week of 5th July 1867 to very little fanfare from the settler press, which reserved its interest for the big, controversial Hīmatangi case involving Crown interests (which was extensively reported upon). In fact the first three cases were adjourned. Most of the claims that followed were for small sites, many less than one rood in size, were firmly within Ngati Raukawa control – even though they might dispute among themselves as to the exact position of a boundary or as to exactly how it got into applicants' hands. There was some contest with other allied groups, notably with Ngati Toa at Otaki and between Ngati Turanga and Ngati Wehi Wehi at Huritini.

T H Smith was the first judge. Two assessors were required to sit with him, and on the court opening there was an immediate adjournment to allow Tāmihana Te Rauparaha to arrive to join Te Keene. Then later on, an adjournment would be needed when cases came forward in which Te Rauparaha had an interest. Reluctant to adjourn the whole session, Smith decided to proceed when there were no objectors, until two assessors could come from the Wairarapa. Other assessors included Ihaia Whakamaru, Parakaia Te Pouepa, Rōpata Ngara Ngāmate, and Mītai Pene Taui. The court minutes do not always indicate whether two assessors were present at each sitting. They do suggest an active level of engagement of individual assessors in some instances. Te Pouepa, who had been so prominent in the campaign to have the lands investigated for title, clearly thought that his voice could be heard and was recorded as giving statements to the court as to the interest of applicants before it.

Both men and women brought lands through for award, navigating survey requirements, counter-claims, and, for the first time, the rules and workings of this exciting new institution. Testimony of applicants, counterclaimants, and witnesses revealed complex layers of tenure, even for small pieces of land, as customary allocations and tuku were overlaid by arrangements made for the Otaki township allotments, swaps, sales, and gifts to each other – and occasionally to Pākehā, for a shop or a doctor's residence; as well as encroachments, and other acts of disputed possession. Applications by the offspring of Maori-Pakeha marriages were a noticeable feature of the proceedings in the first years of the court's operation in the district (for example, Hemi Ranapiri at Mākirikiri, and Te Whakahoki a Tapanga, Hemi Kuti at Whakarangirangi and elsewhere, the Kipa whānau at Waiariki no 2).[2127] Although the township allotments seem to have been comparatively well understood (if sometimes challenged), the rural sections were less well-appreciated, had not been developed, and customary occupation had continued at some sites in ignorance that the land was part of the township plan. People had continued to

[2127] Otaki minute book 1B, 3 March 1868, pp 132-137; Otaki minute book 1F, 4 July 1870, pp 763-5, and 5 July 1870, pp 775-6, 778.

come and go. Small clusters of blocks were brought through together, as indicated in maps 9.1 and 9.2.

Crown Action and Maori Response: **Native Land Court blocks, 1867-1872**

Cartography by Geospatial Solutions Ltd. Map Number CFRT - CAMR 001 Map projection: New Zealand Transverse Mercator Date: 1/02/2018

Crown Action and Maori Response: **Native Land Court blocks, 1867-1872 (Insert)**

Cartography by: Geospatial Solutions Ltd. Map Number: CFRT - CAMR 001a Map projection: New Zealand Transverse Mercator Date: 1/02/2018

A proper survey was the first requirement for obtaining a court title, and surveyors were often key witnesses, giving evidence as to whether their work had been opposed or not. Claimants and counterclaimants often talked about survey pegs, how they had placed them, or pulled them out. Alternatively, the fact that pegs remained in the ground was an indication of unchallenged ownership unless, of course, others claiming rights, who were not currently resident, had been unaware that any survey had been undertaken. While the court might proceed on a sketch plan, a proper survey was required within three to six months before a certificate of title could be issued.

The early cases revealed some confusion over, and adjustment of, boundaries of small blocks because, in the words of one surveyor, it was agreed that a boundary was a 'give and take line'.[2128] Witnesses sometimes stated that they did not understand the map produced in court, although they might have demonstrated detailed knowledge of the land concerned.[2129] There also could be misunderstandings and dispute because transactions had taken place for portions of areas originally occupied, either on the first arrival of the heke or as a result of the runanga allocations when the township was planned. These 'sales' were essentially customary arrangements, despite the payment of cash and the setting of survey pegs. The general practice of the court in such cases was to adjourn the hearing so that the boundary of the intervening transaction could be settled and that portion set up as a separate block (as we discuss further below). Alternatively, when boundaries encroached on those of others, the court might adjourn to allow the marking of conflicting claims or the resolution of dispute. For example: when Hoani Taipua's application for title to a number of the township allotments (nos 6, 7, 8, 14, 15, 16, 22, 23 and 24) was opposed by Te Rau [?] because he thought that the survey included land belonging to him, the court adjourned so that he could inspect the boundary. On his return, he stated that it did, and the court advised the parties to 'arrange between themselves'. Te Rau then agreed to let Taipua have land if he paid for it. It seems that Taipua refused; they met again and, this time, Te Rau agreed to give Taipua the allotment without restriction as he had 'plenty of other land'. All this was done outside the court, which then endorsed the decision.[2130]

Applications for title at Waeranga (west block and nos 1, 2, 3, and 4) were adjourned multiple times either for non-appearance of witnesses, or because conflicting surveys meant that new plans had to be drawn up.[2131] Much of the confusion seems to have arisen because the blocks claimed overlapped with the new township allotments, a number of which had been sold in the meantime. In the case of Waeranga 2, for instance, the named claimant, Eruera Te Matata, was now dead. Hape Te Horohau (his brother) claimed ownership in his stead and

[2128] Otaki minute book 1F, 7 July 1870, pp 801-2.
[2129] See testimony of Arapata Hauturu in Waiariki, Otaki minute book 1B, 5 July 1867, pp 32-3.
[2130] Otaki minute book 1B, 13 July 1867, p 93.
[2131] Otaki minute book 1B, 13 July 1867, p 87; Otaki minute book 1E, 22 April 1870, pp 709-10.

having been cautioned to speak the truth, gave evidence as to the occupation of the land. He told the court that the land had been purchased from Te Peina after the death of Te Rauparaha. His brother was to have paid one cow, a horse, and a sum of £10 for this block, and an adjoining area, which was now claimed by Perenara. Eruera had been unable to make all the payment, giving only one cow, for which he had received a portion of land – and this was now in dispute as it encroached on the township. He applied for two certificates: one for the township area to be held jointly by his wife and himself, and another for the land outside, in his own name.

Akara Ngahue challenged because a portion of his allotment (no. 75), given to him at time of the township being laid out had been included in Eruera's survey. Akapita Te Tewe gave evidence that he had witnessed the sale by Te Peina and had driven over the cow that paid for it. Upon this evidence, the court then ordered a certificate of title for Te Waerenga no. 2 in the name of Hape Te Horohau, but only for the land in the plan outside the boundary of the town allotments. A separate certificate of title for allotment no. 79 was also ordered in the names of Hape Te Horohau and Hera Ani Rangiwakawaka. Survey in both cases was to be produced within the standard three-month period. Court fees for the two pieces of land totalled £5.[2132] A certificate of title for Waerenga 1, where an area had been sold for grazing in 1854, was ordered in the names of Akapita and Perenara Te Tewe, the block comprising the land shown on the plan 'excepting portion of allot. 69, and of road or street running along the west side of that allotment'.[2133]

The investigation of title at Hurihangataitoko 1 and 2 blocks dealt with a similar situation. There, Piripi Te Rangiataahua opposed the claim of Hokepera Tūhui and seven others to the no. 1 block. This group belonged to Tūhourangi and associated hapu, but according to Hokepera, they had now become 'Ngatirauakawas'. Piripi told the court that he had given only a small piece at the south end to Hokepera's mother 'out of love' and that the claim encroached upon his land. However, after the hearing was adjourned so the boundary could be inspected, he admitted that he had been mistaken and withdrew his objection.[2134] The boundary between Hurihangataitoko 2 and 3 and Maringiwai 1 also had to be sorted out – and a plan prepared showing various adjustments – before the court would order a certificate of title.[2135]

Many of the early applicants requested restrictions to be placed on the certificate of title preventing alienation, except by lease of less than 21 years. This was one of the Crown's main protective mechanisms for land retention in the nineteenth century, but it operated entirely at the discretion of the court until 1880. It was

[2132] Otaki minute book 1E, 21 April 1868, pp 703-7.
[2133] Otaki minute book 1E, 21 April 1868, pp 698-703.
[2134] Otaki minute book 1E, 7 March 1868, pp 142, 147.
[2135] Otaki minute book 1E, 20 April 1870, pp 691-3.

then made a duty to inquire in every case (either title investigation or partition) as to whether there should be restrictions placed on alienation. In the early period, however, the court acted at the direction of the applicants, who stated whether they wanted this step taken or not. In the case of Waiariki, for example, the first block to go through was restricted at the request of the applicant Kararaina Whāwhā. [2136] When Waiariki no 2 (eight acres), which was claimed by the Kipa whānau as the land of their deceased mother (who had married Skipworth), was brought through for award, the court again thought it 'proper to restrict alienability … except with consent of the Governor as in case of native reserves'.[2137] Restrictions were placed in the title of allotments 188 and 177, ordered in the name of Te Rei Parewhanake, and, in the cases of allotments 53 to 55 and Piritahi block, because they belonged to minors.[2138]

9.3.1 Content and conduct of the first cases

After a rather slow start in the district – the first sitting at Otaki in 1866 lasted for only two days and it did not reopen until the following year – the business of the Native Land Court started to gather speed. We outline some of the key features of the cases and court proceedings under the Native Lands Acts 1865 and 1867 below.

Township allotments:

Dominating the early applications brought before the much awaited Native Land Court were those for title to the township lots. Matene Te Whiwhi and Tāmihana Te Rauparaha led the process, claiming title over lots 62-68, explaining how the land had been originally set aside and allocated by runanga decision with survey being undertaken with the government's assistance. Since then, some lots had traded hands and there were adjustments and compromises made during court adjournments to allow claimants and counter-claimants to confer.[2139]

A claim, heard slightly later (in early March 1868), was brought by Roera Te Ahukaramū for title to allotments 86 and 88 (1 rood 29 perches).[2140] The application was unopposed. It had been many years since the original owners had died leaving no issue. A verbal promise had been made to leave the land to Roera, who had since leased it to European tenants, and they had erected buildings on the site which would be left as payment. Parakaia Te Pouepa confirmed all these statements and told the court that Roera was considered the

[2136] Otaki minute book 1B, 5 July 1867, p 34.
[2137] Otaki minute book 1F, 4 July 1870, pp 763-5.
[2138] Otaki minute book 1B, 3 March 1868, p 140 and 18 April 1868, p 184; Otaki minute book 1E, 23 April 1868, p 714.
[2139] Otaki minute book 1B, 3 July 1867, pp 16-18, 21-22.
[2140] Otaki minute book 1B, 2 March 1868, p 129.

'inheritor'. Te Ahukaramū was then recalled and the court complied with his request that the certificate of title be issued without restrictions.

In contrast, Natanahira Te Waro's application was contested both in and out of court. His survey of lots 83 and 84 had been opposed by a kuia named Taumanu, but according to George Swainson (the surveyor concerned), she had accepted a pig as compensation. Te Waro (described as 'Tuhourangi', of Ōtaki) told the court that the land had been assigned to Eraia Maihuia at the time of the initial occupation of Ōtaki. Eraia's daughter (Rina Pururu) had given her the land when she left the district for Rotorua in 1855. Te Waro asked the court for a grant of title without restrictions in the name of herself, her son, and Rina. However, the wife of Kōtua (Pia Te Urihe) counterclaimed, stating that Rina had in fact left the land to her husband. The court then adjourned for two weeks to allow time for Rina to appear.

On 23 March, Rina (Ngāti Tuarā) gave evidence that she had given the land to Kōtua and Te Rēweti to take care of. Te Rēweti had lived on lot 83 but had left the area, and when Rina had returned, she had found her land occupied by Natanahira and his son. She now applied for title for allotment 84. A number of witnesses then appeared giving different versions of events, after which the court awarded the title of no 84 to Rina Pururu and no 83 to Pia Te Urihe and Taumanu without restriction. The survey charge for each allotment was £1 and the court fees of £2.10 each had to be paid by the two sets of grantees.[2141]

Waiariki:

When 'Waiariki' was called on for title determination on 5 July 1867, it proved to be for a site in Wellington and so was adjourned until the next sitting there. Then an application by Wiremu Paiaka 'and others' for award of title for another block of that name, located in the Manawatū, was heard. Kararaina Whāwhā, who lived at Manawatū, appeared as a counterclaimant and stated that the land had belonged to Hauturu, who had gifted it to her and had it surveyed. Those pegs, the court was told, were still in place.[2142]

Arapata Hauturu appeared next, stating before the court that he knew the counter claimant; that he had given the land to her and his children. He and his brothers – Te Puke (Taupo) and Nerihana (Otaki) – had inherited it from his 'tuakana' Te Paea (deceased). The land had been given to Kararaina by Te Puke and surveyed by Knight. The pegs were still in the ground. She was given the land, he said, 'because she asked me for it'. She was a 'tamahine keke'; her mother was his 'tuahine'.[2143] Nerihana Te Paea (the son of the original owner of land) corroborated Arapata's evidence, confirming that the pegs were 'still in the

[2141] Otaki minute book 1B, 23 March 1868, p 326.
[2142] Otaki minute book 1B, 5 July 1867, pp 31-2.
[2143] Otaki minute book 1B, 5 July 1867, pp 32-3.

ground'. The surveyor, Charles Godfrey Knight, said that the land, which was in grass, had been marked out in July 1866 at the request of Kararaina. The boundaries had been pointed out by Arapata and others, and the survey had proceeded without interruption. The boundary had been clearly marked with pegs and lock spitted [i.e. a survey post erected with a line of rocks to indicate the change of direction] but his map, he acknowledged, was not 'in conformity with the present rules of court'.[2144]

The original applicant, Wiremu Paiaka, now stated that he had no objection to Kararaina's counterclaim. Kararaina Whāwhā requested the grant to be in her name and that it should contain a restriction on alienability. The court complied with this request, ordering the block to be awarded in her name, provided 'a proper Survey be furnished within 3 months'.[2145] The plan was produced at the March 1868 sitting, with a 'slight alteration at the East end': an addition of two links at the north-east corner and a reduction of five links to the south-east boundaries. The court then ordered the certificate of title to the parcel of land at Waiariki (4a 2r 27p) to issue to Kararaina Whāwhā, under the appellation, Takapū o Toiroa No 1.[2146]

After Kararaina had been ordered to produce a proper survey plan back in July, Wiremu Piaki had been called again, but he had left the court, and the case was postponed for a day. He appeared on 6 July, applying for a grant in the name of himself and three others. He produced a map showing the claim, which had been surveyed by a Mr Hughes. He told the court that Te Roera Hūkiki had pointed out the boundaries of the land that had been owned by his father, Te Ahukaramū. He related the history of ownership, telling the court that Tāmihana Te Rauparaha would support his claim 'as he knows it'. Tāmihana then appeared, confirming that the applicants had occupied and farmed the land in question. Although he knew nothing of the survey, he knew the boundaries and believed the sketch plan was correct.[2147]

Then the applicants argued about whether there should be restrictions on permanent alienation. Roera Hūkiki said no, but Wī Paiaka urged that this step be taken for the sake of the children of Hone – that they had no other land in Otaki. One of the minors concerned, Hēnare Roera, argued against restrictions in his case, as there were six children younger than himself. The court then ordered a certificate in favour of Roera Hūkiki, Wiremu Paiaka, Hēnare Roera, and Hoani Whare for the land claimed – estimated at 8 acres 1 rood – if a 'proper survey' was furnished within three months, and it recommended restrictions on alienability. Fees amounted to £3.[2148] (It is not clear whether that survey was

[2144] Otaki minute book 1B, 5 July 1867, p 33.
[2145] Otaki minute book 1B, 5 July 1867, p 34.
[2146] Otaki minute book 1B, 3 March 1868, p 133-4.
[2147] Otaki minute book 1B, 6 July 1867, p 37.
[2148] Otaki minute book 1B, 6 July 1867, p 38.

done. The Walghan block narratives have Waiariki 2 being awarded to Te Kipa Whatanui and four others on 28 June 1870.)

Takapū o Toiroa:

An adjoining piece of land called Takapū o Toiroa of some five acres was heard on 9 July 1867. This was claimed by Karanama Te Kapukai o Tu[2149] of Ngāti Huia, who gave evidence that he owned the site along with Ēpiha Tainui (who had died since the survey), his sister Ahenata Te Tahawai, and Te Wireti.[2150] The plan had been lost when it had been sent to Auckland, but a tracing was produced in court. There was an additional complication, however: Ēpiha and Ahenata had sold the land and kept the money (£28). It was Ēpiha who had contracted the surveyor over Karanama's objections, although he had later agreed to it. A very complicated description of disputed boundaries and transaction followed. Karanama stated that he had 'refused to recognise the sale' but had agreed to a survey instead, asking the court to cut off whatever portion of the five acres it considered would be a fair return for the £28 payment and 'grant him the remainder'. [2151] Epiha's sketch map, which was before the court, was incorrect, and the pegs had been removed.

Te Wīreti and Tonihi both made counterclaims. According to Wireti, Karanama's claim included a portion of his land, and there had been a 'rohe' between them for a long time. Tonihi also objected that Karanama's boundary included land owned by himself and others. He had seen the survey and disagreed with it. In these circumstances, the court adjourned the hearing 'for want of a proper survey of claim'.[2152]

Kiharoa:

There was some excitement in court when nearby Kiharoa come on for investigation. The applicant Kiharoa Mahauariki was called to order for his language. The minutes record that he 'continued to treat the court with insolence and was ordered to cease on which he left the court in an insolent manner'. [2153]He returned later on in the week, apologising for his earlier behaviour, produced a map, and pointed out his pieces that he said were his before the township was laid out and then assigned to him and his relatives. He mentioned allotments 44, 43, 42, 41, 39, 49, 40, 47, 48, 57, and 58 and gave evidence that he had fenced no 44 but had not occupied it but had returned to the Manawatū. Karanama Te Kapukai o Tū confirmed that lot 44 and a number of others had been given to Wī

[2149] Variously spelled as Karanama Te Kau Kai.o.tu / Te Kau Kaiotu and Te Kapukai in the minute books.
[2150] Otaki minute book 1B, 9 July 1867, p 44.
[2151] Otaki minute book 1B, 9 July 1867, p 44.
[2152] Otaki minute book 1B, 9 July 1867, p 44.
[2153] Otaki minute book 1B, 9 July 1867, p 46.

Perahama and gave a detailed and complex history of its occupation. Kiharoa Moroati also recounted the history of occupation and told the court that he had paid 'to let the line go straight' – being at the street.[2154]

A number of counterclaimants – Ropata Hurumutu, Wī Hape, and Mehi Peka (widow of Paraone) – appeared saying that lots 43 and 44 belonged to them. Kiharoa handed in a list of seven grantees, and the court ordered a certificate of title for Kiharoa and four others 'for piece of land on plan 1-2-0 and including the portion cut off allotment No 39 being allotments 42-41-40 39-47 and 48 of Hadfield, Otaki'. No restrictions were ordered, and the allotments that were contested adjourned to a future sitting.[2155]

Mangapouri:

Hipirini's application for a certificate of title was heard on 12 July 1867. The Walghan block narratives locate Mangapouri as adjoining Pukekaraka and containing 33 acres. A map was produced by Hughes. Counterclaimants were called, and Parakaia Pouepa (described as 'Ngatiraukawa') gave evidence that he lived at Ōtaki and knew the land in question. He spoke of its history, stating that the matter had been discussed at Rangiuru and it had been agreed, without dissent, that it should be reserved for a courthouse. Parakaia testified that part of the land had belonged to Kere Mete before the township had been laid out and he spoke of the history of allotments 185-187, 177-178, 179-180. Hiripini's father-in-law 'Nga Pawa' had been given lot 185 and had occupied it in his wife's name.

Rawiri Wānui (Ngatiraukawa, of Otaki) appeared next. He told the court that he had been present at the forming of the township, which 'was to be used for [no] other purpose but to give homesteads to all' ('any denomination or Heathen'). He also gave an account of the formation of the township. He recognised the land shown on the map as belonging to Rangikahiwi, Whatikura, and Hauita and agreed that the land had been set aside for a hospital and courthouse. There had been no objection at the time, with the other chiefs assenting too. Rāwiri then described the continuation of customary understandings underpinning their engagement with the township scheme. He told the court**:**

> If any one wished to have an allotment he would go and look at the map and if there was a vacant allotment he would be allowed to take it – Nothing was said at the time about allowing or prohibiting lease or sale but it was understood that the person who had an allotment set apart for him was to occupy it. If a person occupied his allotments for a time and then left it, his claim to it would lapse and it might be given to another – it was understood that the allotment was to be occupied.[2156]

[2154] Otaki minute book 1B, 13 July 1867, p 92.
[2155] Otaki minute book 1B, 12 July 1867, p 93-4.
[2156] Rawiri Whanui at Mangapouri, Otaki minute book 1B, 12 July 1867, p 80.

He verified seeing Nga Pawa's party living near the allotment before the town was surveyed but did not know if it had been given to them afterwards. Nga Pawa and his wife were still living there, however.

Mātene Te Whiwhi appeared next. He also had been present at the laying out of the town. His recollection was that the area claimed by Hipirini had been set apart as 'a reserve for a market, a courthouse and a public place'. Te Whiwhi could not confirm Hipirini's occupation of the site in question, and in his view, the area had been set apart for the uses he had described. There had been a dispute with the Pukekaraka people about some allotments at the south end of the township which had been settled, but no other objection had been raised at the time.

Hipirini then stated that he knew nothing about the agreement to set aside the land for public purposes and told the court that he could bring further evidence in support. The court ordered a certificate of title for lot 185 to issue to the claimant and Keremeta Rangikahiwi on condition that the land be held in trust for the children of Nga Pawa and that it be inalienable by sale, mortgage, or lease for a longer period than 21 years. It declined to make a like award in respect of the portion comprising land set aside for public purposes.[2157] The usual fees of £3 were charged. (We note that we have not researched the titling of the land for the courthouse and other public purposes further, and this may require investigation.)

Paremata:

Oriwia Hurumutu ('Ngatitoa', of Otaki) and 'others' applied for title at Paremata – the cultivated lands opposite the 'pa' on the other side of river – which had been settled on first arrival from the north.[2158] The case came on after an initial adjournment and was fiercely contested between her 'Ngāti Toa' group and Maika Takarore and his 'Ngāti Raukawa' counterclaimants, who were clear that although Hurumutu's tupuna may have cultivated there when Tungia had been allocated the land, she had lost any claim to the area since they had left the area.

The contest was indicated by the initial evidence of Charles Godfrey Knight. There had been opposition to, but no interruption of survey, and he was able to point out the many disputed boundaries on the tracing of the plan. Maika Takarore (Ngatiraukawa, of Otaki) then appeared, stating that he did not understand the map. He told the court that Oriwia had land surveyed near Waiariki. Essentially, the argument was about whether that survey had encroached upon Ngāti Raukawa and the 'rohe' that had been agreed upon and fixed between the two tribes. He had been 'present at the survey by Maoris but not by Knight'; however, he had seen the 'pou' inside the Ngāti Raukawa boundary.

[2157] Otaki minute book 1B, 12 July 1867, p 83.
[2158] Otaki minute book 1B, 9 July 1867, pp 49-50.

On the following day, he gave evidence about complex land dealings. Then Pita Te Pukeroa ('Ngatiraukawa', of Otaki) gave evidence on Hurumutu's behalf, though he, too, did not understand the map, and while present at the time of the original arrangements, he had not seen the survey by Knight. He did not see any objection to Oriwia's claim. Reupena Te Kairangi ('Ngatiraukawa', of Ohau) and Rawiri Te Wānui ('Ngatimai / Ngatiraukawa', of Otaki) spoke in a similar vein.

Next, a number of witnesses making counterclaims on a variety of grounds gave evidence. Tāmihana Te Rauparaha stated that Oriwia had included his land in her claim. He then outlined the battles upon which his own rights by conquest were founded. Te Moroati, for Ngāti Raukawa, opposed the application altogether on grounds that Hurumutu was Ngāti Toa who had no claim to land there that had been taken by Ngāti Raukawa. He had not been present at the survey but had a claim. Rākapa Kahoki counterclaimed because she had rights in a portion of that area although, like Moroati, she had not been present at the survey to point out her interests. In contrast, however, she admitted the right of Oriwia and her aunt Wikitoria. Hoani Taipua opposed the claim, too – but only that of Oriwia, not of Wikitoria, whose rights he admitted.[2159] Arapata Hauturu claimed the portion he had been cultivating with his wife. He went there as a Ngāti Raukawa not a Ngāti Toa and he had pointed out his boundary to Mr Knight (which was not shown on the tracing).[2160]

Mātene Te Whiwhi (describing himself as 'Ngatitoa and Ngatiraukawa', of Otaki), having related his account of occupation of the land around Otaki, told the court that he did not consider Oriwia to have any claim; she might have had if her 'matua' had returned, but it was 'not for her to come now'. She had not cultivated there since Ngatitoa went away.[2161]

Oriwia Hurumutu appeared and noted that she did not know that Te Rauparaha had given the land to Tungia but had heard him say he had done it on occasion when he and Ngāti Raukawa had had altercations.[2162]

Wikitoria Huruhuru ('Ngatitoa', of Otaki) appeared in Oriwia's support, explaining that she had been cultivating the land since her marriage to Reupena; that Ngāti Kauwhata had disputed her possession at first but had given it up to her, and the boundaries were correct.[2163] She had seen the boundary line marked out by Mai[ka] and said it was 'correct between herself and Ngatimai Otaki[2164] – the portion next to the river is theirs…'[2165]

[2159] Otaki minute book 1B, 10 July 1867, p 58.
[2160] Otaki minute book 1B, 10 July 1867, p 59.
[2161] Otaki minute book 1B, 10 July 1867, pp 61-2.
[2162] Otaki minute book 1B, 10 July 1867, p 83.
[2163] Otaki minute book 1B, 10 July 1867, p 63.
[2164] A hapu.
[2165] Otaki minute book 1B, 10 July 1867, p 63.

The Court delivered its decision on 11 July, finding that Oriwia had 'utterly failed' to make out her case or to show she [was] entitled to any portion of the land shown on her tracing'. In the court's opinion, the counterclaimants also appeared unable to define the boundaries of their claims, with the exception of Tāmihana Te Rauparaha, 'whose claims include a portion of the land claimed by Oriwia'. And since Tāmihana had not applied for an award of title, it could not proceed with an investigation of the claim, which included a large portion of land adjoining Hurumutu's. This being so, the court refused to order a certificate of title to any person, leaving it for the counterclaimants to procure a survey of their respective claims and apply to the court in the usual way for investigation.[2166]

9.3.2 The hearings at Foxton, 27 February–30 March 1868

The opening salvos of the Rangitikei-Manawatuj (Himatangi) case were fired on 26 February followed by an adjournment to 11 March, to allow the Crown time to gather its witnesses. In the meantime, the panel of T H Smith, J Rogan, and W B White, with assessors Mītai and Rōpata Ngarongomate continued on with the more usual business of the court, hearing a number of smaller uncontentious, or locally disputed cases involving rights as held between different hapu of the heke... The court also disposed of a counterclaim by Muaūpoko and Ngāti Apa to interests at Ōtaki. While these cases involved questions of migration, occupation, including leasing, and were intensely argued over the course of a day, Nothing that happened in the land court with reference to these blocks – or the earlier cases - prepared them for the dramatic shift that would come when they brought the Himatangi case through the court seeking to prove their title against those who had been favoured by the Brown; dozens of witnesses, multiple technicalities argued, the invective, and the opposition of the Crown in the person of William Fox. Indeed, as noted below, the indication in these cases seemed to be that the Native Land Court would support their argument of having rights based on 'conquest' and occupation.

We note the following...

An application by Hoani Taipua ('Ngatiraukawa') for several of the township allotments came on for title determination on 27 February. He produced a plan, and stating that he occupied a house on the land, applied for a certificate of title for himself and Keipa Te Mātia and Paranihia Whāwhā. He outlined the ownership history of the area.[2167]

This time, there was a challenge from the Kuruhaupō tribes. Hoani Hemorangi (who described himself as belonging to Muaūpoko, connected with Rangitāne and Ngāti Apa, and living at Horowhenua) appeared as a counterclaimant. He

[2166] Otaki minute book 1E, 28 June 1870, p 733-4.
[2167] Otaki minute book 1B, 27 February 1867, pp 106-110.

told the court that he owned all the land at Ōtaki on the grounds of ancestry and had continued to occupy it long after Ngāti Raukawa went there. He knew about Ōtaki township but had not been there when it had been laid out. He had no issues with the township, but if the land was outside the town, it should be divided between claimants. In answer to a question from Rogan, he maintained that Ngāti Raukawa had not driven Ngāti Apa away. Ngāti Apa ancestors had houses at Ōtaki but, he acknowledged, had ceased to live there at the time the Ngāti Raukawa came. Kāwana Hūnia then gave detailed evidence in support.

Parakaia Te Pouepa appeared to support Taipua's application, which, he stated, belonged to Ngāti Raukawa only. After recounting a complex history pertaining to the land he told the court: '[T]he town of Otaki was made by the Ngatiraukawa chiefs, none of the other tribes were consulted – nor were any of the allotments set apart for any of them….'[2168]

Both Hoani Hemorangi and Hoani Taipua addressed the court again, followed by Swainson, the surveyor who had been employed by Taipua. The latter had been occupying the land and had pointed out the allotment boundary to him.

The court then announced its decision: The counterclaimant had not made out any claim – whereupon Hoani Taipua requested a certificate granted in his name and for restrictions to be entered upon it. The court ordered the certificate of title in the names of Hoani Taipua and three others for allotments 89-91 and 93 and recommended restrictions on alienability to be entered upon it.[2169] There seems to have been no more challenges of this nature.

Mākirikiri:

When the application of Henare Te Waiatua for title to Mākirikiri came on for hearing in the same week, he produced a plan by Charles Godfrey Knight. Knight appeared, affirming that he had been employed by Henare to make the survey. The applicant had pointed out the boundaries to him and there had been no interruptions, disputes, or fences noted at the time.[2170] However, a counterclaimant also appeared. Hēmi Kuti ('Ngatiraukawa', of Ōtaki) gave a history of occupation, then told the court that the land belonged to him, since he had bought it off the original owner, Tereturu. He asked for a grant in his name only, his siblings not being party to the claim. Since the case then revolved around Tereturu's rights in the land, the court adjourned so he could appear.

The case came on again, on 2 March 1868. Tereturu Kahoe ('Ngatiraukawa', living at Otaki) appeared for the counterclaim. He recognised the land on the plan and told the court that he had not been present at the survey, but had seen the

[2168] Otaki minute book 1B, 27 February 1868, pp 106-110.
[2169] Otaki minute book 1B, 27 February 1868, pp 106-110.
[2170] Otaki minute book 1B, 26 February 1868, p 95

pegs later and had pulled them up and thrown them in the river, as it was his land – the land he had sold to Hemi Kuti. He, too, provided a history of occupation and restated that he had sold the land to Hemi, had received payment, and it was now his.[2171] Hona Taupō, living at Ōtaki, also spoke to Hemi's claim. He had not witnessed the survey or seen the pegs, but his own land adjoined Tereturu's piece. He confirmed that it now belonged to Hemi, although he knew that Henare claimed it as well. Tereturu was then recalled to look at the map. Unlike some of the witnesses appearing in these early sittings, he clearly understood what it depicted. He pointed out the black line drawn on the plan by Henare as a boundary to divide out the piece he claimed for the payment he had made. Tereturu went on to tell of how he had gone to Porirua for three years and then occupied (and farmed) the plot in contention for another three years. He said that he had sold it to Kuti about two years previously for £15.[2172]

Witnesses for the applicant followed. Piripi Te Hura ('Ngatiraukawa', of Ōtaki) identified the land as belonging originally to Tereturu. According to Te Hura, Tereturu's family had given their land to Henare's 'matua', who gave it to Hēnare; but Tereturu had subsequently sold the land to Rīwai Te Ahu. The witness had approached Tereturu for the land back and proposed dividing it, but it was already sold. Te Hura had offered £5 for its return. This had been refused, and the land had been surveyed. Tereturu had removed the pegs and threatened the witness.

The court then ordered the certificate of title for Mākirikiri (1.3.0 acres) in the name of Hēmi Kuti without restriction. Piripi Te Hura stated that he had paid for the survey, and Hēmi was ordered to reimburse him for the whole amount (£2).[2173]

Makirikiri no 2 came on next. The applicant here was Hemi Ranapiri ('Ngatiraukawa', of Otaki).[2174] Charles G Knight appeared again, produced the plan, and stated that he had been employed by the claimant, who had pointed out the boundaries which were already pegged. It included a portion of the township as originally laid out (allotments192-191, part of 190, and also part of 184). The exact position of the allotments could not be fixed, however, as there was no plan to refer to, but there was no interruption or dispute at the time.[2175] Hēmi Ranapiri then told the court that he claimed by purchase from Hona Taupō, Te Rei Pēhi, and Hēma Te Ao, who had originally owned the land. The were no counterclaimants.[2176]

[2171] Otaki minute book 1B, 2 March 1868, p 125.
[2172] Otaki minute book 1B, 2 March 1868, pp 125-9.
[2173] Otaki minute book 1B, 2 March 1868, pp 125-9.
[2174] Otaki minute book 1B, 3 March 1868, p 140.
[2175] Otaki minute book 1B, 3 March 1868, p 140.
[2176] Otaki minute book 1B, 3 March 1868, p 141.

Three witnesses appeared in support of this application. Te Rei Pēhi did not know that the land formed part of township. It had belonged to his 'matua' who were dead, and he had sold it to Ranapiri. Hipirini said that the land had belonged to Hema, Te Rei, and Hona; he had seen Tiemi give Hema a gun as payment for it. The third witness, Hona Taupō, was another of the original owners. He told the court that the east portion of the block, adjoining the river, had been his, was occupied and cultivated from the time of the coming of Ngāti Raukawa, and had been sold now to Hemi Ranapiri.[2177]

The claimant wished for no restriction on alienability, and the court ordered the certificate of title in the name of Tiemi Ranapiri for the piece of land at Ōtaki – (2 acres 1r 3p) called Mākirikiri no 2. As requested, no restrictions were recommended.[2178]

Huritini:

We discuss one more case before turning to other matters – that of Huritini, where the application of Parakaia Te Pouepa (described in this instance as 'Ngatituranga / Ngatiraukawa', of Otaki) was contested by Ngāti Wehiwehi. The case was heard on 5 March 1868. The surveyor, John Hughes, produced a sketch of the claim. He noted that it was not in accordance with the court rules, being unchained as a result of interruption by Kiharoa and Ngāti Wehiwehi and by Rota Rāwiri.[2179] Te Pouepa then appeared before the court, stating that the land belonged to three hapu and asking for a certificate in favour of the following persons:

- Ngāti Tūranga grantees: Parakaia Te Pouepa, Te Roera Rangiheuea, Te Poiri Rangiheuea, Hākopa Te Māhauariki;

- Ngāti Te Au grantees: Hakopa te Tehe, Mirika Hineiwāhia, Pitihira te Kuru, Arapata Te Whioi; and

- Ngāti Rākau grantees: Hemara Mataaho, Nirai Ngatu[u]a, Ihaka Nga Mura.

He told the court: 'Those persons I have named are not all who are interested but "kei enei te whakaaro": we claim this land.'[2180] Parakaia then detailed their acts of ownership dating back to 1830, including cultivation of flax, battles fought, and leasing to Pākehā, although, he acknowledged, there had been more recent challenges from Kiharoa over the distribution of rents.

[2177] Otaki minute book 1B, 3 March 1868, p 142.
[2178] Otaki minute book 1B, 3 March 1868, p 143.
[2179] Otaki minute book 1B, 5 March 1868, pp 155-161.
[2180] Otaki minute book 1B, 5 March 1868, pp 155-161.

The following day, Paora Pohotīraha ('Ngāti te ihi ihi', of Ōtaki) gave evidence for the counterclaim: The land had belonged, he said, to Te Rauparaha jointly, who had given it to Mokowhiti, Paora's cousin. When Paora had come from Maunagatautari, in the year of the 'expedition to Putiki Wharanui', no one was occupying Huritini.[2181] He had, he continued, 'grown grey in occupation' of the land. He had let the land to a Pākehā as a run. His people, he said, were still there and their houses were still there. The boundary ran from Te Ahi a Hatana to Kahuera—it formed a 'rohe' between Ngāti Wehi Wehi on the north and Ngāti Raukawa on the south. Paora himself fixed the boundary, and Rauari Te Wanui and Rota Te Tahi of Ngāti Raukawa agreed to it.[2182] Only Paora's hapū, he said, had an interest in the land—some one hundred individuals.[2183]The witness outlined his version of occupation, also emphasising their lease of the land for the past six years. He alone had received the rent, and he was still receiving it, and he had given none of it to Parakaia.[2184]He opposed Parakaia's claim to any portion of the block.[2185]

Cross-examined by Parakaia, Paora stated that the rent he received was for the land up to Te Ahi a Hatana and Huritini and Kahuera.[2186] He had not, he said, heard that Rotorapu had been occupied by Rangiheuea. No one had been occupying the land when he came to settle on it—Rangiheuea and Wiriharai and Te Ture were not then at Rotorapu. The four tribes—Ngāti Te Au, Ngāti Turanga, Ngāti Raukau and Ngāti Kapu—had gone to Ahuriri, and when they had returned, the land had been given to Mokowhiti and they had only gone on to it to collect flax.[2187] Paora and Mokowhiti lived at Mangapirau and Huritini, and he, Paora, had come to the latter not as a 'whakatete' but as a 'whenua tuku'.[2188]

Te Rēwiti Te Kohu ('Ngatiteihiihi', of Waikawa) appeared next, explaining that 'this boundary was "whakaritea" between Ngatiraukawa and his tribe'. Parakaia disputed this evidence: 'I don't know anything about you or your boundary at Te Rotorapu.' Answering a question from the court, he said: 'I only know of the boundary finally agreed on between Ngatiraukawa and Ngāti Te ihi ihi – before that we were disputing about the boundary.'[2189] Te Rēwiti added that the lake at Huritini had been used to catch tuna, while the bush was a 'tupuranga kai', a place to grow food.[2190] Detailed evidence about specific conversations with reference to the land being exchanged for taonga – axes, flax, pātītī, eels – followed. Questioned by Kiharoa (for Pāora who was deaf), Te Pouepa stated that

[2181] Evidence of Paora Pohotiraha, 6 March 1868, Ōtaki MB No. 1C, p. 163.
[2182] Ibid, p. 164.
[2183] Ibid.
[2184] Ibid, pp. 164–165.
[2185] Otaki minute book 1B, 5 March 1868, pp 162-8.
[2186] Ibid, p. 165.
[2187] Ibid.
[2188] Ibid.
[2189] Otaki minute book 1B, 5 March 1868, pp162-8.
[2190] Ibid.

the taonga were given to Te Kuru. Hākopa Te Tewe ('Ngāti te Au', of Manawatū) and other witnesses followed with their own detailed versions of these events and whakapapa, for and against the application. Faced with this conflicting evidence, the court refused to order a certificate of title for either party and charged Te Pouepa a fee of £1 for the application.[2191]

More than two years passed before Huiritini was brought before the court again, this time by Winia Pohotīraha (the daughter of Paora, who had died in the meantime), with T H Smith sitting as judge and Rōpata Ngara Ngamate as assessor.[2192] She had witnessed the survey and listed 20 interested parties who had approved 10 grantees to go into the title. She repeated the evidence of Ngāti Wehiwehi at the earlier investigation; that the land had been given to Mokowhiti after the 'conquest'. The only objection at this hearing came from her sister on the grounds that some of those named were only interested in part of the block. Parakaia stated that 'Ngatituranga were absent at Taupo and were interested – they went away in December 1868 – before the survey was made of the claim and before the Court sat in February 1869 – when the boundary was settled – I only heard this but do not appear for them'[2193]

The Court then ordered a certificate of title in favour of Manahi Pohotīraha and nine others for land at Waikawa called Huritini – 1077 acres – with 20 names to be registered. A fee of 14 shillings was applied.[2194]

9.3.3 Business as usual

With the exception of Rangitikei-Manawatu as it continued to wind its controversial course through the title system, small blocks continued to dominate court business in the region.

For example: in the week of 2 to 13 February 1869, the court, with Judge Munro presiding, heard many small cases including:

Awahou; Aratangata; Hakuwai; Hakuwai No 2;Hakuwai No 3; Hurihangataitoko No 4; Kahuera; Kawaroa; Makuratahi; Makuratawhiti; Mangapouri; Makirikiri No 3; Maringiawai No 2; Ngawhakarawa; Ngawhakarangirangi; O taki Sections: 37/8, 45/6, 45A and part of 39 and 47, 71, 73, 75, 77, 76, 78, 61 [or 81??], 85, 89, 91, 93, 95, 96, 97/100, 101 to 112, 102, 104, 108 to 112, 177-179, 186, 187; Oturoa; Pahianui No 1, No 2a, b, c; Paparaumu; Paremata; Paretao; Parikawau; Pekapeka; Parakaiaia; Rekereke; Rekereke No 1; Tahuna; Takapuotoiroa; Tawaroa No. 2; Tuahiwi; Tutangatakino; Tutangatakino No 1; Uruki; Waerenga

[2191] Otaki minute book 1B, 6 March 1868, p 190.
[2192] Otaki minute book 1F, 5 July 1870, p 771.
[2193] Otaki minute book 1F, 5 July 1870, p 774.
[2194] Otaki minute book 1F, 5 July 1870, p 775.

No 3; Waerenga West; Waiariki No 2; Waiorongomai; Whakarangirangi; Whakamaungariki.

The negative effects of these processes of title determination were not immediately apparent, undoubtedly buffered by the practice of leasing, although as we have seen the practice of mortgaging obscured the extent that blocks were encumbered. The Walghan block narratives demonstrate that only 3.4% of the lands awarded in this early period had been alienated by 1875 although the rate of sale gathered speed after that.[2195] As we discuss in the following sections, the effects of the court became increasingly apparent in the early 1870s as colonisation began in earnest, with increasing levels of debt, changes in land legislation, and growing vulnerability in the land market.

By 1870 there was disappointment among leaders such as Parakaia Te Pouepa, Kooro Te One, and Te Herekau in the decision of the Native Land Court on the issue of tribal right within the region as a whole and the procedures followed in the case. The exclusion of Ngati Pikiahu and other hapu whose occupation had been accepted by Ngati Raukawa was thought to be unfair and the awards for hapu, who had not participated in the sale deed, were utterly inadequate. As discussed in chapter 11, 'members of the Ngatiraukawa tribe or of Hapus connected therewith' sent a petition to parliament, protesting the judgment of the Native Land Court whereby those boundaries of those lands had been decided without hearing their evidence.[2196] There was a general feeling too, that the operation of court rules had borne inequitably upon Parakaia's people, while Ngati Kauwhata and Ngati Wehi Wehi struggled with the demands placed on their resources by the Cambridge hearings and the need to protect rights there,

9.4 Searching for a unified response, 1871–1872

The operation of the Native Land Court, the gazetting of the Crown's purchase of Rangitīkei-Manawatū in October 1869 (although opposition to it remained strong), and the ending of hostilities in Taranaki presented hapu leadership with new challenges – or, old challenges in a new form. Opinion continued to be divided as to how to engage with colonisation, the Kīngitanga and how to bridge political tensions between hapu and rangatira. There remained, too, enormous anxiety about how to defend the rights of 'Ngati Raukawa' and tangata heke in the remaining west coast lands against the claims of Ngāti Apa, Rangitāne, and now, Muaūpoko as well. How to engage with and respond to roads and

[2195] Ōtaki blocks continued to be brought through for certificate of title and, by 1887, a little over 20 per cent of the area originally awarded had been alienated. By this point, as discussed at chapter 11, Ōtaki itself was still considered to be largely under Māori control. We briefly note here that this was to rapidly change as the opening of a regular train service enhanced the commercial attractiveness of the district, and by 1900, 46.7 per cent of the originally awarded area had been sold to private buyers.
[2196] Petition of Ngatiraukawa tribe, *AJHR*, 1870, G-1, pp 16-17.

telegraphs, to the possibility of sending someone to the colonial parliament, the negative consequences of colonisation (especially the social destruction caused by alcohol) and the economic decline of their communities, and to Crown offers to purchase more land were pressing issues. In the hui of these years, however, all expressed a desire for there to be unity among hapu within Ngāti Raukawa and with their closest allies, as well as peace throughout the island.

Crown officers reported a series of large meetings convened both by Kāwanatanga and Kīngitanga adherents in the early 1870s. In February 1870, Robert Ward (then court interpreter) reported a hui at Kakariki, called by Whiti Patatō (who took the name Wī Hape) and Heremia te Tihi (Ngāti Tūkorehe), of the Kīngitanga, with Rāwiri as the host. Portions of Ngāti Apa, Rangitāne, Ngāti Kahungunu, Ngāti Te Upokoiri, Te Āti Hau-nui-a-Pāpārangi, and Ngāti Raukawa attended, the latter including people from Oroua, Manawatū, and Otaki. Ward estimated 250 to 300 persons as present, there being so many assembled that the great rūnanga house, Ko Miria Te Kakara, could 'hardly hold all'.[2197]

Much was made of it being a new year 'when the Kāwanatanga and the Hau Haus could all meet and shake hands' this theme being adopted by speakers on both sides of the political and religious divide.[2198] After introductory greetings, Heremia Te Tihi, announced that the purpose of the meeting was not for the airing of their grievances; but 'that all men and tribes might join and be one; that all differences might be put aside; that the sword of discord among their might be sheathed; that they would all agree that whatever took place, the sword was to remain in the scabbard.'[2199]

Heremia's words were then debated, the speeches punctuated by waiata and haka (the content of which was unrecorded), and the meeting was seemingly evenly divided. Te Aweawe (Rangitāne) and Kāwana Hūnia endorsed his sentiments, but a number of the government men – Rātana Ngāhina, Pehira Turei (of Whanganui), Hapurona (Ngāti Apa) – stood to declare their continuing determination to fight Tītokowaru and Te Kooti if called upon. Wī Hape argued that Maori should not be fighting each other – 'Stop. If I am killed, let it be by the Pakeha…' – and predicted that the government would attack the King once it had finished off Tītokowaru and Te Kooti. However, Ihakara Tukumaru responded that he remained a 'servant of the government' and 'would not lower his sword…' upon which Wī Hape clarified that he had been talking o90nlyh about their own rohe:

[2197] Ward to Sir W Fox, 19 February 1870, MS-Papers-0032-0042. Ward commented that Noa Te Rauhīhī and his section of Ngāti Raukawa were not at the meeting, having already had their korero with Mr Fox, and being engaged at harvest.
[2198] Ward to Sir W Fox, 19 February 1870, MS-Papers-0032-0042.
[2199] Ward to Sir W Fox, 19 February 1870, MS-Papers-0032-0042.

> [T]he sword might be used against Te Kooti. What he meant was that the sword should not be used in any way by any of the natives against the Maoris of Rangitīkei and this Coast. He wished the Maoris to combine; and that there be no Maoris attacking Maoris in Rangitīkei. He would remind them of what Hunia had said, – how that the Pakeha had sworn at the Maoris, and had used bad words. Let the Maoris be as one.[2200]

Karenama spoke in favour of peace but complained of Ngāti Apa receiving money from the government while he did not, though he remained a government man. Te Whiwhi and Parakaia both made a plea to their people: 'Let all the Ngatiraukawas be of one mind in this matter.' Ward commented that:

> Two or three of the Ngatiapas said they had heard the words of Heremia. They seemed good to them. One said "the native rat had passed away; we have now the English rat. English clover was now covering the ground where the native grasses once grew; and that the native birds were fast becoming extinct. He would endorse the words of Heremia."[2201]

Another major hui was held in April 1870, this one convened at Otaki by government supporters among Ngāti Raukawa and Te Ati Awa to discuss matters of shared concern in an attempt to come to a unified position. This hui (like a number of others reported in these years) combined customary and komiti practices; after several rangatira spoke, discussion was opened out to the meeting and debated in the presence of all, and then resolutions recorded.

After the opening speakers emphasised the importance of being of one mind, a number of issues were debated.

The question of parliamentary representation was discussed, although only the views of Wī Parata and Wī Tako were recorded. According to Knocks' report, they stated to the meeting that:

> … the Maoris at present had no opportunity of assisting to make the laws of the country; that they were compelled to submit to laws made by the whiteman only, many of which were disagreeable to the Maori, some of which laws they were ignorant of until they felt them.[2202]

Matters would be different, they argued, if they had representatives of their own 'who would see that their rights were attended to'. Being a 'Hauhau' should not preclude election to that position. Their 'best man' should be chosen 'whether Queenite or Hauhau, chief or plebeian'.[2203] (This was a theme that was to be repeated in subsequent hui.)

Tāmihana Te Rauparaha raised the issue of Horowhenua, arguing that they must defend their rights in the area; an issue on which Te Roera Hūkiki, Te Wātene, and Moihi (described by Knocks as 'all of Horowhenua') spoke, asserting their

[2200] Ward to Sir W Fox, 19 February 1870, MS-Papers-0032-0042.
[2201] Ward to Sir W Fox, 19 February 1870, MS-Papers-0032-0042.
[2202] Knocks to Halse, 11 April 1870, *AJHR*, 1870, A16, p 25.
[2203] Knocks to Halse, 11 April 1870, *AJHR*, 1870, A16, p 25.

ownership and denying Ngāti Apa right to alter the boundaries set by Te Whatanui.[2204] Ihakara spoke in favour of discussions with Hūnia and Ngāti Apa, but Henare Te Herekau warned the meeting against listening to that advice and a repeat of the Rangitīkei-Manawatū debacle: 'I do not believe Ihakara, he told me some untruths about our land at Manawatū; be careful how you deal with the Horowhenua dispute.'[2205] The meeting appears to have been equally divided over whether to meet with Ngāti Apa or not. An attempt by Parakaia to introduce 'the Rangitīkei question' was opposed by Te Whiwhi and Karanama Te Kapukai, and after some 'wrangling', Parakaia sat down. A letter from Wī Hape about a visit by Tāwhiao was, however, read out to the assembly and also discussed. Ultimately, a number of resolutions were adopted:

> 1st. that the Maori people are to be united in one; the loyal Natives and the Hauhau, their actions to be for peace alone.
>
> 2nd. To invite natives from all parts of this Island to meet here at Otaki for the purpose of seeking a remedy for the disturbances of this island.
>
> 3rd. To seek a meaning for persons to be sent into the parliament; whether a loyal Maori or a Hauhau should go to Parliament.
>
> 4th Whiti's [Wī Hape] request about going to Tawhiao Tokangamutu is refused; rather let it [the meeting] come here.[2206]

Such a meeting was proposed for the following year 'to seek a way to govern on the part of the Maoris'.[2207]

The interest in sending a representative to the colonial parliament and the desire to follow the law did not preclude efforts at autonomous self-government. Knocks reported, three months later, that the 'Otaki portion of Ngāti Raukawa' were attempting to 'to form laws to govern themselves under the rule of a runanga, with Matene Te Whiwhi at its head'. Apparently, the question of the railway had been discussed, too. Mātene informed Knocks that they did not understand the effect of it on their land; that they would wait to see how to act or until there was an opportunity to discuss the matter at the great hui proposed for the following year.[2208] While Crown officials began observing a decline in support for the Kingitanga over the failure of the Waikato, neither did this mean wholesale adoption of colonial institutions. Towards year's end, Alexander Macdonald (then acting as an agent for the non-sellers at Oroua) informed McLean that there was some move afoot among the 'leaders of the Taupo and Waikato tribes' based upriver 'to obtain a pledge from the hitherto Government natives not to take up arms against their countrymen in any future political contest that may occur'. While Macdonald thought that the King movement as

[2204] Knocks to Halse, 11 April 1870, *AJHR*, 1870, A16, p 25.
[2205] Knocks to Halse, 11 April 1870, *AJHR*, 1870, A16, p 25.
[2206] Matene Te Whiwhi, 5 April 1870, *AJHR*, 1870, A16, p 26.
[2207] Matene Te Whiwhi, 5 April 1870, *AJHR*, 1870, A-16, p 26.
[2208] Knocks to Under Secretary Native Department, 18 July 1870, *AJHR*, 1970, A-16, p 37.

such had failed, 'a union of the King Maori as distinct from the Pakeha [was] still deemed possible on some basis other than a union under a single head'.[2209]

Knocks reported the return of 'Hauhau' to their homes at Oroua, and a secret meeting in early 1871.[2210] During the night, while Wī Hape was at Waikawa, about thirty 'Kingites' had arrived at Pukekaraka at Oroua. They had 'formed a ring round the Kingite flagstaff, representing Tainui, going through a certain form of incantation indicating why the Tainui portion of Kingism had failed, and returned to Waikawa the same night, in the most secret manner'.[2211] Wī Hape, Heremia Te Tihi, Ngāwaka, and a party of 'Hauhau followers' had visited Ōtaki, appearing much 'quieter in tone'. The survey of the Rangitīkei-Manawatū block was discussed there; Ngāwaka stated that their opposition was to the 'road passing through their houses' rather than to the survey in principle, and Te Whiwhi was 'very sanguine' that they would soon submit to the government.[2212]

W J Willis (resident magistrate) reported further on the state of feeling in the district in 1872. Maori continued to be 'peaceably inclined' while 'Hauhauism and Kingism' were dying out. He also reported engagement with the courts – but only if Pākehā were involved in the dispute – and interest in the parliamentary system and its growing schedule of laws directly affecting them:

> The Maoris on this coast are, on the whole, peaceably inclined, and becoming more ready to submit themselves to English laws than formerly. Many of their minor disputes they settle amongst themselves, which accounts for the small amount of Maori business transacted in the Resident Magistrate's Court; but all disputes with Europeans are submitted to the English Courts, and during the past year there has been every respect paid by the Maoris to the decisions of the Court. They have, also, a desire to become acquainted with English law, and to possess in their own language copies of Acts affecting the general administration of justice, such as the "Resident Magistrates' Acts, 1867-8," "Justice of the Peace Act, 1866," "Larceny Act, 1867," "Malicious Injury to Property Act, 1867," and the Bankruptcy Acts.[2213]

There were two main matters under discussion at the hui which had been convened by Wī Hape; an invitation by Tāwhiao for Ngāti Raukawa to return to Maungatautari, while Ngāti Raukawa living in the south wished to discuss how to engage with the Native Land Court and Pākehā laws. Although these matters were for Raukawa to decide on, Muaūpoko, Rangitāne, and Ngāti Apa had been invited so that there should be no misunderstanding. In all, 250 men and women gathered for the hui, which lasted from Friday to Tuesday.[2214] James Booth,

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[2209] McDonald to McLean, 19 December 1870, MS-Papers-0032-0407.
[2210] Knocks to Under Secretary Native Department, 18 July 1870, *AJHR*, 1870, A-16, p 37 and Knocks to Under Secretary Native Department, 15 May 1871, *AJHR*, 1871, F-6E, p 20.
[2211] Knocks to Under Secretary Native Department, 15 May 1871, *AJHR*, 1871, F6E, p 20.
[2212] Knocks to Under Secretary Native Department, 15 May 1871, *AJHR*, 1871, F-6E, p 20.
[2213] Willis to Native Minister, 5 July 1872, *AJHR*, 1872, F-3, p 15.
[2214] Translation of Notes of a meeting held at Hikaretu, *AJHR*, 1872, F-3A, p 34.

whom McLean had directed to attend, considered the meeting as 'one of considerable importance, and the result highly satisfactory'.[2215]

The meeting was opened by Hēnare Te Herekau. Wī Hape read out letters from Tāwhiao and Rewi Maniapoto, the latter 'inviting him to return to the possessions of his ancestors at Maungatautari', while Tawhiao extended the same offer to all Ngāti Raukawa, 'to return in peace….' A similar letter addressed to Ihakara Tukumaru was also read out by Te Herekau. After discussion on whether to postpone the meeting, Moroati responded:

> This is my reply to the invitation to the tribe of Raukawa. It is an old invitation and has been repeated for many years up to this present time. Let the Ngatiraukawa do as I have done. Let those who wish to visit the lands of their ancestors go there and return.

Neri spoke next, stating:

> It remains with Ngati Raukawa to consent or not. A decision will be arrived at, through the confusion which is being caused in this part of the country through the sale of land. When the land is sold, the people will agree to go to Waikato.

This theme was taken up by Wī Hape:

> Let the poor men go with me. Let the men who are trying to obtain Crown grants for their lands stay here, and contend with the Muaupoko, Rangitane, and Ngatiapa tribes. If you like to go, it is well; if on the other hand, you wish to stay here in poverty, do so.[2216]

But Ihakara, described as his 'superior chief' directed: 'I forbid your going to Waikato to stay there; you can only be allowed to go on a visit, and return.'[2217] Ngati Raukawa would not unite or combine under a Maori King.

Booth summarised:

> This subject was gone into very fully, Whiti representing the King party, and trying to induce the tribe to migrate, urging as one reason for so doing, that all the land now occupied by the Ngatiraukawa is being sold, and that a considerable portion of it is claimed by the Muaupoko, Rangitane, and Ngatiapa Tribes.[2218]

In reply, Ihakara Tukumaru and the government party stated

> … most emphatically their refusal to entertain the idea of leaving this part of the country. They said that similar invitations had been sent at different times, and generally responded to by a portion of the tribe; that the invariable result had been to induce those men who had gone to take up arms against the Government, and bring trouble on themselves.[2219]

[2215] Booth to Assistant Native Secretary, 12 September 1872, *AJHR*, 1872, F-3A, p 33.
[2216] Translation of Notes of a meeting held at Hikaretu, *AJHR*, 1872, F-3A, p 34.
[2217] Booth to Assistant Native Secretary, 12 September 1872, *AJHR*, 1872, F-3A, p 33.
[2218] Booth to Assistant Native Secretary, 12 September 1872, *AJHR*, 1872, F-3A, p 33.
[2219] Booth to Assistant Native Secretary, 12 September 1872, *AJHR*, 1872, F-3A, p 33.

Ihakara maintained that there was still enough land for them to live on and he would not consent to his people leaving the district at the request of Rewi: 'So long as I retain a right to the piece of ground on which my house stands, I will not leave this place.'[2220] According to Booth's report, Wī Hape roundly criticised Ihakara and those who supported his viewpoint for allowing land, resources, and strategic control to pass from their hands into those of the Crown:

> You, the Government party, are the men who have brought trouble on the land, and you must blame yourselves if any trouble hereafter arises. You are the people who are sacrificing the country: – 1. By the sale and lease of lands. 2. By allowing roads to be made. 3. By allowing the telegraph to go through the country.[2221]

Hunia suggested helpfully, that Wī Hape should be permitted to go since 'all the land you claim is mine', while Huru Te Hiaro of Rangitāne argued that all disputes between their tribes were now ended because they had agreed to abide by the decision of the Native Land Court. There was a final exchange of views between Wī Hape and Ihakara:

> Whiti [Wī Hape]: Let this talk cease. Taranaki was the reason why I first went with the sword. Neither you nor the Governor stopped me then, and why should you stop me now. I am going now in a time of peace; there are Ngatiraukawa there as well as here. It is for you, the Government, to unsheathe the sword. Why do you listen to the lying men about your land? I never agreed to part with our lands. Cease selling the land; there is no evil with me (King party). If there is trouble, the cause will be with you; the causes of trouble are the sale of lands; lease of ditto; roads which you are allowing to be made through the country; and the telegraph wire.
>
> Ihakara: Your word to me, O Whiti, in past years was, "You go seaward and I will go inland", we each took our course, and I am satisfied. Stop your ears, O Raukawa, against the words of Te Whiti. If Te Whiti wishes to go to hear the talk of that place, let him do so, but do not go with him.[2222]

Booth informed McLean that the Kawanatanga chiefs placed their faith in the Crown to protect their interests at Maungatautari, telling Wī Hape and the Kingitanga party that they intended to 'appeal to the Government to protect their interests in the Maungatautari country' and to send by mail 'the boundaries of land (unconfiscated) which they claim, together with a list of the claimants'.[2223]

The korero turned to other matters, although the underlying question of how best to engage with the government, its laws, and institutions remained the same. Te Herekau introduced 'a subject often discussed privately, but for the first time brought before the tribe' and proposed that the five resolutions brought by Ihakara be considered.

[2220] Translation of Notes of a meeting held at Hikaretu, *AJHR*, 1872, F-3A, p 35.
[2221] Booth to Assistant Native Secretary, 12 September 1872, *AJHR*, 1872, F-3A, p 33.
[2222] Translation of Notes of a meeting held at Hikaretu, *AJHR*, 1872, F-3A, p 35.
[2223] Booth to Assistant Native Secretary, 12 September 1872, *AJHR*, 1872, F-3A, p 33.

1. All disputes about titles to land shall be submitted to the Native Lands Court, the ru[ling of] which shall be final, and the losing party shall not bear malice or give trouble on account of an adverse judgement.

2. Murderers, whether chiefs or common persons, shall be given up to be tried by law.

3. If the Maoris at any time feel aggrieved by the oppression of any of the laws of the Government, the matter shall be referred by their representative in Parliament.

4. The Hauhau form of religion adopted by certain members of the Ngatiraukawa Tribe to be given up, and those members to return to their former religion. Churches now out of repair are to be repaired, and teachers appointed in each village.

5. That certain chiefs of the Ngatiraukawa Tribe be set apart for the purpose of upholding the laws of the Government, and securing the better conduct of the people in their several hapus.[2224]

Te Rēweti responded, agreeing to the first three proposals, but arguing for freedom of conscience. He agreed to the fifth resolution as well but thought that such men should not be chosen because they were chiefs but rather because they were of 'learning and good conduct'. He asked, 'What are you asking us Hau haus to return to? One of your places of worship I have seen in Otaki; it is a public house, and the god there worshipped is rum.' Eru Tahitangata announced the withdrawal of his opposition to land sale and his willingness also to renounce Hauhauism. Nēpia Taratoa agreed to the resolutions but not to give up his religion, arguing that the divisions among them were 'not for this or that form of religion; but because some of the people, together with Whiti, took up arms and went to Taranaki'. Ihakara spoke next, arguing for the laws of Heaven. Rāwiri Te Wānui spoke in support and for unity; as did Peina (described as Hauhau).

When the hui reconvened on Monday, Te Herekau opened the korero, warning that Ngāti Raukawa were 'declining very rapidly'. He argued that they had lived in peace for 20 years until quarrelling commenced in 1860. The tribe was 'broken up into three parties: 1st, Kingites: 2nd, Kupapas (neutrals); 3rd. Government Natives'. There were good and bad in all three groups, he said, while disputes over the Rangitīkei-Manawatū block had led to 'estrangement' from their neighbours. He told the assembly, 'Between drink and Hauhauism nothing but the bones of the tribe remain; the flesh and blood have been destroyed. Return to me the cultivators of the soil.' To this, Tarapata responded: 'Your words about Kingism and Hauhauism are quite true; but it has been your selling land which has caused trouble, and you now ask us to return to these laws which are destroying the tribe. Leave us to our form of religion….' Neri agreed 'to give up killing pakehas,' but like Te Reweti, claimed liberty of conscience. Rawiri Te Rangiheketua, Te Peina, and Pipi Kūtia (half-sister to Tāmihana), on the other hand, renounced their Hauhauism, while Taratoa announced that it was rum that he would be trying to get his people to renounce.[2225] The meeting closed with professions of friendship between Ngāti Raukawa and Rangitāne. On the last day

[2224] Translation of Notes of a meeting held at Hikaretu, *AJHR*, 1872, F-3A, p 35.
[2225] Translation of Notes of a meeting held at Hikaretu, *AJHR*, 1872, F-3A, pp 35-6.

of the meeting, the wife of Huru Te Hiaro (the Rangitāne chief at whose village the meeting was being held), gave birth to a boy, 'which was looked upon, coming just after the expressions of peace and friendship between the neighbouring tribes, to be a good omen, and the happy father was so delighted that he gave a great feast in honour of the event'.[2226]

Booth reported that all the resolutions had been adopted unanimously, except for the one pertaining to religion; and in that case, those claiming liberty of conscience 'stated that if any of their people wished to give up Hauhauism they would not be prevented doing so'.[2227]

It was within this context – of continuing religious and political division and, it would seem, declining confidence in the Kingitanga as a solution, but also of attempted healing and unification – that Ngati Raukawa and associated hapu endeavoured to engage with the Native Land Court under new rules and with a government actively purchasing in the region.

[2226] Booth to Assistant Native Secretary, 12 September 1872, *AJHR*, 1872, F-3A, p 33.
[2227] Booth to Assistant Native Secretary, 12 September 1872, *AJHR*, 1872, F-3A, p 33.


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9.5 Crown expansion of land purchase, 1871–1881

Colonisation of the Manawatū began in earnest in the 1870s and the government solidified its hold on the region in the following decade, as a result of new land laws and the policies promoted by Vogel's public works programme. Elsewhere in the country, this signalled a return of the government into the land market but in Rangitīkei-Manawatu, it had never really left. In effect, the Crown's pre-emption had been preserved over a large part of the region and, as table 9.2 shows, private purchase of blocks that had gone through the court was seemingly limited in the late 1860s and 1870s. It was concentrated in the hands of old residents such as the Kebbells and Dr Hewson, and included the publican Schultz, as well as the men who had married into the community. As the Awahuri case illustrated, however, lands although apparently remaining in Maori hands started to be encumbered by mortgages held by financiers and other private lenders.

Table 9.2: Private Purchasing 1869–1879

BLOCK	YEAR	SIZE (a.r.p)	PURCHASER
Tawaroa 1	1869	27.1.5	J. Schultze[2228]
Hakuai 4	1874	16.0.35	Charles George Hewson[2229]
Pahianui 4	1874	12.3.0	William Small[2230]
Waerenga 4	1874	3.1.35	Charles George Hewson[2231]
Waerenga 5	1874	4.2.29	Charles George Hewson[2232]

[2228] Walghan Partners, Block Research Narratives, Volume III, Unfiled Draft Report, 19 December 2017, p 328.
[2229] Walghan Partners, Block Research Narratives, Volume II, Unfiled Draft Report, 19 December 2017, p 95.
[2230] Walghan Partners, Block Research Narratives, Volume III, Unfiled Draft Report, 19 December 2017, p 158.
[2231] ibid, p 369.

Ahitangutu 2	1875	5.0.28	Charles George Dawson[2233]
Turangarahui	1875	81.0.0	James Cottell & Sydney Diamond[2234]
Ohau 3D	1876	15.3.12	Wellington Manawatū Railway[2235]
Waihoanga 4A	1876	430.0.0	George, Samuel & Francis Cook[2236]
Waopukatea 2	1876	64.0.0	William Small[2237]
Ahitangutu 6	1877	0.1.4	Jane Martin[2238]
Hurihangataitoko 2	1878	3.1.10	Charles George Hewson[2239]
Kaingapipi 1 & 2	1873	170.0.0	John Kebbell[2240]
Ngawhakangutu 1 North	1878	646.3.8	James Howard Wallace / Manawatu

[2232] ibid.
[2233] Walghan Partners, Block Research Narratives, Volume II, Unfiled Draft Report, 19 December 2017, p 12.
[2234] Walghan Partners, Block Research Narratives, Volume III, Unfiled Draft Report, 19 December 2017, p 351.
[2235] ibid, p 122.
[2236] ibid, p 382.
[2237] ibid, p 431.
[2238] Walghan Partners, Block Research Narratives, Volume II, Unfiled Draft Report, 19 December 2017, p 12.
[2239] ibid, p 196.
[2240] ibid, p 221.

			Railway Co.[2241]
Ohau 3B	1879	250.0.0	Robert Ransfield[2242]

This would remain the case while the Wellington Provincial Government continued to be active in purchasing operation (until its abolition in 1876) to the extent of raising another private loan to fund its purchase operations;[2243] and while the government exercised its capacity to bar private competition in blocks that it had proclaimed to be under negotiation. The situation would change dramatically in the following decade, however, when the general government wrapped up most of its purchase operations in the district, brought its interests through the court for award, and left the market (and further Pākehā settlement) to the Wellington Manawatū Railway Company and settler purchasers both big and small.

9.5.1 Associated public works policy and legislation

The acquisition of large tracts of land for settlement was a key objective and also the engine for Crown purchase policy for much of the decade. The statutory basis of the so-called 'Vogel plan' was the Immigration and Public Works Act 1870. Section 34 authorised the Crown to acquire 'any land' in the North Island, while section 35 allocated £200,000 for the purpose. Funding was via the Immigration and Public Works Loan Act 1870, which authorised the government to raise £4 million for immigration and public works purposes. These works would stimulate the colonial economy. The old assumptions remained, though; the programme would ultimately be funded by the profits made reselling large tracts of cheaply acquired Maori land.

Provisions were also passed that explicitly confirmed the Crown's power to purchase Maori customary land for certain public works purposes, before the Native Land Court had investigated title. The Public Works and Immigration Act 1870, and more particularly its 1871 amendment (s 42), expressly permitted the Crown to enter into negotiations for land needed for railway or mining purposes, or 'special settlements', prior to a Native Land Court adjudication. That section also empowered the Crown to impose restrictions on private alienation in blocks in which it had entered into negotiations for purchase or lease. This meant that

[2241] Walghan Partners, Block Research Narratives, Volume III, Unfiled Draft Report, 19 December 2017, p 87.
[2242] ibid, p 122.
[2243] Fitzherbert to Loan and Mercantile Agency Company, 13 December 1872, WP 6/8, pp 86-7.

the government was able to tie up large tracts of land. Even after lands passed through the court under the 1873 title system, named owners did not yet possess a defined portion within it, so the whole of the parent block was affected.

Section 3 of the Immigration and Public Works Act 1873 allocated a further £500,000 for Maori land purchase (including £150,000 in the Wellington Province and £50,000 in the Taranaki Province). A land purchase branch was established, and land purchase agents were appointed throughout the North Island. McLean, who was Native Minister in a succession of ministries until his retirement in December 1876, assumed overall control and direction of the Maori land purchase operations.

Hearn summarises:

> The land purchase provisions of the Immigration and Public Works Acts thus marked the re-entry of the Crown into the purchasing of lands owned by Maori. That major reversal of policy was justified on the grounds that the Crown needed to create a public estate to support its large-scale capital borrowing programme; to secure for the state the appreciation in land values which it was confident would follow the construction of roads and railways; to ensure the spread of closer settlement, to extend the Crown's territorial reach, and to improve the colony's internal security.[2244]

We note briefly here, that two further measures were enacted to strengthen the government's hand in land purchase matters although under a change of administration:

- The Native Land Purchases Act 1877 extended the government's power to exclude private purchasers from lands which it declared to be under negotiation; and
- The Native Land Act Amendment Act 1877 section 6 empowered the Native Minister to 'at any time cause application to be made to the Native Land Court to ascertain and determine what interest has been acquired by or on behalf of Her Majesty'. This meant that the Crown was able to bring blocks before the Native Land Court for determination of title (and the excision of the interests it had purchased).

We return to the significance of these enactments below.

9.5.2 Native Land Act 1873

In 1873, a major new land Act was also passed, supposedly bringing the 10-owner system to an end. Under this new arrangement the court was required to

[2244] Hearn, 'One past, many histories', p 637.

list all owners in a 'memorial of ownership'. The Waitangi Tribunal has commented:

> Title was not individualised in the true sense of the term, but rather individuals were awarded an undivided interest in land. That is, the land was not physically divided into lots in which a whanau might establish a farm on a delineated section of ground.[2245]

The Turanga Tribunal described the outcome as 'a kind of virtual individual title'.[2246] Technically, it remained Maori customary land, but title had now crystallised into a precise list of right-holders who held individual shares in the land, and created a new certainty for potential purchasers as to who the undivided right-holders were and who to deal with. Groups or individuals could alienate their interests by partitioning out and creating a new title if the majority of owners in the original block consented to the partition.[2247] The requirement for majority consent was then removed: by 1878, it was possible for the Crown to apply to the court for whatever interests it had purchased to be partitioned out, and by 1882, this was extended to all purchasers.[2248]

The interests identified by the court did not amount to a separate allotment of land or a whanau farm for each named individual, and no individual Maori could point to his or her own allotment in these large-scale blocks.[2249] The Turanga Tribunal has found that:

> [T]he intention and effect of the titles issued – good enough to enable each individual to alienate their interests piecemeal without reference to the wider community of owners but practically worthless for any other purposes – was to create individually tradable interests in land where none had existed in Maori custom.[2250]

A system which 'constrained choice and removed community decision making in this way was unquestionably designed to force sales'.[2251]

On the other hand, the law failed to make any provision for a hapu or 'corporate' management structure, through which Maori communities could make legally enforceable decisions about their land. The Waitangi Tribunal commented in 2016:

> In the absence of such a structure, and without any real means to raise development finance, individual owners could do virtually nothing with their undivided interests except sell them. The whole system was geared to ensure that they did so.[2252]

[2245] Waitangi Tribunal, *He Kura Whenua ka Rokohanga*, p 21.
[2246] Waitangi Tribunal, *Turanga Tangata, Turanga Whenua*, vol 2, p 441.
[2247] Waitangi Tribunal, *Turanga Tangata, Turanga Whenua*, vol 2, pp 400-01.
[2248] Waitangi Tribunal, *Turanga Tangata, Turanga Whenua*, vol 2, pp 400-01, 440.
[2249] Waitangi Tribunal, *Turanga Tangata, Turanga Whenua*, vol 2, p 426.
[2250] Waitangi Tribunal, *Te Tau Ihu*, vol 2. p 761.
[2251] Waitangi Tribunal, *Te Tau Ihu*, vol 2. p 761.
[2252] Waitangi Tribunal, *He Kura Whenua ka Rokohanga*, pp 21-2.

9.6 Getting the land ready for Court; the role of Crown agents

The Crown's focus now shifted to the lands south of the Manawatu River and getting the title investigated and the owners determined so that they too could be acquired for settlement.

In early 1872, William Fitzherbert, who had succeeded Featherston as Superintendent of Wellington, and the government's land purchasing agent in the province, arranged for James Grindell, a Native Department interpreter, to be seconded to the provincial government.[2253] His task was to persuade hapu along the west coast to make applications for the investigation of their titles, and to encourage further land sales, partly through the device of survey. As the Rangahaua Whanui report has noted, Grindell found 'his ground well prepared' by the agitation led by Kemp and Hunia over the Horowhenua block, which was now in its third year (discussed fully at chapter 11). The challenge, there, following the Rangitīkei-Manawatū decision, had 'produced insecurity with respect to land ownership not only in that district, but up and down the coast as well'. The suggestion, therefore, that there be 'a general clarification of tribal rights' in the whole region 'fell on receptive Ngāti Raukawa ears'.[2254] The government's insistence that the Native Land Court was the only option and Grindell's that the whole of the region be surveyed into large, but discrete hapu blocks so that a general finding could be followed immediately by award of title to named owners, more easily purchased, the tactics and influence of agents (especially the use of down-payments), the offers of cash provided by public works, immigration loans, a declining Maori economy and increasing debt resulted in intensifying engagement in the land court and in land selling in these years.

Grindell first visited Otaki in March 1872, when he held a meeting with a 'very large and representative contingent of Ngāti Raukawa.'[2255] Great concern was expressed about the claims being made by Muaūpoko, Ngāti Apa, and Rangitāne, whom they considered 'a scheming dissatisfied lot, desirous of obtaining possession of the whole country under the shelter of the law, which they and their fathers had not been able to hold by force of arms'.[2256] Their view was that they had been patient, and had made concessions to preserve the peace, but their opponents were never satisfied. They would give nothing further, and allow no further trespass. Ngāti Raukawa were prepared to sell the mountains to the

[2253] This section draws extensively on discussion within Chapter 8 of Anderson and Pickens, 'Rangahaua Whānui-Wellington District'.
[2254] Anderson and Pickens, 'Rangahaua Whānui-Wellington District', p 166.
[2255] Anderson and Pickens, 'Rangahaua Whānui-Wellington District', p 166.
[2256] Grindell to Superintendent, 25 March 1872, *New Zealand Gazette (Province of Wellington)*, vol 19, no 10, 3 May 1872, p 89.

Pākehā, and would oppose any claims made by other tribes. Grindell responded that the Native Land Court was the only way to settle disputes about ownership. The Government would not buy land until title to it had been properly investigated, and applications should be sent in covering all land to which they wished to claim title. He asked specifically if Ngāti Raukawa were prepared to have the Horowhenua dispute settled by the court, and after much discussion, the Ōtaki gathering agreed that all disputes concerning land, including Horowhenua, would be left to the court to determine.

Grindell next travelled to Foxton, and up the Manawatū River to a meeting with members of the Rangitāne, Muaūpoko, and Ngāti Whakatere where Horowhenua and other matters were discussed. He encouraged everybody to submit the question of title to the court as Ngāti Raukawa had agreed to do, and that this had to be done before they could gain full legal title. Poroutāwhao was the next stop. Ngāti Huia endorsed the decision at Ōtaki, namely that Horowhenua and all other disputed claims were to be settled by the court. They wished to sell only the mountains, but Grindell said the government wanted flat land as well, for roads and settlements. While Ngāti Huia did not 'fully consent' to this, Grindell felt that there would be little difficulty in obtaining land of the required type.[2257] Wātene and other Ngāti Raukawa assembled at Horowhenua all supported a court adjudication providing Grindell with an application for investigation of their claims. They also offered to sell flat as well as mountain land.

Grindell then returned to Ōtaki, accompanied by many of the Ngāti Raukawa who had been at Horowhenua, and 'one or two of the Muaūpoko, who came to hear the discussions of Ngatiraukawa'.[2258] Over the next several days, the various hapu argued about their respective claims, and nine applications for investigation were made, including one by Mātene Te Whiwhi and his sister Rakapa Topeora for all of Kukutauaki, on behalf of the tribe as a whole. Grindell reported that many of the hapu, not approving this, applied to have their claims investigated separately. Some claims intersected with those of others, while in other instances, the different parties were claiming the same block of land.

While at Ōtaki, Grindell received a message that Ngati Te Ihiihi/Ngati Wehi Wehi wished him to come to Waikawa, having declined to attend that meeting. According to Grindell, they had been fearful of 'some advantage being gained over them by the other', remarking on the feelings of mistrust and jealousy among 'Ngāti Raukawa' as well as with neighbouring iwi. At Waikawa, he found about 40 people camped in tents. They objected very strongly to any Native Land Court investigation although they indicated that they were willing to sell land. Grindell simply stated the government's position: that no land would be

[2257] Grindell to Superintendent, 25 March 1872, *New Zealand Gazette (Province of Wellington)*, vol 19, no 10, 3 May 1872, p 91.
[2258] Grindell to Superintendent, 25 March 1872, *New Zealand Gazette (Province of Wellington)*, vol 19, no 10, 3 May 1872, p 91.

purchased until it had passed through the court and the facts of ownership been determined. He left them some application forms, invited them to discuss the matter among themselves, and returned to Ōtaki to await their decision. An apparently heated debate then ensued, and a deputation travelled to Ōtaki to wait on Mātene. After consultation with him, the Waikawa people joined in his general application for the whole of the Ngāti Raukawa territory.[2259]

In general, Grindell reported, Ngāti Raukawa were prepared to take their claims, and their disputes with Kemp and Hunia, to the Native Land Court. Rangitāne also favoured this approach, and Grindell was hopeful that Muaūpoko would support it too. Ngāti Raukawa were also willing to sell the hills, along the full extent of their territory, and some of them, flat land as well. The question of surveys had come up repeatedly, everyone pleading the inability to bear the expenses involved. Grindell had stated that it was proposed to make a general map of the district, with as many natural features, place names, and boundaries as possible. This map would be used to divide up the land, according to the judgments made by the court. The Government would pay for the surveys needed to prepare the map, and it had been agreed that they could go ahead. Grindell concluded his report to Fitzherbert by noting that everywhere he went, demands were made for money as advances on claims; demands he 'invariably discountenanced', it being 'inadvisable, as a rule, to make advances on land to which there are so many adverse claimants before their titles have been investigated by the Court'. [2260]

Anderson and Pickens point out that; 'In a period of little more than two weeks, Grindell had obtained numerous applications for investigation of titles, indicated plainly the government's wish to buy land along the coast for roads and settlements, and obtained approval for the first step in the process of sale: survey and mapping of the land, at government expense.'[2261] He expected this work would take only a short time, since an exact survey was not required, it being 'sufficient to roughly traverse the rivers with a pocket compass for a sufficient distance to mark their general direction, and their sources could be shown as seen in the hills from the flats below'.[2262] The expense would be 'trifling', and he clearly anticipated no difficulties with Ngāti Raukawa or, indeed, any of the tribes along the coast.[2263]

Grindell spent much of the winter of 1872 coping with bad weather, poor health, escalating costs, and intensive negotiation as he found less agreement among the

[2259] Grindell to Superintendent, 25 March 1872, *New Zealand Gazette (Province of Wellington)*, vol 19, no 10, 3 May 1872, p 92.
[2260] Grindell to Superintendent, 25 March 1872, *New Zealand Gazette (Province of Wellington)*, vol 19, no 10, 3 May 1872, p 93.
[2261] Anderson and Pickens, 'Rangahaua Whānui-Wellington District', p 168.
[2262] Grindell to Superintendent, 25 March 1872, *New Zealand Gazette (Province of Wellington)*, vol 19, no 10, 3 May 1872, p 93.
[2263] Anderson and Pickens, 'Rangahaua Whānui-Wellington District', p 169.

different iwi about whether a survey should proceed than he had anticipated. Internal tensions within Ngāti Raukawa continued as the hapū struggled to unite in the face of a common enemy and issues of shared concern. Some of the problems seem to have related to confusion about the meaning or significance of a survey line, relative to or in comparison with the boundary lines that had long been used to mark off tribal or hapū territory, compounded, in Grindell's opinion, by 'the immense amount of jealousy and suspicion [that existed] amongst the various claimants and tribes in reference to each other's claims and boundaries'.[2264] There were rumours, too – Grindell blamed interested Europeans – about the eventual outcome of allowing the survey and the Land Court in a district characterised by such a high level of inter-tribal tension. Unsurprisingly, the survey at Horowhenua proved the biggest obstacle, but the dispute there was by no means the only one that Grindell needed to overcome in these crucial preliminary steps to opening the rest of the region (hills to coast) to Pākehā settlement.

In April, he travelled back up the coast to get the survey under way and follow up some applications for investigation of title, being anxious that everyone should bring their claims through the court and that nobody should be dispossessed by default. On the other hand, fear of that possibility clearly removed any real choice for Maori in the matter. On his second visit to Muaūpoko, he found them still very hesitant about the survey, and they refused to allow Ngāti Raukawa to point out any boundaries, apparently believing that this would be in some way an acknowledgment of right. Grindell reiterated the need for survey; since Kemp and his allies had sent in an application covering the whole of the coast, a survey had become a necessity. Grindell explained that since different Ngāti Raukawa hapū were making separate applications for their own portions of the district, Muaūpoko would have to do the same. Worried about Hūnia's influence on a people whom he condemned as 'mulish and obstinate', Grindell enlisted long-term Pākehā leaseholder, Hector McDonald, and Rangitāne rangatira, Hoani Meihana, to assist in the survey. After much 'tedious talk', it was agreed that an application for investigation of title would be sent on to Wellington.[2265]

Ngāti Raukawa remained anxious that the survey go ahead. The community based at Hikaretu 'unanimously agreed' to it while Ihakara Tukumaru, who met with Grindell at Foxton gave permission on behalf of the community there, and submitted their application; for investigation of title. Watene Tiwaedwae and his people, who were living west of the lake, and whose houses had been burned down previously by Kawana Hunia, were also reported to be keen for the survey to proceed, promising that they would not interfere with the Muaūpoko, even if they took their line, as Kemp had threatened, up to their 'very door steps'.[2266] Grindell said that Ngāti Huia at Poroutāwhao, the descendants of Te Whatanui,

[2264] Grindell to Minister of Public Works, 31 May 1872, *AJHR*, 1873, G-8, p 32.
[2265] Grindell to Superintendent, 29 April 1872, MA 13/75b.
[2266] Grindell to Superintendent, 29 April 1872, MA 13/75b.

and the hapū based at Ōtaki, Waikawa, and Ōhau were all willing for to the work to be undertaken. He also reported that a potential dispute between Wī Parata and Tāmihana concerning the lands to the south, at Kukutauaki, had been averted. At Otaki, Tamihana had claimed that Wi Parata had been threatening to challenge the Ngati Raukawa survey to the river and was intending to take the 'Ngati Awa' claim north of there. Wi Tako, however, had denied any intention of that nature and given an assurance of their forbearance while hoping for the same from Tamihana. It had been then agreed that the survey of the southern portion of the district could proceed and they also had signed an application for the court.[2267]

This meant that applications for investigation of title had been made for all the land on the west coast still in native title, from the Manawatū River Ahuaturanga block to the edge of the Crown lands at Wainui, south of Waikanae. Grindell provided details of all the boundary information contained in the various applications to Thompson, the surveyor, and instructed him to begin at Wharemauku, proceeding to the Manawatu and to be 'particular in showing on the maps the position of all points mentioned along disputed lines of boundary'.[2268] As he reported a month later to the Minister of Public Works, to whom responsibility for Maori land purchase had partly devolved after the abolition of the Native Land Purchase Department, 'each hapu [would] then be in a position to sell to the Government without fear of the interference of others', and he had no doubt that 'some valuable blocks [would] be acquired'.[2269] For, he said:

> It is quite apparent that they are generally desirous of selling their waste lands at the present time, but an immense amount of jealousy and suspicion exists amongst the various claimants and tribes in reference to each other's claims and boundaries. It has been with much difficulty that they have been induced to agree to let all disputes stand over to be decided by the Land Court and to allow the surveyors in the meantime to proceed quietly with the work of preparing a map for the use of the Court.[2270]

In that report, Grindell also noted that he had made down-payments on two inland areas: on Rangitāne's last substantial block of land in the region (Manawatū-Wairarapa No.3, or Mangatainoka), which he had no doubt would pass into government hands 'ere long'; and on Kaihinu West, adjoining Ahuaturanga, which extended from Manawatū to the western boundary on the Tararua Range of the Seventy Mile Bush purchase. This block was estimated to contain 50,000 or 60,000 acres and was heavily timbered, but with an extensive swamp between the Manawatū and the hills. It was claimed 'conjointly by the Ngatiwhakatere hapu of Ngatiraukawa and by the early tribes – Rangitāne and others, who inhabited the country before its invasion by Te Rauparaha and his allies, Ngatiraukawa and others'. Applications had been sent in to the Native

[2267] Grindell to Superintendent, 29 April 1872, MA 13/75b.
[2268] Grindell to Superintendent, 29 April 1872, MA 13/75b.
[2269] Grindell to Minister for Public Works, 31 May, 1872, *AJHR*, 1873, G-8, p 32.
[2270] Grindell to Minister for Public Works, 31 May, 1872, *AJHR*, 1873, G-8, p 32.

Land Court for investigation of title and after this, 'the Natives will be prepared to enter into negotiations with the Government for its sale'.[2271]

On Fitzherbert's further instruction, Grindell went back to Ōtaki in early June, having several meetings there and also visiting with Tāmihana, who was residing at Te Horo, where he stayed for two nights. He subsequently reported to the Minister of Public Works, that there was growing sentiment among Ngāti Raukawa and associated hapū favouring a single application to the court and a simple external survey incorporating all their territory. The idea was to come together in face of the emergence of a hostile coalition of opposed tribes, sort out that problem, and deal with their rights vis-à-vis each other at a later date.

> I found the Natives generally opposed to any subdivisional boundaries being surveyed between the claims of the various hapus, the idea being to unite as a whole against the Ngatiapas and other tribes opposed to them, with a view of getting their right as a tribe to the entire coast district first investigated by the Land Court, before entering into any disputes relative to minor internal claims amongst themselves.[2272]

Grindell insisted, however, on the claimants coming to court able to show their interests in blocks that had been agreed between hapū.

When the inland survey was stopped by a section of the Ngāti Huia, residing at Ōtaki, Grindell 'assumed a decided attitude in the matter', informing them that the court would certainly not sit until there was a proper map and that otherwise 'the whole question would still remain open and unsettled as before, in which case the Government could not buy any land which they might wish to sell'. He insisted that:

> [T]he survey should be so made as to enable us to cut up the country into blocks if so required at the sittings of the Court. I said there could be no objection to their taking up the question as a tribal right, but that we must have the map so prepared that each section of the tribe could go in for its own claim at the same sitting of the Court, so as to save expense of second survey, and loss of time.[2273]

Grindell thought that Ngāti Huia – acting under the advice of T C Williams - were the principal movers of the scheme to take the whole of the land into the court as one big block. He had telegraphed Fitzherbert on 13 June with a brief account of their actions, adding that the matter had been settled and that the survey would continue. The message ended with a few words giving a glimpse of the everyday realities Grindell was facing: 'Weather inclement. Got wet. Cough returned. Natives required watching everywhere.'[2274]

[2271] Grindell to Minister for Public Works, 31 May, 1872, *AJHR*, 1873, G-8, p 32.
[2272] Grindell to Minister for Public Works, 2 July, 1872, *AJHR*, 1873, G-8, p 33. See also Grindell to superintendent, 13 June 1872, MA 13/75b.
[2273] Grindell to Minister for Public Works, 2 July, 1872, *AJHR*, 1873, G-8, p 33.
[2274] Grindell to Superintendent, 13 June 1872, MA 13/75b.

Ngāti Raukawa were again receiving external advice about how best to deal with the Crown and the Native Land Court. In his fuller and more candid report to Superintendent Fitzherbert, Grindell expanded on his accusation of Williams, that he had been advising Ngāti Raukawa not to sell their land and recommending that they gather funds so they could repay any government advance made on it. Williams had also told them that while they might wish to sell only useless land – the mountains, for example – would not be acceptable to the Government. He had warned them that this was why it insisted on the land being cut up into separate blocks, so it could gain possession piece by piece. His advice had been that they survey the land themselves, in one block, and establish their tribal claim 'independently of Government interference'. [2275]

The surveyor, Wyld, (from more self-interested motives than those of Williams) had also been warning Maori about the possible consequences of a government survey; that it could lead to the cost being charged against the land, ultimately forcing its sale. Grindell had had to reassure them again as to Crown intentions. He acknowledged that the government wanted to buy flat land on the coast, and that flat land would be required for the road and settlers, but reminded Ngāti Raukawa that he had told them this at the very beginning, when they had first offered to sell the mountainous country. This did not mean that all their land would be gone. Grindell reiterated the basic standards of purchase conduct:

> [T]hey were aware that not an inch would be alienated without a price agreed upon and the full and free consent of all interested, and that indeed if they were to offer the whole of the land the Government would not agree to purchase it all – it was not the object of the Government to beggar them and render them homeless but to improve their condition.[2276]

He also repeated his earlier assurances that the Government was not intending to use survey charges as a way of obtaining the land. He had said previously that 'the Government would make no charge for the surveys', and he explained again why the Government was willing to bear these costs, invoking the spectre of tribal fighting ponce more:

> The Government have agreed to do this not for the purpose of having a lien upon the land, but for the purpose of preserving peace and quietness amongst you and of enabling you to settle your differences by Law. The Government objects to fighting anywhere, but more especially in the midst of European settlements, and you were very nearly coming to that a short time ago at Horowhenua. If each hapu amongst you were to employ its own surveyor, the other tribes claiming would desire to do so likewise and the result would be confusion and bloodshed. To prevent this the Government was willing to step in as a mediator and employ its own surveyors to mark off the boundaries as claimed by each party, leaving the Court to finally settle all disputes.[2277]

[2275] Grindell to Superintendent, 2 July 1872, MA 13/75b.
[2276] Grindell to Superintendent, 2 July 1872, MA 13/75b.
[2277] Grindell to Superintendent, 2 July 1872, MA 13/75b.

The court, he assured Maori at Otaki would show impartiality and even-handed justice to all.[2278]

Grindell had decided that Ngāti Raukawa and Muaūpoko should each be offered their own surveyor.[2279] On arriving at Horowhenua, however, he found the Muaūpoko settlement full of Ngāti Apa, Ngāti Kahungunu, and other opponents of Ngāti Raukawa, who were determined to oppose the survey of not only the Horowhenua but also the whole coast, not yet in settler hands, all of which they claimed, 'declaring that the whole must be discontinued until they had given their consent'.[2280] Given the level of opposition, Grindell decided to place the survey of Horowhenua on hold until Kemp had arrived back in the district.[2281] He told the assembly that he would continue with the survey to the north and south instead, a decision that some 'still grumbled' about – and Grindell grumbled likewise: '[I]t seemed to me that nothing less would satisfy them than an absolute admission on the part of the Government that they were the only owners of the country and that the Ngatiraukawa were only aliens and intruders.'[2282]

In fact, Te Rangi Rurupuni was willing for the survey of Wātene's claim to proceed, but Grindell thought it too risky and waited for Kemp to arrive. He then visited the settlement of Wātene, who protested that 'Ngāti Raukawa had exercised great patience and forbearance under extreme provocation and insolence from a remnant of slaves whose lives had been spared by Te Whatanui from mere compassion when the country was first occupied; by them. While they said they wished to continue to preserve the peace, it was made clear to Grindell that their patience was wearing thin.[2283]

Next on his itinerary was Poroutāwhao, where Ngāti Huia were waiting for the surveyors to arrive. Meetings at the Ngāti Raukawa settlement at Hikaretu, on the Manawatū River, and the nearby Rangitāne village at Oroua both went well, each tribe agreeing to allow the other to point out their boundaries to the surveyors without interference. At Hikaretu he gave out £200 worth of provisions on account of Kahinu West block. He then met with Ihakara Tukumaru, who reported that a recent important gathering of Ngāti Raukawa at Ōtaki (as discussed earlier in the chapter) had agreed that everyone would drop particular claims until the court had heard their claims to Manawatu-Kukutauaki as a whole, and before any subdivision took place; hence, the opposition that Grindell had encountered. They feared that the survey of internal divisional boundaries would result in dissension among themselves. However, Ihakara was quite willing to have the boundaries of his own block surveyed.[2284] While in Foxton,

[2278] Grindell to Superintendent, 2 July 1872, MA 13/75b.
[2279] Grindell to Superintendent, 7 June 1872, MA 13/75b.
[2280] Grindell to Superintendent, 2 July 1872, MA 13/75b.
[2281] Grindell to Superintendent, 2 July 1872, MA 13/75b.
[2282] Grindell to Superintendent, 2 July 1872, MA 13/75b.
[2283] Grindell to Superintendent, 2 July 1872, MA 13/75b.
[2284] Grindell to Superintendent, 2 July 1872, MA 13/75b.

Grindell also met with Peeti Te Aweawe, Hoani Meihana, and other Rangitāne chiefs, all of whom were critical of Muaūpoko's stance on the survey, blaming it on Hūnia's influence.[2285]

Returning to Wellington, at the end of June, Grindell stopped at Ōhau and Waikawa, where he found that arrangements for the survey were proceeding 'as satisfactorily as at the other settlements of Ngatiraukawa'.[2286] While at Ōhau, a small party of Muaūpoko arrived, protesting to Ngāti Raukawa that the survey should not proceed until they (Muaūpoko) had consented. Ngāti Raukawa referred them to the Government. When the delegation turned to Grindell and ordered him to stop the survey, he declined to do so, stating again that Horowhenua would not be surveyed until Kemp had made his views known, but that the survey would proceed elsewhere on the coast. They withdrew after what Grindell termed, 'a great deal of vapouring'.[2287]

Other matters discussed at Manawatu were the down payments being made by James Booth to Rangitane on Tuwhakatupua and other (unnamed) blocks, while. at Otaki, Grindell had also met with Mātene Te Whiwhi and 'other influential men', attempting to allay their doubts, answering 'all their questions', explaining 'many matters about which they seemed to have some doubt, relating to surveys of disputed boundaries, procedure of Court, reserves, road making, advantages of European population located near them, and so forth'. A wide range of concerns then! However, they agreed that the survey could continue despite their initial preference for a single application to the court. As noted in the following chapter, Roera Hūkiki and his hapu at Muhunoa were concerned about how to react should Muaūpoko attempt to interfere, and were told to preserve the peace and consult the government before taking any steps - which they agreed to do.[2288]

Writing his report from Wellington, a few days later, Grindell noted that there were now three surveyors working on the coast, and that he expected the work to be completed by September. He then went on to sum up his impressions of the three tribes he had dealt with during his month of travelling and meetings:

> … Ngatiraukawa from the commencement have been extremely forbearing and anxious to submit every dispute to the decision of the Court, whilst the Muaūpoko have been extremely unreasonable, and even arrogant and imperious, protesting against and interfering with surveys in localities which have been, within my own knowledge, in the undisputed and peaceable occupation of the Ngati Raukawa for over 30 years. I believe Kawana Hunia of Ngatiapa to be their principal instigator in this line of conduct for the deliberate purpose of creating a disturbance between the tribes. The Rangitane by no

[2285] Grindell to Superintendent, 2 July 1872, MA 13/75b.
[2286] Grindell to Superintendent, 2 July 1872, MA 13/75b.
[2287] Grindell to Superintendent, 2 July 1872, MA 13/75b.
[2288] Grindell to Minister for Public Works, 2 July1872, *AJHR*, 1873, G8, p 33.

> means approve of this course, and are equally as anxious as Ngatiraukawa that the survey should proceed and the whole question be settled by the Court.[2289]

Grindell returned to the coast in late July, when he encountered Hūnia (rather than Kemp) but finding him more co-operative – what Grindell termed 'reasonable' – than he had expected. Like the people at Ōtaki, Hūnia asked questions about the survey and the government's intentions. He said he was satisfied with what he heard and acknowledged also Te Whatanui's role as the protector of the Muaūpoko people, an act which he said had not been forgotten. However, Ngāti Toa and Ati Awa were spoken of with 'great rancour and bitterness'.[2290] Hunia agreed to withdraw his opposition to the survey, and Grindell agreed that Muaūpoko could accompany him and point out their boundaries as far south as the government boundary at Wainui, even on land continuously occupied by Ngāti Raukawa since 1830.

Matene welcomed the party at Ōtaki, and Grindell reported that Ngāti Raukawa were pleased that all of the parties to the dispute now accepted that their respective rights and title should be decided by English law. Te Whiwhi assured them that they could conduct their survey without interference. Grindell considered 'the matter … amicably arranged', and the Muaūpoko party proceeded to place their posts as far south as the Wainui and Waikanae blocks, signalling their intention to claim all the Ngāti Raukawa-occupied territory (as well as that of Te Ati Awa and Ngāti Toa) and divide it among themselves.[2291]

Grindell thought that Hoani Meihana and the other Rangitāne chiefs were responsible for the change of heart among Muaūpoko, and Hunia had perforce 'made a virtue of necessity and submitted with a proper grace'.[2292] The telegram to Superintendent Fitzherbert and Cooper (Colonial Under-Secretary) was optimistic: 'Matters never looked as well as now. I have no further anxiety. Home end of week.'[2293] With this obstacle removed, Grindell urged that a sitting of the court be advertised as soon as possible. If publication of the necessary notice was left until the survey was finished, the sitting of the court would be delayed unnecessarily.[2294]

Trouble was soon brewing again, as Hector McDonald informed Grindell in August. Grindell was sceptical of the warning and dismissive of Hunia's character and resolve, because both McLean and the Governor had received Hunia and Muaūpoko's written affirmation of the survey proceeding.[2295] Watene had also been to see Grindell, to inform him that Muaūpoko were talking of

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[2289] Grindell to Superintendent, 2 July 1872, MA 13/75b.
[2290] Grindell to Superintendent, 29 July 1872, MA 13/75b.
[2291] Grindell to Superintendent, 29 July 1872, MA 13/75b.
[2292] Grindell to Superintendent, 29 July 1872, MA 13/75b.
[2293] Grindell telegram to Superintendent, 26 July 1872, MA13/75b.
[2294] Anderson and Pickens, 'Rangahaua Whānui-Wellington District', p 176.
[2295] Grindell to Superintendent, 16 August 1872, MA 13/75b.

cultivating on the disputed land – on the very site where Watene's houses had been burned. While Grindell thought that these matters needed 'to be carefully watched', he did not attach too much significance to Watene's information.[2296] So far, there had been only two incidents: a Ngāti Raukawa chief had complained about the presence of a Muaūpoko labourer in one of the surveying parties, and a letter had been received from a Muaūpoko chief objecting to Ngāti Raukawa being involved with the survey between Ohau and Manawatū. Grindell had taken a strong line over the Muaūpoko labourer and nothing more had been heard of the matter. In the case of the Muaūpoko protest, Hoani Meihana had intervened and set the record straight as to Ngāti Raukawa's right to work with the survey parties north of Ohau. Grindell was following up with a letter to the same effect. The underlying problem in all of this, Grindell concluded, was that 'each party regards the survey of the other with extreme jealousy and suffers the work to proceed with a very ill grace'.[2297] At the same time, he enclosed a letter from a section of Ngati Raukawa living at Papakiri a few miles below the Oroua bridge, asking for an advance of food (two tonnes of flour, half a tonne of sugar and half a tonne of rice), which he did not recommend be granted.[2298] He also noted that Wairarapa Maori had petitioned Parliament that no more advances be paid on the Tararuas.[2299]

In the meantime Nēpia Taratoa, Aperahama, Wikitoria Te Huruhuru, and Ngāti Parewahawaha increasingly concerned about the rights of 'their deceased fathers' at Ōtaki, Ōhau, Horowhenua, and Manawatū, wrote to the Superintendent and were told to go to the Native Land Court at Ōtaki. It is apparent they came down regardless. They responded that they 'had not joined in the work of Ngāti Raukawa' who had seen the Superintendent, and they wanted to be able to do the same.[2300] Although the result is unknown, there was no alternative to the Native Land Court system and attendance was absolutely required in order to protect rights in the land. It was not possible for the Kingitanga hapu to keep out when many wanted in and tribal rights were being challenged from the outside.

Further intensive negotiation over a day and a half was needed in September to persuade Hūnia and Muaūpoko to allow the survey to proceed. In his report to the Superintendent, Grindell said he apprehended no further difficulty. Hūnia and some others – one of whom, he considered to be the ringleader of the obstructions – were on their way to Wellington.[2301] This was probably Heta (Muaūpoko). On learning that he was intending to ask for an advance on some

[2296] Grindell to Superintendent, 16 August 1872, MA 13/75b.
[2297] Grindell to Superintendent, 16 August 1872, MA 13/75b; see Anderson and Pickens, 'Rangahaua Whānui-Wellington District', pp 176-7.
[2298] Wereta Te Waka and others to Grindell, 12 August 1872, MA 13/75b. The hapū offered to pay for the food with land.
[2299] Grindell to Superintendent, 16 August 1872, MA 13/75b.
[2300] Taratoa and Te Huruhuru to Superintendent, 19 June 1872, and Taratoa and 28 others to Superinendent, 18 July 1872, MA 13/75b.
[2301] Grindell to Superintendent, 21 September 1872, MA 13/75b.

land at Horowhenua, Grindell telegraphed the Provincial Secretary, H Bunny: 'Old Rangi says the land does not belong to him. Give him nothing.'[2302]

Hūnia's demands were that there was to be no survey of Mahoenui, Ngā Tokorua, or, in particular, 'Tau o te ruru'. As noted by Adkins, these were disputed areas, especially Tauataruru where one of the posts marking the southernmost boundary of the land allocated to Muaūpoko by Te Whatanui was set. Mahoenui, in turn, was the southernmost boundary of the Horowhenua district. Ngā Tokorua was north of the lake and the site of one of the posts marking the northern boundary of the Muaūpoko block, and the border with Ngāti Huia.[2303]At this point, the Minister of Public Works intervened, Hūnia having taken his concerns to Wellington. The Colonial Under-Secretary, G **S** Cooper telegraphed Grindell that he had met with the rangatira and agreed with him that only the outside boundary should be surveyed. Any internal boundaries or subdivisions would be left to the court to decide, and then surveyed by its order. He directed that if any surveying of internal boundaries was going on, to 'stop it'.[2304] Grindell l immediately telegraphed Fitzherbert that Cooper had halted the survey, which he said was within a few days of completion.[2305] A longer telegram to Cooper and Fitzherbert on the same day set out the situation as Grindell saw it:

> All surveys completed except one internal boundary at Mahoenui. Muaupokos *all* agreed that this should be done on condition of their survey on the beach to Manawatu without interruption from Ngatiraukawa. This they have done and also their internal boundary between them and the Ngatihuia and elsewhere. Hunia agreed fully to this and authorised me to go on with it. Kemp has also agreed and written Muaupokos not to interfere and telegraphed me and the Ngati Raukawa have been promised that they shall do theirs. If the Ngatiraukawa are told that they must not do it after submitting so patiently to the whims of Muaupokos they will have just cause of complaint. This is a breach of the promises made publicly by Hunia and Kemp. Hunia drew a plan on the sand, pointing out boundaries to be surveyed with the full consent of all his people after a whole night's consideration. His subsequent action in Wellington is deceitful in the extreme. Hope you will reconsider the matter. See Mr Fitzherbert. Have written to him. Can't explain all in telegram. Can finish survey in a few days. Stopping work now at request of Hunia in direct opposition to pledge from him will create dissatisfaction and complication. He interviewed Karanama Kapukai at Ōtaki and told him no further interruption would be offered and told me I might depend upon his words. I am anxious about this. Reconsider and reply. See Hoani Meihana. [*Emphasis in original*][2306]

The next day, Grindell sent another telegram to Cooper and Fitzherbert:

> Hunia's action in Wellington is a bare faced breach of faith. He never expected such a concession when he asked it. Merely trying it. … I know positively he is now acting

[2302] Grindell to Bunny, 25 September 1872, MA 13/75b.
[2303] G L Adkin, *Horowhenua: Its Maori Place-Names and Their Topographic and Historical Background,* Wellington, Department of Internal Affairs, 1948, p 256.
[2304] Cooper to Grindell, 26 September 1872, MA 5/2, p 276.
[2305] Grindell to Superintendent, 26 September 1872, MA 13/75b.
[2306] Grindell to Cooper and Superintendent, 26 September 1872, MA 13/75b.

> without the knowledge of Muaupoko and in opposition to their desire, he and the spiteful creature with him Heta. See Rangi Rurupuni, chief of Muaupoko, who goes per coach today. See Ngatuere who is in town and knows all about it. … Muaupoko's own internal boundaries are done and it would be beyond all precedent unjust not to allow Ngati Raukawa to finish theirs, … There is no danger of any collision between them. If I saw danger I would at once withdraw surveyors. You can depend on my judgement.[2307]

In Grindell's view, the government had seen dangers which did not exist, giving too much credence to Hunia's complaints and overestimating the support for his views, Now that the government had a correct assessment of the situation, he thought it ought to reverse its decision.[2308]

9.7 Advances on the land, 1872

Grindell had anticipated that he would be able to acquire some valuable blocks in very short order, for it was apparent that the various hapu based along the coast 'were generally desirous of selling their waste lands at the present time'. This included hapu who had been opposed to Crown purchasing in the 1860s.[2309] The reason for this shift in attitude is not exactly clear. Contributing factors may have included the weakening influence of the Kingitanga, the increased social disruption as evidenced in a steep decline in population and economic production (while both Maori and European remarked on the problems being caused by alcohol consumption). Food shortages became endemic and were increased for some communities by the need to host large gatherings. As the sittings of the Land Court started to extend over weeks, so the stress on resources would grow. Even by late 1872, however, most hapū had no alternative but to sell land whether it was for immediate sustenance or future development. Throughout the year, Grindell and others officers and agents connected with the district received demands for advances on land offered for sale, protests that others should have been given them and claims for a share of any money that was to be paid for different blocks. As well, there were requests for food, the cost of which was to be deducted from the price of the lands Ngāti Raukawa claimants were willing to sell to the Crown. We note in passing that this included a number of reserves from the earlier Crown purchases of Te Awahou and Rangitīkei-Manawatū, and the government acquisition of which was brokered by Alexander McDonald who had been commissioned by the Provincial Government for this purpose and by Herbert Wardell, a resident magistrate, similarly directed to this task.[2310]

The practice of paying advances on the land before title investigation has been widely condemned at the time, but went on, nonetheless. McLean had firm and well-rehearsed views on the need for title to be ascertained first, especially in

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[2307] Grindell to Superintendent, 27 September 1872, MA 13/75b.
[2308] Anderson and Pickens, 'Rangahaua Whānui-Wellington District', p 178.
[2309] Grindell to Minister of Public Works, 31 May 1872, *AJHR*, 1873, G-8, p 32.
[2310] McDonald to Superintendent, 18 June and 3 August 1872, Wardell to Superintendent, 23 November 1872, MA 13/75b.

circumstances such as these. In 1871, he had issued a circular to Crown land purchase agents, and this would be reissued in 1875. Where there was a chance of incurring 'future trouble or disagreement' among the right-holders, officers should proceed with caution, since 'the Government do not desire to acquire any land from the natives, however desirable it may be, if the acquisition is attended with any risk of disturbance or revival of feuds among themselves'.[2311] And when Nēpia Taratoa wanted to discuss matters relating to the land, McLean minuted that 'it would be more judicious not to encourage the natives to come to Wellington until the land is passed through the Court'.[2312] In fact, as we noted earlier, Taratoa, Aperehama, and Wikitoria Te Huruhuru, writing from Rangitīkei about their claims to the south at Ōtaki, Waitohu, Ōhau, and Manawatū, had already been informed that this was the correct and only effective course of action.[2313] When approached about land matters by Maori wanting to stake a claim in advance to a block, to have authority over its use or to a share of any sale of it, Grindell consistently responded that anyone wanting to have their claims to land recognised would have to attend the court and have his or her title investigated and confirmed.[2314]

Generally, Grindell advocated caution in dealing with proposals of this nature, especially when the ownership of the land in question was disputed or unsettled. This was in the interests of Crown itself, who might otherwise find itself having paid the wrong owners. He had explained this to a meeting of Ngāti Raukawa at Waikawa in March 1872:

> [I]f we were to pay them money for [land] without first duly ascertaining the ownership, they would be secure, having received the payment, but we should, in all probability, be landed in difficulty, as it was likely this and that hapu would come forward, each claiming and taking a slice, till at last we should be left with nothing but the bones. For our own protection, therefore, we required the titles to be investigated.[2315]

Clearly, it was preferable to wait until the land had passed through the court after which payments could be made to the named owners on undefined interests in the huge blocks that started going through and which could be tied up for many years. However, despite official policy and Grindell's own preferences, he and other Crown and private agents working in the district did make payments on blocks before title had been determined, Some of the blocks on which advances were made were sold so long after the first advances that the direct connection with the final sale seems tenuous to say the least; and in some cases the advances were eventually refunded and the block never purchased, while in others the debt

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[2311] McLean memo, 1875, *AJHR*. 1875 G-7, p 7.
[2312] Nepia Taratoa to Fitzherbert, 18 July 1872, MA 13/75b.
[2313] Nepia Taratoa and others to Superintendent, 19 June 1872, Grindell to [not stated], 10 July 1872, MA 13/75b.
[2314] Ngawai to Superintendent, 14 May 1872, Henare Waiatua to Superintendent, 3 August 1872, Kaperiere Te Mahirahi to Superintendent, 29 August 1872, MA 13/75b.
[2315] Grindell to Superintendent, 25 March 1872, *New Zealand Gazette (Province of Wellington)*, vol 19, no 10, 3 May 1872, p 92.

was even written off.[2316] The main objective was, however, mostly achieved: the breaking down of any resistance there might be within the iwi or hapu to sale. Even if advances were not given, the possibility that they might be, generated an atmosphere of sale offers. Grindell commented, for instance, on a letter written by Kaperiri of Ngāti Patuwai about his land at Ōhau, for which he wanted to be paid separately: presumably, he was uneasy that Roera Hūkiki was in town seeking an advance on his land, stealing a march on him.[2317] As usual, Grindell recommended that Kaperiri take his claim to court to establish his title after which he could sell if he wished.

In practice a more flexible approach was in operation than official policy and Grindell's reports might suggest. In part, Grindell thought there were instances in which some small down-payment would be desirable; certainly, there were a number of occasions when his masters thought so (as we discuss below). Nor, as we noted above, was he the only purchase agent working within the district now that the general government was re-engaged fully in native land purchase operations. In July, Grindell was required to explain to the Superintendent why Eru Tahitangata and Rēweti Te Kohu should have complained of being 'grieved'. The problem was to be laid at the door of James Booth, who had made advances of £400 to Rangitāne on account of Tūwhakatupua at Oroua; while Ngāti Raukawa applications for similar treatment had been turned down, on the grounds that their claims to the land in question had not yet been investigated by the court. According to Grindell, to Ngāti Raukawa this seemed 'a recognition of the claims of Rangitāne' to their prejudice. It would seem, however, that they did not object to selling per se, 'but desired that money be advanced to them as the rightful owners.'[2318] In Grindell's view, Booth's advances were to the prejudice of the government as well as to his own purchase operations for the province. Not only had Booth advanced money on disputed land, he had also fixed a price, which was 'very considerable', to be paid per acre, thus tying the government's hands in all future dealing, for Ngāti Raukawa would hardly accept less if they succeeded establishing their claim. Also, as far as Grindell was concerned, Booth was encroaching upon his territory, the block being 'within the boundaries of the district allocated to me by the Hon The Native Minister'; Booth's actions he described as constituting 'interference', and 'highly objectionable'.[2319] In the following month, Grindell also received a letter from Hector McDonald at Horowhenua, commenting that Caroline Nicholson had been getting advances on Whatanui's land at Manawatū and that Watene was going to town to draw more

[2316] Anderson and Pickens, 'Rangahaua Whānui-Wellington District', p 182.
[2317] Grindell, 2 September 1872 on Kaperiri to Superintendent, 29 August 1872, MA 13/75b.
[2318] Unknown to Superintendent, 1 July 1872, and Grindell to Superintendent, 2 and 4 July 1872, MA 13/75b.
[2319] Grindell to Superintendent, 2 and 4 July 1872, MA 13/75b.

(though, in McDonald's view, they were not the rightful owners from among the Ngāti Raukawa claimants).[2320]

It is clear that Grindell, despite his protestations, had been drawn to some extent into the practice himself. He may have thought it 'inadvisable, as a rule, to make advances on land to which there are so many adverse claimants', because if one party received money, the others would expect it too; or they would 'say with reason that favour is shown, and that the rights of one party is being acknowledged to the prejudice of the other';[2321] but he was also making exceptions. We have already noted that he had reported making some small advances on Kaihinu West block although it was disputed and several competing applications had been made to the court for its ownership.[2322] In commenting on Booth, he noted that small advances were not at all unusual.

Another way to create a lien on the land was to supply food provisions, the cost of which was then debited against the purchase price finally agreed. During the winter of 1872, a number of requests were made to Grindell, McLean, and Fitzherbert for arrangements of this kind with respect to land both on the coast and in the Manawatū. Several came from Wereta Te Waha and the hapu of Ngāti Tūranga, Ngāti Te Au, and Ngāti Rākau who were in need of food and, they said, willing to pay for it in land.[2323] (They were residing at Papakiri, situated a few miles below Oroua Bridge at Manawatū.) McLean had also received a request for food as an advance upon land from Caroline Nicholson (sister to Tauteka, Te Whiwhi's wife), mentioned in MacDonald's letter.[2324]

Grindell recommended, at first, that Wereta Te Waha's request be declined and with reference to another, remarked that 'such applications may be expected from all quarters, but it is not expedient to grant them, except in very exceptional cases'.[2325] Within short order, however, Grindell decided that those hapu fell within that category. At the beginning of September, a third application came in from T U Cook, on behalf of Ngāti Tūranga, Ngāti Te Au, and Ngāti Rākau, who (he said) owned large areas of land between Moutoa and the mountains on which they sought an advance in the form of provisions. Since they were:

> … a tribe that have always stood in the way of land sales, I should think it would be good policy to make them the little advance of food they solicit, and really stand much in need of, as the natives generally on the river are entirely out of potatoes, and at present

[2320] Hector McDonald to Grindell, 15 August 1872, MA 13/75b; see also discussion at chapter 10.
[2321] Grindell to Superintendent, 25 March 1872, *New Zealand Gazette (Province of Wellington)*, vol 19, no 10, 3 May 1872, p 93.
[2322] Grindell to Minister of Public Works, 31 May 1872, *AJHR*, 1873, G-8, p 32.
[2323] Wereta Te Waha and others to Grindell, 12 August 1872, MA 13/75b.
[2324] Grindell to Superintendent, 16 August 1872, MA 13/75b.
[2325] Grindell to Superintendent, 16 August 1872, MA 13/75b.

there are no government works that they seem capable of undertaking. The Norwegians apparently cutting them out altogether.[2326]

Presumably Grindell agreed, and on the matter being referred to him for his further consideration by the Superintendent, he now recommended an advance of between £25 and £30.[2327] Another apparently exceptional case was dealt with at about the same time, Grindell reporting to Fitzherbert that, as instructed, he had divided an advance of £100 among some Ngāti Raukawa, '33 in number', and obtained a receipt. However, since they had come to Wellington unnecessarily, he had obtained a written authority from them to deduct the cost of their accommodation at the Native Hostelry, £31 17s, from the price of the land. In the meantime, the expense was charged to the Public Works Department.[2328]

As the court sitting for Manawatu-Kukutauaki which Grindell had been so busily organising approached, Ngāti Raukawa was under increasing pressure. Tāmihana asked for the hearing to be postponed till February 1873 because food was so scarce. We are, he said, 'eating shoots of tree fern'.[2329] However, Ihakara opposed the move; food was scarce as it often was at that time of the year, but hunger was preferable to a state of anxiety.[2330] It would seem the government agreed, and the hearing would go ahead as planned. In October, a flurry of requests for advances in the form of provisions was received by the Superintendent; these were sent in by Hoani Taipua and others; Ngāti Huia, Rāwiri Te Wānui, and others; and Hēnare Te Hātete and others.[2331] Rāwiri Wānui's party requested half a ton of flour, 300 pounds of sugar and 14 pounds of tea for Maori living on the other side of Ōtaki, Puketoi, and Takapū, near Waikawa, for when the court sat.[2332] A similar request for half a ton of flour and 200 weight of sugar was received from Hēnare Te Hatete, Mokohiti, Te Angiangi, Penehira, Ihaka, Te Hapimana, and others, because they had no food for the Native Land Court at Manawatū.[2333] Ngāti Huia based at Poroutāwhao had requested five tons of flour, a ton of rice, and one-and-a-third tons of sugar, offering to pay for it once the land had been surveyed and a portion could be sold.[2334] Hoani Taipua and his hapū had also asked for a half-ton of flour, two bags of sugar, one bag of rice, and a bag of tea for their use, offering to pay for it with land at Ōtaki called Waha o te Marangai, Tuapaka, and Makehuri. [2335] Ihakara Tukumaru added a 'cask of preserved birds'

[2326] Grindell to Superintendent, 5 September 1872, MA 13/75b.
[2327] Note, 7 September 1872 on Fitzherbert to Grindell, 6 September 1872, MA 13/75b.
[2328] Grindell to Superintendent, 6 September 1872, MA 13/75b.
[2329] Tāmihana Te Rauparaha to Superintendent, 3 October 1873, MA 13/75b.
[2330] Ihakara Tukumaru and 69 others to Fizherbert, 1 October 1872, MA 13/75b.
[2331] Hoani Taipua and Others to Superintendent, 17 October 1872, Ngāti Huia to Superintendent, 21 October 1872, Rawiri Wānui and Others to Superintendent, 21 October 1872, Henare Te Hahete to Superintendent, 22 October 1872, MA 13/75b.
[2332] Rawiri Wanui and others to Fitzherbert, 21 October 1872, MA 13/75b.
[2333] Henare Te Hātete and others to Superintendent, 22 October 1872, MA 13/75b.
[2334] Hohaia and Ngāti Huia to Grindell, 21 October 1872, MA 13/75b.
[2335] Hoani Taipua and others to Grindell, 17 October 1872, MA 13/75b.

to the standard requests, while Herehana Te Paea's people needed a tent for their accommodation.[2336]

There was a further 'exceptional' case. At the end of the month, Cook sent in another request, this time on behalf of Ngāti Kikopiri, Ngāti Huia, Ngāti Pareraukawa, Ngāti Pihaka, and Ngāti Kahoro, who repeated the plea of other hapū with rights in the lands to be investigated that 'unless food is provided on account of their land they will not be able to exist during the holding of the Court'. Cook strongly supported this request. Grindell recommended in their favour as well, noting that there would be at least 500 or 600 Maori in the Foxton area for four to six weeks, and that their own crops would not be ready for harvest for some time. McLean could see no objection to providing the supplies requested, and Fitzherbert approved as well, recommending that the food 'be issued from time to time to the grantees as their blocks are passed through the court'.[2337] It seems that other advances of food were also made during November and early December: on 16 December, about a week after the court had adjourned, Grindell sent some vouchers to the provincial government for payment. The minor item was £1 5s for office rent; the major item £423 5s, for food supplied at Foxton.[2338]

It is clear from the files that food was very short on the coast in the late spring of 1872. It seems the potato crop had failed and the year was thus one of unusually severe food shortages. It is equally clear from the reports sent in by officers and the commentary of observers that the prosperity that had characterised the Māori communities at Ōtaki had declined; a trend that was blamed on the indolence of renting, intercourse with a less-than-respectable settler population and the 'demoralising orgies' connected with court sittings..[2339] Even at the best of times, the local food resources may not have been sufficient to meet the extra pressure placed on them in the spring and early summer of 1872. The timing of the hearing, at the end of a winter of shortages and before the harvest, and then its long duration inevitably created an extraordinary demand for food on the coast. Fever, too, was reported. From the government's point of view, of course, the effect of this shortfall was far from unsatisfactory; from all directions, provisions and cash advances were being urgently sought, secured by land about to pass through the court. The government did not have to solicit, persuade, or entice in any way at all: even hapu who had in the past opposed land sales were approaching it for advances. By good luck, if not good planning, a buyer's market had come into existence at exactly the right moment for the government. Though the government had not made the crops fail, it might have made better

[2336] Ihakara Tukumaru to Grindell, 30 September 1872, and Te Paea and others to Grindell, 22 October 1872, MA 13/75b.
[2337] Cook to Grindell, 25 October 1872, and notes on provision of food, October 1872, MA 13/75b; Fitzherbert to Waterhouse, 31 October 1872, WP 6/8.
[2338] Grindell to Superintendent, 16 December 1872, MA 13/75b.
[2339] *Manawatu Standard*, 30 November 1883, p 2.

provision, and cannot be absolved of imposing and maintaining a system of title and title determination known to place Maori right-holders under economic stresses that could only be alleviated by sale. [2340]

In stark contrast to the situation reported some 20 years prior, the people identified as 'Ngāti Raukawa' were in straitened circumstances, and undoubtedly this was the underlying reason for the growth in interest in land sales in a purchasing system well positioned to take advantage of it. W J Willis, the resident magistrate at Rangitīkei, no longer depicted an industrious and prosperous tribe but, to the contrary, communities seemingly on the brink of collapse:

> I cannot report favourably of the physical condition of the Maoris; there had been a great deal of sickness among them, especially at Otaki and its neighbourhood, and the population is rapidly diminishing. There has been during the last two years fifteen per cent of deaths, while there has been only seven per cent of births in a population of about 700. … At Otaki, the crops grown hardly suffice for themselves, leaving them very short of provisions previous to harvest. Some flax is dressed for sale, but only in small quantities. Their principal income is derived from rent, which is generally anticipated, being expended chiefly in spirits, &c, to treat the visitors at their numerous meetings. During the summer a great number of Maoris from Foxton and Oroua and those neighbourhoods, and a few from Otaki, obtained employment on the Government roads and tramways, and did their work in a satisfactory manner, but none are working now in consequence of the wet and cold weather.[2341]

While still relatively numerous compared to other tribes in the district, they had been badly affected by sickness and had been effectively sidelined militarily. They no longer owned either Rangitīkei or the Manawatū, and a number of the reserves from the latter were already mortgaged.[2342] They were now struggling to unite in defence of Kukutauaki against the combination of Kuruhaupō tribes that had been deliberately fostered by the Crown in the preceding two decades.

If, as Willis and other commentators remarked, the Ōtaki Ngāti Raukawa lived mainly on the proceeds of renting the land, supplemented by casual summer labour, they must have existed basically on fixed incomes. A poor or late harvest simply had to be endured, and expensive events, like a protracted court hearing, meant absence from the kāinga. Alternatively, the hospitality demands on host hapū with obligations of manaakitanga could only be financed by dipping into the sole capital they possessed, the land itself. Advances were solicited, and once accepted, a process of land transfer from Māori to Pākehā got underway.

[2340] Anderson and Pickens, 'Rangahaua Whānui-Wellington District', p 184.
[2341] Resident Magistrate, Ōtaki, to the Native Minister, 5 July 1872, *AJHR*, 1872, F3, pp 15-16.
[2342] See McDonnell to Superintendent, 29 April 1872, MA 13/75b.

9.8 The Manawatū-Kukutauaki Hearing, 1873

By November 1872, a considerable number of claims for lands within the Manawatū-Kukutauaki block were before the court. The key claim, however, was that of Akapita Te Tewe and others, who together represented 'Ngāti Raukawa'.[2343] The basis of the claim was simple enough and did not differ from that which had formed the basis of the Hīmatangi case: Authority over the land was theirs exclusively, and it was theirs on the basis of conquest and continuous occupation, beginning from a time prior to the signing of the Treaty of Waitangi.[2344]

Opposed to these Ngāti Raukawa was an array of iwi, all those iwi, in fact, from whom Ngāti Raukawa claimed to have taken the land: Ngāti Apa, Muaūpoko, Rangitāne, Whanganui, and Ngāti Kahungunu. These opposing iwi, in rejecting Ngāti Raukawa's claim to have conquered and then occupied the land, declared instead that the land was theirs by virtue of take tupuna and unbroken occupation – it had always been theirs, and it continued to be theirs.[2345]

The hearing commenced before Judges Rogan and Smith on 5 November 1872 in the courtroom at Foxton.[2346] McLean who was keeping an eye on progress and was in regular communication with Rogan, sent word that he was glad to hear the court was sitting, and hoped it would be successful, remarking 'the land I attach no value to but the disputes connected with it I should much like to see disposed'.[2347] It was attended by a 'very large assemblage of natives', whose demands on the small town's provisioning capacities were considered likely to be too great – therefore, the 'little steamer Napier' was sent with a 'cargo of provisions and other creature comforts'.[2348] But no sooner had proceedings got under way than they were brought to an abrupt halt. Hoani Meihana, representing the five opposing iwi, declared his opposition to having Pākehā lawyers acting in the case – it was, after all, a matter that concerned Māori. In response, Henare Herekau acknowledged that it was a matter for Māori, but one in which 'the work is European' – in other words, the matter was to be resolved according to the institutions of the Pākehā. Furthermore, those objecting to Pākehā lawyers had previously been happy to use them, so to object now seemed obstructive.[2349] Not having anticipated such an objection, Tāmihana Te Rauparaha and other senior figures asked for an adjournment, which was granted.[2350]

[2343] Hearn, 'One past, many histories', pp 586-7.
[2344] Hearn, 'One past, many histories', p 587.
[2345] Hearn, 'One past, many histories', p 587.
[2346] Otaki minute book 1, p 1.
[2347] McLean to Rogan, 7 November 1872, MA 13/76b.
[2348] *Wellington Independent*, 8 November 1872, p 2.
[2349] Otaki minute book 1, p 1.
[2350] Otaki minute book 1, p 1.

Over the next several days, efforts in all directions were made to resolve the impasse. Having been opened, the court was 'from day to day adjourned', as the objectors continued to protest.[2351] Ngāti Raukawa insisted that they would 'leave the matter in dispute for the Court to decide', despite what the *Wellington Independent* described as continued 'taunts, insults and threats' intended to persuade them otherwise.[2352] Indeed, Kawana Hunia and Te Keepa Te Rangihiwinui threatened to declare war on Ngāti Raukawa if the hearing proceeded, but Raukawa would not be swayed.[2353] When Te Rangihiwinui later suggested that Raukawa would surely sell the land if it were granted to them by the court, so that they could retire to Maungatatari, Tāmihana Te Rauparaha had replied, 'We shall remain here by the graves of our fathers.'[2354]

In the end, a resolution of sorts was achieved when it was agreed that the parties to the dispute would not be represented by counsel. Buckley, who was to have acted on behalf of Ngāti Raukawa, was permitted observer status, but he was not allowed to participate. Hunia's suggestion that if the hearing proceeded, then the five objecting iwi would refuse to present their case at all, was dismissed by the court. The court had jurisdiction to hear the case, and if counterclaimants chose not to present evidence in support of their claim, the court would not be responsible: 'It would not dismiss or refuse to hear a claim at the bidding or desire of persons who merely asserted a counter-claim without proving it by evidence.'[2355]

And so the hearing resumed. And yet the troubled waters had only briefly been stilled. As Grindell reported, the five opposing tribes were finding every possible excuse they could to delay the proceedings and have the hearing adjourned yet again.[2356] With much anxiety, Grindell then looked to Cooper for direction:

> What is to be done. You will understand question beset with difficulties, and responsibility great. What is to be done. Do you wish court to adjourn. If so instruct me accordingly. I will not presume to advise but am of opinion that much dissatisfaction will arise among Ngatiraukawa and their supporters throughout island if Ngatiapa & the others are allowed to stay proceedings of court. It will be said Govt ignore their (Ngatiraukawa) claims after arming their opponents. Please direct me immediately so that I may communicate to court in morning the desire of Govt. Court adjourned at the request of Kepa for two days so as to allow him to combat the decisions of his people but he did not attempt to do so. Court sits again tomorrow morning. Want answers before it sits. Kepa says it is people who are opposing but I see he is with them.[2357]

[2351] 'A Native Dispute', *Wellington Independent*, 18 November 1872, p 3.
[2352] 'A Native Dispute', *Wellington Independent*, 18 November 1872, p 3.
[2353] 'A Native Dispute', *Wellington Independent*, 18 November 1872, p 3; Hearn, 'One past, many histories', p 587.
[2354] 'Foxton', *Wellington Independent*, 30 November 1872, p 3.
[2355] Otaki minute book 1, p 6.
[2356] Grindell to Cooper, 10 November 1872, MA 13/76.
[2357] Grindell to Cooper, 10 November 1872, MA 13/76.

Cooper's response would have done nothing to allay Grindell's anxieties: the government lacked sufficient information to be able to advise one way or the other as to an adjournment.[2358] And so the matter dragged on, with anxious and uncertain telegrams flying between the officials, the judges, McLean, Cooper, and the Cabinet.[2359] The opposing tribes continued to insist on an indefinite adjournment, Ngāti Raukawa continued to insist on having their case heard. 'There great danger [*sic*] in going on,' wrote Rogan ominously, 'there is certain death in retreating.'[2360] No one, it seems, could discern a safe passage out of the tempest they found themselves in. Were Hunia and Kemp to boycott the proceedings entirely, any decision the court handed down would likely have had little or no force, thus leaving the Horowhenua dispute unresolved. But were the hearing to be simply abandoned, it would leave the government and the court exposed to the not entirely unjustified charge of having meekly succumbed, leaving neither with any great degree of credibility. And, besides these considerations, there was still the possibility that armed conflict would break out between the contending parties. In any event, the government's purchase and public works programme would be stalled until title could be determined.

On 12 November, the court tried again. Kemp again applied for an indefinite adjournment. But this time, the three Rangitāne chiefs, Peeti Te Aweawe, Hoani Meihana, and Huru, opposed Kemp's application. The court refused the application, and Kemp and his people walked out 'very quietly'.[2361] Those who remained agreed that Ngāti Raukawa would begin giving their evidence the next day.[2362]

On the next day, 13 November, McLean telegraphed the following to Rogan:

> As the Rangitane agree to proceed with their evidence and as they form an important link between the contending claimants it would be advisable to take both their evidence and that of the Ngatarawkawa [*sic*] but to delay any formal decision until another sitting of the Court which could be convened for February or March next any judgment pronounced in the absence of a number of the opposing claimants could not be easily enforced. The position of the Court has been sufficiently vindicated to allow for a reasonable adjournment after the evidence above referred to in clearing away some of the difficulties connected with tribal disputes in the Manawatu district.[2363]

In fact, the 'difficulties' were beginning to resolve themselves. The first crack in the coalition opposing Ngāti Raukawa had been Rangitāne's decision to enter the proceedings. Now Ngāti Kahungunu determined to do the same. The crack was getting bigger. What is more, Raukawa and Rangitāne were talking outside court,

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[2358] Cooper to Grindell, 10 November 1872, MA 13/76.
[2359] See Anderson and Pickens, 'Rangahaua Whānui-Wellington District', pp 191-2, for detailed account.
[2360] Rogan to Hall, 11 November 1872, MA 13/76.
[2361] Rogan to Hall, 12 November 1872, MA 13/76.
[2362] Anderson and Pickens, 'Rangahaua Whānui-Wellington District', p 192.
[2363] McLean to Rogan, 13 November 1872, MS-Group-1551.

seeking to find a compromise that would be acceptable to them both. And there was the possibility that Raukawa would even recognise the claims of Muaūpoko. Hūnia and Kemp were becoming increasingly isolated, and the possibility that they might lose out entirely was becoming increasingly likely.[2364] On 16 November, Cooper received the most encouraging word yet: 'Kemp's party have come into Court, no appearance of any further complications.'[2365]

And so the case proceeded.

9.8.1 Hearing the evidence

The case for Ngāti Raukawa was opened by Ihakara Tukumaru. The basis of the claim was precisely that which had been relied upon in the Himatangi hearing. The entire block was Ngāti Raukawa's by virtue of conquest followed by occupation. The conquest had been that of Ngāti Toa, who had then gifted the land to Raukawa. This had occurred some years prior to the signing of the Treaty, and since that date, the mana of Ngāti Raukawa over the block had never been in doubt. When negotiations for the sale of the block to the New Zealand Company had taken place, Tukumaru said, neither Rangitāne, Ngāti Apa, nor Muaūpoko had raised an objection. The land was Raukawa's, and Raukawa's alone.[2366]

Responding to Tukumaru's claim, Hoani Meihana Te Rangiotu rose and spoke for the five iwi (Whanganui, Ngāti Apa, Rangitāne, Muaūpoko, and Ngāti Kahungunu) opposing Raukawa. The land was theirs, he said, by virtue of ancestral occupation. But then Meihana somewhat confused matters. He did not wish to oppose Ngāti Raukawa, rather, he wished to come in with them: '… they have been many years here,' he said.[2367] Ngāti Raukawa refused to acknowledged his right except through marriage; they would admit Meihana (whose wife was a Ngāti Raukawa), but denied that Rangitāne had a claim to a single perch of the block. At this, Meihana declared that he would lead the case for the counterclaimants, challenging Raukawa's account and arguing instead that Ngāti Raukawa (and, presumably, Ngāti Toa) had never conquered the land. Instead, Raukawa came to be there after Te Whatanui had reached an agreement with the chiefs of Rangitāne and Muaūpoko.[2368]

In his evidence, Te Rangihiwinui depicted Ngāti Raukawa as a tribe that had no mana. And, in contrast, he claimed that Ngāti Apa, Rangitāne, and Muaūpoko had never been vanquished, save at the Battle of Waiorua; instead, they were

[2364] Anderson and Pickens, 'Rangahaua Whānui-Wellington District', p 194.
[2365] Young to Cooper, 16 November 1872, MA 13/76.
[2366] Otaki minute book 1, pp 11–13.
[2367] Otaki minute book 1, pp 13–14.
[2368] The remainder of this account of the evidence follows Hearn, 'One past, many histories', pp 588-91.

people who 'lived in independence'.[2369] The theme of Raukawa's minimal standing and – in stark contrast – the indomitable nature of those who opposed them was carried on by Kāwana Hūnia. He even claimed to have defeated Ngāti Toa on eight separate occasions, and had, he said, magnanimously spared Ngāti Raukawa from 'extermination' following the Battle of Kuititanga.[2370] The supposed sale of the block to the New Zealand Company was an underhand manoeuvre on the part of Raukawa in a bid to secure weapons for themselves. At most, he was willing to concede that Muaūpoko had given land at Horowhenua to Te Whatanui – and certainly not to any other Ngāti Raukawa – while he had 'merely' heard that the rangatira of Rangitāne, Apa, and Muaūpoko had given land to other Raukawa chiefs.[2371]

The suggestion that the opposing tribes had ever been conquered was also rejected by Hamuera Te Raikokiritia: the claims of such conquests were 'stories invented by Rauparaha & Ihakara'. And while Ngāti Raukawa may have occupied land between Horowhenua and Rangitīkei, they had not done so as conquerors, but merely because 'they were hungry after the fight at Haowhenua'.[2372]

The Rangitāne rangatira Huru Te Hiaro depicted yet another different understanding of what had occurred. Ngāti Raukawa had come to possess the land, he said, 'part by conquest and part by gift'.[2373] Mātene Te Whiwhi, for his part, stressed the fact that Muaūpoko had only been saved from Te Rauparaha's vengeful wrath by the intervention of Te Whatanui, without whom they would all have been killed. Muaūpoko were 'nobody' in the view of Te Whatanui, and the five tribes were all 'beaten & had no mana'.[2374] In a similar vein, Hēnare Te Herekau stated that Muaūpoko were only spared by Te Whatanui so that they might be made his slaves.

The court also heard from several Pākehā witnesses. Francis Robinson and Thomas Cook both stated unequivocally that Ngāti Raukawa had held the mana over the block in the early 1840s. Raukawa, said Cook, were 'the principal people' at Manawatū-Kukutauaki, while the 'others were living there … under subjection to Raukawa'.[2375]

At this point, on 4 December, Rogan telegraphed McLean:

[2369] Otaki minute book 1, p 55.
[2370] Otaki minute book 1, p 79.
[2371] Otaki minute book 1, p 99.
[2372] Otaki minute book 1, pp 99-101.
[2373] Otaki minute book 1, pp 166-68.
[2374] Otaki minute book 1, pp 147-48.
[2375] Otaki minute book 1, pp 170-71.

> I have withstood this business until now but I have got all the evidence I require. I am not able to go into Court today. It is no consequence. A day or two more will probably settle the question of adjournment to Feby or March.[2376]

And then, on the next day, Rogan followed that with a further communication to McLean:

> I am very glad to inform you that this court is progressing favorably. I see plainly that all parties here will apply for adjournment soon. The want of food the weariness of all the necessity of the natives to attend their cultivations now to keep themselves and families from starving next winter as a real reason for adjourning the court for a time. Besides I have Kemp's word that he & all his people will be strict attendance. … I am nearly exhausted.[2377]

As Rogan had predicted, an adjournment was sought, and granted with relief, now that he thought he had a sufficiency of evidence. The court would deliver its verdict some three months later.

Before turning to the judgment of the court, there is one further matter worth noting. On 19 November, McLean had sent Rogan a telegram in which he referred ambiguously to what Rogan had done 'in Kemp's matter'.[2378] He then continued, 'I will attend to the matter of retiring allowance when I get back.'[2379] Then, just under a week later, Rogan received a further communication. 'Instructions sent,' he was told, 'that Kemp should have imprest and pay as you desire.'[2380] It is odd that this matter – the question of some sort of pension for Kemp, seemingly – should have been dealt with right at this particular moment, when the court was sitting to hear such a delicate matter. But it is even odder that it should have involved Judge Rogan – what business was it of his? – to the extent that it was something which Rogan did himself 'desire'. Without further evidence, it is impossible to draw any firm conclusions regarding this. But it is equally impossible not to note how odd an occurrence it is.

9.8.2 Judgment

The Court sat to give judgment on 4 March 1873. It began by noting that Ngāti Raukawa asserted 'an exclusive ownership founded on conquest and on continuous occupation from a period anterior to the Treaty of Waitangi'.[2381] This claim was opposed, the Court continued, by 'Te Kepa [*sic*] Rangihiwinui and others representing five tribes … who contend that Ngatiraukawa has acquired no rights of ownership over the said block, and that the land belongs to them as

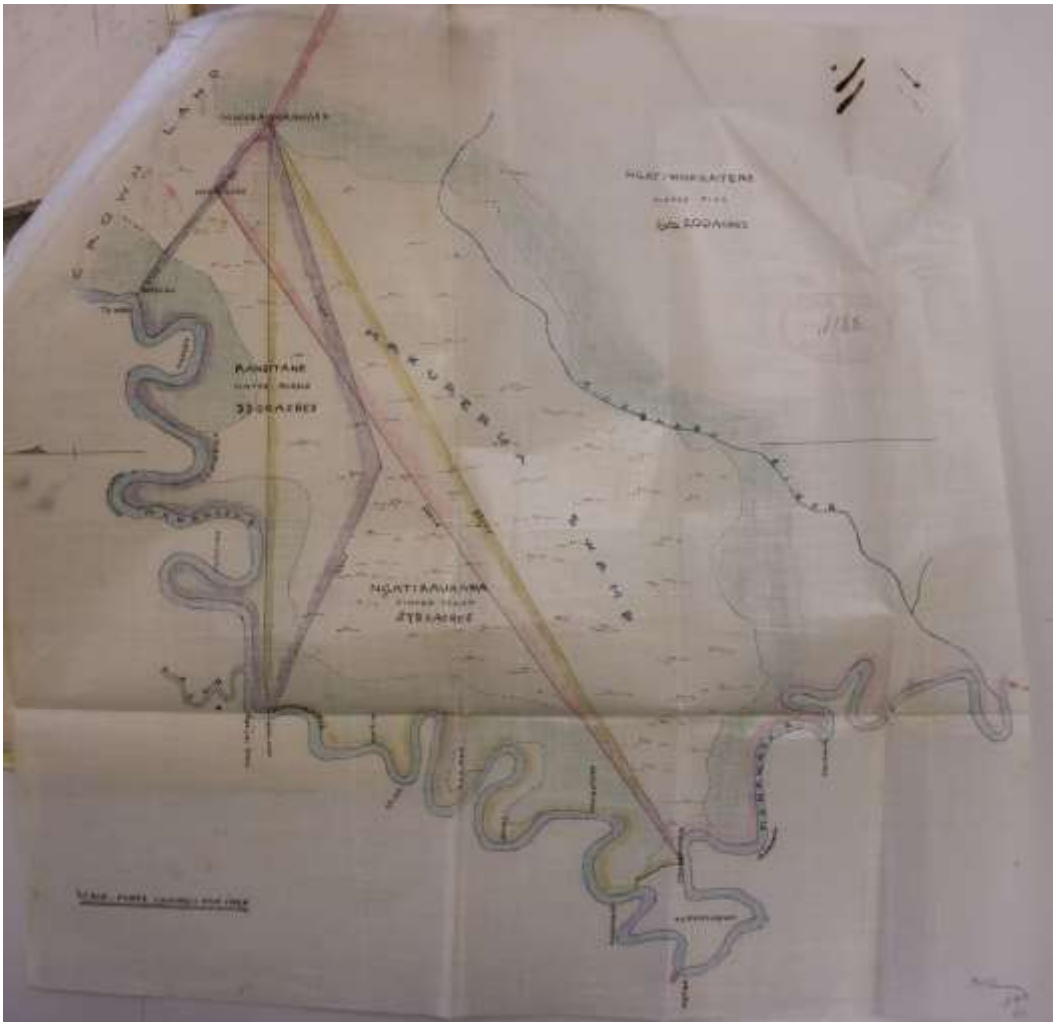
[2376] Rogan to McLean, 4 December 1872, MS-Papers-0032-0074.
[2377] Rogan to McLean, 5 December 1872, MS-Papers-0032-0074.
[2378] McLean to Rogan, 19 November 1872, MS-Papers-0032-0074.
[2379] McLean to Rogan, 19 November 1872, MS-Papers-0032-0074.
[2380] Unknown author to Rogan, 25 November 1872, MS-Papers-0032-0074.
[2381] 'Native Land Court', *Evening Post*, 10 March 1873, p 2.

inherited from their ancestors, and is still retained in their possession'.[2382] The Court then gave its decision:

> … the Court finds that sections of the Ngatiraukawa tribe have acquired rights over the said block, which, according to Maori custom and usage, constitutes them owners thereof (with certain exceptions), together with Ngatitoa and Ngatiawa, whose joint interest therein is admitted by the claimants. That such rights were not acquired by conquest, but by occupation, with the acquiescence of the original owners. That such rights had been completely established in the year 1840, at which date sections of Ngatiraukawa were in undisputed possession of the said block of land, excepting only two portions thereof, viz: –
>
> 1. A portion of the block, the boundaries whereof are not yet defined, situate at Horowhenua, claimed by the Muaupoko tribe, of which they appear to have retained possession from the time of their ancestors, and which they continue to occupy.
>
> 2. A portion of the block at Tuwhakatupua, on the Manawatu River (boundaries not defined), claimed by a section of the Rangitane tribe, whose interest therein is admitted by the claimants.
>
> And the Court finds that the Ngatiapa, Whanganui, and Ngatikahungunu tribes, have not separate tribal rights as owners of any portion of the said block, nor any interest therein, beyond such as may arise from connection with the Muaupoko residents at Horowhenua. That the Rangitane, as a tribe, have no rights as owners of any portion of the said block, nor any interest therein, beyond such as may arise from connection with Muaupoko residents at Horowhenua, or with that section of Rangitane whose claims at Tuwhakatupua are admitted by the claimants.[2383]

It might have been expected, given all the anxieties and troubles that had bedevilled the hearing at the outset, that such a judgment would be met with an uproar. But such was not the case. Rather, according to the *Evening Post*, the 'award of the Court was received in perfect silence', and while 'no word of threat or violence was uttered on the one side', nor was there 'exultation or triumph on the other'.[2384] In fact, it was reported that 'all parties (when the Court adjourned) mixed together on the most friendly terms, and calmly discussed the decision together'.[2385] Hūnia and Kemp, it was said, appeared to have 'submitted to their fate with a stoical philosophy not generally expected of them'.[2386] Grindell's perception as conveyed to Fitzherbert was rather different: 'Kemp turned pale and trembled when decision given but neither party spoke a word. Expect some protest perhaps threats but do not apprehend anything serious'.[2387]

[2382] 'Native Land Court', *Evening Post*, 10 March 1873, p 2.
[2383] 'Native Land Court', *Evening Post*, 10 March 1873, p 2.
[2384] 'Native Land Court', *Evening Post*, 10 March 1873, p 2.
[2385] 'Native Land Court', *Evening Post*, 10 March 1873, p 2.
[2386] 'Native Land Court', *Evening Post*, 10 March 1873, p 2.
[2387] Grindell to Superintendent, 4 March 1873, MA 13/75b.



The decision was greeted by the settler community with praise. '[I]t is a matter for congratulation,' opined the *Evening Post*, 'that this vexed question, which at one time threatened to be of serious moment to the Province of Wellington, if not to the colony generally, has been so satisfactorily disposed of.'[2388] The newspaper also felt 'bound' to sing the praises of Judges Rogan and Smith: 'Had these gentlemen,' it suggested, 'exhibited less firmness and patience, or possessed less knowledge of the native character and tact in managing them, we have no hesitation in saying that the Court would have been broken up at its sitting in November last, and the whole business would have resulted in "confusion worse confounded".'[2389]

> At that time the natives in opposition strained every nerve to get the Court adjourned indefinitely. Threats, intimidations, and every imaginable artifice were adopted by them, but all to no purpose. The Judges remained firm, evincing at the same time, by judicious

[2388] 'Native Land Court', *Evening Post*, 10 March 1873, p 2.
[2389] 'Native Land Court', *Evening Post*, 10 March 1873, p 2.

> adjournments and concessions, a desire to afford the opposing parties every facility to come into Court and prove their claims. These gentlemen certainly have earned the thanks of the Province for their exertions, although not a single acre of the district should be acquired by the Government.[2390]

Of course, it was not for a moment contemplated that the Government would not acquire at least one acre of the block. 'We believe,' the newspaper suggested, 'there is every possibility of the Ngatiraukawa agreeing to sell at once, as a commencement, in one entire block, all the land eastward to the boundary of the 70 Mile Bush on the summit of the Tararua Range, from a line of road to be laid out along the flats from Paikakariki [*sic*] Hill…'[2391] This land would provide for 'a large number of settlers of a most desirable class – small farmers'.[2392]

9.8.3 Making sense of the judgment

In the first Hīmatangi judgment, delivered in April 1868, the Court had found, rather confusingly, that while Ngāti Raukawa had obtained possession of the land by conquering and dispossessing those tribes they had found there, at the same time it allowed that Ngāti Apa retained an equal claim to the land, on the grounds that 'the evidence shows that the original owners were never absolutely dispossessed, and that they have never ceased on their part to assert and exercise rights of ownership'.[2393] Then, when the case was heard again, in September 1869, the court modified its original conclusion by denying that Ngāti Raukawa had ever conquered the Rangitīkei-Manawatū district, and nor had Ngāti Toa for that matter, such that they could never have then allocated the lands to Raukawa.[2394] Instead, certain of the Ngāti Raukawa had received invitations to settle on certain of the lands, and these hapū alone had, in consequence, obtained any rights at all to the block.[2395]

When it came, then, to the Manawatū-Kukutauaki judgment, the court again rejected the suggestion that either Ngāti Toa or Ngāti Raukawa had ever conquered the tribes they had found on that block. Any rights Raukawa had were, instead, derived from occupation, and that 'with the acquiescence of the original owners'.[2396] Seemingly, the difficulty for Raukawa, in establishing to the satisfaction of the court that they had conquered the land, was the fact that members of the supposedly conquered tribes still lived on the land in question. And while those individuals may have been living in a state of subjection as slaves to Ngāti Raukawa prior to 1840, after that time, between the establishment

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[2390] 'Native Land Court', *Evening Post*, 10 March 1873, p 2.
[2391] 'Native Land Court', *Evening Post*, 10 March 1873, p 2.
[2392] 'Native Land Court', *Evening Post*, 10 March 1873, p 2.
[2393] Cited in Anderson and Pickens, 'Rangahaua Whānui-Wellington District', p 198. See also Otaki minute book 1E, 27 April 1868, pp 719-20.
[2394] 'Memorandum on the Rangitikei-Manawatu Land Claims', *AJHR*, 1870, A-25, pp 5-7.
[2395] 'Memorandum on the Rangitikei-Manawatu Land Claims', *AJHR*, 1870, A-25, p 7.
[2396] 'Native Land Court', *Evening Post*, 10 March 1873, p 2.

of British law and the advent of Christianity, along with the government's need to rely on Māori forces in combatting those who opposed them at Taranaki and elsewhere, the status of those who might once have been slaves had altered entirely. Thus, they were not slaves: they were loyal subjects of the Queen who resided on the lands they had always possessed. That, at least, was how the Court chose to characterise things.

Regrettably, it is not possible to assess the reasoning the court followed in reaching its Manawatū-Kukutauaki judgment. In other words, we cannot know for sure what the judges made of the evidence they heard, or how they relied upon it in reaching their decision. We do know, however, that by early December, Rogan had decided that he had all the information he required.[2397] And, furthermore, it is possible to state that, prior to deciding he had heard enough, Rogan had also decided he would not listen much at all, to what was said in court. 'I see a long period,' he had written to McLean, 'of apparent attentive listening before [*indecipherable*] which must be submitted to.'[2398] It is not unreasonable to suggest that the hearing of the evidence was something of a charade, a necessary exercise in pointlessness to be gone through before a pre-determined judgment was rendered. In light of the earlier (second) Hīmatangi decision, it would have been profoundly destabilising from a political point of view if the court, in the Manawatū-Kukutauaki judgment, had accepted the Ngāti Raukawa claim to have conquered the district. Such a decision would have called into question the Hīmatangi judgment, while also giving Raukawa a sense that, should they have so chosen, they could have expelled Rangitāne from Tūwhakatupua and Muaūpoko from Horowhenua, or simply sold the land out from under them. In other words, rather than contributing to a dampening down of the tribal disputes that had been flaring periodically along the west coast, a decision in favour of the Ngāti Raukawa take had the potential to turn it into a conflagration. And so, quite simply, the Ngāti Raukawa claim of conquest could not be allowed to stand: if allowed, it would at one and the same time undermine the Rangitīkei-Manawatū decision and risk tribal warfare.

In sum, the decision in this case was as contrived, seemingly, as that in the second Hīmatangi judgment. It might have been strictly correct to say that Ngāti Raukawa had not conquered the original inhabitants, but only because the original inhabitants had earlier been conquered by Ngāti Toa. And to suggest that Raukawa's occupation had only been with the 'acquiescence of the original owners' was, quite simply, a denial of the historical facts. But in the face of political exigencies, the facts were simply made to give way (a feat achieved by the court by appearing to apply the 1840 rule, when it fact basing its judgment entirely on the standing of the tribes in 1872).

[2397] Rogan to McLean, 4 December 1872, MS-Papers-0032-0074.
[2398] Rogan to McLean, 13 November 1872, MS-Papers-0032-0074.

9.8.4 After the judgment

The day following the judgment, Cash, counsel for the counterclaimants – now apparently permitted to appear for them – successfully applied for an adjournment, so that his clients might deliberate on the decision and what steps they might then take. On 6 March, Cash asked for a further adjournment until 10 March, so that his clients would have 'time to bring up those of their friends who had not attended owing to some misconception that the Court was to be adjourned'.[2399] On behalf of Ngāti Raukawa, Buckley – now also permitted to appear – objected to the adjournment, anxious as he was 'to put an end to the many vexatious delays and interruptions to the business of the Court arising from the subterfuges and continuous quibbles of Kemp's party'.[2400] He would agree to an adjournment, he said, only if Cash pledged that no further adjournments would be sought. The pledge was given and the adjournment granted.[2401] When the court resumed on 10 March, Cash informed the judges that his clients would be seeking a rehearing. Buckley countered by asking that a certificate of title be issued immediately, to which Cash responded that if that were done, his clients would abandon the proceedings altogether. The court, ever ingenious, evaded the efforts of both parties by declaring that since the claim was only partly heard – the matter of Horowhenua remained outstanding – it could neither issue a certificate nor grant a rehearing.[2402] Rogan then indicated that the court would hear evidence concerning the boundaries of Horowhenua. Cash responded that his instructions allowed him to continue no further.[2403]

Two days later, after more manoeuvring on the part of Te Rangihiwinui, the court said that it was prepared to issue a certificate granting the title of Manawatū-Kukutauaki to Ngāti Raukawa, from which the Horowhenua block would be excluded, as the various claims to this were yet to be determined. Ngāti Raukawa accepted the proposal and the order was made.[2404]

Rogan subsequently informed the Native Department and the Superintendent of Wellington that the Horowhenua hearing would decide the land question on the west coast, one way or the other, and the result, he believed, was favourable to the district with some 23,000 acres already in the process of grant. Grindell he reported as attempting to persuade 'acknowledged owners, with a view of buying it up for the province in one block to keep out the speculators and to save his time and trouble in drawing up one deed.'[2405]

[2399] 'Native Land Court', *Evening Post*, 10 March 1873, p 2.
[2400] 'Native Land Court', *Evening Post*, 10 March 1873, p 2.
[2401] 'Native Land Court', *Evening Post*, 10 March 1873, p 2.
[2402] Anderson and Pickens, 'Rangahaua Whānui-Wellington District', p 202.
[2403] Otaki Native Land Court minute book 1, 10 March 1873, p 182.
[2404] Grindell to Superintendent, 10 March 1873, MA 13/75b; 'The Native Lands Court', *Wellington Independent*, 10 April 1873, p 3.
[2405] Rogan to Cooper. 18 March 1873, MA 13/75b.

9.9 Government purchase negotiations, 1873-1880

The long-awaited determination of title of the region south of the Manawatū River cleared the way for the government to bring Grindell's earlier negotiations into fruition. He would be joined in this task by other agents – notably Wardell and Booth, but also the former agent for the non-sellers at Oroua, Alexander McDonald, all working in the district, either in the direct employ of the government or on commission.

In November 1872, as the Native Land Court prepared to hear the case, Fitzherbert issued instructions for an extensive purchase of land along the Kapiti coast: 'I am very anxious at least to obtain 250,000 acres in a block, extending from the top of the Tararua Ranges to a roadway marked on the tracing with which you will be furnished.'[2406] This, in effect, was at least half of the land between Waikanae and the Manawatū, which was estimated to comprise between 400,000 and 500,000 acres. At this point, the intention was that the area be acquired in a single block on the eastern side of the road planned to link Wellington and the Manawatū at a price of one shilling to 1s 6d per acre.[2407] The western side of the coast, between the road and the seashore, was to be left in Māori hands.

Again, Māori were to be compensated by the rise in the value of the lands they retained. Fitzherbert was willing to make government investment in infrastructure a condition of purchase, with a sum equal to half of the purchase price to be spent on road building within 12 months of securing the lands, if the quantity, location, and price were satisfactory. He instructed Grindell and his fellow agent, Herbert Wardell, accordingly: 'You will not fail to point out to them that the construction of such a road will greatly enhance the value of the remainder of their estate lying on the seaward side of the main line.'[2408] Wardell was instructed at this time to purchase the Awahou reserves.[2409]

The budget for this land-buying exercise was to be £30,000.[2410] The general government was approached to provide this sum, but was willing to advance only £10,000 until the land had actually been purchased.[2411] There were doubts, it seems, that so much land could be acquired in the face of private competitors offering better prices. The provincial government approached the Loan and Mercantile Agency Company for the £20,000 shortfall. In financial difficulty, there was pressure on the provincial government to effect its purchase quickly, explaining Fitzherbert's opposition to the December adjournment.[2412] The

[2406] Superintendent to Grindell and Wardell, 4 November 1872, WP 6/8.
[2407] Superintendent to Grindell and Wardell, 4 November 1872, WP 6/8.
[2408] Superintendent to Grindell and Wardell, 4 November 1872, WP 6/8.
[2409] Wardell to Superintendent, 23 November 1872, MA 13/75b.
[2410] Fitzherbert to Hall, 2 November 1872, WP 6/8.
[2411] Fitzherbert to Hall, 12 November 1872, WP 6/8.
[2412] Fitzherbert to Loan and Mercantile Agency Company, 13 December 1872, WP 6/8, pp 86-7.

Rangahaua Whanui report suggests that it was also behind 'the unsuccessful efforts of the provincial government to obtain, in December 1872 to January 1873, reimbursement from the general government for the provisions it had supplied in Foxton'.[2413] As noted earlier, Maori had been in some hardship as the court sittings neared and had sent in a number of requests. By mid-December, Cook had tendered vouchers for £435 worth of provisions for Maori gathered for the Foxton sitting.[2414]

The provincial government's urgency was communicated to Grindell, who was given a free hand to effect the purchase as quickly as possible and advised that 'any steps which you may in your discretion think proper to take in furtherance of the above objective will receive the sanction of the Provincial Government'.[2415] Grindell, reporting on the opposition of Kemp and Hunia to the case proceeding (in his view, because they feared Ngāti Raukawa would substantiate their claims), responded that:

> I have set my heart upon obtaining this district for the Province. I have used every means in my power from the commencement to further that object, and am now quietly pulling the strings in the back ground to prevent the proceedings of the Court from being stayed. I trust I may not be thwarted.[2416]

He was especially suspicious of what McDonald might be saying.[2417] In any event, the drawn-out first session, followed by the adjournment in December for several months, meant progress was slow despite the sizeable advances paid out in the form of provisions. Grindell was uneasy about the accumulation of the advances and suggested that he and Wardell had tried to keep expenditure of this kind to a minimum, 'but the demand for aid, especially on the part of the Ngatiraukawa [had] been incessant'.[2418]

The court judgement reached in March created further problems; namely the need to establish the boundaries of the block at Horowhenua before 'open' negotiations for the land could begin – and now Muaūpoko would have to be dealt with as well.[2419] While a certificate of title was granted to Ngāti Raukawa on 12 March, Grindell advised caution. Tensions were still high, with Kemp's party seeking a rehearing of the whole case. Any attempt to buy land from Ngāti Raukawa would interfere with the good feeling between Kemp's party and the government, and generally complicate matters.[2420] However, he remained optimistic that a satisfactory arrangement would be reached and he intended to

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[2413] Fitzherbert to Waterhouse, 19 December 1872; Fitzherbert to Hall, 9 January 1873, WP 6/8; in Anderson and Pickens 'Rangahaua Whānui-Wellington District', p 203.
[2414] Grindell and Wardell to Superintendent, 16 December 1872, MA 13/75b.
[2415] Superintendent to Grindell, 4 November 1872, WP 6/8, p 46.
[2416] Grindell to Superintendent, 14 November 1872, MA 13/75b.
[2417] Grindell to Superintendent, 14 November 1872, MA 13/75b.
[2418] Grindell to Superintendent, 12 December 1872, MA 13/75b.
[2419] Grindell to Superintendent, 4 and 17 March 1873, MA 13/75b.
[2420] Grindell to Superintendent, 13 March 1873, MA 13/75b.

make preliminary arrangements with Maori about the boundaries of the block to be sold 'and also to ascertain the views and general feelings of the natives.'[2421]

Another difficulty soon emerged. Grindell was still thinking in terms of negotiating with Ngāti Raukawa for one large block. As noted above, their initial intention had been to apply for a single tribal title for the large area of land the province required, only subdividing the coastal lands, west of the proposed road. Apparently, there had been a change of tactic once the wider tribal issue had been decided and, Rogan informed the Native Department and the Superintendent of Wellington, that Grindell had been attempting to persuade 'acknowledged owners, with a view of buying up for the province in one block to keep out the speculators and to save his time and trouble in drawing up one deed.'[2422] Grindell rreported that Ngāti Whakatere had applied for an order for their claim at Kaihinu, about 66,000 acres, with the result that 'the various hapus are now going in for their separate claims, as shown on the map, from the beach to the summit of the hills'.[2423] Previously, the private speculators would have been kept out, but now Grindell feared that they would come in and make 'offers that would embarrass the Government and cause vexatious complications'. He advised accordingly:

> The only course which I can see to prevent this is to make advances on the various blocks as they pass the Court, each set of grantees executing a Deed which would give the Government a lien on the land, leaving the purchase to be completed at a leisure afterwards.[2424]

The deeds could be registered at once, and in the meantime, the government could arrange the road and the exact boundaries, secure in the ultimate purchase, until Maori accepted whatever price was offered.[2425] He was unsure, however, what effect making advances to Ngāti Raukawa would have on Kemp's party, and that they might accuse the government of prejudging their application for a rehearing. However, if the government did not make advances, private purchasers probably would, and the result would be the same. He argued that no real inquiry would be done via this course and that a rehearing would produce the same decision in any case. The other and best option would be for the government to place restrictions on the sale of land to private purchasers, until the application for rehearing had taken place, but failing this, he required £1500 in £1 notes and the deeds to give Her Majesty a lien on the land for advances made without a definite price being stated.[2426]

[2421] Grindell to Superintendent, 13 March 1873, MA 13/75b.
[2422] Rogan to Cooper. 18 March 1873, MA 13/75b.
[2423] Grindell to Superintendent, 17 March 1873, MA13/75b.
[2424] Grindell to Superintendent, 17 March 1873, MA13/75b.
[2425] Grindell to Superintendent, 17 March 1873, MA13/75b.
[2426] Grindell to Superintendent, 17 March 1873, MA13/75b.

Anderson and Pickens point out that: 'If liens were to be obtained as land passed through the court, the court had to continue to sit.'[2427] In April, after the judgment was handed down, causing 'disgust' and vexation all round, he worked to prevent an adjournment as proposed by Te Whiwhi and Kemp by persuading Ihakara and 'one other' to oppose the idea and sending them in to reason with their people and ask them to apply for orders.[2428] He also advised the court as to the form of title that should be issued. He reported that he had intervened when Ngāti Whakatere had sent in their application with about 100 signatures. Judge Smith had regarded this as an application for an order in favour of the hapu, bringing it under section 17 of the Native Lands Act 1867, so making the block inalienable until subdivided.[2429] Grindell argued that Ngāti Whakatere's intention had been to ask the court not to adjourn until it had finished their business and the names had been attached only to give their request more weight; that they had their lists for the grants already prepared and that their surveyor had divided the block. Smith had insisted, however, that it would be a tribal order and that he would not order certificates for grants. Grindell argued that the court should mend what Maori did in ignorance and reported that he had explained the matter to Rogan, who would set it right; that the Act had never been translated into Maori, and so it was expected that they would make mistakes.[2430] Grindell signalled his intention to see in court that there was no further mistake about Maori intentions in the different applications that had been made.[2431]

His word to Rogan proved effective and matters progressed more smoothly for a while. Grindell reported that the liens were producing the expected effect: Ngati Raukawa were unanimously determined to subdivide and go for Crown grants to sell. He thought he could get more liens, would succeed in purchasing some small blocks around Otaki and would need another £1000.[2432]

The court continued to sit and to issue titles of a kind that enabled purchase to proceed; however, progress remained slow 'owing to the impossibility of getting the natives to agree about their boundaries, and disputes as to what names should be inserted in the grants'.[2433] Worryingly, for the Provincial Government, there were indications that some hapu intended to hold onto their land, in order to obtain a better price when the proposed road was completed. This prompted Fitzherbert to threaten to abandon the road if the province could not get the land it wanted: 'If they are too greedy they will probably lose all,' he telegraphed his agent. 'Ought to be content with the enhanced price which road will confer on seaward portion. Am firm with respect to not making road.'[2434] By this stage,

[2427] Anderson and Pickens, 'Rangahaua Whānui-Wellington District', p 204.
[2428] Grindell to Superintendent, 9 April 1873, MA13/75b.
[2429] Grindell to Superintendent, 9 April 1873, MA 13/75b.
[2430] Grindell to Superintendent, 9 April 1873, MA 13/75b.
[2431] Grindell to Superintendent, 9 April 1873, MA 13/75b.
[2432] Grindell to Superintendent, 9 and 22 April 1873, MA 13/75b.
[2433] Grindell to Superintendent, 21 April 1873, MA 13/75b.
[2434] Fitzherbert to Grindell, 10 April 1873, WP 6/8.

Grindell had made advances (including provisions) on Muhunoa (11,734 acres), Ōhau (13,950 acres), Ōhau 2 (750 acres), Waikawa 1 and 2 (20,270 acres), Manawatū-Kukutauaki no 2 also known as Kaihinu (65,000 acres), and Manawatū-Kukutauaki no 3 (11,500 acres); and had partly executed liens on Manawatū-Kukutauaki no 7A, B, and C (2226 acres), and Manawatū-Kukutauaki no 4A, C, and D (12,670 acres). He also expected to obtain liens on Manawatū-Kukutauaki no 4B and E. Even so, the province had a possible lock on only 76,500 of the 250,000 acres it wanted – and these arrangements were not completely settled. The boundaries of the land to be sold were not yet defined since 'it would be impossible to determine that question during the sittings of the Court – it will require time and patience,' he advised.[2435] Grindell had thus far proved unable to gain the consent of all grantees, and there was reluctance to sell the better land along the coast, at least at the prices being offered by the government.

Despite Grindell's earlier success with Rogan, in May, there was a serious falling out between the two officials. A drunken scene in court prompted a letter of complaint and Grindell's suspension by both the general and the provincial government.[2436]

Herbert Wardell (Resident Magistrate) took over his negotiations in June 1873. He was instructed to avoid doing anything with respect to the blocks for which Grindell had been negotiating, but reported that this was impossible: 'the whole must be dealt with by one person'.[2437] He was offered several small, isolated blocks, from 30 to 500 acres, but turned them down, considering it inadvisable to purchase them before the larger blocks were secured.[2438] Presumably, he anticipated that paying out moneys on these would delay their need to make larger-scale alienations. Maori had approached him for advances for lands that were passing through the court, but these he had refused unless the final price, and the area to be sold to the Crown, were settled first, because, he said:

> I found that … those to whom advances had been made by Mr Grindell expressed themselves resolved to sell only the mountains reserving all the available land to themselves and in one or two instances had had the lands from the mountains to the sea made inalienable.[2439]

However, the matter had been 'seriously discussed' since, and given his refusal to make advances unless they were willing to sell some of their better lands, they seemed 'disposed to alter their minds'. He did report making some small advances, including £5 to Rāwiri and others, and £5 10s 1d to Hoani Taipua on

[2435] Grindell to Superintendent, 24 April 1873, MA 13/75b.
[2436] Rogan to McLean, 3 May 1873 and Reynolds to Superintendent, 6 May 1873, WP 4/86; Bunny to Grindell, 10 May 1873, WP 9/6; Cooper to Rogan, 10 May 1873, MA 5/2.
[2437] Wardell to Superintendent, 10 June 1873, MA 13/75b.
[2438] Wardell to Superintendent, 10 June 1873, MA 13/75b.
[2439] Wardell to Superintendent, 10 June 1873, MA 13/75b.

account of their interests in Manawatū-Kukutauaki 4A, including some to Rangitane individuals on reserved lands and to Muaupoko for lands between the boundary of the Crown's purchase in Wairarapa and the Ngarara block which had not yet passed through the court.[2440]

Wardell had recommended that an authorised officer be sent to make further arrangements and in mid-1873, James Booth, a land purchase officer in the Native Department, and Native Magistrate, Wanganui, was given responsibility for land purchases along the west coast. By this stage, a good deal of 'Ngati Raukawa' land had passed through, or was in the process of passing through, the Native Land Court, meaning there were, at last, defined lists of owners with whom to negotiate. The subdivision of Manawatū-Kukutauaki continued in this way on into the 1880s, by which time there were over 100 named blocks. According to Booth, these ranged in size from 200 to 10,000 acres,[2441] The Walghan block narratives show that most had just one or two owners. Also, in terms of acreage, Booth's comment would appear to refer only to Manawatu Kukutauaki No. 2. Other blocks, Manawatu Kukutuauki No. 3, for instance, had smaller subdivisions (e.g. 20 acres and 43 acres).[2442]

One of the first steps undertaken by the Crown seeking to purchase land from Maori was to issue a proclamation of its intention under section 42 of the Immigration and Public Works Act Amendment Act 1871, which made it illegal for any person to purchase or acquire any right, title, or interest, or contract for the purchase of such land. Such a proclamation encompassing most of the north-western section of the Wellington Province had been issued in February 1872 but Hearn points out, had cancelled it later in the year.[2443] Both private agents were making advances. Booth noted for example 'great dissatisfaction' among Ngati Huia for Matene Te Whiwhi and Rakapa having received £500 from Mr J Martin on account of an unnamed block of land that had not yet passed through the Native Land Court and for which title would be keenly contested. Others within the hapu, it would seem, had accepted money from the Crown for the same area. Booth telegraphing the Superintendent that 'All claimants except the two mentioned were determined to sell to the Government having already received an advance from the Government on account.'[2444]

In late December 1874, however, the competition was locked out by notice of government negotiation gazetted in the following blocks:

- Ngakaroro nos 2A, 2B, 2C, 2D, 2E, 2F, 1A, 1B, 1C;

[2440] Wardell to Superintendent, 10 June 1873, MA 13/75b.
[2441] Booth to Under-Secretary Native Department, 30 June 1876, *AJHR*, 1876, G-5, p 12.
[2442] See Walghan Partners, 'Block Reearch Narrative',, Vol. II, Part II, 19 December 2017, draft5, pp. 274–279.
[2443] Hearn, 'One past, many histories', p 643.
[2444] Booth to Superintendent, 30 July 1873, MA 13/75b.

- Waihoanga nos. 1A, 1B, 1C, 2A, 2B, 3A, 3B, 3C, 3D;
- Pukehou nos 1, 2, 3, 4, 5B, 5C, 5D, 5E, 5L;
- Manawatū-Kukutauaki nos 4A, 4C, 4D, 4F(?), 4E, 4G, 7A, 7B, 7C, 7D, 7R, 3, 2A, 2B, 2C, 2D, 2E, 2K, 2G, 7H;
- Ōhau no 2;
- Muhunoa nos 1, 3, 4;
- Whirokino; and
- Takapū no 2.[2445]

Booth, fearing that he had to contend with private purchases, continued to advance moneys on west coast blocks much as Grindell had to secure liens and gain a foothold in them. At Ngawhakaraua no 1, for example, where a number of the claimants did not want to sell, he thought the best plan was to advance £1 to each seller and within a few days, had paid Ngāti Kauwhata an advance of £10 for their portion of the block.[2446] Another £10 went to Akapita and others as a lien on Pukehou 2.[2447]

It seems that among at least some officials, there was a degree of concern regarding the manner in which the land purchasing was being done on the West Coast. An unidentified correspondent wrote to Clarke stating:

> I wish to draw attention to land purchase operations on the West Coast, as it appears to me that they are attaining proportions beyond the powers of the officers acting there as agents.
>
> I find that Mr Booth has negotiations in progress for 36 blocks, amounting to 423,070 acres, and for 20 more blocks for which no area is given: a telegraph received from him this day also states that 70,000 more acres have been offered within the last 5 weeks.
>
> The sums expended in the 56 blocks above as advances were, on date of last return, £6,503.11.7.
>
> No report having been received from Mr Booth for some time past, his proceedings are unknown.
>
> It appears to me that, with the very best intentions, Mr Booth has fallen into the same mistake as Messrs Mitchell and Davis, only on very different grounds.
>
> It would seem as if Mr Booth, knowing he has to contend against private individuals, had adopted the plan of advancing monies on various blocks merely as a means of getting a footing into them. Had such blocks been subsequently to the payments been

[2445] Clarke to Booth, 21 December 1874, Outward Letterbooks, MA-MLP 3/1.
[2446] Booth to Superintendent, 10 and 14 April 1873, MA 13/75b.
[2447] Booth to Superintendent, 18 June 1874, MA 13/75b.

> [*sic*] proclaimed under the Im. & Pub. Works Act, no harm would have been done. But the payment of a small instalment, and long procrastination before coming to any final settlement tend to make native vendors discontented, and are very likely to throw them into the arms of speculators ready with cash down.
>
> As Mr Booth is on his way, I suggest that he should be instructed not to enter into any fresh negotiation till he has completed what he has on hand. Even now there is quite enough to take up all his time, and his assistants too. In a large district like the Whanganui & West Coast, there is ample room for two agents, one to join for interior land purchases, while Mr Booth concludes those he has already begun.[2448]

Booth was confident, however, that the purchases he had initiated would soon result in a 'considerable estate' and he reported, in 1876, that he was 'in hopes that the purchase of the whole block [from Manawatū to Waikanae] will be completed before the end of next year'.[2449] While private speculators had been active in the area, according to Booth 'in every case in which the Native owners had commenced negotiations with the Government, they have resisted the temptation to deal privately'.[2450]

In 1877, Booth reported a little less optimistically; the amount of land purchased had not been as great as in previous years. He blamed the number of other duties he had to perform in such a large district and the 'difficulty' he had found in dealing with the claimants, some of whom had 'adopted the Repudiation principles of a section of Natives on the East Coast'. Although they did not express active opposition to his purchase operations, 'yet by persistently absenting themselves from all meetings called for the purpose of completing purchases, they have been able to very seriously interrupt our operations'. Now he considered it 'impossible to state positively when the whole of the purchases will be complete'.[2451]

In that same year, Ngāti Whakatere and Ngāti Tutataroa petitioned parliament complaining about Booth and the effect of down payments when it remained standard practice for not all names to be entered on the titles of blocks. They stated that whereas only 50 persons had been put onto the certificates of title for their five blocks of land, there were in fact 250 owners. The petition continued:

> They further objected to the land purchasing operations of Mr Booth, a Government servant, and object to payments being made to the fifty persons whose names are on the certificate; as well as to the insufficiency of the price proposed to be paid.[2452]

The Native Affairs Committee recommended that these matters should receive the attention of the government. While at Otaki, the Native Minister of the day,

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[2448] [?] to Clarke, 7 August 1874, MA-MLP3/1 1873–1875.
[2449] Booth to Under-Secretary Native Department, 30 June 1876, *AJHR*. 1876, G-5, p 12.
[2450] Booth to Under-Secretary Native Department, 30 June 1876, *AJHR*, 1876, G-5, p 12.
[2451] Booth to Under-Secretary Native Department, 28 June 1877, *AJHR*, 1877, G-7, p 17.
[2452] Petition of Ngāti Whakatere and Ngāti Tutataroa, *AJHR*, 1877, I-3, p 45.

Pollen, made it clear that advances would no longer be paid on land before it had passed through the court for title determination.[2453] This did not, of course, prevent advances being made to individuals listed on titles for undefined interests in land without the consent of other owners.

9.10 Finishing up Crown purchasing in the district

There had been a slowing of purchase since 1877. There was also increasing dissatisfaction with the purchases already made. Fitzherbert giving evidence to the Hutt-Waikanae Railway Committee in 1877, about the land available for settlement, complained of 'inchoate transactions' and the difficulties that had arisen owing, he said, to the activities of private purchasers along the coast.[2454] While Booth 'seemed disinclined to admit to the committee that any problems of a general nature existed' he did acknowledge that the owners of the Manawatū-Kukutauaki 2A, 2B, 2C, 2D, and 2E blocks 'had changed their minds about sale after advances had been made.' According to Booth, they were now expressing opposition to sale or 'wanted an exorbitant price for the land.'[2455]

He summarised the Crown's purchase progress since it had re-entered the land market. It had acquired 24 blocks in the 'Otaki' district, totalling 51,059 acres and another eight blocks in the 'Manawatū' district, at a total of 11,962 acres, plus 40,675 acres in nine blocks at 'Waikanae'. Negotiations were also under way for ten more blocks in the Manawatū (for an estimated 89,312 acres) on which just over £2,354 had been paid with another £10,845 required to complete those transactions; and for another eight blocks in the 'Otaki' district totalling 15,059 acres on which £1,177 had been paid. He estimated that an additional £911 would be required to complete those transactions. Money had also been advanced on 16 other blocks with a total area of over 70,000 acres. In those cases, however, there were difficulties in the way of completion[2456] The owners of Hurutini, for example, had leased the block as a sheep run, but the leaseholder would repay the advance. "Ringawhati" had gone through the court, and emerged with a new name and a different set of owners. Paruauku 1 was cultivated land, and the asking price was higher than the Government was willing to accept. The valuable timber on another block had been felled, so there was no point in proceeding with purchase negotiations. In these instances, Booth recommended accepting refunds and taking them off the books. [2457]

Such problems as these were not confined to the west coast region and there was growing settler dissatisfaction with the purchase of Maori land under the Native Department. A new Native Minister, John Sheehan was appointed when the Grey

[2453] Ward to Under-Secretary Native Department, 25 May 1877, *AJHR*, 1877, G-1, p 21.
[2454] Hutt-Waikanae Railway Committee, Fitzherbert, 22 August 1877, *AJHR*, 1877, I-12, p 8.
[2455] Anderson and Pickens, 'Rangahaua Whānui-Wellington District', p 209.
[2456] 'Purchase of Land from the Natives', AJHR, 1877, G-7, pp 18-33.
[2457] 'Purchase of Land from the Natives', *AJHR*, 1877, G-7, pp 20-1.

ministry came to office in 1877 and new policies were introduced. He had been a leading opponent of landlordism and the existing native land policy; indeed, he had acted as legal counsel to the Repudiation movement which had grown out of Maori dissatisfaction with the land laws and purchases in the Hawkes Bay. He condemned that policy as 'cumbersome, costly and impossible for Maori to understand.'[2458] In Sheehan's view, the Native Land Act 1873 and the existing land purchase policy had both been failures. The Native Land Court had become 'the servant' of the Native Department and a 'machine which has been used to help the Government to secure a large quantity of Native land in the North Island', but with 'the least possible result with the largest amount of money'. On coming into office, he intended to reduce the Native Department to a 'useful skeleton …, concentrated … in Wellington'.[2459] In fact, he merely replaced a number of McLean's appointees with his own while 'contingency' expenditure rapidly mounted. He changed his tune on land policy, as well. Ward notes that 'quickly divesting himself of the role of advocate for the Maori which he had assumed in the Repudiation movement, he announced several proposals of doubtful equity to facilitate the completion of the purchases in which the Crown was engaged.' [2460]As we noted earlier, the Government Native Land Purchase Act 1877 allowed it to proclaim lands as 'under negotiation' and lock out private purchase competition while the Native Land Act was amended that year as well. This enabled the Government to have any shares it had acquired in a block determined by the Native Land Court and partitioned out without majority consent.

The government had thus given itself three important purchasing tools:

- the right to negotiate for the purchase of lands before title had been determined and relative interests defined;
- the right to acquire individual interests; and
- the power to exclude private competition.

The intention was to complete McLean's purchases, bringing the government's land operations to an end. It would then 'retire from the field as land purchaser on a large scale', leaving private persons as the 'chief operators'.[2461] However, the restrictions on the land market was an about-turn by the Grey ministry and would play a major role in its defeat by the 'free-traders' and its replacement by the Hall

[2458] D B Waterson, 'Sheehan, John', https://teara.govt.nz/en/biographies.
[2459] Cited Ward, *Show of Justice*, p 277.
[2460] Ward, *Show of Justice*, p 277.
[2461] *NZPD*, 1877, Vol. 24, p 316; and 1877, Vol 27, pp.230-40, cited Hearn, 'One past, many histories', p 639.

ministry.

In early 1878, a number of blocks were brought under the Government Native Land Purchases Act 1877 and the Crown's share ultimately partitioned out, or in some cases, negotiations abandoned and the block re-opened to private purchase.

Table 9.3: Lands in the Otaki and Manawatū districts proclaimed under the Government Native Land Purchases Act 1877 by 1878

Blocks	Acres	Amount advanced	Date of gazette	Date proclaimed 'waste lands' of the Crown
Manawatū-Kukutauaki 2A	12,808		7 Feb 1878	1882: 2A block
Manawatū-Kukutauaki 2B	12,808		7 Feb 1878	1881; railway reserve
Manawatū-Kukutauaki 2C	12,808		7 Feb 1878	1881; 38 acres; railway reserve
Manawatū-Kukutauaki 2D	12,808		7 Feb 1878	1881; 37 acres; railway reserve
Manawatū-Kukutauaki 2E	12,183		7 Feb 1878	1882: 2 E block
Manawatū-Kukutauaki 2G	800	£1,267.8.9	7 Feb 1878	1881: 2 G block
Manawatū-Kukutauaki 4F	260	£37.2.0	10 Jan 1878	Appears Crown abandoned negotiations
Manawatū-Kukutauaki 7F	83	£10.0.0	10 Jan 1878	
Muhunoa 1	1110	£31.9.2	10 Jan 1878	Appears Crown abandoned negotiations; subsequent extensive private purchasing from 1887 onwards

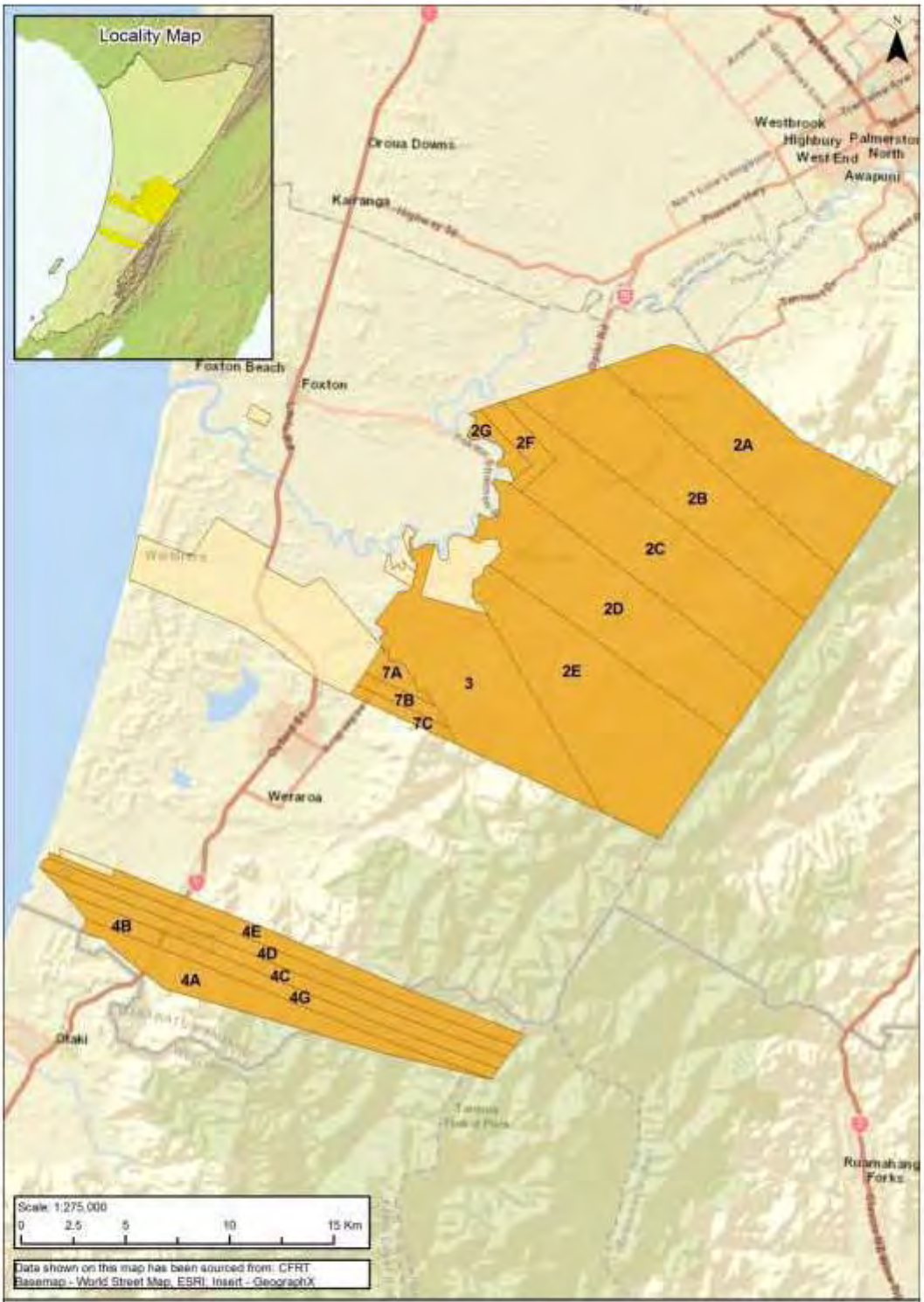
Ngakaroro 1A	4.400	£863.8.0	10 Jan 1878	1881: 1A1 block; 2837 acres
Ngakaroro 1C	300	£15.0.0	10 Jan 1878	1880: 1C block: 300 acres
Whirokino	5.410	£97.4.0	10 Jan 1878	It appears that the Crown abandoned its negotiations; partitioned in July 1885; no 2 block acquired by private purchase in 1891; no 2 block in 1902
Waha-o-te-Marangai	1,113	£143.2.0	10 Jan 1878	1885; 1A block, 120 acres
Pukehou 4	1,000	£83.0.0	10 Jan 1878	1881; part of block; 926 acres
Pukehou 5A	5,600	£30.12.9	7 Feb 1878	1881; part of block; 3,400 acres
Pukehou 5L	4,356	£25.0.0	10 Jan 1878	Appears to have been abandoned; extensive private purchasing in the block from 1887 onwards
Waihoanga 1B	460	£25.00	10 Jan 1878	1881; 480 acres
Waihoanga 1C	1,353	£45.00	10 Jan 1878	1881; 1391 acres
Waihoanga 3C	1,446	£82.0.0	10 Jan 1878	1881; 14 54 acres

Horowhenua	52,000	£1,114,16,0	7 Feb 1878	[Muaūpoko]
Ōhau 2	6,360	£39.0.0	10 Jan 1878	
Tūwhakatupua	6,231	£529.0.0	10 Jan 1878	[Rangitāne]
Aorangi Middle	7,105	£505.0.0	7 Feb 1878	[Rangitāne]
Aorangi Lower	4,925	£243.8.7	7 Feb 1878	[Rangitāne]

Source: *AJHR* 1878, C5

Although the intention had been to bring government negotiations for native lands to a close - a policy that was continued under the next ministry which we discuss more fully in chapter - finalising purchases proved more difficult than Booth or Sheehan had expected even after weeding out the more problematic negotiations, passing legislation and hiring the former advocate and agent for Maori (A McDonald) to assist in the process,. According to Richard Gill, the Native Department Under-Secretary responsible for land purchases, when giving evidence before the Railways Commission in 1880, the government still could not put settlers on much of the lands it had purchased along the west coast; a failure he attributed to delays in the operation of the Native Land Court and in getting surveys completed. According to Gill, the land had been purchased, and the owners could not repudiate the sale, but until the court issued titles and the surveys were completed, the Crown could not take full possession. Progress was also slow in the case of land that had been proclaimed as 'under negotiation'. There, progress towards completion of purchase was being impeded by the attitudes of the owners: they wanted higher prices than had been paid in the past, and they also wanted to set aside large reserves. [2462] There were complications being caused by pre-existing lease arrangements as well, while Booth's record keeping was proving less than ideal.[2463] According to Gill, about 70,000 acres between Foxton and Waikanae were affected, and because of the price being demanded, and the large areas that were being sought as reserves, only about half of the land under negotiation would eventually be purchased. [2464]

[2462] Railways Commission, Gill, 17 March 1880, *AJHR*, 1880, G-3, p 20.
[2463] See Booth to Gill, 17 August 1879, and Gill to Booth, January 1880[?], MA-MLP 1/1880/764.
[2464] Railways Commission, Gill, 17 March 1880, *AJHR*, 1880, G-3, p 20.



Crown Action and Maori Response: **Crown purchases, Manawatu-Kukutuauki blocks, to 1900**

Cartography by Geospatial Solutions Ltd. Map Number CFRT - CAMR 042 Map projection: New Zealand Transverse Mercator Date: 1/02/2018

9.11 Native Land Court and land alienation case study 1, Manawatū-Kukutuauki 1, 2 (Kahinu), 3, 7 (Ohau) and 7

The four Manawatū-Kukutauaki blocks, nos 1, 2, 3 and 7, were created by the Native Land Court in 1873. Almost all of the blocks were awarded to groups of about 10 individuals. As shown in the table below, two of the blocks were divided at their inception.[2465]

Table 9.4: Manawatū-Kukutauaki Blocks 1, 2, 3, 7

Block No.	Area (acres) [2466]	Parent Block(s)	Surveyed 1873 (acres)	Surveyed 1881 (acres)	Date of Title	Grantee	Reference
1	2076	1	2,076		13/3/1873	Ihakara Tukumaru	Otaki MB No. 1, p. 197
2	55,133.25	2A	13,086	11,421	15/4/1873	Hoani Takerei and nine others	Otaki MB No. 2, p. 67
		2B	12,980	11,966	15/4/1873	Tangaroa Te Rauhihi and nine others	Otaki MB No. 2, p. 67
		2C	12,980	11,703	15/4/1873	Henare Herekau and nine others	Otaki MB No. 2, p. 68
		2D	12,980	10,954	15/4/1873	Neri Puratahi and nine others	Otaki MB No. 2, p. 68
		2E	14,455	11,450	15/4/1873	Huru Te Hiaro and nine others	Otaki MB No. 2, p. 68
		2F	1,200	1,200	17/4/1873	[?]	
		2G	815	415	22/4/1873	Hoani Taipua	Otaki MB No. 2, p. 198
3	11,130.25	3	11,400	-		Ihakara Tukumaru and nine others	Otaki MB No. 2, p. 78
7	11,005	7A	730	-	23/4/1873	Te Oti Kerei Te Hoia and nine others	Otaki MB No. 2, pp. 89–90
		7B	730	-	23/4/1873	Hapi Te Rangitewhata and nine	Otaki MB No. 2, p. 90

[2465] Walghan Partners, 'Block Research Narratives', vol II, draft, 19 December 2017, pp. 276, 341,
[2466] Original figures as stated in minute books.

Block No.	Area (acres) [2466]	Parent Block(s)	Surveyed 1873 (acres)	Surveyed 1881 (acres)	Date of Title	Grantee	Reference
						others	
		7C	731	-	23/4/1873	Pouawha Te Manea	Otaki MB No. 2, p. 91
		7D	7,721	-	23/4/1873	'Ngatihina members whose names have been handed in'	Otaki MB No. 2, p. 91
		7E	180	-	23/4/1873	Henare Te Herekau and nine others	Otaki MB No. 2, p. 95
		7F	93	-	23/4/1873	Akapita Te Tewe and eight others	Otaki MB No. 2, p. 94
		7G	260	-	23/4/1873	Hoani Taipua and eight others	Otaki MB No. 2, pp. 95–96
		7H	559	-	23/4/1873	Roera Hūkiki and three others	Otaki MB No. 2, p. 96

The three Ōhau blocks also emerged from the Manawatū-Kukutauaki hearings in 1873 (in fact, together they were originally named Manawatū-Kukutauaki no 6).[2467]

Table 9.5: Ōhau Blocks 1, 2, 3[2468]

Block No.	Area (acres)	Grantee(s)	Reference
1	630	Natana Te Hiwi, Peina Tahipara, Atereti Taratoa, Horomiria Te Whakawhiti, Winiata Te Tarehu, Patoropa Te Ngē, Katene Rongorongo, Pirihira Koroniria, Kapararie Mahirahi, Winara Pariarua	Otaki MB No. 2, p. 111
2	6360	Hare Hemi Taharape, Hoani Huarau, Kapaiere Mahirahi, Tamati Ranapiri, Poutama,	Otaki MB No. 2, p. 173

[2467] Walghan Partners, 'Block Research Narratives', vol I, pt 1, draft,19 December 2017, p 175.
[2468] Walghan Partners, 'Block Research Narratives', vol III, unfiled draft report,19 December 2017, pp 96 – 97.

Block No.	Area (acres)	Grantee(s)	Reference
		Wehipeihana Taharape, Te Peina Tahipara, Te Hiwi Potaua, Nepia Taratoa, Rana Tapaea	
3	6,799	Hare Hemi Taharape and 55 others	Otaki MB No. 2, pp. 174–176

9.11.1 Division and alienation, 1874–1880

In July 1874, Waata Tohu, representing the owners of the Kaihinu lands (Manawatū-Kukutauaki nos 2A–2E), wrote a somewhat ambiguous note to McLean:

> Our word to you as respecting our Crown Grants for Kaihinu awarded to us by the Court which sat at Foxton, Manawatu. This is a word of ours to you. We intend to keep those Grants and hold the land permanently, we will not agree to sell, nor will we allow any person to cut a line across that land. We have entrusted Te Wata Tohu with the management of those Crown Grants, he can communicate them. If he approves of selling a portion of the said lands well and good, or if he does not, well and good. The following are the persons whose names are inserted in the Crown Grant – Wata Tohu, Wetere Taeore, Rarana Peehi, Himiona Te Rahui, Merehira Rarana.[2469]

Together, the Kaihinu blocks formed almost the entirety of Manawatū-Kukutauaki No. 2 block (which in total contained some 59,133 acres).[2470] Whether or not the owners of the Kaihinu lands did wish to sell, clearly there were plenty of others keen to exchange their lands for the Crown's money. In 1875, it was reported that almost 150,000 acres had been purchased in the Ōtaki and Manawatū districts, at a cost of £11,210 17s 3d.[2471] An additional 374,736 acres were 'under purchase', for which advance payments amounting to £13,863 10s 3d had been made.[2472] In the Waikanae district, some 20,600 acres had been purchased at a cost of £1068 2s.[2473] The average price paid was 2s 1d per acre.[2474]

Six of the blocks purchased in the district were Manawatū-Kukutauaki blocks: nos 4A, 4B (Part), 4C, 4D, 4E, and 4G. Together these comprised 15,849 acres, for which £2059 19s 1d had been paid.[2475] Parts of three of these blocks, however,

[2469] Tohu to McLean, 11 July 1874, MA-MLP1/1883/355. Waata Tohu was, in the words of Keepa Te Rangihiwinui, a 'true Muaupoko by ancestry from Wahine Mokai and Ruatapu'. – 'Minutes of Proceedings and Evidence in the Native Appellate Court', *AJHR*, 1898, sess 1, G-2A, p 147.
[2470] Walghan Partners, 'Block Research Narratives', vol II, pt II, draft, 19 December 2017, p 291
[2471] 'Statement relative to Land Purchase, North Island, Native Minister', *AJHR*, 1875, G-6, p 6.
[2472] 'Statement relative to Land Purchase, North Island, Native Minister', *AJHR*, 1875, G-6, p 6.
[2473] 'Statement relative to Land Purchase, North Island, Native Minister', *AJHR*, 1875, G-6, p 6.
[2474] 'Statement relative to Land Purchase, North Island, Native Minister', *AJHR*, 1875, G-6, p 6. This average was based on purchases in all districts in the Wellington Province.
[2475] 'Statement relative to Land Purchase, North Island, Native Minister', *AJHR*, 1875, G-6, p 15.

were later set aside as reserves under the Government Native Land Purchase Act Amendment Act 1878: 4A (650 acres), 4C (1,000 acres), and 4E (1,000 acres).[2476]

Table 9.6: Manawatū-Kukutauaki Block 4 Subdivisions

Subdivision/Partition	Area (a.r.p.)	Seller(s)	Agent	Payment	Vol. and Page No.
4A	4520.0.0	Tohutohu and others (Ngati Wehi Wehi)	J. Booth	£550.0.0	*AJHR*, 1875, Sess. I, G.-06, p. 15, *AJHR*, 1877, Sess. I, G.-07, p. 18
4C	2800.0.0	Reweti Te Kohu, Watene Te Whena, Watene Te Punga, Parakipane Te Kohu, Taurewa Te Punga, Hapurona Rongorahi, Hamiona Te Kohu, Horomona Te Whena, Karehana Te Whare, Wiremu Te Kohu	J. Booth	£400.0.0	
4D	2813.0.0	Ihaka Paha, Kipihana Riki, Hapimana Waiteti, Tuangahuru Whanganui, Ihaka Ngapari, Karepa Tehu, Mohi Kaipūhā, Iharaira Hapimana, Mākuini Karepa	J. Booth	£398.17.6	
4E	2800.0.0	Hēnare Te Hātete, Wirihani Angiangi, Ture Te Ngaroawatea, Naera Te Angiangi, Mokohiti, Piripi Te Ari, Kima Ngātawa, Reihana Te Horu, Hoani Te Puke, Erina Te Kooro	J. Booth	£420.0.0	
4G	2355.0.0	Rāwiri Te Rangitikehua and others	J. Booth	£421.17.6	
4B (Part)	561.0.0		J. Booth		

At the same time, the Crown was also negotiating for the purchase of an even greater number of the Manawatū-Kukutauaki blocks. Together these subdivisions comprised a little over 80,000 acres.

[2476] 'Land possessed by Maoris, North Island' *AJHR*, 1886, G-15, p 11. A portion of Muhunoa No. 4 (100 acres) was similarly reserved.

In addition, negotiations were also underway for Ōhau no 2, containing 6360 acres. In total, approximately £1900 had been advanced on these blocks by 1875.[2477]

Table 9.7: Manawatū-Kukutauaki and Ōhau Blocks

Subdivision/Partition	Area (a.r.p.)	Agent	Payment	Vol. and Page No.
2A	12,808.0.0	J. Booth	£1,207.18.3	*AJHR*, 1875, Sess. I, G.-06, p. 22
2B	12,808.0.0	J. Booth		
2C	12,808.0.0	J. Booth		
2D	12,808.0.0	J. Booth		
2E	12,183.0.0	J. Booth		
2F	1200.0.0	J. Booth		
2G	800.0.0	J. Booth		
3	11,500.0.0	J. Booth	£287.7.3	
4F	260.0.0	J. Booth	£37.2.0	
7A	742.0.0	J. Booth	£319.14.6	
7B	742.0.0	J. Booth		
7C	742.0.0	J. Booth		
7F	83.0.0	J. Booth		
7H	666.0.0	J. Booth	£25.0.0	
Ohau No. 2	6360.0.0	J. Booth	£19.0.0	*AJHR*, 1875, Sess. I, G.-06, p. 23

The following year, it was reported that 'fair progress' had been made in purchasing land from Māori in the Wellington province as a whole, although there remained almost 700,000 acres under negotiation (for either purchase or lease), including the Manawatū-Kukutauaki blocks previously referred to.[2478]

Purchase of Kahinu continued to prove elusive, with negotiations and payments being made to Rangitane on both sides of the Tararua ranges and to Ngati Whakatere in these years. In April 1876, Wetere Taeore and other owners of the Kaihinu blocks wrote to McLean to reiterate that Waata Tohu had been entrusted by them to protect their interests in that land:

> Greetings. This is our word to you respecting our Grants at Kaihinu, as we are desirous that you should be informed of the person that we have appointed to manage matters connected with those Grants, and to utter all our words regarding them. And this then is

[2477] 'Statement relative to Land Purchase, North Island, Native Minister', *AJHR*, 1875, G-6, p 22.
[2478] 'Statement relative to Land Purchase, North Island, Native Minister', *AJHR*, 1876, G-10, p 3.

> our word, let these Grants be for a permanent estate for us in the Kaihinu block. Friend, we have absolutely appointed the person who is to act in the matter of these Grants. The name of that person is Wata Tohu.[2479]

It appears that this letter rather flummoxed Clarke, as he sent it to Booth for an explanation. 'I am quite at sea,' he told Booth, 'as to what lands this letter refers to.'[2480] Booth's response shed the minimal light necessary – the lands were 'certain lands near Manawatū' – but it satisfied Clarke, who undertook to leave the matter in Booth's hands.[2481]

It seems, however, that there was some contention among the owners of the Kaihinu blocks as to who was to be responsible for them. Shortly before Booth had enlightened Clarke concerning these blocks, a number of owners had written to Clarke in a manner that suggested Waata Tohu did not have everyone's support:

> Friend, salutations. This our word to you is in reference to Crown Grants belonging to me and my relatives living at Kaihinu near Foxton. We want to do what we like with our own Grants and the persons who make this request are the ones whose names are in the Grants (viz) – Nireaha Tamaki, Kuru Te Hearo, Maraea Te Hungatai, Rea Noko, Ani Marakaia, Tungare Patoromu, Mikaera Te Rangipuatara, Patoromu Te Kaka.
>
> These are the people in the Grants of those pieces, and this request to you, that some arrangement may be made about our Grants, and if we feel inclined to sell, we can do so, or to keep it, we can do either, or even a portion of it. All this can we do when we get our Crown Grants. Enough.[2482]

Indeed, it seems that some at least wished to sell their lands, for in the spring of 1876, an approach was made to Booth for precisely that purpose. Clarke, however, was concerned that the letter offering the lands for sale and the supposed signatures of the owners were all in the same hand-writing – 'If I mistake not, in the hand of Wata Tohu himself.'[2483] Booth assured Clarke that he had already told Waata Tohu and the 'Tutaekara natives' that no purchase moneys would be paid until he had received 'the signature of each individual native to the Deed'.[2484]

While any possible purchase of the Kaihinu blocks remained solely in the realms of possibility, the purchases of other Manawatū-Kukutauaki subdivisions were all completed in 1877.[2485] Together these blocks comprised just under 11,000 acres, for which the Crown paid approximately £2010.[2486]

[2479] Taeore and others to McLean, 29 April 1876, MA-MLP1/1883/355.
[2480] Clarke to Booth, 14 July 1876, MA-MLP1/1883/355.
[2481] Booth to Clarke, 17 July 1876; Clarke to Booth, 18 July 1876, MA-MLP1/1883/355.
[2482] Neraeha Tamaki and others to Clarke, 10 July 1876, MA-MLP1/1883/355.
[2483] Clarke to Booth, 18 September 1876, MA-MLP1/1883/355.
[2484] Booth to Clarke, 28 September 1876, MA-MLP1/1883/355.
[2485] 'Lands purchased and leased from Natives in North Island', *AJHR*, 1877, C-6, p 7.
[2486] 'Lands purchased and leased from Natives in North Island', *AJHR*, 1877, C-6, p 7.

Table 9.8: Manawatū-Kukutauaki Block Purchases 1877

Subdivision /Partition	Area (a.r.p.)	Seller(s)	Agent	Payment	Vol. and Page No.
2F	1200.0.0	Hoani Taipua, Hiria Taipua, Te Moroati Kiharoa, Hemi Warena, Hoani Taipua, Matenga Te Moroati, Areta Te Uira, Hema Te Ao, Wirihana Ahuta, Kipa Te Whatanui	Booth	£300.0.0	*AJHR*, 1877, Sess. I, C.-06, p. 7
3 (Part)	7400.0.0	Ihakara Tukumaru, Hairuha Te Hiwi, Kereopa Tukumaru, Tariuha Te Arawai, Ereni Hutana, Hohepa Te Hana, Renata Te Roherohe, Ropata Te Ahua, Natana Pipito, Patihona	Booth	£876.17. 6	
7A	742.0.0	Te Oti Kerei Te Hoia, Henare Koronapata, Tāmihana Te Hoia, Manahi Huia, Te Popo, Nepia Te Rau, Pia Te Whakaraki, Hita Hamene, Moihi Te Humu	Booth	£278.0.0	
7B	742.0.0	Hapi Te Rangitewhata, Te Karaka, Hakaria Te Wera, Te Matene Te Karaka, Karepa Te Kapukai, Maikara Taia, Poui Wahio Hakaria, Poni Wahio Te Rakumia, Karanama Te Kapukai, Witarihana Rupuha	Booth	£278.0.0	
7C	742.0.0	Pouawha Te Manea, Kiriona Tuhere, Kereama Pita, Hohaia Te Pahau, Te Hemara, Ngatio, Mihipeka, Tamara Te Hape, Hare Tamana	Booth	£278.0.0	

As noted in the table above, some 7400 acres of Manawatū-Kukutauaki no 3 were purchased at this time. This left around 4,000 acres in Māori ownership, known initially as 'Ihakara's Reserve'.[2487]

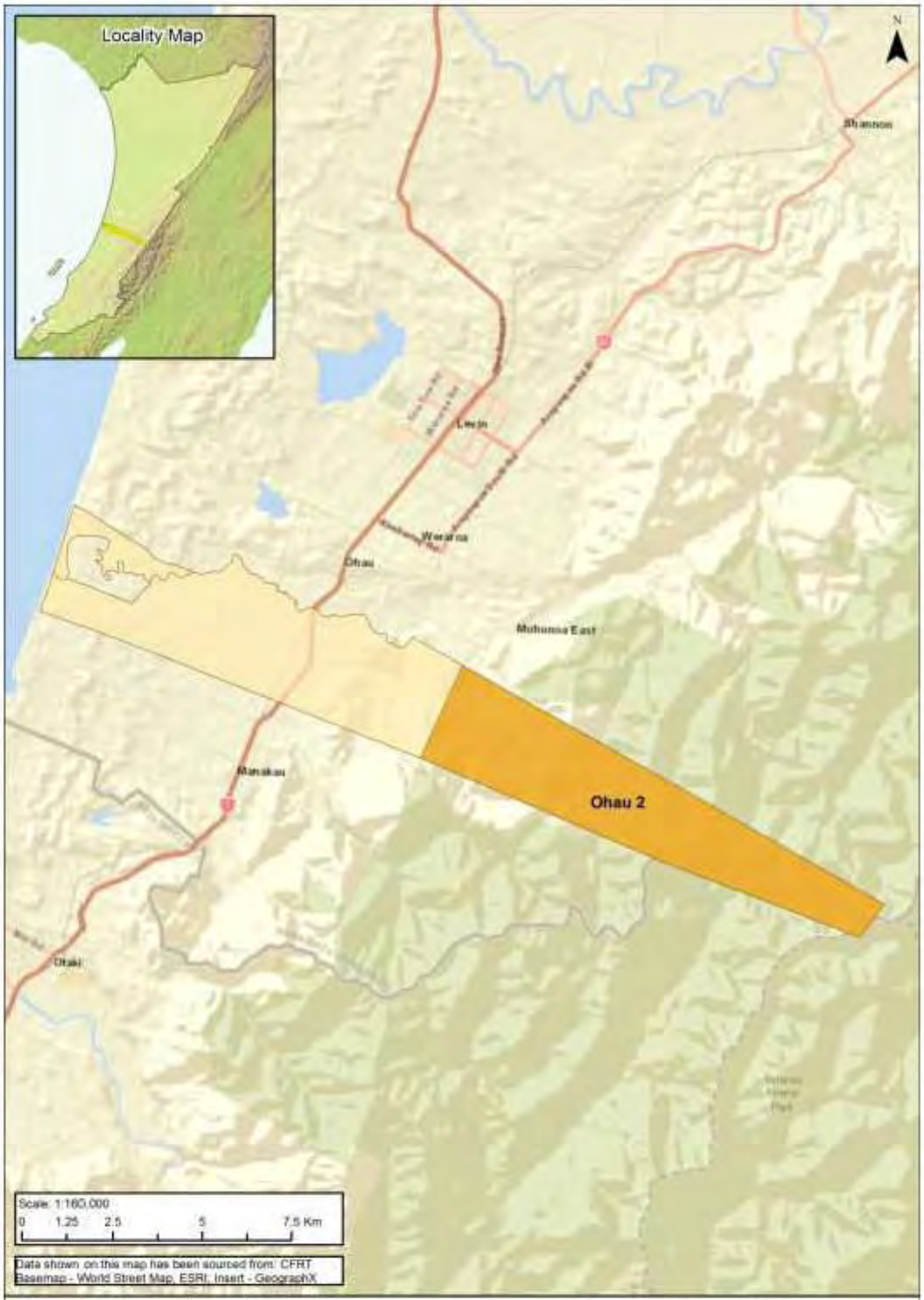
(We briefly note here that subsequently, in 1889, a partition of 1000 acres was removed from the reserve as Manawatū-Kukutauaki no 3 sect 2 – it was itself then further subdivided into five parts.[2488] Another part was removed from the main reserve five years later – this was named 3 sect 1B, while the remainder of the reserve became no 3 sect 1A (2,644 3/4 acres).[2489] In 1898, what was left of the reserve was then massively subdivided, carved up into 46 new sections, ranging in size from 5 to 50 acres. The bulk was awarded to, at most, three

[2487] Walghan Partners, 'Block Research Narratives', vol II, pt II, draft, 19 December 2017, p 293.
[2488] Walghan Partners, 'Block Research Narratives', vol I, draft, 19 December 2017, p 97.
[2489] Walghan Partners, 'Block Research Narratives', vol I, draft, 19 December 2017, p 97.

owners.[2490] Of these new sections, some 17 were purchased by Percy Baldwin, and another two were purchased by John Boyd; together these private purchases amounted to a little over 812 acres (or 20.3 per cent of the reserve. Combined with the land purchased by the Crown, this left just 2758 acres (24.8 per cent) of Manawatū-Kukutauaki no. 3 in Māori ownership by 1900.[2491])

In the meantime, the Kaihinu blocks, along with Ōhau no 2 remained under negotiation. In total, this amounted to 70,575 acres, for which advance payments of a little over £1000 had been made. It was estimated that a further £7500 would be required to complete these purchases.[2492] Booth was not, however, entirely sanguine about the prospects for completing the purchase of the Kaihinu blocks. Although individual owners who had earlier signed preliminary deeds of sale were, he said, 'quite willing' to complete the sale, there were other owners who had 'thwarted all attempts at settlement by absenting themselves from the several meetings' that Booth had called.[2493] These others, Booth suggested, had 'identified themselves with the Repudiation party on the East Coast'.[2494] Still, there was some cause for optimism: it was hoped a meeting would shortly be held at which Booth intended to propose making reserves of 4000 acres in each of the five blocks. Were this proposal to be accepted, Booth said, he was reasonably certain that the remainder of the blocks could then be purchased.[2495]

[2490] Walghan Partners, 'Block Research Narratives', vol I, draft, 19 December 2017, p 97.
[2491] Walghan Partners, 'Block Research Narratives', vol I, draft, 19 December 2017, p 98.
[2492] Booth to Under Secretary, Native Department, 28 June 1877, *AJHR*, 1877, G-7, p 20.
[2493] Booth to Under Secretary, Native Department, 28 June 1877, *AJHR*, 1877, G-7, p 20.
[2494] Booth to Under Secretary, Native Department, 28 June 1877, *AJHR*, 1877, G-7, p 20. The recalcitrance of the Māori owners was not the only obstacle Booth drew attention to – he lamented that he was being asked to do too many things at once, which had 'interfered very materially with purely land-purchasing operations' (*AJHR*, 1877, G-7, p 17). Perhaps it was because of overwork that Booth failed to complete the deed for Manawatū-Kukutauaki 7G correctly (he had signed his own name in the place in which the Resident Magistrate ought to have signed, nor had he filled in the schedule). – Gill to Booth, 9 June 1877, MA-MLP 3/2 1876–1879.
[2495] Booth to Under Secretary, Native Department, 28 June 1877, *AJHR*, 1877, G-7, p 20.



Crown Action and Maori Response: **Crown purchases, Ohau blocks, to 1900**

Cartography by Geospatial Solutions Ltd. Map Number CFRT - CAMR 043 Map projection: New Zealand Transverse Mercator. Date: 1/02/2018

Table 9.9: Kaihinu and Ōhau 2 Block Purchases 1877

Subdivision/ Partition	Area (a.r.p.)	Agent	Payments to Date	Probable Remaining Payments	Vol. and Page No.
2A	12,808.0.0	Booth	£200.11.9	£1,299.8.3	*AJHR*, 1877, Sess. I, G.-07, p. 20
2B	12,808.0.0	Booth	£204.0.0	£1,296.0.0	
2C	12,808.0.0	Booth	£175.0.0	£1,335.0.0	
2D	12,808.0.0	Booth	£192.11.9	£1,307.8.3	
2E	12,183.0.0	Booth	£199.0.0	£1,301.0.0	
2G	800.0.0	Booth	£67.4.6	£100.0.0	
Ohau No. 2	6,360.0.0	Booth	£39.0.0	£800.0.0	

Booth also noted that there were two small blocks for which negotiations had been commenced but which were unlikely to be completed. The 10 owners of Manawatū-Kukutauaki no 7F (a block of just 83 acres) were mostly 'absent at Tauranga and Waikato'.[2496] The slightly larger no 4F block (260 acres) was owned by 'half-castes by name of Ransfield', and they were 'anxious to refund the amount of advance' as they were now leasing the adjoining block for a sheep run.[2497]

Table 9.10: Manawatū-Kukutauaki 7F and 4F Block Purchases

Subdivision/ Partition	Area (a.r.p.)	Agent	Payments to Date	Vol. and Page No.
7F	83.0.0	Booth	£19.0.0	*AJHR*, 1877, Sess. I, G.-07, p. 21
4F	260.0.0	Booth	£37.2.0	

It is noteworthy that around this time the Trust Commissioner, Heaphy, submitted a memorandum expressing some concern regarding the reliability of statements from owners as to their willingness to sell:

> It would much facilitate and hasten the passing of deeds of cession by the Trust Commissioner if the vendors or some of them at the time of the execution of the deed were to write a note addressed to him stating in their own words the circumstances of the sale, their agreement, their receipt of consideration money, the extent of reserves, if any, within the purchase and a statement that the original plan of the deed showed the land correctly. The letter might be witnessed by the attestor of the deed.

[2496] Booth to Under Secretary, Native Department, 28 June 1877, *AJHR*, 1877, G-7, p 21.
[2497] Booth to Under Secretary, Native Department, 28 June 1877, *AJHR*, 1877, G-7, p 21.

> I am aware that a lawyer might say that the letter would contain nothing but what the deed already contains and that in more exact language. But it would be more entirely the act of the natives, not being a formal paper prepared beforehand and requiring merely their signatures, as the deed frequently does, and it would form a valuable corroborative [?] in the future of the bona fides of the deed and the purchase.
>
> There is generally considerable difficulty in obtaining the evidence of the vendors. I visit the large towns such as Wanganui, Carlyle, Marton, Greytown and Masterton periodically but even then find that I must go to the native villages and even to [?] cultivations if I [?] get the evidence orally[?].[2498]

Negotiations for the Kaihinu blocks, along with those for Manawatū-Kukutauaki no 2G and Ohau no 2, continued for several more years. In the meantime, even if the Crown was struggling to complete its purchases, others were more successful: in March 1878, Robert Hart and Patrick Buckley purchased Manawatū-Kukutauaki no 1 (2076 acres);[2499] and in July 1879, Robert Ransfield purchased Ohau no 3B (250 acres).[2500]

In 1879, Booth was able to report that the purchase of no 2G (or at least part of it) and Ōhau no 2 had finally been completed, giving the Crown a further swathe of land amounting to almost 10,000 acres.[2501] (Ōhau no 2 would later be transferred to the Wellington & Manawatū Railway Company.[2502])At the same time, Booth was also, seemingly, having some difficulty in keeping an accurate track of the various blocks he was dealing with. In August 1879, the Under-Secretary drew Booth's attention to the fact that his annual return showed one of the Manawatū-Kukutauaki blocks to be an 'incomplete transaction', when in fact, to the best of Gill's knowledge, the transaction had been completed 'some time back'.[2503]

Table 9.11: Manawatū-Kukutauaki 2G and Ōhau 2 Block Purchases

Subdivision/ Partition	Area (a.r.p.)	Seller(s)	Agent	Payment	Vol. and Page No.
2G (Part)	400.0.0	Hoani Taipua	Booth	£270.0.0	AJHR, 1879, Sess. II, C.-04, p. 8
Ohau 2	6,360.0.0	-	Booth	£914.0.0	AJHR, 1879, Sess. II, C.-04, p. 9

[2498] Trust Commissioner, n.d. [1877], MA-MLP 3/2 1876–1879.
[2499] Walghan Partners, 'Block Research Narratives', vol II, draft, 19 December 2017, p 274.
[2500] Walghan Partners, 'Block Research Narratives', vol III, draft, 19 December 2017. p 125.
[2501] 'Lands purchased and leased from Natives in North Island', *AJHR*, 1879, sess II, C-4, pp 8-9.
[2502] Walghan Partners, 'Block Research Narratives', vol III, draft, 19 December 2017, p 103
[2503] Gill to Booth, 2 August 1879, MA-MLP 3/2 1876–1879.

In early May 1880, with the Kaihinu purchases still unresolved, Booth telegraphed Gill to report that he had 'arranged with natives to hold a meeting at Manawatū on tenth inst. re final purchase of Kaihinu or M K Nos. 2A, 2B, 2C, 2D and 2E'.[2504] To facilitate the purchases, Booth asked if he could 'get money through quickly'.[2505] Also around this time, the process of carving the Manawatū-Kukutauaki blocks into ever smaller parts continued, with 7D being divided into three parts, ranging in size from 2221 to 3100 acres with multiple owners in each. 7D3 was sold to a private purchaser in 1885. The 7D1 and 7D2 blocks were further divided into 12 sections (1894) and 5 partitions (1885) respectively. There would be 3 further partitions in 7D2 before 1900.[2506]

Whether or not Booth received the funds he had requested is not clear. However, at the end of May, Gill wrote to Booth to ask about progress:

> From a telegram received from you on the 3rd inst. you stated that arrangements had been made with natives to hold a meeting at Manawatu on the 10th re the final purchase of the Kaihinu or Manawatu Kukutauaki Blocks. Will you be good enough to report the result of this meeting and note when these purchases will be completed for the information of the Hon. the Native Minister.[2507]

The response from Booth came in early July in the form of a lengthy letter. But before he heard from Booth, Gill received word from Marchant, Deputy Inspector of Surveys, that. 'I have the honour to inform you,' wrote Marchant, 'that Mr H. O. Palmerson's Manawatu survey has been stopped by Natives.'[2508] He had contacted Booth, who had assured him he would go to the surveyor's assistance, just as soon as he could 'get away' from the Native Land Court, then sitting at Marton.[2509] Gill sent a scrawled note to Marchant the next day, asking him which blocks it was that Palmerson was attempting to survey.[2510] Marchant replied, 'The blocks are Manawatu Kukutauaki 2A, 2B, 2C, 2D, 2E, 2F, and 2G, also No. 3, 7A, 7B, 7C Tuwhakatupua and Totara No. 3.'[2511]

And then, in early July, Gill received Booth's letter:

> I have the honour herewith to forward a Tracing of the several Blocks of land known as Manawatu-Kukutauaki No's 2A, 2B, 2C, 2D and 2E.
>
> It will be seen that the surveyed areas of the several Blocks are larger than the estimated areas.
>
> The tracing shews the proposed boundary line of the Reserves together with the acreage of each proposed Reserve.

[2504] Booth to Gill, 3 May 1880, MA-MLP1/1883/355.
[2505] Booth to Gill, 3 May 1880, MA-MLP1/1883/355.
[2506] Walghan Partners, 'Block Research Narratives', vol I, draft, 19 December 2017, p 103.
[2507] Gill to Booth, 28 May 1880, MA-MLP1/1883/355.
[2508] Marchant to Gill, 18 June 1880, MA-MLP1/1883/355.
[2509] Marchant to Gill, 18 June 1880, MA-MLP1/1883/355.
[2510] Gill to Marchant, 19 June 1880, MA-MLP1/1883/355.
[2511] Marchant to Gill, 19 June 1880, MA-MLP1/1883/355.

It shews also the inland boundary of the large swamp, it will be perceived that about one half of the land proposed to be reserved is swamp.

The natives state that their reason for interrupting the survey was that they were under the impression that instead of following along the crest of the first range of hills the line had been brought much lower down towards the swamp, and that consequently there would have been very little available land left at their own disposal.

I was assured by Mr Palmerson Surveyor who went with me to Moutoa on Friday 2nd that the line goes very near the crest of the first low range. The Natives however determined to go and see for themselves. If the Boundary line has to be shifted to run in a straight line between Arapaepae and Kaihinu it will make a difference of between 2000 and 3000 acres over the whole five Blocks.

I learn from the Surveyors that there is some very good land between the first and second Ranges. More especially at the northern end towards Fitzherbert. Towards the south the land is much broken.

Taking the land as a whole it is of fair average quality excepting towards Tararua at the south end.

The proposed price for this land as shown in my returns is 5/- an acre.

I herewith forward a schedule of advances which have been made. The largest amounts you will see were paid by the Provincial Govt. of Wellington through Mr Grindell before the Block was subdivided into five portions by the Native Land Court.

As soon as the Natives are satisfied as to the correctness of the Surveyors' line they will be prepared to complete the sale to Govt.[2512]

The schedule of advances referred to by Booth contained the following:

Table 9.12: Manawatū-Kukutauaki 2A

Date	Owner(s)	Agent	Amount (£)	Additional comments
To 24 April 1873	Hoani Takerei and others	Grindell	129.0.0	Estimated area 12,808. Surveyed area 12,816. Proposed area of reserve 5500.
27 June 1873	Hemi Warena	Booth	10.0.0	
18 Nov 1873	Hemi Warena	Booth	3.11.9	
15 Dec 1873	Hemi Warena	Booth	11.0.0	
15 May 1875	Hemi Warena	Booth	10.0.0	
13 March 1876	Raukohe Tupe, Kareta Te Rota	Booth	20.0.0	
13 April 1876	Hemi Warena	Booth	10.0.0	
31 May 1876	Hemi Warena	Booth	7.0.0	

Table 9.13: Manawatū-Kukutauaki 2B

Date	Owner(s)	Agent	Amount (£)	Additional comments
To 24 April 1873	Tangaroa Te Rauhīhī and others	Grindell	129.0.0	Estimated area 12,808. Surveyed area 12,852. Proposed area of reserve 6063.
23 June 1873	Tangaroa Te	Booth	15.0.0	

[2512] Booth to Gill, 8 July 1880, MA-MLP1/1883/355.

Date	Owner(s)	Agent	Amount (£)	Additional comments
	Rauhīhī and others			
22 June 1875	Wī Katene Te Wahapiro	Booth	10.0.0	
10 Nov 1875	Wī Katene Te Wahapiro	Booth	2.0.0	
16 Nov 1875	Tangaroa Te Rauhīhī	Booth	5.0.0	
5 Feb 1876	Wī Katene Te Wahapiro	Booth	2.0.0	
4 April 1876	Nireaha Tamaki	Booth	20.0.0	
25 April 1876	Wī Kātene Te Wahapiro	Booth	6.0.0	
18 Dec. 1876	Wī Kātene Te Wahapiro	Booth	8.0.0	

Table 9.14: Manawatū-Kukutauaki 2C

Date	Owner(s)	Agent	Amount (£)	Additional comments
To 24 April 1873	Henare Te Herekau and others Ngati Whakatere)	Grindell	129.0.0	Estimated area 12,808. Surveyed area 12,852. Proposed area of reserve 5340.
1 Aug 1873	Pipi Takerei	Booth	15.0.0	
12 Dec 1873	Henare Te Herekau	Booth	10.0.0	
13 Dec 1873	Pipi Takerei	Booth	10.0.0	
19 May 1875	Poanake Te Momo	Booth	1.0.0	
18(?) April 1876	Pipi Takerei	Booth	10.0.0	

Table 9.15: Manawatū-Kukutauaki 2D

Date	Owner(s)	Agent	Amount (£)	Additional comments
To 24 April 1873	Neri Puratahi and others (Ngati Whakatere)	Grindell	129.0.0	Estimated area 12,808. Surveyed area 12,852. Proposed area of reserve 4,276.
5 July 1873	Nerehana Te Whare	Booth	1.0.0	
5 Sept 1873	Nerehana Te Whare, Renata Te Whare	Booth	5.0.0	
19 Nov 1873	Hanatia Te Whare	Booth	3.11.9	
8 Dec 1873	Nerehana Te Whare	Booth	1.0.0	

Date	Owner(s)	Agent	Amount (£)	Additional comments
21 June 1875	Waata Tohu Tamatea	Booth	18.12.0	
16 Nov 1875	Henare Te Huru	Booth	5.0.0	
7 Feb 1876	Tamatea Tohu	Booth	7.8.0	
2 June 1876	Ria Herekau	Booth	15.0.0	
2 June 1876	Waata Tohu	Booth	2.0.0	
25 Mar 1879	Ria Herekau	Booth	15.0.0	

Table 9.16: Manawatū-Kukutauaki 2E

Date	Owner(s)	Agent	Amount (£)	Additional comments
To 24 April 1873	Huru Te Hiare (Rangitane) and others	Grindell	121.0.0	Estimated area 12,183. Surveyed area 13,300. Proposed area of reserve 4064.
23 June 1873	Hue Te Huri	Grindell	12.0.0	
22 July 1873	Nopera Te Harekau	Booth	3.0.0	
8 Sept 1873	Nopera Te Harekau	Booth	- - - [2513]	
8 Dec 1873	Nopera Te Harekau	Booth	2.0.0	
23 June 1875	Nopera Te Harekau	Booth	2.0.0	
13 Mar 1876	Hue Te Huri	Booth	10.0.0	
4 April 1876	Ani Marakaia	Booth	20.0.0	
31 May 1876	Nopera Te Herekau, Ruta Karipi	Booth	2.0.0	
26 July 1876	Nopera Te Herekau	Booth	12.0.0	

On 20 July 1880, Marchant, the Deputy Inspector of Surveys, sent an urgent message to Gill, conveying the news that the surveying had been 'stopped again by Maoris'.[2514] He then asked if perhaps Booth 'might explain where the obstruction' had taken place, and whether or not they could do without a survey at that point.[2515] Gill immediately wrote off to Booth, reporting what Marchant had told him.[2516] He noted, with a degree of dismay, that the efforts to purchase the land in question had been going on for eight years, and yet still seemed 'as far

[2513] There is some confusion here. There are only nine, rather than 10, entries in the 'Amount' column. Although impossible to state with certainty, it appears that it is the entry for 8 September 1873 that is missing.
[2514] Marchant to Gill, 20 July 1880, MA-MLP1/1883/355.
[2515] Marchant to Gill, 20 July 1880, MA-MLP1/1883/355.
[2516] Gill to Booth, 20 July 1880, MA-MLP1/1883/355.

from being completed as ever'.[2517] 'Be good enough,' he concluded, 'to send a report of these purchases and the nature of the present obstruction'.[2518]

In mid-August, presumably with a view to reducing the burden of the over-worked Booth and to take advantage of his intimate knowledge of the district and seems not to have been precluded by his connections with Ngati Kauwhata in particular. Among the tasks with which McDonald was charged was completion of the Kaihinu purchases. So, in effect, the agent who had been working on behalf of Maori based at Oroua in their fight to get a fair deal was now in the government's pay or working on commission. (It is not clear which.) In the instructions he gave to Alexander, Gill included an overview of what had led them to the present situation:

> These lands when first negotiated for by Mr Booth were supposed to contain each twelve thousand eight hundred and eight acres, and for a time it was expected to purchase the whole area, difficulties arose, and Mr Booth in 1877 reported "I propose making reserves amounting to four thousand acres in each block or twenty thousand acres in the whole, and I estimate if this proposal be agreed to by the grantees that the rest of the land within the five blocks could be purchased for three shillings and sixpence per acre".
>
> This proposition was not carried out, and it is only within the last month that anything definite as to the acreage to be purchased has been arrived at. It now appears from actual survey that the five blocks contain sixty four thousand six hundred and seventy two acres, out of this is reserved twenty four thousand seven hundred and eight acres, leaving to be purchased thirty nine thousand nine hundred and sixty four acres.
>
> The tracing shews clearly these divisions.
>
> It will be necessary for you to go over this land and judge as to the value of the land reserved against that now proposed to be purchased, when doing [*indecipherable*] the question as to whether an effort should not be made to purchase the whole sixty four thousand six hundred and seventy two acres may arise, and should you think it advisable to do so you will please at once communicate with this office.
>
> The tracing also shows the position of the Tuwhakatupua block, six thousand and twenty acres, under purchase by the Government, this land you will also be good enough to visit and take over the completion of the purchase.
>
> The price to be paid for these lands was limited to from two shillings and sixpence to five shillings per acre, and this must not be increased without first obtaining the approval of the Hon. the Native Minister.
>
> You will have received this time from Mr Booth lists of owners in each of the pieces of land mentioned in this letter, as determined by the Native Land Court, also a schedule of payments made on each block, and to whom, should you require any further information be good enough to write and it shall be forwarded you by first mail.[2519]

McDonald acknowledged receipt of Gill's instructions just over a week later.[2520] He confirmed, also, that he had received the 'lists of owners and a schedule of

[2517] Gill to Booth, 20 July 1880, MA-MLP1/1883/355.
[2518] Gill to Booth, 20 July 1880, MA-MLP1/1883/355.
[2519] Gill to McDonald, 14 August 1880, MA-MLP1/1883/355.
[2520] McDonald to Gill, 23 August 1880, MA-MLP1/1883/355.

payments' from Booth.[2521] 'I will at once,' he assured the Under-Secretary, 'proceed to comply with these instructions and confine myself to the limits indicated.'[2522] Three days later, McDonald wrote again to Gill, this time at some length:

> I have the honor to report to you that in accordance with your instructions I have had an interview with Ngatihakatere at Poutu re Manawatu-Kukutauaki Nos. 2A, 2B, 2C, 2D and 2D. I think the negotiation may be concluded satisfactorily but there is no doubt the owners are just now in a high state of irritation, doubt and suspicion. We ultimately agreed to send specially for some of the owners (Rangitane) who live over on the Wairarapa side of the mountains and to have a general meeting and talk on the 15th Sept. next.
>
> For this meeting I shall want full and accurate information as to past proceedings, for it will not do for me to make assertions which I cannot prove. Will you therefore please to forward to me as soon as possible receipts for the amounts paid by Mr Booth and Mr Grindell on account of these Blocks. Also any letters of the owners you may have. Is there any Deed? If so, please forward it.
>
> I find that the Maoris now assert in the most positive manner –
>
> 1st. That they never at any time proposed to sell the whole Block, nor the whole of any one or more of the divisional Blocks marked A, B, C, D and E.
>
> 2nd. That there was no price per acre stipulated.
>
> 3rd. That what they did propose to sell was clearly indicated by certain Trig Stations and Hills.
>
> 4th. That Mr Booth has caused a boundary line to be cut in spite of their objections and altogether in a different line to that to which they and he had verbally agreed.
>
> 5th. That they have not received all the sums shewn in Mr Booth's list of payments on a/c of these Blocks.
>
> On all these points it will be necessary that I have complete evidence otherwise it will be difficult to establish any claim founded upon them by the Govt.
>
> Beyond that I do not know that anything more can be done as regards these Blocks until after the 15th of next month when I hope to make some progress.
>
> In the meantime I shall proceed to Otaki with Moroati Kiharoa, who hitherto has been the chief objector in the negotiation for Ngakaroro No. 1A.[2523]

The meeting promised for 15 September duly took place, and a week later McDonald reported on the outcome to Gill, describing the on-going influence of tribal tensions, the width of the gap between Maori expectations as to price and Crown willingness to pay, an adjustment of boundaries meaning loss of cultivations, and, ultimately, the individualisation of any lands left in Maori hands:

[2521] McDonald to Gill, 23 August 1880, MA-MLP1/1883/355.
[2522] McDonald to Gill, 23 August 1880, MA-MLP1/1883/355.
[2523] McDonald to Gill, 26 August 1880, MA-MLP1/1883/355.

… I have the honor to report that I have had a nearly full meeting of the owners, at which meeting it appeared –

That, for various intertribal reasons the owners desire to sell, in the first place, a part of the whole area comprised within the above named Blocks. After that the Govt. will be asked to assist or facilitate the subdivision of the part reserved, so that certain portions shall finally be reserved for particular individuals, and the rest will be sold.

On the 2nd point (boundary) it appeared that a line following the summit of a certain range of hills had actually been agreed upon between Mr R. Booth and the Maoris, whereas the line recently cut by Mr Palmerson deviated considerably from the line so agreed upon. Mr R. Booth himself told me that he had expressly agreed to the line by the summit of the range. On the other hand it is only fair to state that Mr Palmerson says he had the authority of Mr R. Booth for cutting the existing line. It was ultimately agreed between myself and the Maoris to drop both lines, and adopt a new one, being an absolutely straight line from Arapaepae No. 3 Trig station, through Kaihinu Trig station, on to the boundary of the Crown Land. The adoption of the new boundary avoids the expense of actually cutting the line as the areas can be calculated accurately from the Trig stations.

On the 3rd point (price) the idea of the natives was simply preposterous, and I would make them no offer, stating merely that the Govt would not give the prices asked. Sixpence by sixpence and at last penny by penny they came down to 5/ per acre. At that point they brought forward a new argument, viz. that they had been offered that price by Mr J. Booth. I replied "Well, if Mr Booth offered you that price you should have taken it. I am not authorized to give that price["]. As, however, it seemed to me probable that this price had been offered for the land defined by the line on the summit of the range, agreed to by Mr Booth, I did not think it well to do more just then, than say I would refer the matter to you. I beg to enclose copy of a memo addressed to me by Mr Booth on the subject.

On the 4th point, there are only 4 of the original owners deceased and there appears to be no difficulty whatever about their successors. I have posted applications to the N.L. Court.

On the 5th point I have arranged to go the day after tomorrow to various points from which, I am informed, the whole area in question may be seen. Two fine days I am told will be sufficient for this purpose, but as the weather is very broken I may be a week absent.

On the whole my impression from what I have seen of the Block is that the changing of the line from that cut by Mr Palmerson to the straight line now proposed makes no difference in the value per acre; except only that the former would bring the Purchase a little nearer the proposed Road or Railway line. The land taken in by Mr Palmerson's line is, in itself, neither better nor worse than the remainder. The objection of the Maoris to it is simply that it includes some cultivations which will be a subject of keen contention among themselves.

As to the price (5/ per acre) asked, it is for the Govt. rather than for me to say whether if, as alleged, a positive offer has been made to the Maoris, it should or should not be satisfied.

> May I ask you to be so good as to address any instructions you may have to give me within the next week to Foxton.[2524]

McDonald included with the above letter a shorter note to Gill in which he informed him that Huru Te Hiaro – 'for his own part, and on behalf of a considerable section of his people (Rangitāne)' – had indicated that he was 'anxious to come to some final settlement with the Govt not only as to their claims in Kaihinu, but also in several other Blocks on the Napier and Wairarapa side of the Tararua and Ruahine ranges'.[2525] He had, McDonald told Gill, offered Te Hiaro no advice in this regard, having no authority to do so.[2526]

McDonald's pen continued to be busy. Again he wrote to Gill, this time on the issue of advances made to Rangitāne:

> I wired to you on the 21st inst. that Huru Te Hiaro and his nephew Nireaha Tamaki had asked for an advance of £141.12.6 on their shares in the Kaihunu Blocks + for the purchase of which I had instructions from you. On the same day I received a reply (Telegram) from Mr Sheridan to the effect that the system of making advances to native owners had been for some time stopped. I regret that I had not been made aware of this change of system, because as I thought it the usual custom I had absolutely promised to get the money for Huru to enable him and his people to return home from the meeting. I therefore, in order to keep my own promise, have paid him the money, and I enclose the receipts. In case you cannot or will not, under the new rule, allow the payments may I ask you to be good enough to return the receipts to me. May I also ask you to be good enough to give me specific instructions as to advances; because it seems to me that it will be always difficult or impossible to negotiate the purchase of lands held in individual and undefined shares by [*remainder of letter not on file*].[2527]

Gill then forwarded McDonald's letter to the Native Minister, along with the comment that 'the rule that no payments be made other than final ones and on conveyances being signed works well and should not be disturbed'.[2528] In the event, he said, that a special reason might arise that required an advance, then permission to grant it ought first to be obtained.[2529] To all this, the Minister gave his approval.[2530] Finally, Gill recorded in a file note that he had met with McDonald, who now understood that such advances were not to be made without the permission of the Native Minister. The receipts for the advances to Huru Te Hiaro were withdrawn.[2531]

[2524] McDonald to Gill, 22 September 1880, MA-MLP1/1883/355. In his memorandum to McDonald, referred to in the latter's letter to Gill, Booth states that the 'price per acre I was authorized to give was five shillings'. – Booth to McDonald, 28 July 1880, MA-MLP1/1883/355.
[2525] McDonald to Gill, 23 September 1880, MA-MLP1/1883/355.
[2526] McDonald to Gill, 23 September 1880, MA-MLP1/1883/355.
[2527] McDonald to Gill, 23 September 1880, MA-MLP1/1883/355.
[2528] Gill to Native Minister, 6 October 1880, MA-MLP1/1883/355.
[2529] Gill to Native Minister, 6 October 1880, MA-MLP1/1883/355.
[2530] Native Minister to Gill, 9 October 1880, MA-MLP1/1883/355.
[2531] Gill, File Note, 18 October 1880, MA-MLP1/1883/355.

A few days after meeting with Gill in Wellington, McDonald – once more at Foxton – wrote to say that yet further complications with respect to Kaihinu may have arisen:

> I have the honor to report for your information that I unexpectedly received an urgent message from Huru Te Hiaro to go to him and thought it right to do so. It turned out that Peeti Te Awe Awe had uttered violent threats against him in reference to the Kaihinu Blocks, and Huru wanted to be assured that I would not open any negotiation with or otherwise countenance Peeti's claim. Of course, Peeti's name not being in the certificate, I was able to give the required assurance.[2532]

Having imparted this information, McDonald then conveyed happier news concerning the Kaihinu blocks:

> Huru Te Hiaro has 7 of the Kaihinu owners apparently under his control and he is evidently manoeuvring to be left to the lands(?) with his party, hoping [I] suppose to squeeze something extra out of me. If I am anything like so successful as I hope to be I shall want more money next week but I shall be able to let you know more certainly on Saturday evening.
>
> I am going up to Poutu this evening and hope to make considerable progress tomorrow and Saturday. I intend however to leave some of the Ngatiwhakatere to accompany me over to Huru's people. The truth is I cannot trust Huru wholly and if I pay off all the Ngatiwhakatere it might be difficult to get the signatures of his people. On the whole I feel quite confident of complete success.[2533]

The following day, McDonald informed Gill that he had 'just arranged with Mr Thynne JP and Mr Baker interpreter to go up to Pouto tomorrow'.[2534] He then added, 'But wish I had more money' – 'I could get over 25 signatures tomorrow if I had the money.'[2535]

Two days later, McDonald wrote again to Gill, cautiously sanguine as to the prospect of completing the purchases, despite not everything having gone according to plan:

> I was unable to obtain the assistance of a J.P. (Mr Thynne) and a Licensed Interpreter (Mr Baker) until yesterday morning (Saturday). Every one of the Kaihinu owners resident on this side of the Ranges had assembled at their chief kainga, Poutu, except 4 deceased and one absent in Taupo. Thinking you would have sent me sufficient money to pay these I prepared the Deeds and began to issue cheques and take signatures. Unfortunately Mr Baker who had come from Foxton had your telegram of the 22nd inst. (advising me of a further remittance of only £1000) in his pocket but forgot to deliver it to me until the afternoon. I then thought it right to stop the proceedings but found I had already paid away cheques for £3778.10.8 against the £2500 you had sent me. No particular harm will arise that I know of, as the Maoris readily agreed to hold over the cheques till next Wednesday, the 27th inst. by which time I hope you will send me the necessary funds. I shall want to complete the signatures on this side of the ranges.

[2532] McDonald to Gill, 21 October 1880, MA-MLP1/1883/355.
[2533] McDonald to Gill, 21 October 1880, MA-MLP1/1883/355.
[2534] McDonald to Gill, 22 October 1880, MA-MLP1/1883/355.
[2535] McDonald to Gill, 22 October 1880, MA-MLP1/1883/355.

Balance as per Vouchers herewith:	£1278.10.8
For blocks 2A & 2B	£2228.0.0
	£3506.10.8

less a few pounds for advances previously made by Mr Grindell & Mr Booth. If you send me the money on Tuesday I will complete the transaction on this side [of] the ranges on Wednesday. I will then go over to Huru's people of whom there are 14 persons. The above sums(?) do not include the money I shall want for there.

I could not previously give you any accurate statement of the money I should want because, up to Friday night, I could not get the owners to agree to the total area they would sell. I had been over to Huru and knew their views but could not get those on this side to agree. On Friday night the total area to be sold was at last fixed, viz.

No. 2A	9152 acres
No. 2B	7860 acres
No. 2C	8716 acres
No. 2D	8666 acres
No. 2E	10505 acres
Total	44899 acres

@ 5/ per acre. I am in hopes this will bring the Purchase nearby if not quite to the proposed Railway line.

I do hope that you will approve this increase in the area although I had no express authority for it. It was impossible to keep you advised of the course of the negotiations, and the contention was so keen among the owners that it was impossible to say what they would ultimately agree to. At last it was presently(?) agreed that each of the 50 owners should share alike in their respective Blocks and that each man should sell as many acres of his share as he pleased. On adding up the areas offered to me by each man they reached the figures I have given. I am posting this tonight (Sunday) in order that you may get it early on Tuesday, but I will also wire to you and if (as I hope) you will approve what has been done, let me have the money required by not later than Tuesday evening. I cannot keep the owners longer than that together.[2536]

Gill's immediate response was to scribble the following note to Atkinson, expressing as he did so some anxiety regarding McDonald:

> Mr McDonald is purchasing 50000 acres of land @ 5/- per acre he has had imprested to him £2,500 he now asks for a further sum of £3,500. This is the first business transaction in money matters the office has had with Mr McDonald. I would suggest that I go to Foxton myself by tonight's steamer and that the money be forwarded at once.[2537]

It is not clear whether or not Gill took the steamer to meet McDonald. The next communication occurred on 2 November, McDonald telegraphing Gill with the

[2536] McDonald to Gill, 24 October 1880, MA-MLP1/1883/355; see also McDonald to Gill (telegram), 25 October 1880, MA-MLP1/1883/355.
[2537] Gill to Hon Major Atkinson, 25 October 1880, MA-MLP1/1883/355.

words, 'Am to see Maoris today.'[2538] He then asked that Gill ensure that the interpreter he had requested actually turn up. In a separate telegraph to Gill of the same date, McDonald raised the prospect of being less than entirely successful: 'Hope to succeed fully,' he wrote, 'but they are a bad lot here.'[2539]

Five days later, McDonald then reported on what had taken place – and his anxieties, it seems, were not misplaced:

> Herewith are four vouchers of payments on account of the Kaihinu Blocks. I am sorry I was not able to get more signatures, but on the occasion of my visit to the Rangitane owners resident on the Woodville-Masterton road I was preceded and accompanied in spite of my efforts to the contrary by a crowd of Muopoko [*sic*] and Rangitane relatives from Horowhenua and Palmerston, all clamourous for a share of the money, the result being that the owners I had gone to see scattered in all directions; and Huru, Neriaha, and Tamatea recommended me to come back here and return to them at some future time. Ani Marakaia who had come specially from Wairarapa to meet me I brought on from Hawera to Woodville, and I paid her and Tamatea Tohu there, while the coach was changing horses. Huru and Neriaha came on with me to Palmerston and I paid them there.
>
> But besides the trouble I had with the hungry(?) crowd I have mentioned it is my duty to say that there are nine owners over there whose signatures I am by no means sure of getting immediately. They say they are under a solemn spiritual obligation not to discuss land questions until after March next. Huru says that the obligation applies only to <u>new</u> negotiations and that it was brought forward now only to try and get rid of the begging visitors. But as Huru did not tell me before of any such obligation, I cannot now rely upon his information. I will shortly, however, be able to speak more certainly as to these nine signatures.
>
> If you will be good enough to send me another £1000, I shall be in funds for another week to meet demands either at Woodville or at Otaki. Will you please send the money to Palmerston North or per requisition enclosed. The reason I say <u>either</u> Woodville or Otaki is that until I meet Huru and Neriaha tomorrow I do not know whether I shall return to Woodville or go on to Otaki to meet Moroati and other unsatisfied claimants there. In either case I shall want more money than the unexpended balance of the £1000 you sent me last week.[2540]

On 10 November, Gill telegraphed McDonald to say that £1000 would be made available to him.[2541] McDonald replied the next day, stating that he had been on his way to Ōtaki but had been waylaid in Foxton by the necessity of attending the Native Land Court.[2542] He had, he said, been offered 'several individual shares in parts of Kaihinu block not yet sold'.[2543] Was he to buy them, he asked, and if so, at what price? Gill sent a lengthy response the following day that also took in some of the Pukehou, Waiohanga and Ngākaroro blocks:

[2538] McDonald to Gill, 2 November 1880, MA-MLP1/1883/355.
[2539] McDonald to Gill, 2 November 1880, MA-MLP1/1883/355.
[2540] McDonald to Gill, 7 November 1880, MA-MLP1/1883/355.
[2541] Gill to McDonald, 10 November 1880, MA-MLP1/1883/355.
[2542] McDonald to Gill, 11 November 1880, MA-MLP1/1883/355.
[2543] McDonald to Gill, 11 November 1880, MA-MLP1/1883/355.

> I hope there will be no necessity to cut out the nine interests in the Kaihinu Blocks. If this had been known in the first instance possibly no money as yet would have been paid. The 9 interests cut out would reduce the area 8000 acres. Pukehou No. 5L 4118 acres you had better see the owners together and ascertain if they will sell for a reasonable price. If no arrangement is made the Court will be asked to define what interest Her Majesty has in the Block on account of advances by Mr Booth or Mr Grindell and for expenses of survey. Explain this to the owners.
>
> Waihoanga 1B and 1C strike these out of your list. The Grantees have all signed but one and he is being looked after at Tauranga.
>
> Pukehou No. 5M and Waihoanga No. 3B are not Government purchases, take no action on them. Should be glad to hear that you have closed up Ngakaroro No. 2B with Moroati and his people.[2544]

When McDonald next wrote to Gill, almost a week after his previous communication, he was clearly reaching the end of his tether, while being at the same time concerned for his own future as he pursued elusive signatures. Te Hiaro continued to cause problems and now, he was having difficulty with Ngāti Whakatere:

> For the last fortnight I have been irritated almost beyond endurance by these Rangitane owners of Kaihinu. In the first place I have felt (as indicated in your Memd. of 12th inst. just received) that I should have made you sooner aware that there would be a difficulty with them. But I was completely hoodwinked by that fellow Huru Te Hiaro. He attended the first meeting I had with Ngatiwhakatere and I believe he deceived that tribe quite as much as he did me. He is undoubtedly the chief of his people and he gave us to understand he had full powers from them. To make, as I thought, assurance doubly sure, I went over to see them and those of them I saw said they had left the whole matter to him. Then I asked you to send the money and paid Ngatiwhakatere. But when I went over to them with the Deeds they jibbed in the most approved faction of sanctity [*sic*]. I have just returned thence again and brought over to Palmerston the only one of them I could get hold off. If Mr Baker comes up tomorrow I will get her signature. For the rest I cannot speak positively. Tamatea Tohu it appears has got five or four of them stowed away and he tells me he went to see the Minister personally. In short they are dodging but if it is possible I will bring them up. If not, you must let the Court cut their shares out, or wait till after next March when I have no doubt they will all sign. I regret very much, not my own failure as the having misled you. Except however the original error of having trusted Huru I cannot reproach myself with anything. I have done my very best; but there seems no getting over people who declare their souls in danger even by talking to me. I only got back from Woodville last night. Mr Baker did not come to me so I had to bring the woman over. I hope Mr Baker will meet me this morning at Palmerston whither I am going to meet the early train.[2545]

It seems, however, that McDonald's anxious communication did not produce any immediate response. And so, six days later, he wrote again: 'I have not heard anything,' he observed, 'from the office nor from Mr Lewis for the last week and until I do hear I am at a standstill.'[2546] He then continued:

[2544] Gill to McDonald, 12 November 1880, MA-MLP1/1883/355.
[2545] McDonald to Gill, 17 November 1880, MA-MLP1/1883/355.
[2546] McDonald to Gill, 23 November 1880, MA-MLP1/1883/355.

> The Maories in Manawatu Kukutauaki No. 2 Blocks (Kaihinu) are anxious to get the lines defined dividing the purchase from the unpurchased lands. I should like if you have no objection to be authorized to get this done while the transaction is fresh in their minds.
>
> It has been non-officially intimated to me by Mr Marchant that Manawatu Kukutauaki No. 2E will be greatly larger in area than shown on the tracing by which I purchased. I presume you will be informed of this and will give me any instructions you may think necessary therefore.
>
> I daresay the Maories would sell the increased area (about 2000 acres I am told) if the Govt. wish to buy it. Otherwise it will throw my present purchase line far back into the hills in that Block.
>
> It is a pity the correct area was not previously known.[2547]

Gill still showed no signs of any great rush. He finally replied to McDonald's letter almost a month later. At least McDonald – and indeed, the owners – presumably found the news favourable. The Chief Surveyor, Gill reported, had been communicated with regarding having the lines cut so as to divide the purchased from the unpurchased parts of Kaihinu.[2548] Nothing, however, was said about the increased area of the no 2E block.

Shortly after Booth had communicated with Gill, a number of Rangitāne owners in the Kaihinu blocks wrote directly to the Native Minister. They were unequivocal concerning the retention of their lands:

> Friend, greeting. This is our word to you concerning our Grants for Kaihinu No 3 to No 5. We do not wish to sell. We informed Sir Donald McLean that (we wished) those lands to remain ours permanently and to be inherited by our descendants. We object to a survey of the land being made and hope that you will not believe the statements made by other people to you. We have never accepted any money and our land is still ours and under our control. We have selected Wata Tohu to manage it for us. That is all.[2549]

The file records the draft of a reply from the Under-Secretary to this correspondence:

> I am directed by the Hon. the Native Minister to acknowledge the receipt of your letter dated 10 December last from Tutaekara relating to your interest and others' interests in the Kaihinu lands and to inform you in reply that the question of subdividing these lands will be considered at the next sitting of the Native Land Court in the district.
>
> You are aware that several of the owners in these lands have sold their interests or part of their interests to the Government. They have a right to do so. In the cases where owners appointed by the Court have not sold their share or interest, it is not the desire of the Government they in any way should be urged(?) to do so.[2550]

[2547] McDonald to Gill, 23 November 1880, MA-MLP1/1883/355.
[2548] Gill to McDonald, 18 December 1880, MA-MLP1/1883/355.
[2549] Wetere Taeore to Native Minister, 10 December 1880, MA-MLP1/1883/355.
[2550] Gill to Wetere Taeore, 13 January 1881, MA-MLP1/1883/355.

In any case, at this juncture, all efforts to complete the purchases appear to have ceased, such that, come 1881, the negotiations for the Kaihinu subdivisions were still unresolved.

In late March of that year, the Native Minister received a letter from an agent acting on behalf of Himiona Te Rāhui and his relatives, offering to sell 'a portion 698 acres of the Kaihinu Block No. 3 – the total acreage is 1298 acres but the intention of the owner is to reserve 600 acres'.[2551] The letter continued:

> The land near this block was purchased from the natives by Mr Macdonald [*sic*], Govt. agent, a short time ago but Himiona Te Rahui then refused to sell, but now both he & his relatives are agreeable, they require 10/- per acre. If you think this offer will be accepted by the Government or if you will make any offer & state the terms, the natives interested have desired to act as their agent & wish you to write to me re the matter & I will attend promptly to your instructions.[2552]

The letter prompted a flurry of notes between officials, owing to the fact that no one seemed to have heard of a block called 'Kaihinu No. 3'. Then, in early June, Booth wrote to Sheridan to say that Himiona Te Rāhui, one of the owners of the puzzling block – 'I think this is M.K. 2C' – wished to sell 698 acres, retaining for himself 600 acres.[2553] 'Two others in this block,' he continued, 'want to sell and one in No. 2E.'[2554] Then, tellingly, he went on: 'If [the] native minister would like me to finish the Kaihinu purchases I could take up the work after I have done here.'[2555]

By this time, McDonald was no longer in the employ of the Native Department. Towards the end of June, Gill recommended to the Native Minister that Booth assume responsibility for completing the Kaihinu purchases:

> The completion of the purchase of the land known as Manawatū Kukutauaki No. 2 left open at the time Mr McDonald ceased to be an officer of the department should I submit be taken over by Mr Booth. This Block has been awarded to 50 grantees under 5 N.L. Court orders, 38 of whom have conveyed to the Government a portion of their interests in the land. Mr Booth was pressed when at Manawatū to take further signatures on the conveyance and pay over money. I recommend he does this without delay. The land is being bought for five shillings per acre.[2556]

By this stage, however, the amount of land for which the Crown was negotiating in each of the subdivisions had been dramatically reduced. In part, this can be explained by Booth's intention to set aside 4000 acres in each subdivision as a reserve for the owners. However, this still leaves several thousand acres in each subdivision unaccounted for – no explanation for this difference has been

[2551] Frasi to Native Minister, 24 March 1881, MA-MLP1/1883/355.
[2552] Frasi to Native Minister, 24 March 1881, MA-MLP1/1883/355.
[2553] Booth to Sheridan, 6 June 1881, MA-MLP1/1883/355.
[2554] Booth to Sheridan, 6 June 1881, MA-MLP1/1883/355.
[2555] Booth to Sheridan, 6 June 1881, MA-MLP1/1883/355.
[2556] Gill to Native Minister, 25 June 1881, MA-MLP1/1883/355.

found.[2557] In total, the Crown had by this time made payments amounting to £9432 15s 8d for these subdivisions which it was yet to secure.[2558]

On 22 June, Booth telegraphed Gill to say that the owners of the Kaihinu blocks were 'anxious' to have the purchases completed.[2559] The owners wished to know when McDonald would be returning. He finished by asking that any reply be sent directly to Huru Te Hiaro.[2560]

Three days later, Gill sent to Booth a statement showing the unsold interests that remained to be purchased. The statement showed that there were just 12 grantees who still held interests. Four of this number were deceased. According to the account, it was proposed to purchase 11,529 acres from these grantees, at a total purchase price of £2766 15s 8d.[2561] Gill instructed Booth to have the conveyances 'duly signed'.[2562]

But it seems that not all of the owners were willing to sell. At the beginning of July, Gill telegraphed Booth with the following:

> If Patoromu still refuses to sign deed and convey over the thousand acres as others have done let the matter stand over till Court sits. Do not under any circumstance make him further advances of money.[2563]

Patoromu had, in fact, been one of the signatories to a letter to the Native Minister of 27 June which had conveyed the desire of the owners to sell their interests.[2564] In any case, it appears he had changed his mind, as Booth informed Gill that both Patoromu and his wife were 'determined to sell no more than five hundred acres each'.[2565] He then continued, 'I am afraid I cannot close with Patoromu as an absolute quantity has been named in the deed and purchase of a lesser area would alter the deed altogether.'[2566]

In early October, Booth informed Gill that five of the Rangitāne owners of the Kaihinu blocks had 'sold balances of shares to the Railway Company at 10/- per acre', while another owner had sold at 7s 6d per acre.[2567]

[2557] 'Lands purchased and leased from Natives in North Island', *AJHR*, 1881, C-6, p 15.
[2558] 'Lands purchased and leased from Natives in North Island', *AJHR*, 1881, C-6, p 15.
[2559] Booth to Gill, 22 June 1881, MA-MLP1/1883/355.
[2560] Booth to Gill, 22 June 1881, MA-MLP1/1883/355.
[2561] 'Grantees in Manawatu Kukutauaki No. 2 Blocks – Unsold Interests', 25 June 1881, MA-MLP1/1883/355.
[2562] Gill to Booth, 25 June 1881, MA-MLP1/1883/355.
[2563] Gill to Booth, 1 July 1881, MA-MLP1/1883/355.
[2564] Himiona, Rorana Peehi, Patoromu Te Kākā and others to Native Minister, 27 June 1881, MA-MLP1/1883/355.
[2565] Booth to Gill, 1(?) July 1881, MA-MLP1/1883/355.
[2566] Booth to Gill, 1(?) July 1881, MA-MLP1/1883/355.
[2567] Booth to Gill, 7 October 1881, MA-MLP1/1883/355; see also Booth to Gill, 8 October 1881, MA-MLP1/1883/355.

By some means or another, however, the purchase of the Kaihinu blocks was finally completed. On 11 November 1881, Booth sent Gill the following message:

> Kaihinu blocks all disposed of, orders made in favor [*sic*] of Crown for M.K. 2A for 7152 acres 2B 6860 acres 2C 7716 acres 2D 8666 acres 2E 9455 acres. Interest of two non-sellers in 2A have been cut off from rest west to east, one interest cut off in 2 B one in 2C & one in 2E. I will send deeds as soon as I can get copies of orders, please send me by wire if possible £1500, I can now purchase the 3000 acres excess in M.K. 2E, this will require £750. Then I have to purchase a piece at [*indecipherable*] station Mangataku(?) & some 50 or 60 acres for Ry between Foxton & Patea.[2568]

And so, in 1882, the Crown was able to report formally that it had finally completed the purchase of the Kaihinu subdivisions.[2569] Just under 40,000 acres were purchased, amounting to around 63 per cent of the 63,415 acres that comprised the full extent of the blocks. The total amount expended was £11,052 11s 2d.[2570]

Table 9.17: Kaihinu Block Purchases 1882

Subdivision/ Partition	Area (a.r.p.)	Seller(s)	Agent	Payment	Vol. and Page No.
2A	7,152.0.0	Hoani Takerei and others	Booth	£11,052.11.2	*AJHR*, 1882, Sess. I, C.-04, p. 11
2B	6,860.0.0	Karena Te Taha and others	Booth		
2C	7,716.0.0	Henare Te Herekau and others	Booth		
2D	8,666.0.0	Neri Paratahi and others	Booth		
2E	9,455.0.0	Huru Te Hiaro and others	Booth		

In April of that year, the plans had been completed and were sent to the Chief Surveyor to carry out the orders of the Court.[2571]

[2568] Booth to Gill, 11 November 1881, MA-MLP1/1883/355.
[2569] 'Lands purchased and leased from Natives in North Island', *AJHR*, 1882, C-4, p 11.
[2570] 'Lands purchased and leased from Natives in North Island', *AJHR*, 1882, C-4, p 11.
[2571] File Note, 20 April 1882, MA-MLP1/1883/355.

The sale of the Kaihinu blocks and the ability of the Crown to have its interests determined by the Court resulted in the land being heavily partitioned, with the sections awarded to Māori being granted to either one or two owners:[2572]

Table 9.18: Kaihinu Block Partions

2A	11 sections (3 awarded to the Crown)
2B	12 sections (2 awarded to the Crown)
2C	11 sections (2 awarded to the Crown)
2D	12 sections (1 awarded to the Crown)
2E	13 sections (2 awarded to the Crown)

From each of the Kaihinu blocks, the Crown also received railway reserves.[2573] While the lands awarded to the Crown tended to be the hilly and rugged eastern parts of the blocks – this was generally the case with the Crown awards in the district – at least some of the lands were more suited to farming.[2574]

In all, within eight years of the Manawatū-Kukutauaki lands having passed the Native Land Court, the Crown had purchased 73,434 acres of them. This left just under 23,000 acres of Manawatū-Kukutauaki in Māori ownership that were deemed inalienable (although, as shall be seen, this did not mean they were safe from alienation). A further unspecified amount within the block remained open to alienation.[2575]

Table 9.19: Manawatū-Kukutauaki Blocks in Māori Ownersip 1886

Subdivision/Partition deemed Inalienable	Area (a.r.p.)	Vol. and Page No.
4A	650.0.0	*AJHR*, 1886, Sess. I, G.-15, pp. 11, 18–19
4B	1,403.0.0	
4C	1,000.0.0	
4E	1,000.0.0	
7E	180.2.0	
7G	260.0.0	
7D	10,487.0.0	
7H	569.1.7	
Ohau No. 1	630.0.0	
Ohau No. 3	6,799.0.0	
	22,978.3.7	

[2572] Walghan Partners, 'Block Research Narratives', vol I, draft, 19 December 2017, p 92.
[2573] Walghan Partners, 'Block Research Narratives', vol I, draft, 19 December 2017, p 92.
[2574] Walghan Partners, 'Block Research Narratives', vol I, draft, 19 December 2017, p 92.
[2575] 'Lands possessed by Maoris, North Island', *AJHR*, 1886, sess I, G-15, pp 11, 18-19.

9.11.2 Summary of alienations in Manawatū-Kukutauaki and Ohau blocks

Most of the land comprising the four Manawatū-Kukutauaki blocks, 1, 2, 3, and 7, created by the Native Land Court in 1873, was not long in Māori ownership. Together the blocks contained 83,211 acres, which accounted for over 80 per cent of the land in the sub-district in which they were located.[2576] By 1900, just 7,726 acres remained in Māori hands.[2577] Much of the alienation occurred rapidly after titles were granted to Māori. Manawatū-Kukutauaki no 1 was alienated in 1878 to private agents, Robert Hart and Patrick Buckley.[2578] Some 61.5 per cent of Manawatū-Kukutauaki no 2 had been purchased by the Crown by 1885.[2579] The Crown also purchased a large share of Manawatū-Kukutauaki no 3, some 7400 acres (or 66.5 per cent) of it, during the 1870s. We shall see in the following chapter that the remainder would be then subjected to severe partitioning which created nearly 50 new sections.[2580] The situation was slightly different in the case of Manawatū-Kukutauaki no 7. Awarded initially as eight parent blocks, the alienation of these blocks occurred at a slower pace compared with blocks 1, 2, and 3. The Crown purchased blocks 7A to C in 1876, which together amounted to 19.4 per cent of the overall block.[2581]

It was similarly the case with the Ōhau blocks. The Crown acquired all of the no 2 block (6361 acres) in 1878 and this would be later transferred the Wellington Manawatu Railway Company.) The two remaining Ōhau blocks would also be later subject to intensive subdivision as described in the Walghan 'Block Research Narratives'.[2582]

9.12 Native Land Court and land alienation case study 2, Aorangi 1

The original intention of leading rangatira had been to reserve the Aorangi block from sale. In March 1872, however, the Native Land Purchase Officer James Grindell reported that the Oroua block was being 'offered for sale by Rangitāne and Ngāti Raukawa at Te Awahuri conjointly'.[2583] And, for its part, the Crown had not lost any interest in the land. In January of that year, McLean gave expression to the Crown's desire to purchase Oroua, noting that it was

[2576] Walghan Partners, 'Block Research Narratives', vol I, draft, 19 December 2017, pp 127, 136.
[2577] Walghan Partners, 'Block Research Narratives', vol I, draft, 19 December 2017, p 136.
[2578] Walghan Partners, 'Block Research Narratives', vol II, 19 December 2017, p 274.
[2579] Walghan Partners, 'Block Research Narratives', vol I, draft, 19 December 2017, p 129.
[2580] Walghan Partners, 'Block Research Narratives', vol I, draft, 19 December 2017, p 129.
[2581] Walghan Partners, 'Block Research Narratives', vol I, draft, 19 December 2017, p 128.
[2582] Walghan Partners, 'Block Research Narratives', vol I draft, 19 December 2017, pp 175-6.
[2583] Grindell, 'Report on Native Settlements on the West Coast', 25 March 1872, *Wellington Provincial Council Gazette*, XXII, app G, p 41, quoted in Dianna Morrow, 'Iwi Interests in the Manawatū, c. 1820–c. 1910', Office of Treaty Settlements, Wellington, 2002, p 2.

'exceedingly valuable from its position and for the timber upon it'.[2584] Exactly who it was that was behind the offer to sell the block was not stated. In any event, clearly there remained a goodly number opposed to the loss of the land, for the sale did not proceed.[2585]

Indeed, rather than sell the land, the iwi with interests in it brought it before the Native Land Court in 1873 to have it formally partitioned between them. In 1870, Ngāti Kauwhata and Rangitāne had held a rūnanga to determine a division of the block between them, just as had been anticipated by Hoani Meihana Te Rangiotu some eight years earlier.[2586] The larger share, roughly 15,000 acres, it was decided would be for Ngāti Kauwhata, while Rangitāne would take the remaining 5000 or so acres. The agreement was reached, Te Kooro Te One later said, in a harmonious way, with both parties satisfied with the outcome.[2587] When the land came before the court, however, it transpired that Ngāti Kauwhata and Rangitāne were not the only interested parties.

9.12.1 The 1873 title investigation

The Aorangi block, as the Oroua block was called throughout the judicial process, came before the Native Land Court in March 1873.[2588] The court sat at Foxton, with Judge Rogan presiding. In addition to Ngāti Kauwhata and Rangitāne, a third group now laid claim to a part of the block: Ngāti Tauira (a hapū of Ngāti Apa). It took the court just under a week to determine that the block would be divided among the three claimants, according to an agreement the three interested parties had themselves reached: Upper Aorangi (7526 acres) was to be for Ngāti Kauwhata, Middle Aorangi (7000 acres) for Ngāti Tauira, and Lower Aorangi (4923 acres) for Rangitāne.[2589] While most of the claimants accepted the arrangement, there were some at least who were incensed by it.

As presented by the rangatira Tapa Te Whata, the Ngāti Kauwhata claim was derived 'by conquest and by gift'.[2590] Ngāti Kauwhata had migrated to the area around Aorangi, successfully defeating various inhabitants as they did so, Te Whata said. During one raid on a village, they took a number of women prisoner.

[2584] McLean to Fitzherbert, 26 January 1872, MA 13/75a.
[2585] Morrow, 'Iwi Interests', p 2.
[2586] Evidence of Hoani Meihana, 17 March 1873, Otaki minute book 1A, p 211.
[2587] Husbands, 'Oruoa Reserve', p 9.
[2588] Otaki minute book 1A, pp 203-16, 223-24, 232-47. As Morrow makes clear (p 2), both Oroua and Aorangi were used at times by different people to refer to the same piece of land. The Māori Land Court index and the official court record invariably referred to the land as Aorangi, but many individuals – both Māori with an interest in the land and Crown officials interested in the land – referred to it as Oroua.
[2589] Otaki minute book 1A, pp 234-37.
[2590] Evidence of Tapa Te Whata, 17 March 1873, Otaki minute book 1A, p 204.

It was, Te Whata continued, in exchange for these women that a gift of the land at Aorangi was made to them.[2591]

After Te Whata came the objectors. Some, such as Eru Tahitangata, who identified himself as Ngāti Kauwhata and Ngāti Wehiwehi[2592], and Peeti Te Aweawe of Rangitāne, accepted that the block should be divided, but viewed the proposed division as unfair.[2593] The Rangitāne chief Hoani Meihana also took this view, but added that the decision of the rūnanga was unacceptable because 'all the people interested were not present and therefore did not agree'.[2594] A less accommodating objection was made by Hāmuera Te Raikokiritia, a rangatira of Ngāti Apa: 'The land is mine,' he declared simply, 'and does not belong to the claimant.'[2595] He objected, he said, to the 'whole statement made by Tapa'.[2596]

It remained, however, for Kāwana Hūnia to make the most fulsome objection, although his objection was, as he said, only to 'a portion of the statement made by Tapa'.[2597] In fact, despite the length of his statement, the exact nature of his objection is unclear, other than that he believed that the 1870 agreement to divide Aorangi was in some manner contrary to the word of his parents.[2598]

One final objector also stood before the Court, James Grindell, who objected 'as to certain boundaries' on behalf of the government.[2599]

The first day's hearing concluded with a brief statement from the Ngāti Kauwhata rangatira Te Kooro Te One. 'I wish to remind the Court,' he said, 'that this division is a fair one.'[2600] The decision was made, he continued, 'deliberately and with love and affection for one another and was not done with any ill feeling'.[2601]

When the Court resumed the next day, Hoani Meihana Te Rangiotu informed it that the three parties had, during the night, reached an agreement to divide the block. The agreement was then read by Te Kooro.[2602] And thus was the matter seemingly settled. One or two objections were made as to the names to be included on the lists for the three divisions, but these were resolved easily enough

[2591] Evidence of Tapa Te Whata, 17 March 1873, Otaki minute book 1A, p 205.
[2592] Note that Eru Tahitangata led the case for Ngāti Kapu at Pukehou. See Otaki minute book 2, 14 May 1872, pp 150-55.
[2593] Evidence of Eru Tahitangata and Peeti Te Aweawe, 17 March 1873, Otaki minute book 1A, p 212.
[2594] Evidence of Hoani Meihana, 17 March 1873, Otaki minute book 1A, pp 206–07.
[2595] Evidence of Hāmuera Te Raikokiritia, 17 March 1873, Otaki minute book 1A, p 206.
[2596] Evidence of Hāmuera Te Raikokiritia, 17 March 1873, Otaki minute book 1A, p 206.
[2597] Evidence of Kāwana Hūnia, 17 March 1873, Otaki minute book 1A, p 207.
[2598] Evidence of Kāwana Hūnia, 17 March 1873, Otaki minute book 1A, p 210.
[2599] Otaki minute book 1A, p 205.
[2600] Evidence of Te Kooro Te One, 17 March 1873, Otaki minute book 1A, p 212.
[2601] Evidence of Te Kooro Te One, 17 March 1873, Otaki minute book 1A, p 212.
[2602] 18 March 1873, Otaki minute book 1A, p 213.

and on Saturday, 22 March, the court issued its orders: Upper Aorangi for Ngāti Kauwhata, Middle Aorangi for Ngāti Tauira, and Lower Aorangi for Rangitāne.[2603] No restrictions on alienation were placed on the land; any of it could be sold or leased, as the owners saw fit.

9.12.2 The 1878 rehearing

Given Hunia's expressed opposition to the court's decision, there would have been little surprise, even if much regret, when Ngāti Apa lodged an application in August 1873 for a rehearing of the case. Nor, perhaps, was it surprising that Hunia tried, some time later, to obstruct the survey of Upper Aorangi – for his efforts, he was brought before the Resident Magistrate's Court at Bulls and fined £5.[2604] In any case, nearly four years passed before an Order-in-Council granting a rehearing was signed by the Governor (on 29 September 1877) and then gazetted (in October of that year).[2605] The rehearing commenced in Palmerston North on 22 March 1878.[2606]

As had occurred in 1873, Tapa Te Whata opened the case for Ngāti Kauwhata. Again he emphasised that Kauwhata had taken the land by conquest. 'My ancestors,' he said, 'came here in the old Maori times and they took the mana over this land.'[2607] The division of the block in 1870, he suggested, was instigated by him, and it was one that 'was made as our parents would have wished'.[2608]

In this, Te Whata had the support of Hoani Meihana Te Rangiotu (who, contrarily, was listed as one of the objectors). 'The three tribes lived and cultivated over the land,' he stated, 'and that led to [the] subdivision, it was not done under ancestral title but by voluntary arrangement.'[2609] And, he added, of all those present, there were only two people who objected to this: Kāwana Hūnia and Te Keepa Te Rangihiwinui.[2610] 'I want,' Meihana concluded, 'no alteration made.'[2611]

As he had objected in 1873, so did Kāwana Hūnia again in 1878, but he did so this time more vehemently, more stridently, and more precisely. 'I claim this land,' he began, 'as having inherited it from ancestry.'[2612] Te Whata, he said, had no right to claim the land by conquest. In fact, he, Kāwana Hūnia, did not even

[2603] 22 March 1873, Otaki minute book 1A, p 233.
[2604] *Evening Post*, 11 October 1876, p 2.
[2605] *New Zealand Gazette*, 4 October 1877, no 83, p 995.
[2606] Otaki minute book 3, pp 158-90.
[2607] Evidence of Tapa Te Whata, 23 March 1878, Otaki minute book 3, p 159.
[2608] Evidence of Tapa Te Whata, 23 March 1878, Otaki minute book 3, pp 159, 160.
[2609] Evidence of Hoani Meihana, 23 March 1878, Otaki minute book 3, p 161.
[2610] Evidence of Hoani Meihana, 23 March 1878, Otaki minute book 3, p 161.
[2611] Evidence of Hoani Meihana, 23 March 1878, Otaki minute book 3, p 161.
[2612] Evidence of Kawana Hunia, 23 March 1878, Otaki minute book 3, p 162.

look on Te Whata as a principal chief of Kauwhata – 'he was not of much account'.[2613] Dismissing everything Te Whata and Meihana had said, Hūnia declared, 'I am the owner of the Middle and Upper Aorangi and I repudiate any of these subdivisions except the Rangitāne portion which is Lower Aorangi which was arranged long ago.'[2614]

When he resumed his evidence two days later, Hūnia maintained the tone he had earlier adopted. Ngāti Kauwhata were 'squatting there on the land of other people', while his authority over 'this land' had 'never been overruled'.[2615] To the extent that Ngāti Kauwhata worked the land, they did so under his mana, his authority. 'I was the chief,' he stated simply.[2616] And when Hema Te Ao cross-examined him on behalf of Ngāti Kauwhata, Hūnia even suggested that Kauwhata were sent by Rangihaeata 'as servants to cook for him'.[2617] He concluded with the observation, 'Ngatitauera and Rangitāne agreed to admit Ngatikauwhata to a portion of this land but it was by mistake because they thought I would consent.'[2618]

Others of Ngāti Apa and Rangitāne, including Te Keepa Te Rangihiwinui, then added their objections, claiming variously that Ngāti Kauwhata had never cultivated or settled on the land in question, that they had no mana over the land, that at best they had been servants of Ngāti Apa and Rangitāne, and that any gift of land was a much more limited one than that claimed by Te Whata.[2619] There was, however, one dissenter from the Ngāti Apa and Rangitāne case, the Rangitāne chief Kerei Te Panau. 'I am,' he declared, 'a chief of the soil and in a position to subdivide.'[2620] Ngāti Kauwhata, he then went on, had 'an equal mana as myself over Aorangi'.[2621]

This was, presumably, something of an awkward note on which to close the Ngāti Apa and Rangitāne case. But more awkwardness was to come with the opening of the Ngāti Kauwhata case. Rather than begin with one of their own, Ngāti Kauwhata began with the evidence of another great rangatira of Rangitāne, Hoani Meihana Te Rangiotu.[2622] The three tribes, Meihana said, had lived together on Aorangi 'from before the time of Haowhenua'.[2623] Aorangi was

[2613] Evidence of Kawana Hunia, 23 March 1878, Otaki minute book 3, p 162.
[2614] Evidence of Kawana Hunia, 23 March 1878, Otaki minute book 3, p 164.
[2615] Evidence of Kawana Hunia, 25 March 1878, Otaki minute book 3, p 165.
[2616] Evidence of Kawana Hunia, 25 March 1878, Otaki minute book 3, p 166.
[2617] Evidence of Kawana Hunia, 25 March 1878, Otaki minute book 3, p 165.
[2618] Evidence of Kawana Hunia, 25 March 1878, Otaki minute book 3, p 166.
[2619] See the evidence of Te Keepa Te Rangihiwinui, Tapita Matena, Hakaraia Te Rangipouri and Ropiha Te Auwahi, 25 and 26 March 1878, Otaki minute book 3, pp 170-75.
[2620] Evidence of Kerei Te Panau, 26 March 1878, Otaki minute book 3, p 176.
[2621] Evidence of Kerei Te Panau, 26 March 1878, Otaki minute book 3, p 176.
[2622] It is worth noting that Meihana was married to the daughter of Te Kooro Te One, the great Ngāti Kauwhata rangatira.
[2623] Evidence of Hoani Meihana, 26 March 1878, Otaki minute book 3, p 177. The Battle of Haowhenua took place in 1834.

divided between them 'on account of the tribes having lived together so long'.[2624] It was, he said, the 'children of those who died on the ground' who had divided the land, and those who had made this agreement had 'a perfect right' to do so.[2625] As for the suggestion that Ngāti Kauwhata were ever the servants of Ngāti Apa, this, he said, was 'quite false'.[2626]

Tapa Te Whata and others then followed, reiterating and elaborating on the points made by Meihana. The court then gave its judgment. It was, to be sure, succinct:

> The Court after carefully considering the evidence the Court informed the parties that Rangitane, Ngatikauwhata and a section of Ngatitauere are entitled to the land called Aorangi and the division made at Awahuri as arrived at by the natives themselves is considered by the Court as conclusive and the original Order by the Native Land Court at Foxton is accordingly confirmed and Orders will be issued as follows.[2627]

In making out the order for Upper Aorangi, the court's only alteration of the 1873 order was to separate out a block of 98 acres (Aorangi no 1A) to be allocated to Tapita Matenga, and a much smaller block of just two acres (Aorangi no 1B) to be for Hana Peka. The remainder of Upper Aorangi was awarded to 67 individuals.[2628]

9.12.3 Communal title destroyed, Upper Aorangi alienated

In the wake of the 1873 judgment, Ngāti Kauwhata had agreed among themselves that Upper Aorangi would itself be further divided between two hapū, Ngāti Kiamata and Ngāti Tūroa, and then divided yet again, between the two major whānau of these hapū. However, having agreed to these divisions, none in fact had taken place, owing to differences of opinion – 'numerous quarrels' – among those concerned, although the precise nature of these differences was never clear.[2629]

Ngāti Kauwhata – with Native Land Court, agent and ordinary expenses to cover as well as any plans for future development - did agree, however, to sell a portion of the block, some 1200 acres. In fact, they had little choice but to sell at least some of it and the agreement was said to have been unanimous.[2630] An area of 400

[2624] Evidence of Hoani Meihana, 26 March 1878, Otaki minute book 3, p 179.
[2625] Evidence of Hoani Meihana, 26 March 1878, Otaki minute book 3, p 180.
[2626] Evidence of Hoani Meihana, 26 March 1878, Otaki minute book 3, p 180.
[2627] Judgment of the Court, 28 March 1878, Otaki minute book 3, p 182. Note that the page number in the minute book here appears to be incorrect (as it repeats the number from the previous page).
[2628] Award of the Court, 30 March 1878, Otaki minute book 3, p 183. See also *New Zealand Gazette*, 23 November 1878, no 116, p 1655.
[2629] Evidence of Tapa Te Whata, 11 December 1879, Otaki minute book 4, p 154.
[2630] Evidence of Tapa Te Whata and Hoeta Te Kahuhuhui, 11 December 1879, Otaki minute book 4, pp154-5 & 163.

acres was sold to John Stevens for £800, a sum needed to pay for the survey of the planned Upper Aorangi subdivisions. When the subdivisions did not eventuate, the sum was then used by the iwi's agent, Alexander McDonald, to pay other costs the tribe had incurred. A further 400 hundred acres were then sold to James Bull for '£1100 odd'.[2631] Again, the funds raised were used to pay debts, this time those that had been 'contracted in litigation' during Ngāti Kauwhata's drawn-out fight with the Crown over Rangitīkei-Manawatū.[2632] The last portion of 400 acres was then held, to be sold by McDonald at a suitable time, with the proceeds being used, according to Tapa Te Whata, 'for the benefit of the tribe'.[2633]

Then, in May 1877, prior to the Aorangi rehearing, Te Kooro Te One had suddenly died. This paved the way for further disagreements among the whānau of Ngāti Kauwhata; more precisely, as we noted earlier, Te Kooro's sister, Enereta Te Rangiotu, who was also his successor, began challenging the arrangements brokered by McDonald. She maintained against the rest of the iwi (represented by him) that she and her family were entitled to a particular portion of Upper Aorangi.[2634] This sort of quarrel was inevitable as communal rights were translated into individual property rights, drawing everybody into further expenses of hearings and subdivision. In this case, it is possible that her argument with the rest of her hapu – as at Awahuri - related in part to her tense relationship with the agent which seems to have run across a number of land matters.

The case found its way, at the instigation of Enereta, to the Native Land Court, in December 1879. On the one side stood Enereta and her family; on the other, almost all of Ngāti Kauwhata. Enereta claimed that the part of the block bequeathed to her and her family ought not to be reduced in size, merely because the parent block had been reduced by virtue of the sale of the 800 acres. The court, however, disagreed, and the 1000 acres claimed by Enereta were reduced to 776 acres (to be known as Upper Aorangi 1 section 4).[2635]

Having made this decision, the court was also asked to create further subdivisions of Upper Aorangi.[2636] Nine were made of roughly equal size – ranging from 104 acres to 112 acres in 1879. Intense partitioning followed. In 1881, 46 sections were created ranging in size from 3 acres to 446 acres. Another 4 sections were created in 1885; 10 in 1887; 9 in 1890; 9 in 1891; 2 in 1892; 2 in 1896; 2 in 1899; and a further 6 in 1900. [2637] Clearly most of this partitioning related to private purchases. William McKenzie and Basil Thompson were earliest in the market

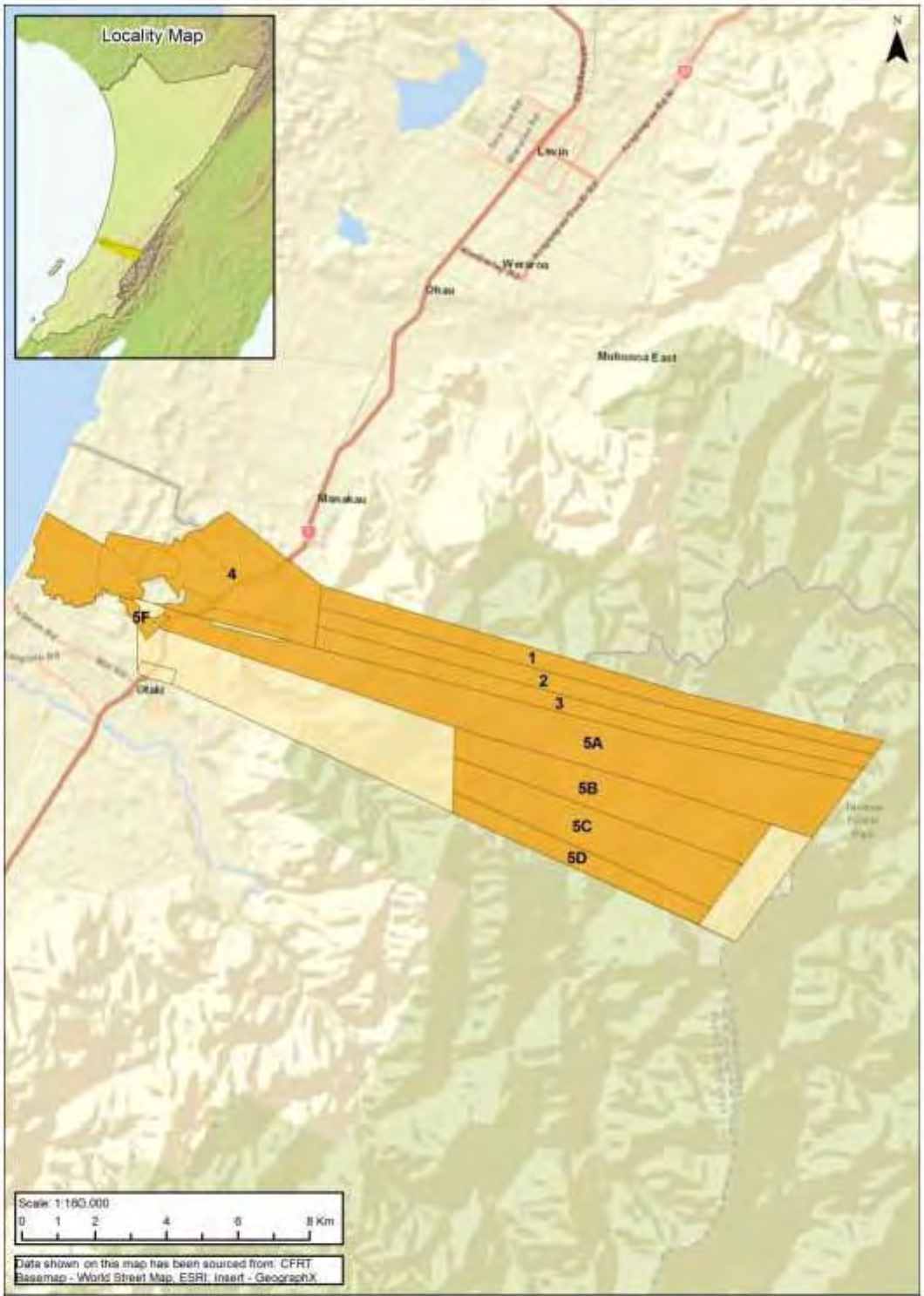
[2631] Evidence of A McDonald, 11 December 1879, Otaki minute book 4, p 152.
[2632] Evidence of Tapa Te Whata, 11 December 1879, Otaki minute book 4, p 156.
[2633] Evidence of Tapa Te Whata, 11 December 1879, Otaki minute book 4, p 156.
[2634] Otaki minute book 4, pp 147-9.
[2635] Otaki minute book 4, pp 146-68.
[2636] Otaki minute book 4, pp 168-172.
[2637] Walghan Partners, 'Block Reearch Narrative',, Vol. II, Part II, 19 December 2017, pp 17, 25-29-

acquiring some 550 acres and 768 acres respectively between 1882 and 1885.[2638] Alexander McDonald, their agent, purchased 5 sections totalling over 373 acres in the 1880s while Walter Buller acquired two 500 acre blocks in 1885. There were in all 51 sections sold (totalling 5,244 acres) between 1881 and 1900.[2639] This constituted 70 per cent of their tribal base, leaving some 2,282 acres in Ngati Kauwhata hands.

The decision taken by Ngāti Kauwhata to divide the land in this piecemeal manner was, as Husbands puts it, 'their considered response to a form of native title, imposed by colonial native land law, which was both inappropriate and destructive'.[2640] One of the destructive aspects of the system was that at least some of the debt arose from the costs of subdividing the land itself. In December 1879, it was reported that the cost of surveying Upper Aorangi had amounted to £408. The subdivisions that were created in 1881 then brought in their wake survey liens and mortgages. The liens alone amounted to a sum of over £212.[2641]

It is not clear at this stage of research the whole reason why so much land was sold so quickly by the Ngāti Kauwhata owners, because this process entailed a high degree of private purchasing which this report has been unable to cover in any depth. As discussed in chapter 8, there is evidence that sharp land practices were involved and that McDonald was a key player.[2642] What *is* clear is that debt was crucial to that process and that the requirements of the Native Land Court were an important factor within that accumulation. It is equally clear that that the fragmenting of the land and its allocation to so many individuals made such sales considerably easier than they would have been had there been a form of collective title that could have been utilised in their endeavours to develop their remaining lands. Impossible to manage, or to transact for themselves given the many technicalities involved and (it seems likely) with banks unwilling to lend except with a lease in place upon which Maori were reliant to make repayments they were vulnerable to, and inadequately protected from profiteering at their expense.

[2638] Walghan Partners, 'Block Reearch Narrative',, Vol. II, Part II, 19 December 2017, p 42
[2639] Walghan Partners, 'Block Reearch Narrative',, Vol. II, Part II, 19 December 2017, pp 42-44
[2640] Husbands, 'Oroua Reserve', p 20.
[2641] For liens, see 'Maori Land Court Records Document Bank Project, Porirua ki Manawatu, vol 1, pp 417-8, 422, 426, 437, 439, 441-4, 448, 450, 452, 672-3, 772-7, 804-5, 807-8, 811-4, 816=7. Our thanks to Paul Husbands for this information.
[2642] Te Ara Takana v McDonald, *NZSC*, 16 December 1887.



Crown Action and Maori Response: **Crown Purchases, Pukehou blocks, to 1900**

Cartography by Geospatial Solutions Ltd. Map Number CFRT - CAMR 044 Map projection: New Zealand Transverse Mercator Date: 1/02/2018

9.13 Crown purchase case study 3, Pukehou block

In April 1873, James Ransfield made an application for a certificate for the Pukehou block, which is also recognised in the Otaki minute book 2 as Manawatū Kukutauaki No.1, in the name of Ngāti Kapu. A list of names was submitted by Ransfield, which was objected to by Hema Te Ao, who stated that the land belonged to Ngāti Whakatere and Ngāti Pakau [*sic*].[2643] The evidence then given detailed a complex history of migration, tuku and post-1840 transactions which witnesses interpreted differently and the court, ultimately rendered down to shares for the different parties and allocations to individuals, in part to ease the transfer of land to the Crown.in order to satisfy liens.

In evidence, Ransfield pointed out several of his cultivations, his store, land leased to Bishop Hadfield, and a bird snaring area, saying that Ngāti Kapu were the only people to have cultivated the land and that they had been in occupation for 30 years.[2644] Hoani Taipua of Ngāti Pare, appeared as a counter-claimant, calling on Renau Wharepakaru of Ngāti Kauwhata to give evidence. Renau stated that the land belonged to Ngāti Kauwhata and Ngāti Pare; that he had killed the Muaūpoko who had possession of the land; and that the Ngāti Kapu occupation was a result of some land at Pareauku being exchanged for livestock with the agreed boundaries settling the deal.[2645]

Renau Wharepakaru continued by saying that Te Puke of Ngāti Pare gave lands to his relative, Te Ihuwaka, one place being Paruauku. Ihaka of Ngāti Mōkai (a section of Ngāti Kauwhata) was given a piece of Paruauku. Hōri Kīngi (also known as Te Puke) gifted a swamp and adjacent dry land named Ōtipua to Wiremu Te Manewhā, which he cultivated in 1858, and was purchased lately. Renau stated that apart from the piece that belonged to Wiremu and others of Ngāti Pare, the rest of Paruauku had been sold.[2646]

Rikihana Te Tārure of Ngāti Korokī said that he knew the Pukehou block from his childhood, and that Paruauku had been set aside for his father by Kīngi Hōri of Ngāti Kauwhata and Ngāti Pare Rikihana said that he cleared land at the base of Pukehou in 1850, and there were no other cultivations. He also recounted that the land that Wiremu received from Te Puke had totara on it, from which he made shingles for Bishop Hadfield for £10. The 1858 sale of land at the base of Pukehou, Rikihana recalled, was made by Te Oha to Hoani Pōkai for some livestock. So he cleared his piece of land, and Pōkai his, because he had purchased it, and Wī Piti his piece, because it was his as a member of Ngāti Pare. Rikihana had not heard of anyone else having a claim to Pukehou; he had sown

[2643] James Ransfield and Hema Te Ao, 15 April 1873, Otaki minute book 2, p 77.
[2644] James Ransfield, 17 April 1873, Otaki minute book 2, p 81. See Otaki minute book 5, p 343. Hemi Ranapiri (James Ransfield) stated that he belonged to Ngāti Kapu and Ngāti Tukorohe hapū of Ngāti Raukawa.
[2645] Renau Wharepakaru, 17 April 1873, Otaki minute book 2, p 82.
[2646] Renau Wharepakaru, 10 May 1873, Otaki minute book 2, pp 118-22.

grass on the block in 1860, and in 1870, had leased it as a cattle run, with no interference from either Ngāti Pare or Ngāti Kapu.[2647] Thus, his evidence focused on his own occupation rather than the rights of one hapu or other. According to Rikihana, neither Ngāti Kapu nor Ngāti Pare had impeded his occupation on the land, even when he built a bridge, a house, and gardens. Because of the distance from town he had ceased growing potatoes – as recently as 1871. Rikihana stated that he and his father never saw the parents of Ransfield working on the land; however, he did note that Ngāti Kapu were living there in 1858, but that they did not use the land at Pukehou.[2648]

Hema Te Ao (also known as Te Puke Te Ao) of Ngāti Pare claimed that Pukehou belonged to Ngāti Pare and Ngāti Kauwhata, and that his uncle, Te Puke, was the principal man of these hapu. Hema disputed the assertion made by Rikihana that the land was gifted to Wiremu from Te Puke, saying that Ngāti Pare and Ngāti Kauwhata took the land from the original owners, the Muaūpoko, and no other Ngāti Raukawa hapu disputed this fact. Hema then recited the boundaries of Ngāti Pare and Ngāti Kauwhata on the Pukehou block and places of residence outside. Hema also disputed the claim by Ransfield and made comments about which portions of the block were given out by Te Puke, either by gift or sale. Hema said that the Ngāti Kapu claim to the block came after the purchase made by Hoani Pōkai, and that any rights they had to bird snaring had been given to them by Te Oha. He stated, however, that the Ngāti Kapu boundary was to the seaward side of Pukehou.[2649]

Appearing on 13 May 1873, surveyor James Mitchell stated that for the last 10 months he had been engaged by the government to work in the Manawatū district, more so at Ōtaki to erect a 'station'. Mitchell had made enquiries as to the owners of the Pukehou block so he could explain his intentions to them. He believed that one of the principal men was Eru Tahitangata.[2650] On the other hand, Rōpata Te Ao had insisted on £40 compensation of the government for the destruction of trees on the Pukehou block and later, with two others, had asked for a further £15, threatening to destroy the station if the demands were not met.[2651] Hema Te Ao, the brother of Ropata, then gave evidence, stating that Mitchell had employed Ngāti Kapu to erect the trig. station. He had objected because they had no rights on the land, having taken no part in driving off the original occupants. But when questioned about Ngāti Kapu snaring grounds at

[2647] Rikihana Te Tārure, 12 May 1873, Otaki minute book 2, pp 122-24.
[2648] Rikihana Te Tārure, 12 May 1873, Otaki minute book 2, pp 125-27.
[2649] Hema Te Ao, 12 May 1873, Otaki minute book 2, pp 130-33.
[2650] James Mitchell, 13 May 1873, Otaki minute book 2, pp 136-37. See Otaki minute book 3, p 244 (5 December 1878). Eru Tahitangata in evidence for the Makirikiri sections gave his hapū as Ngāti Kapu.
[2651] James Mitchell, 13 May 1873, Otaki minute book 2, pp 136-37. Rōpata Te Ao stood as a Member of Parliament for Western Maori 1894-1896, and was of Ngāti Pare hapū of Ngāti Raukawa and Ngāti Te Akamapuhia hapū of Ngāti Toa. See National Library of New Zealand, Te Puna Matauranga o Aotearoa: https://nzresearch.org.nz/items/22410536

Pukehou, Hema acknowledged that Ngāti Kauwhata allowed them to do so, and that only since the survey had Ngāti Kauwhata and Ngāti Pare objected to their rights in the land.[2652]

Te Kooro Te One (Ngāti Kauwhata) gave an historical account of the Heke Whirinui to the district and how Te Ao, the chief of Ngāti Pare and father of Hema, arrived with the Ngāti Awa migration. His brother, Te Puke, also accompanied him but returned to Maungatautari and according to Te Kooro, later led the Heke Kariritahi to Kapiti district, where he had decided to remain because the land was rich. The new residents began to establish cultivations, lay out boundaries, and erect a pā. Te Kooro detailed that Ngāti Kapu took up residence at Pukekaraka, Te Puke went to Waitohu, and Te Oha claimed eel weirs on the Tōtara Stream. It was Te Oha who noticed that there were inhabitants – namely, the Muaūpoko – upon which a party was formed of Ngāti Pare and Ngāti Kauwhata, who expelled them, taking several as slaves. After this incident, the hapū settled down, and set up cultivations and processed flax at Waitohu and Ngatotara. The Ngāti Kapu had only established their cultivations opposite Pukehou on the other side of Ōtipua lately, after the purchase. According to Te Kooro, while some of the Ngāti Kauwhata went to the Oroua to receive portions of land, most remained at Haowhenua. It was afterward that Ngāti Kauwhata returned to Oroua, leaving 50 persons behind to maintain their rights to the land. Sections of Ngāti Kauwhata from both Oroua and Ōtaki fought and died at Kuititanga. Later, when missionaries arrived at Ōtaki, Ngāti Kauwhata travelled to and fro to cultivate and worship.[2653]

Wiremu Manewhā of Ngāti Koroki was next. He said he knew the Pukehou block and claimed Paruauku, the place where he had split shingles for Hadfield. With the money he had received he had been able to purchase another portion of land from Te Puke. Te Puke and Wiremu agreed to the boundary of the block with no interference from others, even after years of successive cultivations. Wiremu reiterated earlier statements that Hoani Pōkai had paid for his piece of land with cattle, and that the land next to his (Wiremu's) belonged to Wī Piti and Te Hau, both of whom came from Ngāti Pare and Ngāti Kauwhata. The lands were theirs; they did not have to purchase it. When Wiremu had gone to Manawatū, he had left his 'child' Rikihana on the land. When asked who helped him cut the tōtara tree, Wiremu named Hōri Ngāwhare, Te Rei, and Ngarape of Ngāti Kapu, whom he also referred to as his 'children'. When questioned about Paruauku, Te Ngongo, Piritaha, and Pikiwahine Wiremu stated that these were Ngāti Kapu and the Ngāti Kauwhata cultivations are outside Paruauku, and that the Ngāti Kapu

[2652] Hema Te Ao, 13 May 1873, Otaki minute book 2, pp 135-36. Hema and Rōpata Te Ao (Ngāti Pare) were the sons of Te Aotūtahanga (Te Ao), the younger brother of Kingi Hori Te Puke, signatory to the Treaty of Waitangi, 19 May 1840 at Otaki. Both Hema and Ropata served terms as the Member of the House of Representatives for Western Maori: http://www.nzhistory.net.nz/politics/treaty/signatory/8-82

[2653] Te Kooro Te One, 13 May 1873, Otaki minute book 2, pp 138-43.

cultivations wee at Wī Piti's. Completing his evidence, he stated that he had been cultivating the land for ten years, and that when he had laid off the boundary with Te Puke, Ngāti Kapu were living at Pukekaraka.[2654]

Eru Tahitangata claimed Pukehou on behalf of Ngāti Kapu, saying they were resident on the block; that Te Rauparaha had placed them there prior to Haowhenua. No one interfered with their occupation until Mitchell came and proposed to put a station there. Eru named all the areas on the block as belonging to them, adding that even the lands outside the block were owned by Ngāti Kapu. Ngāti Kauwhata and Ngāti Pare had never interfered with their occupation; nor had these hapū given land to Ngāti Kapu. Had Eru seen these hapu on Pukehou, he said, he would have run them off the land; and he recounted the time his brother had killed Tauake, a Ngāti Ruanui man, for eating berries and other food from their land, and that the killing of Tauake had caused the Haowhenua fight.[2655]

Akapita explained that after the Haowhenua fight the tribes had returned to Ōtaki, with Ngāti Kauwhata and Ngāti Pare settling at Waitohu and Manuao, respectively; both areas outside of Pukehou. After that, many Raukawa chiefs and their people had gone to Whanganui to help Pehi Tūroa avenge the death of his children. Some Ngāti Kapu went to Whanganui; some stayed on at Pukehou. Like Eru, Akapita named many areas on the land, saying these belonged to Ngāti Kapu, and that Ngāti Kauwhata and Ngāti Pare had no houses or cultivations there.[2656]

The court delivered its judgement regarding the inland portion of the Pukehou block, ordering equal longitudinal divisions for the three hapu concerned, with the northern portion awarded to Ngāti Kapu, and the southern portion to Ngāti Pare and Ngāti Kauwhata. Pukehou nos 1 to 3 were awarded to Ngāti Kapu as requested by James Ransfield. [2657] The Pukehou no 4 portion was awarded to Ngāti Pare and Ngāti Kauwhata sections three days later, on 22 May 1873.[2658] Pukehou no 5 was brought through and immediately partitioned into A through to M blocks in the following year (April-May 1874). These ranged in size from 5,600 acres to 5 acres.

[2654] Wiremu Manewhā, 14 May 1873, Otaki minute book 2, pp 144-46.
[2655] Eru Tahitangata, 14 May 1873, Otaki minute book 2, pp 150-55.
[2656] Akapita, 15 May 1873, Otaki minute book 2, pp 155-60.
[2657] 19 May 1873, Otaki minute book 2, pp 178-85.
[2658] 20 May 1873, Otaki minute book 2, p 200.

Table 9.20: Pukehou Block Title Investigation

Block	Date	Area (acres)	Grantees	Reference
No.1	19 May 1873	1,685	Eru Tahitangata Tereturu Akapita Tahitangata Haikema Te Raika Te Hiwi Aterea Te Teira Kipa Pataua Te Wiata	Otaki MB 2, p.183
No.2	19 May 1873	1,685	Tiemi Ranapiri Enoka Te Wano Karanama Whakaheke Riria Ranapiri Tāmati Ranapiri Arihia Wehipeihana Mohi Heremia Tāmihana Hotene Tāniera Rehua Raureti Te Putu	Otaki MB 2, p.183
No.3	19 May 1873	1,685	Atarea Te Waha Te Raiti Tonihi Akapita Te Tewe Hoani Te Matepū Heremaia Ngato Ngārati Te Tewe Hohepina Parakipane Naihi Pekeia Tame Tima Pene Te Hapupu	Otaki MB 2, p.184
No.4	22 May 1873	4,077	Eru Tahitangata Hēmi Ranapiri Akapita Te Tewe Karanama Te Whakaheke Enoka Te Wano Tāmati Ranapiri Aterea Te Waha Aterea Tauehe Mohi Heremia Riria Tiemi And others	Otaki MB 2, p.200

No.5A	2 May 1874	5,600	Hema Te Ao and 50 others	Wairarapa MB 2, p. 110
No.5B	2 May 1874	2,422	Hema te Ao. Ria Haukōraki. Ropata te Ao. Mere Kipa h.c. Hoani Taipua. Toretore. Moroati Kiharoa. Kipa Whatanui h.c. Kataraina te Puke. Puihi Hēnare Roera h.c. Hiria Hoani Taipua. Hoani Tāwhiri. Ema Tukumaru. Areta Hoani Taipua. Hipora Eruera Te Whioi. Rīpeka Katipō. Makareta Taherangi. Pitiera Hoani Taipua. Reweti Ropata. Matenga Moroati. Hema Rōpata. Wirihana Te Ahuta. Hakaraia Hoani Te Reinga. Inia Hoani Te Reinga. Mere Hakaraia Te Waru.	Wairarapa MB 2, p. 111
No.5C	2 May 1874	2,422	Rōpata te Ao. Rota Waitoa Hianga. Anawarihi Ropata. Rāwiri Rota. Hori te Waru. Tāmati Roeti h.c. Wiremu Paki Hianga. Waari Parewhanake. Rei Parewhanake. Hēni te Waru. Rāwiri Wānui. Rāhapa Hopa. Kepa Kerikeri. Mere Hakaraia te Waru. Witeri Raukawa. Maraea Paki Hianga. Hāpeta Rangikatukua.	Wairarapa MB 2, p. 111

			Raimapaha Paki. Mahima Hoani. Ruiha Parewhanake. Ngākuku te Kaparoa. Horima te Waru. Rēweti Rōpata. Wī Kerei Tahatahi. Hēma Rōpata. Reupena Kiriwehi.	
No.5D	2 May 1874	1,000	Rōpata te Ao Wī Kuti Piripi Arahiora. Te Hauotaranaki. Matiaha te Raukorito. Piripi Kohe. Raniera Arahiora. Hēni Piripi. Tāre Kuti Hipora Taituha. Kere Piripi. Hapi Eraia. Rēweti Kuti Hana Kuti Karehana Piripi Kohe Eruera Arahiora Tāoro te Kanawa Tiu Matiaha Hārata Pene Kooti Mihipeka Toangina Rutera Arahiora Hera Ani Erina Harata Wī Nera	Wairarapa MB 2, p. 112
No.5E	2 May 1874	1,000	Hema te Ao Ropata te Ao Hoani Taipua	Wairarapa MB 2, p. 112
No. 5F	20 April 1874	138.1.0	Mareka Ropata Hurumutu, Wi Parata Stubbs	Otaki MB 2, p. 435
No. 5G	2 May 1874	65.3.0	Tamati Ranapiri, Mohi Heremia, Enoka Te Wano, Riuhi Piripi, Karanama Whakaheke, Renao Wharepakaru,	Wairarapa MB 2, p. 107

			Reweti Te Kohu, Mere Tamera, Heremia Ngato, Piripi Te Ra	
No. 5H	2 May 1874	5	Hemi Te Ao	Wairarapa MB 2, p. 107
No. 5K	2 May 1874	100	Hemi Kuti, Matiaha, Piripi Atahiora	Wairarapa MB 2, p. 113
No. 5K Nth	27 September 1881	50	Hemi Kuti	
No. 5K Sth	27 September 1881	100	Matiaha and Piripi Arahiora	
No. 5L	2 May 1874	4,118.3.8	Hemi, Ropata Te Ao, Hoani Taipua, Hauotaranaki, Pitera Hoani Taipua, Anawarihi and Ana Hori Te Waru	
No. 5M	2 May 1874	50	Hema Te Ao, Ana Hoani Taipua	Wairarapa MB 2, p. 113

Between 1875 and 1881 the Crown purchased nine of these blocks and they were all subsequently granted to the Wellingtion and Manawat Railway Company.

Table 9.21: Crown Purchase of Pukehou Blocks

Date	Block	Acre	Price	Proclaimed waste lands of the Crown
4 February 1875	Pukehou 1	2123	£200	21 October 1880
4 February 1875	Pukehou 2	2086	£200	21 October 1880
4 February 1875	Pukehou 3	2050	£200	21 October 1880
26 October 1881	Pukehou 4 [pt]	926	£359.5.0	17 November 1881

12 September 1878	Pukehou 5A [pt]	3400	£670.0.9	17 November 1881
16 February 1876	Pukehou 5B	2356.1.9	£220	21 October 1880
11 February 1876	Pukehou 5C	2314.0.39	£200	21 October 1880
28 May 1875	Pukehou 5D	1062.0.8	£87.10.0	21 October 1880
12 June 1875	Pukehou 5E	978.2.18	£90	21 October 1880

Source: AJHR 1881 session I, C-7, p 14; Walghan Partners, 'Block Research Narratives', Volume III, Unfiled Draft Report, 19 December 2017, p 180.

In the following, we discuss Pukehou no 4 in more detail. There, Native Minister Sheehan intervened personally in 1879, in order to resolve problems that were impeding the Crown's acquisition of the block, although this does not seem to have been much reported at the time. A number of payments totalling £95 had been made on the block over an extended period, mostly to Eru Tahitangata, one of ten named owners. These were recorded by Booth as follows:

Table 9.22: Pukehou No. 4 Block Purchases

11 October 1873	Eru Tahitangata	£50
16 December 1875	Te Ao o Taranaki	£5
16 December 1875	Hemi Ranapiri	£20
17 December 1875	Eru Tahitangata	£4
16 Nay 1876	Eru Tahitangata	£5

21 April 1879	Eru Tahitangata	£10
22 May 1879	Eru Tahitangata	£2

Source: MA-MLP 1/1880/764

The government seeking to finish up its purchase operations discovered that part of Pukehou 4 was already leased and that there were buildings on it as well. It had been originally leased to Bishop Hadfield = 'made in very early days by the natives and afterwards transferred to his nephew [Simcox], who [had] held it for more than twelve years.' It contained a woolshed, yards, paddocks and other improvements, and it had, Simcox's partner said, 'always been understood by the natives, that this land was to be sold to the lessees at £1 per acre.'[2659] Only difficulty of getting the survey done had prevented this from happening, many years earlier. Simcox disavowed any wish to upset the government's purchase negotiations and a compromise was reached. The whole block had been proclaimed under negotiation, but the government was interested largely in the 1000 acres at its upper end.[2660]An arrangement was made while Sheehan (accompanied by Lewis and Booth) were at Otaki, that Simcox would not be 'disturbed during the time of his lease and that when the portion at the eastern end of the Block had been sold to the Government the native owners would be allowed to sell a portion of the Block and the rest would be made a permanent Reserve'.[2661] Shortly thereafter it came to light that Robert Ransfield (Ranapiri) had been negotiating for and had 'partly completed the purchase of a certain portion' of the block, prompting Simcox to appeal to Booth as to 'the best course to take with a view to putting a stop to his negotiations.'[2662] There is no reply on record but Gill recommended that Booth be instructed to bring his operations to an end and the survey of the 1,000 acres be completed so that a final order could be issued.[2663]

On 21 October 1881 Booth appeared in the Native Land Court and asked for a portion containing 926.0.1 acres, being part of Pukehou No.4, to be awarded in favour of Eru Tahitangata in order to facilitate its sale to the Crown. Enoka Te Wano, Pape Ranapiri and Hema Te Ao objected that they had not agreed to the subdivision. Others were insistent that each owner have an interest defined.[2664]Booth produced a deed of purchase for the Pukehou No.5A block

[2659] Rutherford to Sheehan, 8 August 1879, MA-MLP 1/1880/764.
[2660] Rutherford to Sheehan, 8 August 1879, MA-MLP 1/1880/764.
[2661] Booth to Gill, 12 August 1879, MA-MLP 1/1880/764.
[2662] Simcox to Booth, 11 August 1879, MA-MLP 1/1880/764.
[2663] Gill to Sheehan, 19 September 1879, MA-MLP 1/1880/764.
[2664] Otaki minute book 5, p 209.

dated 12 September 1878 containing 3,400 acres. However, he also asked the Court to reserve lands for 11 owners who had not received any money.[2665] This was not the Crown's preferred option but one it took if some owners could not be persuaded to sell at what it considered a 'reasonable price.'[2666] Renau Wharepakaru then stated that they sold the eastern part to the Crown and that the other part had been set aside for those who did not wish to sell. Upon this, the Court ordered that Pukehou No.5A (3,400 acres) be awarded to the Crown and Pukehou No.5A1 (2,200 acres) to the 11 persons. [2667]

Out of court discussions had resulted in a majority agreement as to the no. 4 block which Booth brought to court three days later, on 24th October 1881. He applied for the interests of Eru Tahitangata containing 926 acres.0 roods.1 perches on behalf of the Crown, stating that all parties interested in the whole block had consented to this (likely, so that the debt to the Crown would be satisfied) and wanted the remainder to be subdivided. This statement was thrown into immediate doubt when three people objected on the grounds that they had not consented to the subdivision, that Eru had not given up his claim to the rest of the block and that 'the whole of the block should be settled at the same time'.[2668]

Eru Tahitangata then asked that certificate be issued for his part which was done. He was also included in the other part of the block despite these objections of some of the co-=owners and Pukehou No.4B was awarded in favour of: Eru Tahitangata, Akapita Tahitangata, Te Naika Tahitangata, Tarei Tahitangata Aneta Tahitangata, Pare Tahitangata, Haikema Te Matohoturoa, Hoani Tahitangata, Hanatia Pataua, Ramari Pataua. In the same sitting, Pukehou No.4C (872a-0r-0p) was awrded in favour of Riria Tiemi, Rerenara te Tewe, Hiroi Piahana, Mohi Heremia, Netahio Tauehe, Haimona Ranapiri, Teraiti Te Tewe, Rawiri Heremia, Karauria Heremia, Matarena Tauehe, Kerekeha Paehua, Ruhia Rewi, Hotene Ngawi, Mikaere te Papa, Henare te Papa, Tāmihana Hotene, Haimona Hiwhenua, Mitarina Ranapiri, Punohi Ranapiri, Noti ranapiri, Winia Paehua, Hopia Enoka, Emere Perenara and Meropa Te Kotu. Pukehou No.4D (279a-0r-16p) was ordered in favour of Karanama Whakaheke, Tāmihana Whakaheke, Merania Hihira, Irihei Tarei, Arihia Wehipeihana, Pipi Ruihi, Tapita Reweti, Roha Wehipeihana, Hamahona Ruihi, Tarei and Enoka Te Wano.[2669]

William Simcox and his partner F Rutherford would acquire numerous shares in no 4 block from 1886 onwards.[2670]

[2665] Otaki minute book 5, pp 209-10.
[2666] See, for example, Gill to McDonald, 12 November 1880, MA-MLP 1/1880/764.
[2667] Otaki minute book 5, pp 209-10.
[2668] Otaki minute book 5, pp 239-40.
[2669] Otaki minute book 5, pp 242-44.
[2670] Walghan Partners, 'Block Reserch Narratives', vol III, draft.19 December 2017, p 208.

9.14 Conclusion

The opening of the Native Land Court in the district after the exclusion clause was rescinded had seen Ngāti Raukawa bring many of their small blocks in the region of Ōtaki through for award of title. There was little dispute as to hapū ownership and an effort by Muaūpoko, Ngāti Apa and Rangitāne to claim lands there gained no traction. Nor did their later claims (in 1873) to land as far south as the Crown purchases at Wainui and Waikanae (which they knew better than to disturb). The notable and controversial exceptions were Horowhenua and Tūwhakatupua. In the latter instance, there, was no real possibility of Ngāti Turanga and other hapu living in that portion of the district to challenge the court's decision because the block had already been sold with some £400 already paid out before title determination. Horowhenua would absorb a great deal of local Maori attention and energy over the next thirty years and is discussed in detail in the following chapter.

Clearly there was a great deal of interest in having a secure title to the township allotments and their small defined cultivation sites in the immediate vicinity; an expression of the wish to be on equal footing with Pākehā in all matters. In many of these instances, ownership had already been decided by a runanga of leading chiefs and the court's role in these early years, was largely confined to rubber stamping those decisions, or resolving problems that were revealed on survey, as to where lines ran, or arising from sales and gifting arrangements that had taken place since the original allocations. A number of leases were already in existence and there seems to have been no immediate intention to sell these areas to Pākehā except in a few instances such as to store-owners and the resident doctor. By 1875, only 3.4% of the area awarded had been sold although the rate of alienation would increase thereafter.[2671]

The Crown was not interested in these little blocks but even before quiet possession of the Rangitīkei-Manawatū block had been fully achieved, the General and the Provincial Governments turned their attention to getting Maori to bring their claims to the large tract of territory south of the Manawatū River surveyed and into court for title determination. The Provincial Government continued to be the driver of land acquisition in the region, until its dissolution in 1876. The intention was to purchase most of the land to the east of the proposed railway line before its construction raised land values, and by the end of the decade, this had been largely achieved. Greatly assisting this endeavor was the passage of the Native Land Act 1873 which converted customary rights into tradeable paper titles. While the court was supposed to list all owners in a 'memorial of ownership', the practice of awarding title to ten – or perhaps as many as twenty owners -– continued. Individuals received, as a result of this process, an undivided interest in land, with which they could do virtually nothing,

[2671] Walghan Partners, 'Block Reserch Narratives', vol I, draft, 19 December 2017, p 237.

other than sell. The result was not a delineated lot on which a whanau might establish a farm or other business.

The government had wanted the whole of the district to go through as one block, much as it had been able to purchase north of the Manawatū River and considered its task much complicated by the need for subdivisional survey. Nonetheless its position was much enhanced by the identification of the owners with whom its agents were to deal, and by the increasing debts faced by Maori as they attended court and undertook the requisite surveys (We discuss the consequences of this further in the context of the Native Land Laws Commission 1891 at chapter 11). The role of Crown agents, in particular, James Grindell, in furthering the Provincial Government's purchase programme by actively managing surveys and applications to the land court cannot be over-stated. Agents also made advance payments, in some instances before title had been determined. Little actual land seems to have transferred into its hands as a result (with the notable exception of Tūwhakatupua) but the practice helped to prise open ownership even if down payments were ultimately written off. More usually advances were made after initial award but before interests were delineated on the ground and the effect was much the same. Once the 'charmed circle' was breached as it all too easily was when people were in need of money and had no obligation to gain community consent, the rest followed suit.

As for the tangata heke, they were increasingly in debt, sending in many requests for food during court sittings, the expenses of which were aggravating their situation. They had initially hoped that by taking their case for ownership of the lands south of the river, to the Native Land Court, together, they would strengthen their hand. The result was mixed with the court seeking to reconcile the "principle" of regional ownership established by the Hīmatangi decision with the realities on the ground. To the their bitter disappointment, while their ownership of the bulk of the region south of the Manawatū River was confirmed by the Manawatū Kukutauaki court decision, they lost the prized area around Lake Horowhenua. Ignoring both the preponderance of the evidence and the basis of its own judgment in the Hīmatangi case—that is, that occupation of the land established ownership—the court recognised that of Muaūpoko but at the expense of Ngāti Raukawa, summarily dispossessing them of their lands at Horowhenua. It did so, with the support of the government, surely it seems, because of what it took to be the political exigencies of the day. Justice, in other words, was sacrificed on the altar of expediency.

Rapid alienation and intensive partitioning of land followed although it might take many years before a transaction was finalised; a problem that the Government solved for itself by passing legislation that enabled it to lock out competition (Native Land Purchase Act 1877) in any block it was negotiating for and to cut out any interests it had acquired without majority consent (Native Land Act Amendment Act 1877). According to the published record, bbetween 1874

and 1881, the government had managed to purchase 51 blocks, or around 157,085 acres: 32,233 acres in 1874; 42,543 acres in 1875; 26,604 acres in 1876; 1250 acres in 1877; 9761 acres in 1878; 4025 acres in 1879; and 42,669 acres in 1881. If the 103,000-acre Tararua block, purchased in 1873, which extended across the ranges between the Wairarapa district and the west coast is included, the final total was over 250,000 acres, the amount of land that Fitzherbert had specified in 1872 as the provincial government's objective. The blocks acquired were mostly on the eastern side of the proposed railway line and while containing valuable timber were not ready for immediate settlement. Purchase of the flatter lands to the east would be left to private parties and is discussed further in chapter 11.

CHAPTER 10

THE MUHUNOA BLOCK AND SECTION 9 HOROWHENUA

10.1 Introduction

The Muhunoa Block ran more or less adjacent the southern boundary of the Horowhenua Block, stretching from the coast in the west to the Tararua Ranges in the east. There are no estimates as to how many acres it encompassed. The land was claimed by various hapū of Ngāti Raukawa, including Ngāti Hikitanga, whose tupuna Te Paea had arrived at Kāpiti at the time of Te Whatanui. When the latter settled on land near Lake Horowhenua, Te Paea and his people settled just to the south, around Mahoenui. The two chiefs agreed upon a boundary, which in time became known as the 'Mahoenui boundary': to the north of the boundary belonged to Te Whatanui, to the south, to Te Paea.

Until the late 1860s, the various groups lived harmoniously enough together. Then, in 1869, conflict broke out between certain Muaūpoko, who now claimed this land, and the Ngāti Raukawa hapū who had been living on it for many years. The conflict was exacerbated when the Native Land Court included the land, both north and south of the Mahoenui boundary, in its award of the Horowhenua Block to Muaūpoko in 1873. The government was disinclined to involve itself in the dispute, believing it was for the tribes to resolve themselves, but ultimately Donald McLean contrived an agreement between the warring parties in February 1874. As part of this agreement, Ngāti Hikitanga and three of their kin hapū were to receive £1050 and certain reserves between 'Papaitonga Lake and the sea'.[2672]

The agreement certainly brought an end to the fighting on the land. But so replete was it with ambiguities and so secretive the process by which McLean put it together that the agreement merely heralded the beginning of decades of fighting *over* the land. Ngāti Hikitanga and their kin would not receive the promised reserves until nearly a quarter of a century after signing the 1874 agreement. And, when they did finally receive what had so long been promised them, the reserves were risibly small. It had been a very long and arduous journey for such a small bounty.

[2672] Muhunoa Block Deed, 7 February 1874, ABWN w5279 8102 Box 320.

10.1.1 Section 9, Horowhenua Block

The genesis of Section 9 lies in the arrival on the Kāpiti Coast of the tribes from the north, beginning with Ngāti Toa's arrival from Kāwhia in the early 1820s.[2673] While the process of settlement appears to have begun peaceably enough, this all changed after Te Rauparaha's half-brother, Nohorua, killed and consumed a Muaūpoko woman of rank. Seeking revenge, Muaūpoko sought to lead Te Rauparaha into a trap, in the course of which at least three of his children were killed, while he and others escaped. In his turn, Te Rauparaha swore revenge, and indeed, it is said that he vowed never to cease until all Muaūpoko had been killed. Under constant attack from Te Rauparaha's warriors, the surviving Muaūpoko fled for safety in various directions, north, south, and to the east.

This more or less set the pattern for the next several years, as Ngāti Toa sought to consolidate their presence on the coast, and Muaūpoko sought to avoid them as best as possible. The presence of Ngāti Toa, meanwhile, inevitably unsettled the existing state of affairs on the coast, so that it was perhaps unavoidable that conflict on a considerable scale would eventuate. This it did in 1824, when the battle of Waiorua took place. On the one side were the united forces of Ngāti Ruanui, Whanganui, Ngāti Apa, Muaūpoko, Ngāti Ira, Ngāti Kahungunu and Ngāti Kuia. On the other, massively outnumbered, was Ngāti Toa, aided perhaps by some of the other recent arrivals on the coast. But Ngāti Toa had one great advantage: the stronghold that is Kāpiti Island. Defending the island from the surprise attack launched at them from Waikanae, Ngāti Toa slaughtered numerous of the attackers, while many others drowned. It was a considerable victory for Ngāti Toa and a humiliating defeat for the combined tribes.

This was, unequivocally, a turning point for all the tribes on the coast and, indeed, for some yet to arrive. For one thing, Ngāti Toa now claimed a status of pre-eminence. For another, this victory also marked the moment when other tribes from the north decided to migrate south. Amongst these was Ngāti Raukawa, led by their great rangatira Te Whatanui. Arriving in three stages from 1825 onwards, Ngāti Raukawa settled, for the most part, around Ōtaki, Manawatū, and Horowhenua. They did so with the blessing of both Te Rauparaha and Te Rangihaeata, Ngāti Toa having assumed for themselves the right to allocate territory in the region.[2674]

It was at some point during Ngāti Raukawa's migration that a pivotal and somewhat mysterious event occurred. Despite the constant threat of attack from Ngāti Toa, some Muaūpoko, perhaps numbering 100 people, remained at

[2673] The following account is drawn from Anderson and Pickens, *Rangahaua Whānui—Wellington District*, Waitangi Tribunal, August 1996, pp. 7–16, and Luiten and Walker, *Muaupoko Land Alienation and Political Engagement Report*, Wai 2200, #A163, pp. 16–20.

[2674] That this assumption of a territorial right was disputed by those tribes, such as Ngāti Apa and Muaūpoko, who had long been on the coast before Ngāti Toa's arrival was not something that appeared to concern Te Rauparaha and Te Rangihaeata overly much.

Horowhenua. On coming to Horowhenua, Te Whatanui told them, for reasons which have never been explicated, that he would shelter them as a rata tree would protect them from the rain. Then, according to one later account, Te Whatanui marked off 20,000 acres of land for them, while retaining for his own people the land about the Hōkio Stream, along with the lower portion of Lake Horowhenua.

This, then, was the happenstance by which certain of the descendants of Te Whatanui came to be living in the area about the Hōkio Stream and the southern part of Lake Horowhenua. Although Ngāti Raukawa and Muaūpoko would later disagree vehemently over the exact nature of their relationship, for the next 30 years or so, no one disputed the right of Te Whatanui and his descendants to this land.[2675]

10.2 Muhunoa, the first 'purchase'

On 10 May 1860, District Commissioner Searancke informed Donald McLean, then Native Secretary, that he had just been at Muhunoa at the 'urgent demand' of Te Roera Hūkiki, of Ngāti Parewahawaha, 'to arrange for the purchase of his land'.[2676] The sale, however, did not proceed, because Searancke had been, to use his own colourful phrase, 'electrified' by Hukiki's demand for £7000 for the land, which Searancke considered to be worth no more than £1000.[2677] Searancke accordingly left Hukiki to 'think it over for a while', although he remained hopeful that the sale would proceed, as it would be the 'best proof possible at this present time that it is not our intention to take their land'.[2678]

Searancke repeated much the same information in a report to the Assistant Native Secretary submitted at the end of that month. He added, however, that the block had been 'repeatedly offered for sale by Hūkiki and others', and that their ownership of the block had never, at least as far as Searancke knew, been disputed.[2679]

This was, in any event, to be Searancke's last involvement with Muhunoa. Just a few months after meeting Hukiki, he was charged with behaviour unbecoming an officer of the state – charges he vehemently denied – and he resigned his post.[2680] In his place stepped the indefatigable Dr Isaac Featherston. Although the record is silent for several years, it seems Featherston continued negotiations with Te

[2675] Ngāti Raukawa would claim that had Te Whatanui not afforded his mana to Muaūpoko, they would have been driven off entirely, or simply killed. On this basis, Ngāti Raukawa claimed Muaūpoko as their vassals. For their part, Muaūpoko rejected this characterisation of themselves entirely.
[2676] Searancke to McLean, 10 May 1860, MS-Papers-0032-0565.
[2677] Ibid.
[2678] Ibid.
[2679] Searancke to Smith, 31 May 1860, AJHR, Sess. I., C.-01, p. 291.
[2680] Searancke to McLean, 14 August 1860, MS-Papers-0032-0565.

Roera, for in November 1863, Te Roera and Te Puke, of Ngāti Hikitanga, wrote to Featherston to acknowledge receipt of a letter from him regarding Muhunoa.[2681] The response of the two men also stated that Te Roera had received £50 for the land, and that they now wished Europeans to come to look at it.[2682]

With a view to putting matters on a more formal standing, a purchase deed for Muhunoa was drawn up by Featherston and presented to Te Roera and others for signing in February 1864. The deed described the land as follows:

> These are the names of the boundaries of that land, commencing at the side to the beach near to the river Waiwiri, thence to Papaitonga, thence across the swamp to Tawaowao, thence to Mahoenui, thence to a hole dug by Serancke [*sic*], thence to Tarunui, thence along the boundary to Tuha-o-tahinga, thence to Moerehurehuitiwaka, thence up the Tararua (range), thence joining the land sold by Ngatikahuhunu [*sic*], here cease the boundaries to the eastwards.
>
> Now commence the boundaries to the south. From the beach at the mouth of the river Haukopeho to Tirotirowhetu, thence to Mauiti, thence to the Lake Orotokare, this eel lake to be excluded for us, thence to Huratau, thence to the side of our fence at Muhunoa and thence from that fence to Kaungatahi, thence to the lower side of Wera a Whango, thence to the upper side of Pukeatua, thence up to Waiopehu, thence to Tararua to the land sold by Ngatikahuhunu [*sic*], these are the boundaries to the south.[2683]

Significantly, the deed makes no reference to any payment for the land. Equally significantly, however, the deed includes the following stipulation: 'When the surveyor comes to survey five hundred acres to be excluded for us.'[2684] A note in the margin of the deed, dated 29 March 1864, states that 'On Monday [i.e. 28 March] was commenced the signing of the names herein written.'[2685] Unfortunately, the only name recorded on the document in the file is that of Te Roera.

The deed may not have referred to money, but money was clearly involved. In mid-June 1864, Noa Te Whata, a Muaūpoko rangatira, wrote to Featherston, asking if Featherston remembered 'our talk about money for Muhunoa'.[2686] Te Whata also complained that 'that man Te Roera has eaten the money deposited' for Muhunoa, along with 'the rent money'.[2687] At a meeting in Wellington, Te Whata reminded the Superintendent, £1100 had been promised for Muhunoa. Of this, Te Whata asked that £200 be given to him and his people; Ngāti Raukawa could have £900.[2688]

[2681] Hukiki and Te Puke to Featherston, 9 November 1863, referred to in 'Precis of Muhunoa-Papaetonga land sale', Assistant Native Secretary Halse, 15 March 1872, MA 13/119/75a.
[2682] Ibid.
[2683] Muhunoa Purchase Deed, 5 February 1864, MA 13/119/75a.
[2684] Ibid.
[2685] Ibid.
[2686] Te Whata to Featherston, 16 June 1864, MA 13/119/75a.
[2687] Ibid.
[2688] Ibid.

Concern amongst officials with respect to the distribution of the Muhunoa payment was sufficient to warrant the intervention of Walter Buller – the Resident Magistrate for the Manawatū – towards the end of June. On the twenty-fourth of that month, a meeting was held at Ōtaki with 'about 80 natives present, including the principal Ngatiraukawa chiefs'.[2689] According to the notes of the meeting, Ngāti Raukawa had asked Buller to intervene. 'I received a letter,' Buller told the meeting, 'from Arapata and others complaining that the Muhunoa instalment of £100 had not been distributed by Roera and Te Puke in accordance with the wishes of Ngatiraukawa – that it had been distributed at Muhunoa and that the Ōtaki claimants had received no share of it'.[2690] In this letter, Buller continued, Arapata had declared that Ngāti Raukawa planned to 'retire from the sale and to repudiate the agreement they had signed'.[2691] Buller had, according to his own account, responded by telling Arapata that the agreement could not be overturned in this way: '… that the land was sold – that the boundaries were described in the memorandum of agreement, that the Commissioner had complied with the terms of the agreement and had paid one hundred pounds to those appointed by yourselves to receive it'.[2692] If, so Buller went on, the appointed recipients had 'violated their trust', then it was a problem for Ngāti Raukawa, not a problem for the government. 'The land now belongs to the Queen,' Buller concluded, 'and the surveyor will be here soon to fix the boundaries.'[2693] The remainder of the money, £1000, would be paid on the completion of the survey.

Having disclaimed any responsibility on the part of the government, Buller did then make some suggestions as to the distribution of the monies. Roera and Te Puke, he said, were the 'largest claimants', and they could not be ignored. 'But,' he went on, 'you can appoint two or perhaps four Ōtaki natives to receive a portion of the thousand pounds.'[2694] Perhaps, Buller suggested, they might hold a rūnanga before the final payment, to determine to everyone's satisfaction how the funds were to be distributed. In any case, he said, 'you must not talk of disturbing the sale, for that is settled'.[2695]

In response, Arapata indicated that he was satisfied with what Buller had said. Mātene Te Whiwhi, the Ngāti Raukawa rangatira, gave his consent also, but with a qualification: 'my mind is not clear about Papaitonga (a small lake) – I want this to be returned'.[2696] Buller declined even to entertain the request: 'Papaitonga belongs to the Queen,' he said.[2697] Still, he was kind enough to hold out some

[2689] 'Rough Notes of a Meeting at Ōtaki', 24 June 1864, WP3/15/64/530.
[2690] Ibid.
[2691] Ibid.
[2692] Ibid.
[2693] Ibid.
[2694] Ibid.
[2695] Ibid.
[2696] Ibid.
[2697] Ibid.

possibility that they might get the lake back: 'When the Block is opened for sale, you may purchase any part of it you please.'[2698] He could have been forgiven for responding otherwise, but Mātene's only reply was to declare himself to be satisfied. The meeting ended shortly after this exchange, with all present agreeing to hold a further meeting with 'the Muhunoa claimants'.[2699]

It seems, however, that Buller was not quite as inflexible as he had made himself out to be. Just a few days after this meeting, Buller noted that he had been 'informed that Hema Te Ao is raising the old point and threatening to interrupt the survey of the Block'.[2700] In light of this, Buller suggested it would be 'prudent to delay the survey a few months, as it is far from desirable at this juncture to rouse Kingite opposition on a land question'.[2701] As to the money, the 'delay in making the final payment of £1000 would operate favourably', Buller concluded.[2702]

Whether or not he was aware of this opposition – and one would have to presume he was – Te Puke wrote to Featherston in mid-July about the disputed £100, which he described 'as an instalment for a new piece of land in addition to the piece offered to Searancke'.[2703] The full amount for this additional land was £1000 – presumably the £1000 referred to at the meeting just held at Ōtaki. With a view to resolving the dispute, Te Puke and Te Roera were marking the boundary between their respective lands, 'that it may be known how much we each have'.[2704] Te Puke asked that a surveyor be sent to determine precisely the quantities of land in question.

Te Puke wrote again a few weeks later, in early August, although this time he was joined by Tuainuku, a son of Hītau, Te Whatanui's sister.[2705] The request this time was that they be advanced some of the money owing on Muhunoa as they were going gum-digging and needed supplies. A second request for a part of the Muhunoa purchase money was then made in late September 1864, this time by Te Roera, Te Puke, Arapata, Mātene Te Whiwhi, Ururoa, Aperahama, and Katoa: the money was needed on this occasion to provide for guests expected at a hui.[2706]

[2698] Ibid.
[2699] Ibid.
[2700] Buller, marginal note, 30 June 1864, WP3/15/64/530.
[2701] Ibid.
[2702] Ibid.
[2703] Te Puke to Featherston, 17 July 1864, MA 13/119/75a.
[2704] Ibid.
[2705] Te Puke and Tuainuku to Featherston, 2 August 1864, MA 13/119/75a.
[2706] Te Roera and others to Featherston, 23 September 1864, MA 13/119/75a.

Between these two requests, Te Paki Ngāhuna, of Muaūpoko, wrote to both Buller and Featherston, requesting the part of the purchase money set aside for them.[2707]

It appears that the delay in distributing the purchase money was owing, in part at least, to a dispute over one segment of the block. Te Puke and Te Roera again wrote to Featherston, in October, asking that the Muhunoa monies be divided, that £700 be paid 'for that part which is not disputed', while £300 would be kept in hand 'for the disputed portion'.[2708] The letter ended with a warning: 'Should you not be pleased with this arrangement of ours, o Sire, our word to you is that the money of the Government will be lost at Muhunoa.'[2709]

The confusion and uncertainty then continued well into the following year. Towards the end of November 1865, James Hamlin, an interpreter, wrote to Featherston with the following report:

> With reference to the Muhunoa purchase I saw Hema, Kiharoa and Te Roera but could not get them to come to any terms. Kiharoa and Hema [*indecipherable*] to Te Roera he had better sell part of his own land to pay your Honor for the money he had already received, as they would not sell.[2710]

He finished his report by promising 'to explain things more fully' when he next met with Featherston.[2711] Still, almost two years later, the matter remained unresolved. Featherston informed Te Whiwhi that the balance of the purchase money would only be paid when 'the dispute about the boundaries is settled and the survey completed'.[2712]

The official record, at least, then falls silent for some years with respect to Muhunoa. It comes to life again at the end of the 1860s.

10.2.1 Discord and irresolution, 1869–1872

At the beginning of 1869, several things occurred that precipitated a series of changes to the delicate balance between Te Whatanui's people and Muaūpoko that had been preserved at Horowhenua for so long. These events themselves occurred within the context of the unresolved and festering dispute over who held mana whenua at Kāpiti, and Horowhenua, and the Rangitīkei-Manawatū[2713]. This dispute had simmered and occasionally all but boiled over into outright conflict

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[2707] Ngahunga to Buller and Featherston, 25 August 1864, MA 13/119/75a.
[2708] Te Puke and Te Roera to Featherston, October [1864], MA 13/119/75a.
[2709] Ibid.
[2710] Hamlin to Featherston, 27 November 1865, MA 13/109/69a.
[2711] Ibid.
[2712] Featherston to Te Whiwhi, 29 September 1866, MA-MLP-W 1/1.
[2713] For a full discussion of this period, see Anderson and Pickens, *Rangahaua Whānui—Wellington District*, Waitangi Tribunal, August 1996, pp. 89–141.

throughout the 1860s. It pitted, on the one side, the newer inhabitants, Ngāti Raukawa in particular, against the older inhabitants, Ngāti Apa, Rangitane, and Muaūpoko (although, at times, it also pitted new arrival against new arrival, as when Ngāti Toa rejected Ngāti Raukawa's claim to Himatangi). And between them stood the Crown, most often in the form of Featherston and Buller, who sought by various means to acquire as much of the contested land as they could, without, it must be said, being overly concerned with principles of justice along the way. It is also well to note that very often in the midst of the conflict could be found Kawana Hunia, the Ngāti Apa chief who also had strong connections with Muaūpoko, his mother's people. He was, perhaps more than anyone else, a most vocal and demonstrative opponent of the claims made by Ngāti Raukawa – perhaps not surprisingly, given that his father had been forced to live as a dependent of Ngāti Raukawa after being defeated by Ngāti Toa, while his mother had been a Ngāti Raukawa slave.[2714] In any event, he was invariably intimately involved in every instance of dispute with Ngāti Raukawa. And so it would be at Horowhenua.

In January 1869, Whatanui Tūtaki, the last surviving son of Te Whatanui, died. This left just two direct descendants of the great chief, Te Riti, the daughter of Tūtaki, and Wī Pōmare, the son of Te Whatanui's daughter, Rangingangana. These two cousins, Te Riti and Wī Pōmare, had been married, uniting this direct line of descent from Te Whatanui.[2715] Together, they lived far distant from Horowhenua, at Mahurangi. Nor was there any suggestion that they planned to leave Mahurangi to continue their family's occupation at Horowhenua. Riria Te Whatanui, meanwhile, Tūtaki's widow, determined shortly after his death to leave Horowhenua to live with her Ngāti Apa people at Rangitīkei. It would appear that unnamed individuals had been pressuring her to leave, for in March 1869 Wī Pōmare wrote to her and encouraged her to remain: '…do not be afraid,' he said, 'at people trying to eject you'.[2716] Pōmare assured her that he and Te Riti would come shortly in support. In light of subsequent events, it is not unreasonable to suppose that those pressuring Riria to leave were from Muaūpoko; and more particularly, it is reasonable to suppose that Kāwana Hūnia was one of those involved.

But the offer of support was not enough, and it seems Riria left, and others went with her. In all likelihood, this brought about a substantial reduction in the number of Ngāti Raukawa living at Horowhenua. It also meant there was no longer anyone living there who was directly descended from Te Whatanui. And so the balance was altered, and those Ngāti Raukawa who remained now found themselves at a considerable disadvantage.

[2714] Anderson and Pickens, *Rangahaua Whānui—Wellington District*, Waitangi Tribunal, August 1996, p. 147.
[2715] Ibid.
[2716] Wī Pōmare to Riria Te Whatanui, 12 March 1869, AJHR, 1871, Sess. I, F.-08, p. 1.

But remain some did. Amongst them were the son and grandchildren of Hītau, Te Whatanui's sister. They belonged to the Ngāti Raukawa hapū of Ngāti Pareraukawa. They were not, it is true, descended directly from Te Whatanui, but they were as closely related as it is possible to be without being direct descendants. Still, this distinction, as we shall see, would become the source of decades of controversy. And, in addition, there were others who remained, such as the brothers Te Puke Te Paea and Nerehana Te Paea, and their sister, Rakera Te Paea. These were the people of the Ngāti Hikitanga hapū of Ngāti Raukawa. Yet more distant from Te Whatanui, they were yet all related by way of their common ancestor Kikopiri.[2717]

In March 1869, Riria Te Whatanui, the widow of Whatanui Tūtaki, along with Te Wiiti, Tamati Maunu, and 'Muaupoko also' wrote to Richmond, then Minister of Native Affairs, asking that no surveys of Māhoenui be permitted.[2718] 'Give heed,' they wrote, 'we claim in one side of the boundary and Nerehana Te Paea on the other side.'[2719] Māhoenui was the name given to the area westward and south of Lake Horowhenua and the Hōkio Stream. The northern part of the land was claimed by the Ngāti Raukawa who were descended of Te Whatanui. This was the land said to have been gifted to the great chief by Muaūpoko in recognition of his solicitude for them. The southern part of the land was claimed by other hapū of Ngāti Raukawa, prominent among whom was Ngāti Hikitanga, whose tupuna Te Paea had arrived in the Kāpiti district at the time of Te Whatanui. Indeed, it was Te Paea and Te Whatanui together who had laid down the boundary – the boundary referred to in the letter – separating their peoples. A further letter to Richmond concerning 'these two boundaries (Ngatokorua and Māhoenui)' was written the following month by Hetariki Matao 'and all the people', stating again that they were 'on one side and Nerehana Te Paea on the other'.[2720]

In the meantime, there were other sources of tension beginning to come to a head. Shortly after Tutaki's death, the sisters Kararaina and Tauteka, grand-daughters of Hītau, told Hector McDonald, a Pākehā farmer who had leased land from Tūtaki, that he was to pay the rent monies to them. When he refused, they told him to leave. And when he failed to do that, they began to harass him. They stayed three days, he later said, destroyed his fence, and threatened to burn his house down with him in it.[2721] McDonald, apparently, was not to be moved, so in October, together with Hītau's son Wātene Te Waewae, 'indeed from all of us Ngatipareraukawa', the two sisters wrote to McLean, telling him that while McDonald had previously had a lease, this had expired, so he was now no more than a squatter. Furthermore, they said, they wished to have the land surveyed,

[2717] 'Skeleton Line of Descent', Exhibit Z, Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, p. 315.
[2718] Riria Te Whatanui and others to Richmond, 17 March 1869, MA 75/1/4.
[2719] Ibid.
[2720] Hetariki Mātao and others to Richmond, 5 April 1869, AJHR, 1871, Sess. I, F.-08, p. 4.
[2721] McDonald to Fox, 25 October 1869, AJHR, 1871, Sess. I, F.-08, p. 5.

but McDonald was encouraging the Muaūpoko to obstruct the surveyor's work. 'This disturbance about our land,' they wrote, 'is growing into or will result in a great crime.'[2722]

When McDonald recounted these disturbances before the Horowhenua Commission over a quarter of a century later, he commented that neither Kararaina nor Tauteka usually resided at Horowhenua. And while Wātene Te Waewae had lived there, he had been away several years in the late 1860s fighting on behalf of the government – he had only returned to the area in 1869.[2723] The implication seemed to be that, in some way, none of these people had a right to the land at issue; that they were interfering in matters of no concern to them. If this is what McDonald was implying, then it was entirely misleading. Kararaina and Tauteka were Wātene's nieces. Whether they acted at his behest or not, they evidently did so with a view to protecting his claim, and the claim of their hapū, Ngāti Pareraukawa, to the land they had lived on for decades, the land that had been under the mana of Te Whatanui. And they acted, too, in the context of the incessant friction between Ngāti Raukawa, on the one hand, and Ngāti Apa and Muaūpoko, on the other, that had marked the 1860s. And, finally, they acted in the context of the sudden alteration in the balance between Ngāti Raukawa and Muaūpoko that was precipitated by Te Whatanui Tūtaki's death. So, contrary to whatever McDonald may have thought, the two women and 'all of Ngatipareraukawa' were very much interested in this land, while at the same time they could not help but be aware that their hold on the land was no longer assured. Seen in this light, these were the actions of a people anxious to retain what they believed was theirs.

Indeed, that this interpretation of the events is reasonable is lent support by the letter Wiremu Pōmare had earlier written to Kararaina and Tauteka, shortly after Te Whatanui Tūtaki had died. In that letter, he called on the women to hold on to the land 'Be strong in the matter of our lands, lest through ignorance you allow others to take it, for because of Te Whatanui's death trouble will ensue with respect to our lands.'[2724] Yet he also requested of them that they leave McDonald unmolested: he was to be allowed to remain 'still to occupy in the "mana" of Te Whatanui'.[2725]

That they did not leave McDonald unmolested was, in all probability, because he refused to acquiesce in their demands for the rent monies. This, in fact, is precisely what McDonald said in a letter to the Premier, William Fox: 'Those women and old Mātene [*Watene*],' he wrote, 'are angry with me for not

[2722] Wātene Te Kaharanga [Wātene Te Waewae] and others to McLean, 4 October 1869, AJHR, 1871, Sess. I, F.-08, p. 5.
[2723] Evidence of Hector McDonald, 16 March 1896 ,AJHR, 1896, Sess. I, G.-02, p. 114; Notes of a Meeting held at Ōtaki, 12 January 1874, p. 7, MA 75/2/12.
[2724] Wiremu Pōmare and Te Riti Pōmare to Tauteka and Kararaina, 17 February 1869, AJHR, 1871, Sess. I, F.-08, p. 3.
[2725] Ibid.

acknowledging them as my landlords.'[2726] To this he added the further comment, that Muaūpoko 'say they are owners of all Horowhenua, with Whatanui, and will not admit any one but Whatanui's daughter and her husband to be owners of Horowhenua'.[2727]

This, then, was how matters stood. Muaūpoko claimed all of Horowhenua, with the exception of the part that had belonged to Te Whatanui; this they would allow to remain in the possession of Te Whatanui's daughter, Te Riti, and her husband, Wī Pōmare, although they did not then reside on the land, but lived with Pōmare's people at Mahurangi, north of Auckland. Wātene Te Waewae and Ngāti Pareraukawa, in other words, would have no claim to the land, however long they might have lived on it. Te Riti and Wī Pōmare, meanwhile, who were, according to McDonald, 'coming … to take possession of the land' as the rightful heirs of Te Whatanui, were also sending words of encouragement to Ngāti Pareraukawa to retain possession of the land.[2728] The situation was, evidently enough, fraught.

Still, outright conflict was avoided. McDonald wrote to Fox again in October. The Ngāti Raukawa, he said, had put a stop to Kararaina and Tauteka's efforts. A 'great meeting of all the Natives about here', including Kāwana Hūnia and Major Kemp, was held at the Horowhenua pā. It was agreed that the surveying would be halted until 'the proper owner came from Auckland'.[2729] Earlier, McDonald had obviously alerted Pōmare as to what was occurring, for in August Pōmare wrote to him to say that he was to 'pay no attention to the opinions of these women; remain on that land with your sheep'.[2730] Pōmare then wrote to Tāmihana Te Rauparaha in October, asking him 'to speak to the people who are making a disturbance about that land', and to inform the government of his, Pōmare's, views on the matter.[2731] Te Rauparaha duly wrote to Fox, forwarding Pōmare's letter and defending McDonald against the accusation that he was stirring up the Muaūpoko.[2732]

For a time, at least, it appears things quietened down. And then, in January 1870, Knocks, from the Resident Magistrate's Office at Ōtaki, wrote to the Under-Secretary with news of a 'disturbance' at Horowhenua, caused by the Muaūpoko 'having burnt some houses belonging to the late Te Whatanui'.[2733] With a degree of understatement, Knocks suggested that the actions of the Muaūpoko had 'very

[2726] McDonald to Fox, 25 October 1869, AJHR, 1871, Sess. I, F.-08, p. 5.
[2727] Ibid.
[2728] Ibid.
[2729] Ibid, p. 6.
[2730] Wī Pōmare and Atereti Pōmare, 11 August 1869, AJHR, 1871, Sess. I, F.-08, p. 6.
[2731] Pōmare to Te Rauparaha, 28 October 1869, AJHR, 1871, Sess. I, F.-08, p. 6.
[2732] Te Rauparaha to Fox, 15 November 1869, AJHR, 1871, Sess. I, F.-08, p. 7.
[2733] Knocks to Cooper, 10 January 1870, AJHR, 1871, Sess. I, F.-08, p. 7.

much offended Te Whatanui's relatives', as a result of which they were now threatening to burn down the 'whole Moupoko [*sic*] pa'.[2734]

At least one Ngāti Raukawa chief, however, had called on his people not to retaliate, but to allow justice to be done by the law.[2735] And it would appear that Mātene Te Whiwhi's call was heeded. Instead of fighting, it was agreed that another hui would be held to resolve the dispute. The two sides met over the course of almost two weeks in late April and early May 1870. The meeting was held in a grand meeting house Kāwana Hūnia had had the Muaūpoko build especially for the occasion. It may have seemed, in itself, to be a decent enough gesture. But Hunia was not being decent; he was being entirely provocative, for he had the Muaūpoko build the new meeting house south of Te Whatanui's traditional boundary line, that is, he had them build it on the land he knew full well was claimed by Ngāti Raukawa. It was, in fact, built very close to the urupā in which lay one of Te Whatanui's wives.[2736] According to a later account given by Te Waewae, Hūnia and the Muaūpoko prepared all the parts of the whare in their pā, so that when they were ready, they could 'put up the house at once' – that is, before anyone could stop them.[2737]

In light of this provocation, it is remarkable that the meeting occurred at all. On the other hand, nothing was agreed between the parties, other than that they would wait until 'the relatives of Te Whatanui' could be present.[2738] Wī Pōmare was informed of this decision shortly after the meeting had concluded. In case he was under the illusion that all was well, however, Pōmare was cautioned otherwise: 'This is not a small evil which hangs over your tribes, Muaupoko and Ngatiraukawa,' he was told, 'it is a great one.'[2739] Ngāti Raukawa, it was said, had 'united to resist to the death this encroaching policy of Hunia's'.[2740] Indeed, a few weeks after the rūnanga heard the dispute, Wātene Te Waewae wrote again to Cooper, denying that Pōmare should have any say in the matter, saying quite simply, instead, 'We, the people who have always lived at Horowhenua, have the management.'[2741] In equally unambiguous terms, he added for good measure, 'I am driving Hector McDonald off.'[2742]

And so the conflict rumbled on; nothing was done, all remain unresolved. Towards the end of May, Mātene Te Whiwhi wrote to McLean to inform him 'of our affliction and our distress, on account of the evil acts of Kawana Hunia, who

[2734] Ibid.
[2735] Ibid.
[2736] Te Whiwi and others, 24 May 1870, AJHR, 1871, Sess. I, F.-08, p. 11.
[2737] Notes of a Meeting held at Ōtaki, 12 January 1874, p. 7, MA 75/2/12.
[2738] Maiti Paraone Kaiiti to Pōmare, 5 May 1870, AJHR, 1871, Sess. I, F.-08, p. 10.
[2739] Ibid.
[2740] Ibid.
[2741] Te Kaharanga [Te Waewae] to Cooper, 9 May 1870, AJHR, 1871, Sess. I, F.-08, p. 10.
[2742] Ibid.

is always defying us and provoking us'.[2743] Hunia – whom Te Whiwhi described as a Ngāti Apa outsider – and the Muaūpoko had abandoned the 'old boundary at Touteruru [*Tauateruru*]', the boundary that had been fixed by 'the old men who are dead, namely, Te Rauparaha and party, and Te Whatanui and party'.[2744] Now Hunia and the Muaūpoko were ignoring the boundary, and they were even 'building houses on the land of old Te Whatanui'; 'His wife, Tauteka, lies buried in that very land, Horowhenua.'[2745] Furthermore, Te Whiwhi claimed, Hunia and his Ngāti Apa had brought guns to Horowhenua, guns which in fact had been issued by the government. Still, in the face of these provocations, neither Ngāti Raukawa nor Ngāti Toa had reacted; they asked only that the matter be dealt with in the Native Land Court.[2746]

In June, Pōmare himself arrived at Ōtaki. He then went straight on, without any Ngāti Raukawa accompanying him, to Horowhenua to speak to the Muaūpoko.[2747] But this was also to be a meeting that would bear no fruit. Pōmare insisted the boundary at Tauateruru be respected; Muaūpoko refused and said they would agree to nothing until Hunia arrived. With little choice, Pōmare agreed. Throughout, he kept McLean informed as to what was happening, and in return, the government gave its approval to his actions.[2748] So long as the tribes managed the situation themselves, it seems, the government was content to play the role of observer.

The telegram Fox received several months later from Kemp may, however, have made the government feel at least a little uneasy. 'I have heard,' he said, 'that Ngatiraukawa and Ngatitoa are about proceeding to subdivide the land at Horowhenua.'[2749] Showing considerable strategic acumen, he then linked what was happening in Horowhenua to the question of the Kingitanga, plucking away at the anxious nerves of the officials:

> Do you write to those tribes not to do so at this present time, lest trouble should arise amongst us, and the negotiations with the King party be interfered with, and that we may be free to define a policy relative to the King movements, either of peace or war.[2750]

And just a few days later, McLean received a communication from Hunia Te Hakeke, Kawana's son, which must have prompted similar misgivings:

[2743] Te Whiwi and others, 24 May 1870, AJHR, 1871, Sess. I, F.-08, p. 11.
[2744] Te Whiwhi and others, 24 May 1870, AJHR, 1871, Sess. I, F.-08, p. 11. When giving evidence before the Horowhenua Commission in 1896, John McDonald (the son of the Hector McDonald who had originally leased the land from Te Whatanui) stated that the Tauateruru boundary was north of the Hokio Stream. AJHR, 1896, Sess. I, G.-02, p. 200.
[2745] Te Whiwi and others, 24 May 1870, AJHR, 1871, Sess. I, F.-08, p. 11.
[2746] Ibid.
[2747] Te Rauparaha to Halse, 23 June 1870, AJHR, 1871, Sess. I, F.-08, p. 11.
[2748] Pōmare to McLean, 4 July 1870, AJHR, 1871, Sess. I, F.-08, pp. 11–12; Halse to Pōmare, 12 July 1870, Pōmare to McLean, 4 July 1870, AJHR, 1871, Sess. I, F.-08, p. 12.
[2749] Kemp to Fox, 19 September 1870, AJHR, 1871, Sess. I, F.-08, p. 12.
[2750] Ibid.

> I wish to tell you that I am very sore because my people are being jumped upon by the Ngatiraukawa at Horowhenua; they have the impertinence to lay off their boundary. Friend, that place will lead to trouble, they are acting as presumptuously as they are at Rangitīkei, where they are driving off the Government surveyors. If any man of the Muaupoko is touched by the Ngatiraukawa, Te Kepa and I will turn our eyes in that direction.[2751]

Te Hakeke's letter ended on an especially ominous note: 'Leave this dispute to the Maoris,' he said, 'so that when the evil comes to a head, it will be all right, for the evil will be confined to the Maoris.'[2752]

Through the spring and into the summer the trouble continued to simmer, with each party blaming the other, and no one willing to back down. Everyone was writing constantly to the government with their own version of events, while the government, for the time being, kept its powder dry, unsure, seemingly, how to act.[2753] As tensions grew, Tāmihana Te Rauparaha wrote to Halse to tell him of a meeting that had been held following the burial of a Ngāti Raukawa rangatira. 'The subject brought before the meeting,' he said, 'was the damage committed by Muaupoko to Nerihana and others at Mahaenui [*sic*].'[2754] While some had wished to retaliate, Te Raupahara had counselled patience, stating that they would instead 'write to the Government and let them decide about Muaupoko's work'.[2755] Halse's response, which came a month later, was brief, to the point, and promised precisely nothing: 'Salutations to you. Your letter of January about Horowhenua has been received. It is well for you to write to the Government. Do not quarrel about it.'[2756]

In the interim, Nerehana had himself given vent to his frustrations in a letter to McLean. 'This is what Nerehana Te Paea has to say,' he wrote, 'about the breaking of the fence, the pulling up of the seed of Nerihana and others who live at Mahoenui.'[2757] In December of the preceding year, he wrote, the clearing was set on fire – he and his people had earlier planted it and fenced it. Then, on 11 January, 'when the plants had grown about 6 inches from the ground', Muaūpoko had come in the early hours of the morning, broken down the fence, and pulled up the crops. 'If they return,' Nerehana concluded, 'trouble may arise, for we may not be able to keep our tempers from year to year, as they are constantly trying us.'[2758] He added: 'This is to warn the Government, so that it will not be able to say that we acted hastily.'[2759]

[2751] Hunia Te Takeke to McLean, 22 September 1870, AJHR, 1871, Sess. I, F.-08, p. 12.
[2752] Ibid.
[2753] See AJHR, 1871, Sess. I, F.-08, pp. 12–13.
[2754] Tāmihana Te Rauparaha to Halse, 26[?] January 1871, AJHR, 1871, Sess. I, F.-08, p. 13.
[2755] Ibid.
[2756] Halse to Tāmihana Te Rauparaha, 27 February 1871
[2757] Nerihana Te Paea to McLean, 27 January 1871, AJHR, 1871, Sess. I, F.-08, p. 13.
[2758] Ibid.
[2759] Ibid.

By June of 1871, guns were being drawn. Knocks told Cooper that there were fears that 'Ngatiraukawa will lose their temper and come to blows with the Ngatiapa and Muaupoko'.[2760] He was perhaps right to fear the worst, as Wātene Te Waewae had just then sent the following call-to-arms to 'Ohau, Waikawa, Ōtaki and to all the Ngatiraukawa':

> Friends,– Salutation. You hearken. On the 28th of the present June, my house at Te Kartaroa was burnt. We were in that house, also Tamati, Heteriki, and Rawiri, and their wives and children. We were dragged out of the house. It was Te Keepa who set fire to the house, with Hunia and Mohi, also the Muaupoko, ten in number. The war party were armed with guns. We were dragged out, which is the reason of our being alive to-day. … Under these circumstances, friends, what am I to do concerning this kind of injury from man?[2761]

At the end of that month, Walter Buller, who was then acting as secretary for Featherston, telegraphed Fox to alert him to the fact that the Ngāti Raukawa houses had been burned at Horowhenua, and that Ngāti Raukawa and Ngāti Apa were now arming themselves.[2762] At the same time, Mātene Te Whiwhi telegraphed McLean, informing him of the same facts. 'This matter has made the Raukawa very much distressed,' he wrote. 'What is to be done?'[2763] McLean's response, both conciliatory and sympathetic, recommended that the matter be 'taken before the judicial tribunal', a recommendation that Ngāti Raukawa were prepared to accept.[2764]

And then, at the beginning of July, the government finally took some action. Major Edwards, the Resident Magistrate, was instructed to go to Horowhenua to inquire into the dispute between Ngāti Raukawa and Muaūpoko. It was hoped that his 'intimate knowledge of the West Coast Natives' would enable him to lead the warring parties to the 'proper tribunal'.[2765]

Kawana Hunia, meanwhile, remained at Horowhenua. According to Knocks, only some of the Muaūpoko were siding with Hunia and Kemp, while others were taking the side of Ngāti Raukawa.[2766] Hūnia, Knocks said, was determined that Ngāti Raukawa would have not a square inch of Horowhenua. To that end, a 'war pa' had been built and weapons handed out.[2767]

[2760] Knocks to Cooper, 29 June 1871, AJHR, 1871, Sess. I, F.-08, pp. 13–14.
[2761] Te Waewae to Ngāti Raukawa, 28 June 1871, AJHR, 1871, Sess. I, F.-08, p. 14.
[2762] Buller to Fox, 30 June 1871, AJHR, 1871, Sess. I, F.-08, p. 14.
[2763] Te Whiwhi to McLean, 30 June 1871, AJHR, 1871, Sess. I, F.-08, p. 14.
[2764] McLean to Te Whiwhi, 30 June 1871, AJHR, 1871, Sess. I, F.-08, p. 14; Te Whiwhi to McLean, 1 July 1871, AJHR, 1871, Sess. I, F.-08, p. 14.
[2765] Halse to Edwards, 1 July 1871, AJHR, 1871, Sess. I, F.-08, pp. 14–15.
[2766] Knocks to McLean, 2 July 1871, AJHR, 1871, Sess. I, F.-08, p. 16.
[2767] Ibid.

A few days later, Edwards sent a telegram to Dillon Bell, the Speaker of the House, noting that there was 'much ill-feeling between Ngatiapa and Ngatiraukawa':[2768]

> The latter have determined to bring the case of house burning against Hunia and Te Horo before the Resident Magistrate in Wellington. Hunia boasts he will take the land and hold it by force of arms. I hope to be able to persuade them to refer the matter to the Native Land Court, as the only successful way of settling the difficulty.[2769]

Better news from Edwards arrived shortly after that. Ngāti Apa, he said, had agreed to have the matter referred to a rūnanga, to be 'assisted' by 'one or two Europeans appointed by the Government'.[2770] The decision of the rūnanga was to be binding on both tribes, and, in the interim, both tribes were to stay off the disputed territory. It only remained to be seen whether Ngāti Raukawa would also accept the proposal, and this they did soon after.[2771] In the meantime, said Edwards, there was no danger of any 'collision' between the tribes: '[T]hey are,' he wrote, 'thoroughly afraid of one another.'[2772]

So perhaps there was some surprise among the officials that it was precisely at this point that the conflict flared into life again. On the day Edwards wrote to McLean to tell him all was well, Te Wātene wrote to 'Ohau, to Waikawa, to Pukekaraka, to the Town of Ōtaki, to Katihiku, to Waikanae, indeed to all the Runangas', asking them to send men 'this very night'.[2773] 'I think that the time for trying to arrange the matter,' he said, 'has gone by.'[2774] Knocks then informed Cooper that a 'Native special messenger' had delivered a letter from Te Wātene to Ngāti Raukawa and Te Āti Awa, calling for urgent help as the Ngāti Apa were 'threatening to murder him'.[2775] Edwards was immediately instructed to intervene, while McLean, who was in Napier, promised to get there as soon as he could.[2776] Hadfield, recently appointed Bishop of Wellington, told McLean that 'Mātene wishes for peace, but a very little would bring on a disturbance.'[2777] Rumours abounded that each side was preparing to attack the other, and the conditions were becoming increasingly ripe for a serious conflict to break out.[2778]

[2768] Edwards to Dillon Bell, 4 July 1871, AJHR, 1871, Sess. I, F.-08, p. 15.
[2769] Ibid.
[2770] Ibid, pp. 15–16.
[2771] Edwards to Dillon Bell, 6 July 1871, AJHR, 1871, Sess. I, F.-08, pp. 15–16; Edwards to McLean, 10 July 1871, AJHR, 1871, Sess. I, F.-08, p. 17.
[2772] Edwards to Dillon Bell, 6 July 1871, AJHR, 1871, Sess. I, F.-08, pp. 15–16.
[2773] Te Watene to Ngāti Raukawa, 10 July 1871, AJHR, 1871, Sess. I, F.-08, p. 17.
[2774] Ibid.
[2775] Knocks to Cooper, 11 July 1871, AJHR, 1871, Sess. I, F.-08, p. 18.
[2776] McLean to Edwards, 12 July 1871, AJHR, 1871, Sess. I, F.-08, p. 18; McLean to the Bishop of Wellington, 12 July 1871, AJHR, 1871, Sess. I, F.-08, p. 18.
[2777] Hadfield to McLean, 13 July 1871, AJHR, 1871, Sess. I, F.-08, p. 18.
[2778] See, for instance, Halse to McLean, 13 July 1871, AJHR, 1871, Sess. I, F.-08, p. 19; Mete Kingi to Te Whiwhi, 15 July 1871, AJHR, 1871, Sess. I, F.-08, p. 19.

Contradictory and conflicting messages continued to be exchanged. On 11 July, Wī Tako Ngātata wrote to the Te Āti Awa rangatira Ihaia Pōrutu to tell him that 'an attack by these men, Hunia and Te Keepa, upon Ngatiraukawa is imminent'.[2779] The proposal to have the dispute settled by the law, he continued, had 'not met with favour at the hands of Kemp and Hunia', and so it had been agreed that they would fight instead; 'Last night Horowhenua was full of the Ngatiraukawa.'[2780] On its receipt, Pōrutu showed the letter to Halse, and he duly related its unsettling contents to McLean.[2781] Halse also reported that he had received a letter from Te Waewae:

> Te Watene … says that efforts have been made to settle the dispute, and believes that the muzzle of the gun will be used by Kemp and Hunia, who say that the law will not be able to condemn them should they slay those with whom they are disputing. The dispute being about a Maori boundary line, [he] asks for assistance in men.[2782]

But then, just two days later, Knocks telegraphed McLean, informing him that all sides were in fact prepared to have the dispute settled by a rūnanga, and that they wished it 'to be held as soon as possible'.[2783] Keepa, meanwhile, had informed the Wanganui rangatira Mete Kingi that Ngāti Raukawa would shortly 'fire upon them', prompting Kingi to write to Te Whiwhi with a call for peace and assurance that he and his people did not 'intend joining in the work of Te Keepa and Hunia'.[2784] Then, on 18 July, Edwards told McLean that Te Keepa and Hunia were at Horowhenua with 'twenty-five armed followers'.[2785] Ngāti Raukawa, he said, were 'amusing themselves' by building a pā at Poroutāwhao.[2786]

Seeking some clarity amidst this confusion, McLean then wrote directly to Major Kemp, asking him exactly what it was that he and Hūnia intended by remaining at Horowhenua.[2787] Kemp denied there were any Ngāti Apa or Wanganui people with him, that the only ones there were Muaūpoko, including Hūnia and himself. He also, not surprisingly perhaps, insisted that Ngāti Raukawa were to blame for the discord, living as they were on the disputed boundary and then, most recently, having built their pā at Poroutāwhao.[2788] 'There is great trouble,' Kemp concluded, 'and soon it will come to the worst.'[2789]

Without doubt, the tensions were never going to ease while the government remained watching from the wings. 'According to the old custom of our

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[2779] Wī Tako Ngatata and others to Porutu, 11 July 1871, AJHR, 1871, Sess. I, F.-08, p. 19.
[2780] Ibid.
[2781] Halse to McLean, 13 July 1871, AJHR, 1871, Sess. I, F.-08, p. 19.
[2782] Ibid.
[2783] Knocks to McLean, 13 July 1871, AJHR, 1871, Sess. I, F.-08, p. 19.
[2784] Kingi to Te Whiwhi, 15 July 1871, AJHR, 1871, Sess. I, F.-08, pp. 19–20.
[2785] Edwards to McLean, 18 July 1871, AJHR, 1871, Sess. I, F.-08, p. 20.
[2786] Ibid.
[2787] McLean to Kemp, 19 July 1871, AJHR, 1871, Sess. I, F.-08, p. 20.
[2788] Kemp to McLean, 22 July 1871, AJHR, 1871, Sess. I, F.-08, p. 20.
[2789] Ibid.

ancestors,' Te Waewae told McLean, 'were a house to be burnt, a man would be taken in revenge.'[2790] But now they were prepared to submit themselves to the law, but only so long as the law was enforced. Yet it seemed, he suggested, that the law was in no great hurry to resolve the dispute. 'Perhaps,' he said, 'these are Maori houses and so not thought much of.'[2791]

At the end of July, the rangatira Ihakara Tukumaru also suggested, in strong terms, that McLean take action. Hunia and Kemp were 'living in the midst of Ngatiraukawa' and causing trouble.[2792] The government needed to be seen to be enforcing the law. 'You have these persons tried by law,' he wrote, 'do not leave them here to bring about war, and sin against God.'[2793] Significantly, however, Tukumaru also drew McLean's attention to a point which many seemed to have overlooked: 'You have perhaps forgotten your word about the Ngatiraukawa Reserve', by which he meant, perhaps, the 500 acres promised Te Roera, Te Puke, and the others when they had sold Muhunoa to Featherston in 1864.[2794]

And so it continued. In early August, Hunia met with McLean in Wellington, after considerable procrastination, and agreed to have the matter settled in court.[2795] At the same time, Hema Te Ao and 81 others wrote to McLean, imploring him not to delay any longer in settling the dispute; that as long as it continued, the planting of crops was being neglected, and soon enough there would not just be the prospect of war, but that of hunger, also.[2796] 'Our prayer to you,' they told McLean, 'is that you be quick.'[2797]

Inexplicably, however, McLean did not instruct that the arbitration should take place as soon as possible, despite the fact that it had been agreed to by all parties more than a month earlier. Instead, he sent the interpreter, Clarke, on a 'special service', to 'frequently traverse the country, visiting settlements like Horowhenua, Manawatū, &c.', where he was to speak with those involved in the conflict so as to ascertain the 'disposition they feel to refer this matter to arbitration'.[2798] In other words, with all having agreed to submit to it – and many more or less pleading for it – McLean's response was to send an emissary to ask the parties if they wanted precisely that which they had been asking for all along. It was a most odd thing to do.

[2790] Te Waewae to McLean, 22 July 1871, AJHR, 1871, Sess. I, F.-08, p. 20.
[2791] Ibid. Or, as Wī Tako Ngātata put it to Clarke, 'the Government did not care how much they [Māori] killed each other, but if they killed an European it was murder'.—Clarke Notes, 8 July 1871, AJHR, 1871, Sess. I, F.-08, p. 16.
[2792] Tukumaru to McLean, 29 July 1871, AJHR, 1871, Sess. I, F.-08, p. 21.
[2793] Ibid.
[2794] Ibid.
[2795] McLean to Te Whiwhi, 10 August 1871, AJHR, 1871, Sess. I, F.-08, p. 22. Hunia confirmed his willingness to set the matter settled by arbitration in a detailed letter he sent to McLean immediately after the Wellington meeting. 11 August 1871, AJHR, 1871, Sess. I, F.-08, p. 23.
[2796] Hema Te Ao and others to McLean, 10 August 1871, AJHR, 1871, Sess. I, F.-08, p. 22.
[2797] Ibid.
[2798] McLean to Clarke, 11 August 1871, AJHR, 1871, Sess. I, F.-08, p. 22.

McLean did, at least, write to Te Whiwhi, asking him to name the chiefs that Ngāti Raukawa would be happy to have as arbitrators.[2799] He suggested, too, that Te Whiwhi might ask Te Wātene, Nerehana Te Paea, and Te Wiiti – all of whom were then living on the Horowhenua block[2800] – to come to Ōtaki.[2801] Meanwhile, the 'chiefs and people of Wanganui, the chiefs and people of Ngatiapa, and the chiefs and people of Ngatiraukawa' met at Kākāriki, and confirmed their desire to have the government settle the dispute, and they duly told McLean so.[2802]

Still McLean and the government did nothing. Tāmihana Te Rauparaha, for his part, believed that the tensions would dissipate if Kemp and Hunia could be prevailed upon to return to Wanganui.[2803] Meanwhile, Clarke, contrarily, thought tensions would dissipate if Te Watene could be prevailed upon to leave Horowhenua, as it was, Clarke insisted, his presence that was irritating Kemp and Hunia.[2804] And Te Wātene simply wanted to see justice done with respect to the burning of his houses.[2805] 'I shall not go away from Horowhenua,' he said, 'as I am not a new claimant for that land, neither am I an evil-disposed man.'[2806]

And then, finally, McLean at least gave a reason for doing nothing. Writing to Woon at the end of August, he observed that the 'time is rather inconvenient during the press of House business'.[2807] He would prefer it, he said, if he could deal with the matter once the Session was over. And he added, presumably without a trace of irony, despite the lack of action on the part of the government, 'Glad that the Natives are willing to leave the Horowhenua dispute to the Government'.[2808] At the end of August, Clarke submitted a report on the situation, towards the conclusion of which he made the following observation: 'I believe that the Natives are remaining quietly, but very impatiently, for the Government to settle this dispute.'[2809] Neither side, said Clarke, would begin a war – but both sides were quite prepared to fight one.[2810]

But still McLean would not be hurried. In mid-September, Hunia, Kemp, and Woon wrote to ask him how long the Assembly would be sitting: 'When will it be over?' they asked.[2811] He replied that the Assembly was likely to continue for

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[2799] McLean to Te Whiwhi, 11 August 1871, AJHR, 1871, Sess. I, F.-08, p. 23.
[2800] Report of the Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 316.
[2801] McLean to Te Whiwhi, 11 August 1871, AJHR, 1871, Sess. I, F.-08, p. 23.
[2802] Tīpae and others to McLean, 15 August 1871, AJHR, 1871, Sess. I, F.-08, pp. 23–24.
[2803] Te Rauparaha to McLean, 24 August 1871, AJHR, 1871, Sess. I, F.-08, pp. 24–25.
[2804] Clarke to McLean, 26 August 1871, AJHR, 1871, Sess. I, F.-08, p. 25.
[2805] Te Waewae to McLean, 28 August 1871, AJHR, 1871, Sess. I, F.-08, p. 25.
[2806] Ibid.
[2807] McLean to Woon, 29 August 1871, AJHR, 1871, Sess. I, F.-08, p. 26.
[2808] Ibid.
[2809] Report relative to the Land Dispute at Horowhenua, 31 August 1871, AJHR, 1871, Sess. I, F.-08, p. 28.
[2810] Ibid.
[2811] Hūnia and others to McLean, 15 September 1871, AJHR, 1871, Sess. I, F.-08, p. 29.

at least another month.[2812] Meanwhile, a hut belonging to Ngāti Huia that contained precious fishing gear was burned, for which the blame was laid at the feet of Muaūpoko, while rumours spread that 200 Ngāti Raukawa were going to support Wātene Te Waewae at Horowhenua.[2813] McLean did, at the end of the month, instruct Clarke to use his influence with Ngāti Raukawa to bring about Te Waewae's removal from Horowhenua 'for a time'.[2814] Clarke duly met with Ngāti Raukawa at Waikanae, where he found them to be 'of good tendency', but 'not inclined to move Watene'.[2815]

In the midst of the persistent uncertainty and the unwillingness of the government to act, decisively or otherwise, Tāmihana Te Rauparaha did take action, of a sort: he petitioned the General Assembly. The petition gave a brief account of the events that had precipitated the conflict, the arrival, in particular, of Kāwana Hūnia, who brought with him 'guns, powder and bullets', all of which belonged to the government.[2816] Women and children had been dragged 'like pigs' by Hūnia from their houses, which were burned as they looked on.[2817] Te Rauparaha emphasised, too, that despite their repeated requests for intervention, the 'Minister for Native Affairs paid no heed'[2818] – an exaggeration, perhaps, as McLean, to be fair, had gone to the trouble of writing many letters and telegrams, but perhaps, too, understandable in the circumstances. Still, again and again, McLean had been asked to intervene, but again and again, he had declined to do so, content, seemingly, to allow the embers to remain dangerously alight. In the absence of government intervention, what was a conflict currently confined to one locality could well cause 'great trouble in the Island'.[2819] The petition concluded by asking the Assembly to disarm Hūnia and his men, and to compel Hūnia and Kemp to return to their homes in the Rangitīkei and the Manawatū.[2820]

If Te Rauparaha had set much store by his petition, he was to be disappointed. Much as it had contrived to this point to do nothing in general, the government contrived to do nothing in particular about the petition. Referred to the Legislative Council's Select Committee on Native Affairs, the petition was more or less quashed by McLean. Early in October, he had received the timely news that Ngāti Raukawa had appointed arbitrators.[2821] The arbitration was finally set down for December.[2822] Furthermore, Wātene Te Waewae had agreed to remove

[2812] McLean to Woon, 15 September 1871, AJHR, 1871, Sess. I, F.-08, p. 29.
[2813] Clarke to McLean, 21 September 1871, AJHR, 1871, Sess. I, F.-08, pp. 29–30; Hūnia and others to McLean, 15 September 1871, AJHR, 1871, Sess. I, F.-08, p. 29.
[2814] McLean to Clarke, 29 September 1871, AJHR, 1871, Sess. I, F.-08, p. 30.
[2815] Clarke to McLean, 4 October 1871, AJHR, 1871, Sess. I, F.-08, p. 30.
[2816] Petition of Tamihana Te Rauparaha and others, 25 September 1871, AJHR, 1871, Sess. I., I.-01, p. 4.
[2817] Ibid.
[2818] Ibid.
[2819] Ibid.
[2820] Ibid.
[2821] Clarke to McLean, 5 October 1871, AJHR, 1871, Sess. I, F.-08, p. 30.
[2822] McLean to Clarke, 6 October 1871, AJHR, 1871, Sess. I, F.-08, p. 31.

himself from Horowhenua until the arbitration was over.[2823] This was a condition set down by Kemp, who was duly informed that it had occurred.[2824] With this news in hand, McLean was able to argue that having the Committee intervene now would not be helpful, given that the parties had agreed to go to arbitration, in addition to which, those who were presently armed with government-issued weapons had also agreed to give them up.[2825] Perhaps sensing that they were being out-manoeuvred – they had effectively, after all, been prevented from giving evidence to the select committee[2826] – Te Rauparaha and Te Waewae wrote a letter to *The Evening Post* in October in which they expressed their frustration with the process that had effectively denied them a voice. 'If blood is shed,' they wrote, 'do not let the blame be thrown on Ngatiraukawa.'[2827] In the opinion of the *Post*, these events showed 'how easily the House and a select committee may be hoodwinked by plausible statements from so-called experts in Native matters'.[2828] Peace was being kept, the paper even suggested, solely by the payment of monetary bribes; for of McLean, 'lavish expenditure has been the secret of his rule', while 'to govern the natives by legitimate means, he has not the ability'.[2829]

But McLean had his way in the end. In early November, the select committee reported back that it would not inquire further into the matter, in light of the planned arbitration. There would be no parliamentary scrutiny of the dispute, nor of McLean's lack of action.[2830] Instead, attention would be focused entirely on the arbitration scheduled for December, the arbitration for which so many had been waiting for so long. Perhaps with this in mind, Mātene Te Whiwhi and Nerehana Te Paea travelled to Wellington to meet with McLean to discuss the matter in person.[2831]

But there was to be one more twist before any arbitration might take place. In November, McLean instructed T L Travers, a lawyer, to conduct an inquiry into the Horowhenua dispute, 'with a view of laying before the Arbitrators, in a concise form, the facts of the case on both sides'.[2832] Travers interviewed Kemp, on the one side, and Wātene Te Waewae, Ihakara Tukumaru, and Wī Tako Ngātata, on the other. Kāwana Hūnia was present, but declined to speak. Having heard the evidence, Travers then set down his conclusions in 12 points. Concisely, as requested, his conclusions narrated the arrival of the northern tribes

[2823] McLean to Woon, 14 October 1871, AJHR, 1871, Sess. I, F.-08, p. 33.
[2824] McLean to Kemp, 15 October 1871, AJHR, 1871, Sess. I, F.-08, p. 33.
[2825] Anderson and Pickens, *Rangahaua Whānui—Wellington District*, Waitangi Tribunal, August 1996, p. 157.
[2826] Ibid, pp. 157–158.
[2827] Te Rauparaha and Te Waewae, *The Evening Post*, Vol. VII, Issue 217, 19 October 1871, p. 2.
[2828] *The Evening Post*, Vol. VII, Issue 217, 19 October 1871, p. 2.
[2829] Ibid.
[2830] Anderson and Pickens, *Rangahaua Whānui—Wellington District*, Waitangi Tribunal, August 1996, p. 159.
[2831] McLean to Woon, 14 October 1871, AJHR, 1871, Sess. I, F.-08, p. 32.
[2832] Horowhenua Land Dispute—Travers Report, 16 December 1871, MA w1369/27/1872/272.

on the Kāpiti coast and the role played by Te Whatanui and Ngāti Raukawa in shielding Muaūpoko from Te Rauparaha's predations. Te Whatanui, Travers concluded, had 'taken possession of the land in question as of right' from the Muaūpoko, while Wātene now claimed it 'as the private estate of the immediate descendants of Te Whatanui'.[2833] And while the Ngāti Raukawa, Ngāti Toa, and Te Āti Awa tribes felt themselves 'bound to protect' their kin, they did not themselves claim the land as tribal territory.[2834] Travers noted, too, Kāwana Hūnia's role in stoking the present conflict, and the efforts of both Wātene and Wī Pōmare to dampen the conflict by setting a new boundary from Lake Horowhenua to the sea, one that effectively ceded land to Muaūpoko in the interests of peace.[2835] This gesture, Travers said, was 'done as of free grace by Wiremu Pōmare, and Watene' – it did not constitute an acknowledgement of the legitimacy of Hūnia's claims.[2836]

So now McLean had in his hands a clear statement of the views of all those concerned, even if a slightly one-sided statement by virtue of Hunia's silence.[2837] All that was needed now was for the arbitration to take place, the long-awaited, much-anticipated, oft-demanded arbitration – and yet it never did. In February 1872, Wātene Te Waewae wrote to McLean to express his surprise at the length of time that had been allowed to pass without anything having taken place.[2838] The following month, he wrote again to McLean, asking if the arbitration was ever to take place.[2839] Later, in July of that year, *The Evening Post*, lambasting the government for its poor handling of land purchasing in the Wellington province, noted that 'Mr McLean promised to arbitrate in December, and has not arbitrated yet.'[2840] Nor would he ever. For reasons which remain unknown – although McLean would later blame 'Kemp's party'[2841] – no arbitration ever took place. And, in the absence of that forum, the disputants were forced to have recourse to the only other possible alternative: the Native Land Court.[2842]

Yet before the Court sat, there were other developments besides those related above. In February 1872, it seems that Roera Hūkiki and Nerehana Te Paea had tried again to complete the sale of Muhunoa supposedly agreed with Featherston

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[2833] Ibid.
[2834] Ibid.
[2835] Ibid.
[2836] Ibid.
[2837] Whether or not Kemp, alone, was qualified to speak on behalf of all Muaūpoko—and indeed make decisions on behalf of all Muaūpoko—was a vexed and unresolved question.
[2838] Te Waewae to McLean, 19 February 1872, MA w1369/27/1872/272.
[2839] Te Waewae to McLean, 11 March 1872, MA w1369/27/1872/272.
[2840] *Evening Post*, Vol. VIII, Issue 135, 10 July 1872, p. 2.
[2841] McLean, 12 January 1874, MA 75/2/12—McLean meeting with Ngāti Raukawa at Ōtaki—January 1874, p. 12.
[2842] Indeed, at the time that Te Waewae wrote to McLean, it is clear that the decision to have the matter dealt with in the Native Land Court had already been taken by someone, even if interested parties such as Te Waewae himself did not yet know it. A file note, attached to Te Waewae's letter, states that Te Waewae is to be informed that this is now the case.

in 1864. A file note records that the two men had met the Superintendent at Ōtaki on the thirteenth of that month. Here they had expressed themselves willing either to have the block surveyed at their own expense and then passed through the Court, or simply to sell it without its going through the Court at all. The file note stated, further, that while the vendors had received £180 on account, the full purchase price agreed by Featherston was £3000, a much larger sum than that originally mentioned.[2843] Shortly after this meeting was reported to have taken place, Hamlin, now the Resident Magistrate at Maketu, wrote to McLean to say that he had met 'a native named Te Pukenui of Ngatiraukawa'.[2844] Te Puke had told Hamlin that he wished to complete the sale of 'a piece of land near Wanganui called "Papapaetonga" [*sic*] being a portion of the Muhunoa block"'.[2845] Having already received £170 in instalments from Dr Featherston, Te Puke – 'who professes to be the principal owner' – had declared himself 'willing to complete the sale for the sum of (£3000) three thousand pounds inclusive of the sums already received, which amount he states was that originally agreed upon'.[2846]

In the margin of this letter, Halse scrawled the following: 'This letter gives a much clearer account of the "Papaitonga" block commonly called "Muhunoa" … than the letters sent to the Native Office by the Provincial Government.'[2847] There was a further note scrawled on the reverse of the letter, this one by Cooper, directed to the Provincial Secretary. It rather suggested the confused state of affairs with respect to Muhunoa. Despite the block's apparent purchase by Featherston eight years previously, the note records that Hamlin's letter 'refers to the Muhunoa Block of land for which His Honour the Superintendent is in negotiations with the Natives' – so negotiations continued, seemingly, and the sale was in fact not yet done.[2848] The note then resumes: 'As soon as the various claims are passed through the Court, these papers will be valuable as references in completing negotiations.'[2849] At least one thing, then, seemed to be clear: nothing was going to happen with Muhunoa until the Native Land Court had concluded its business.

As for the rest, it remained most unclear. A few days prior to making his marginal comment in Hamlin's letter, Halse had in fact stated, in a file note, that 'it seems that the price agreed upon for "Muhunoa" was £1100 and that the native sellers [acknowledge] the receipt of £150 for the land'.[2850] The Provincial Government, he suggested, ought to be required to furnish the original receipts or certified copies of them 'to shew the actual amount paid for the land in

[2843] File Note, Undated, MA 13/119/75a.
[2844] Hamlin to McLean, 1 March 1872, MA 13/119/75a.
[2845] Ibid.
[2846] Ibid.
[2847] Halse, Marginal Note, 20 March 1872, MA 13/119/75a.
[2848] Cooper, Marginal Note, 6 April 1872, MA 13/119/75a.
[2849] Ibid.
[2850] Halse, File Note, 15 March 1872, MA 13/119/75a.

question'.[2851] While this note appears to be in line with what did happen in 1864, it is peculiar in that it is entirely out of line with what was stated in Hamlin's letter (in which the deposit paid was said to be £170, while the full purchase price was to be £3000), yet Halse gave his complete approbation to Hamlin's statements.

So it seems Muhunoa remained unsold, Featherston was apparently still negotiating with Te Puke and others, and no one seemed to know what the sale price agreed was or might be. In the midst of all this uncertainty, Featherston then instructed Grindell, an interpreter with the Native Department, to make his way to Ōtaki and Horowhenua, with a view to encouraging the various tribes along the coast to submit claims to the court.[2852] At the end of June, Grindell met with the 'Muhunoa natives (Roera Hukiki and others)' at Ōtaki, who asked what they ought to do in the event that Muaūpoko should interfere with the survey of their land 'which is adjacent to Horowhenua'.[2853] Grindell told them that they were to inform the Muaūpoko that they wished to maintain the peace, and that they would therefore alert the government to what was happening, rather than take matters into their own hands. This, Grindell reported, the 'Muhunoa natives' agreed to do.[2854]

Grindell continued his work up and down the coast for the next several months.[2855] For a time, at least, he had the full cooperation of Ngāti Raukawa, who were evidently keen to see the land both surveyed and before the court. In contrast, Muaūpoko remained obstinate and resistant to Grindell's efforts, particularly with respect to the land over which they had been disputing with Ngāti Raukawa.[2856] Or at least some of them did: at the same time he was told they would prevent any survey of the disputed land, Grindell also received Muaūpoko's application to the court. 'There appears,' Grindell observed dryly, 'to be some division amongst them.'[2857] Summarising his experience of the previous months in a report to Featherston, Grindell commented, 'Ngatiraukawa from the commencement have been extremely forbearing and anxious to submit every dispute to the decision of the Court, whilst the Muaupokos have been extremely unreasonable, and even arrogant and imperious.'[2858] Hunia, in particular, came in for sharp criticism from Grindell after Hunia's intervention

[2851] Halse, File Note, 15 March 1872, MA 13/119/75a.
[2852] Grindell to Minister of Public Works, 2 July 1872, AJHR, 1873, Sess. I, G.-08, p. 33; Anderson and Pickens, *Rangahaua Whānui—Wellington District*, Waitangi Tribunal, August 1996, p. 166.
[2853] Grindell to Minister of Public Works, 2 July 1872, AJHR, 1873, Sess. I, G.-08, p. 33.
[2854] Ibid.
[2855] Anderson and Pickens, *Rangahaua Whānui—Wellington District*, Waitangi Tribunal, August 1996, pp. 168–173.
[2856] Grindell to Minister of Public Works, 31 May 1872, AJHR, 1873, Sess. I., G.-08, p. 32.
[2857] Ibid.
[2858] Grindell to Superintendent, 2 July 1872, MA 13/120/75b.

led to an order to Grindell from Cooper to halt all surveys.[2859] Hunia's action, Grindell said, amounted to 'a bare faced breach of faith'.[2860]

10.3 Court, conflict, and confusion, 1872–1874

10.3.1 Court, the Horowhenua decision

And so, finally, on 5 November 1872, in Foxton, the Native Land Court began to hear the multiplicity of claims. It would sit until 9 December and would then deliver judgment on 4 March 1873.[2861] In short, the Court found that Ngāti Raukawa had, in one manner or another, established the better claim to most, although not all, of the land at issue.[2862] When the decision was handed down, Kemp, according to Grindell, had 'turned pale and trembled'.[2863] An adjournment was requested for Kemp and his people, and granted. A debate then ensued as to whether or not Kemp and the Muaūpoko could seek a rehearing. The request was finally turned down, and an order was then made granting title for Kukutauaki to Ngāti Raukawa. But, and most significantly, the order did not include the Horowhenua Block. The ownership of this block, the Court allowed, was yet to be determined.[2864]

And so now the Court sat again, from the middle of March until early April 1873, to determine title to the Horowhenua Block.[2865] The first to give evidence were the claimants for the block, that is, Ngāti Raukawa. Among others, Karanama Te Kapukai, Tāmihana Te Rauparaha, Ihakara Tukumaru, and Wātene Te Waewae all attested to Ngāti Raukawa's long-standing mana over the land. Two weeks after the hearing had begun, the Court declared that 'the Ngatiraukawa had established a prima facie case and that the opposition [i.e. Muaūpoko] would proceed in the position of counter-claimants'.[2866] The following day, the counter-claimants began presenting their case.

Their first witness was Keepa Te Rangihiwinui, Major Kemp. Other witnesses followed, and then Kāwana Hūnia took the stand. He spoke at great length,

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[2859] Anderson and Pickens, *Rangahaua Whānui—Wellington District*, Waitangi Tribunal, August 1996, p. 177.
[2860] Grindell to Superintendent, 27 September 1872, MA 13/120/75b.
[2861] Anderson and Pickens, *Rangahaua Whānui—Wellington District*, Waitangi Tribunal, August 1996, p. 198.
[2862] Anderson and Pickens, *Rangahaua Whānui—Wellington District*, Waitangi Tribunal, August 1996, p. 201; Luiten and Walker, *Muaupoko Land Alienation and Political Engagement Report*, Wai 2200, #A163, p. 103.
[2863] Grindell to Superintendent, 4 March 1873, MA 13/120/75b.
[2864] Anderson and Pickens, *Rangahaua Whānui—Wellington District*, Waitangi Tribunal, August 1996, p. 202.
[2865] See Ōtaki MBs Nos. 1A and 2.
[2866] Ōtaki MB No. 1A, 25 March 1873, p. 244.

naming all the places at Horowhenua he said were significant to Muaūpoko.[2867] And then he denied the claim of Ngāti Raukawa. Te Whatanui, he said, lived mainly at Ōtaki – he only came 'occasionally' to stay at Horowhenua – and he had died at Ōtaki, after which his body was taken to Taupō.[2868] Hunia had 'never seen any man of N'Raukawa making any extensive cultivation on the land'.[2869] Nor had Muaūpoko ever been beholden to Ngāti Raukawa; they were never Te Whatanui's slaves, and they never had need of Te Whatanui's protection.[2870] They were, Hūnia said, a 'strong tribe', strong enough to resist the vengeful Te Rauparaha; indeed, so strong, that 'Rauparaha bolted away naked in the night'.[2871] As for Wātene Te Waewae, Hūnia simply dismissed him as a Ngāpuhi without any claim; he may have been living on the land, but he did so without any right.[2872] Muaūpoko, Hūnia said, only left him unmolested because of 'the action of the Government and Kemp'.[2873]

After Hūnia came further Muaūpoko witnesses. All affirmed what Hūnia had said. In sum, they denied they had ever been defeated by Te Rauparaha and Ngāti Toa, they denied they had ever been subject to Te Whatanui and Ngāti Raukawa, and they denied that Ngāti Raukawa had any claim to land at Horowhenua other than that granted to Te Whatanui at Raumatangi.

Ngāti Raukawa were then given another opportunity to make out their case. Mātene Te Whiwhi, Tāmihana Te Rauparaha, Henare Te Herekau, Ihakara Tukumaru, Wātene Te Waewae, Ngāwiki Tauteka, Nerehana Te Paea, Horomona Toremi, and others all spoke. The essence of what they said was captured in the words of Tāmihana Te Rauparaha, words that were perhaps indelicate but undoubtedly unambiguous: 'Whatanui lived there [at Horowhenua] constantly and the Muaupoko bore the same relation to him as the eels in the weirs.'[2874]

The Court gave its judgment on 5 April. It had, it should be remembered, previously concluded that Ngāti Raukawa had established a prima facie claim to the block. The question, therefore, was whether or not Muaūpoko had presented evidence compelling enough to alter the Court's opinion. And, so it seems, they had – and in a convincing manner. 'We are unanimously of opinion that the claimants have failed to make out their case and the judgment of the Court is accordingly in favor [*sic*] of the counter-claimants,' the Court declared.[2875] The judgment, in other words, more or less gave the entire block to Muaūpoko – or more precisely, to Keepa Te Rangihiwinui – on the grounds that the tribe had

[2867] Ōtaki MB No. 2, 29 March 1873, pp. 1–9.
[2868] Ibid, p. 5.
[2869] Ibid, p. 9.
[2870] Ibid, p. 15.
[2871] Ibid, p. 15.
[2872] Ibid, p. 2.
[2873] Ibid, p. 2.
[2874] Ōtaki MB No. 2, 3 April 1873, p. 26.
[2875] Ōtaki MB No. 2, 5 April 1873, pp. 53–54.

always retained occupancy of the land.[2876] The only exception was an allotment of 100 acres at Raumatangi. Situated to the south-west of Lake Horowhenua, this was the land said to have been given out of gratitude to Te Whatanui by Muaūpoko for having kept them from Te Rauparaha's vengeance.

It would be something of an understatement to say that Ngāti Raukawa were surprised, if not outraged, by this. They were, in Grindell's words, 'vexed and disgusted with the Horowhenua decision'.[2877] Even if the Court had not accepted the claim that Ngāti Raukawa had defeated Muaūpoko and taken possession of the land, it was at least usual Court practice to award land to those who occupied it, which in this case would have meant Ngāti Raukawa. But rather than do this, the Court had awarded Muaūpoko not only the 20,000 acres which they had always occupied, but it gave them an additional 30,000 acres to the north and south of Horowhenua, including land at Waiwiri and Māhoenui, land which had long been occupied by hapū of Ngāti Raukawa, including Ngāti Pareraukawa and Ngāti Hikitanga.[2878] In other words, it effectively dispossessed them and made them landless.

The verdict was, unquestionably, odd. Hector McDonald, who had watched as Kemp's case was subjected to a searching cross-examination, had told his family that night that Ngāti Raukawa would be the inevitable victors.[2879] And yet it was Muaūpoko who walked away with everything. So what happened? Nothing can be said with any certainty, but there is certainly room for informed speculation. Later statements suggest that Kemp made it clear to all and sundry at the time that if the decision did not go his way, he would, at the very least, cause trouble. Giving evidence before the Native Affairs Committee in 1896, Te Aohau Nikitini stated that Kemp had declared that 'if the decision were given against him somebody would suffer – that blood would flow'.[2880] And to make clear this was no idle threat, Kemp had apparently then 'brought 500 men and 500 guns, and declared that if the decision went against him we (the Ngatiraukawa) would be fired on'.[2881] The Court's decision, Nikitini continued, making explicit his point, was one that was made under duress and that was more concerned with keeping the peace than it was with doing justice:

> I have always been of the opinion that the reason we lost our land was that not only the Court but the Government was intimidated. Because Sir Donald McLean told us that if he should grant us a rehearing … Kemp was sure to fight; and that is why I say that,

[2876] Ibid, pp. 54–55, 59.
[2877] Grindell to Superintendent, 9 April 1873, MA 13/120/75B.
[2878] Anderson and Pickens, *Rangahaua Whānui—Wellington District*, Waitangi Tribunal, August 1996, p. 214.
[2879] Ibid.
[2880] Te Aohau Nikitini, 31 August 1896, JALC, 1896, No. 5, p. 32.
[2881] Te Aohau Nikitini, 31 August 1896, JALC, 1896, No. 5, p. 32.

> from that time to the present, I have always been of opinion that it was the attitude of Major Kemp which caused the Court to give that decision.[2882]

It is, self-evidently, no small thing to charge a court – and indeed a government – with acting contrary to the principles of justice so as to meet the demands of an armed man. Yet the evidence presented by Nikitini, and others, was sufficient to convince the Committee, which concluded that 'threats and intimidation were resorted to by Kemp during the sitting of the Court'.[2883] It concluded, by the by, that the Court had also heard false evidence.[2884]

And there was other evidence, too, that supported Nikitini's assertion. Speaking before the Horowhenua Commission in 1896, the Native Land Court Judge J A Wilson explained that the Court had always operated on the basis that anything it did wrong would be put right by the government, that is, by legislation. This, he said, was the Court's doctrine. And then, having made the general point, he spoke specifically – and seemingly without any concern for the outrageousness of what he was saying – about what had occurred in 1873:

> There was a promise from the Minister for the time being, which went from Minister to Minister, that by special powers and contracts or in some other way, special legislation should make anything that seemed to require it valid, so much so, that in 1873 Mr. McLean, the Native Minister, thanked Judge Rogan for acting outside the law so as to get the country settled. All that he did was legalised afterwards I have no doubt. Of the five Judges, Smith was the one who heard the block in the first instance, and he said to me, "They will legalise what we have done."[2885]

There is, in fact, yet more evidence still, but what is related here is sufficient to give credence to Te Aohau Nikitini's charge against the Court and the government.[2886] In a perverse manner, Ngāti Raukawa were effectively being punished for their unwillingness to resort to violence; had they threatened to behave in the manner of Kemp, they may at least have been given a share of the block. And the intimate connection between the judicial and the executive branches of government was revealed in Rogan's telegram to McLean – the two men were in frequent communication – sent *before* Ngāti Raukawa had even completed their evidence: 'Am glad to inform you that this long vexed Horowhenua business will soon close. Kemp has made out a clear case in my opinion and I will when the time comes give him the full benefit of it.'[2887] A subsequent telegram from Rogan to McLean was even less subtle: 'Counsel

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[2882] Ibid.
[2883] Native Affairs Committee, 2 September 1896, JALC, 1896, No. 5, p. 3.
[2884] Ibid.
[2885] J.A. Wilson, 31 March 1896, AJHR, 1896, Sess. I, G.-02, p. 132.
[2886] For a full discussion of all the evidence, see Anderson and Pickens, *Rangahaua Whānui—Wellington District*, Waitangi Tribunal, August 1996, pp. 214–217.
[2887] Rogan to McLean, 3 April 1873, MA 75/2/10.

addressing the court in Horowhenua case. Hope to give judgment tomorrow … expect to report on Monday that Kemp will give an ovation.'[2888]

In light of this, it was perhaps inevitable that Ngāti Raukawa, some of whose hapū had effectively just been summarily dispossessed of their lands, would not take the judgment well. And it certainly became inevitable when their numerous applications for a rehearing, the first of which was lodged just two weeks after the Court's decision, were all rejected, despite the fact that they had every right to apply for a rehearing, and despite the fact that not a single legitimate reason was advanced for denying them this right.[2889] Wātene Te Waewae 'and 69 others' applied to the Governor for a hearing on 21 April 1873.[2890] Te Waewae wrote again in May, to ask if the Governor had received the application.[2891] In the margin of this letter, Cooper wrote, 'I hope Rogan is against a rehearing', and suggested that nothing be done until Wī Parata's advice might be sought, a suggestion to which McLean assented.[2892] That same month, Horomona Toremi, Wātene Te Waewae, Nēpia Taratoa, Aperahama Te Huruhuru, and '72 others' wrote to Buckley, the lawyer who had represented them before the Native Land Court, asking that he pass on to the Governor and to McLean their request for a rehearing.[2893] In this letter, the petitioners spelt out clearly the land they believed had wrongfully been taken from them:

> Waiwiri, Whamaunga-ariki, Puketoa, Otawhaowhao, Mahoenui, Papaitonga, Hiweranaui, Te wera-o-whango as far as Tauamorehurehunui, from thence down towards Tokaroa, ascending the Tararua range, until it reaches the Queen's line, hence along the said line and on till it strikes Te awa Keru [*indecipherable*] of Tamaianewa, from thence it turns Eastwards to Arapaepae, Weraroa, Makomako, thence through the centre of the Lake, till it meets Tau-a-te-Ruru, Komakorau, Tawhitikuri, from thence to the sea, running from the mouth of the Hokio river till it reaches Raukahamama and meets again at Waiwiri, where the boundaries end.[2894]

Significantly, this description takes in all the land claimed by Wātene Te Waewae and his people, on the one hand, and Te Puke and his people, on the other. When the application for a rehearing was submitted to Rogan and Smith, the judges who had decided the Horowhenua case, their view was unequivocal: 'No valid ground for asking for a re-hearing,' they observed, 'is even attempted

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[2888] Rogan to McLean, 4[?] April 1873, MA 75/2/10.
[2889] Anderson and Pickens, *Rangahaua Whānui—Wellington District*, Waitangi Tribunal, August 1996, pp. 217–219.
[2890] Te Waewae and others to Governor, 21 April 1873, MA 75/2/14.
[2891] Ibid.
[2892] Cooper, Marginal Note, 14 May 1873, MA 75/2/14; McLean, Marginal Note, 16 May 1873, MA 75/2/14.
[2893] Toremi and others to Buckley, 7 May 1873, MA 75/2/14.
[2894] Ibid. Buckley did pass the application on, although not to McLean, but to the Defence Minister (15 May 1873, MA 75/2/14).

to be shewn and we are not aware that any exists.'[2895] The judicial and executive arms of government were clearly determined that no rehearing would be permitted, and the many applications – those mentioned along with others – were simply ignored. When Wātene Te Waewae and Te Puke wrote directly to Fenton, the Chief Judge of the Native Land Court, in December, on behalf of 'the whole of the persons who own these pieces of land', a note scrawled across the letter indicated that the senders were to be informed that all such requests had to be made within six months of the issuing of a certificate and that that time was now past; Te Waewae and Te Puke and the 'whole of the persons', in other words, were out of time.[2896] No doubt McLean would have approved; he later told Te Waewae and Te Puke that it was 'childish work to ask for a rehearing'.[2897]

10.3.2 Further conflict, nothing resolved

Still, a flaring up of the conflict between Ngāti Raukawa and Muaūpoko was perhaps itself not inevitable. Indeed, at least some Ngāti Raukawa appeared to be willing to continue to deal with their lands through the formal processes. In late April, following the Court's Horowhenua decision, Nerehana Te Paea and 'all the people' of Ngāti Hikitanga wrote to Featherston to say that they had received the 'certificates of the Court for our land at Muhunoa'.[2898] 'We are willing,' they continued, 'to sell our land to you.'[2899] For reasons not explained, Nerehana and the other Ngāti Hikitanga were not, however, willing to complete the transaction with Grindell; their preference was to deal with Booth and Major Kemp.[2900] They were, however, clearly willing to proceed peacefully. As was later remarked, although 'dissatisfied with the decision of the Court', the 'Ngatiraukawa did not show a hostile attitude towards the Muaupoko'.[2901]

The same, it seems, could not be said for Kāwana Hūnia. In December 1873, after Ngāti Raukawa had refused to include him as an owner in the Tararua block, Hūnia and Muaūpoko had retaliated by again burning houses, destroying crops, and tearing down fences at Māhoenui and Rākauhamama. The possibility of some such occurrence had been foreseen by Mātene Te Whiwhi, who had written, by way of Edwards, to the Under-Secretary in early December, asking the government 'to restrain Kawana Hunia from irritating the Ngatiraukawa on the Horowhenua Waiwiri question'.[2902] He would not be responsible, Te Whiwhi

[2895] Rogan and Smith, 3 June 1873, MA 75/2/14. The statutory basis for applying for a rehearing, section 81 of the Native Lands Act 1865, did not stipulate that applicants needed to justify their application.
[2896] Te Waewae to Fenton, 8 December 1873, MA 75/2/14.
[2897] McLean, 12 January 1874, MA 75/2/12—McLean meeting with Ngāti Raukawa at Ōtaki—January 1874, p. 12.
[2898] Nerehana Te Paea and others to Featherston, 24 April 1873, MA 13/120/75b.
[2899] Ibid.
[2900] Ibid.
[2901] Memorandum by T.E. Young on late Disturbance at Horowhenua, Undated, MA 75/2/12.
[2902] Te Whiwhi to Under-Secretary, 8 December 1873, MA 75/2/14.

said, for any action Te Puke Te Paea might take against Hūnia, if Ngāti Raukawa continued to be provoked.[2903]

And indeed it was Te Puke Te Paea who took it upon himself to respond to this affront to Ngāti Raukawa.[2904] He began by challenging Muaūpoko to fight.[2905] Although Te Puke was initially backed by just a small band, as word spread, more and more Ngāti Raukawa made their way to Horowhenua to support him. Desultory fighting then ensued, shots were exchanged, skirmishes undertaken, but neither side was able to settle the matter.[2906] It was reported, erroneously as it turned out, that 'fire-arms were used, and five or six natives were killed, four of them being Muaupoko men'.[2907] Booth, who happened to be in the vicinity at the time, managed to bring about a cease-fire, and it was agreed that, for the time being, the Hokio Stream would form a dividing line between the combatants, with Muaūpoko to the north, and Ngāti Raukawa to the south.[2908] At the same

[2903] Ibid.
[2904] Booth to Pollen 15 December 1873, MA 75/2/14. Towards the end of December 1873, Cooper asked Grindell to tell him what he knew of Te Puke, 'his character and antecedents' (Cooper to Grindell, 19 December 1873, MA 75/2/14). Because of his importance to Ngāti Hikitanga, it is worth recording Grindell's lengthy response in full here: 'I have known the Puke for some 30 years. His father, Te Paea, came from Maungatautari with the Ngatiraukawa, and, I believe, was personally engaged in some attacks upon the Muaupoko. One of his wives, named Poha, still living, was a Muaupoko woman captured by him. After the conquest he and Hukiki Te Ahukarama (now dead), the father of Roera Hukiki, settled at Muhunoa which was allotted to them and others of the same hapu, now for the most part dead – some of their descendants are however still living … [and they] claimed and occupied land from Muhunoa and Waiwiri on the Coast, the greater portion of which was awarded by [*indecipherable*] Rogan to the Muaupoko at the late sitting of the Land Court at Foxton. Te Paea was a very generous and a very passionate man. When dying he earnestly exhorted his son Te Puke never to part with their home at Papaetonga lake. I was present at the time. After his death the Puke accompanied me to Remaitaka [*sic*] where I had charge of a party of Natives and Europeans road-making, and worked with me for twelve months or more. He afterwards accompanied me . . . where I obtained an appointment as Superintendent of Roads under Captain Thomas, Agent of the Canterbury Association. Altogether he was with me for several years. Afterwards he and others of Muhunoa joined some of their Ngatiraukawa relatives at the Niho-o-te-Kiore, where I was informed he became a Hau Hau. When the question of selling land on the West Coast was mooted he and some of the others returned to look after their rights. He has a younger brother named Te Kaho, who always has resided at Muhunoa or thereabouts. I have never heard that Te Puke was engaged in any actual warfare. He is very much addicted to drink, and very passionate when once roused, but not a vindictive man. I have always found him honest and truthful. I should think that giving up his claim to his land at Wai Wiri would be about the last thing he would do. I have no doubt he is strongly supported and encouraged by the more cautious and cunning, if less honest, of the Ngatiraukawa'. James Grindell, 19 December 1873, MA 75/2/14.
[2905] Booth to Pollen 15 December 1873, MA 75/2/14.
[2906] Anderson and Pickens, *Rangahaua Whānui—Wellington District*, Waitangi Tribunal, August 1996, pp. 221–222.
[2907] *Otago Daily Times*, Issue 3701, 15 December 1873, p. 2.
[2908] Memorandum by T.E. Young on late Disturbance at Horowhenua, Undated, MA 75/2/12.

time, Tāmihana Te Rauparaha wrote to McLean, asking him to come to Horowhenua to 'suppress the disturbance'.[2909]

Whether in response to Te Rauparaha's request, or for other reasons, McLean now determined that he would resolve the matter himself. Early in the new year, he proceeded to Ōtaki to do just that.[2910]

McLean's first meeting with Ngāti Raukawa at Ōtaki was held on 6 January 1874. Some of those present, such as Horomona Toremi, immediately began to tie any resolution of the conflict McLean thought he had come to settle to a demand for a rehearing of the Horowhenua case. Others, such as Watene Te Waewae, consented to abide by whatever was agreed between McLean and Ngāti Raukawa.[2911] McLean's response to this was to paint the possibility of a rehearing as nigh impossible, while commending the law courts to Ngāti Raukawa as the best path to follow in seeking justice against Hunia.[2912] He also chastised Mātene Te Whiwhi, 'the elder chief of the Ngatiraukawa', for not taking any action to quell the disturbance.[2913] To this criticism, Mātene was quick to respond:

> My thought about the matter is this – Kawana Hunia first burnt the whare at Mahoenui; second, he assaulted the mother(?) of Watene; third, his burning of Puke's house. I sent for Puke to come here; he refused to come; he said, he would not listen to my words. I have done all I could do in the matter. I have nothing further to say. Leave this matter to be dealt with as proposed by Mr McLean.[2914]

Indeed, Te Puke had refused to attend, choosing to remain instead at Horowhenua, and in his absence no final resolution was ever going to be reached. Bringing the meeting to a close, Wī Parata instructed that Te Puke and the others not present be sent for, as nothing would happen until then: 'Mr McLean does not choose to declare his views unless all the members of the tribe are here present.'[2915]

And so, six days later, a second meeting took place. And on this occasion, it was attended by Nerehana and Te Puke Te Paea, as well as Tauteka and Kararaina Whāwhā, the descendants of Te Whatanui's sister, Hītau (and, in the case of Tauteka, also the wife of Mātene Te Whiwhi). Of these, Nerehana spoke first:

[2909] Te Rauparaha to McLean, 15 December 1873, MA 75/2/14.
[2910] Memorandum by T.E. Young on late Disturbance at Horowhenua, Undated, MA 75/2/12.
[2911] Notes of a Meeting held at Ōtaki, 6 January 1874, p. 2, MA 75/2/12.
[2912] Hūnia was, in fact, charged with arson. However, after McLean's intervention, the charges were dropped. 'While I am far from extenuating Hunia's conduct,' McLean wrote to the Superintendent, 'it seems to me that the services he has rendered to the Colony and to the Province should not be lost sight of, and that it should be remembered that he has already in this matter suffered, from even his temporary imprisonment, great loss in his dignity and position as a chief, not to speak of the expenses to which he has been put in obtaining legal assistance.' McLean to Fitzherbert, 22 January 1874, MA 75/2/14.
[2913] Notes of a Meeting held at Ōtaki, 6 January 1874, p. 3, MA 75/2/12.
[2914] Ibid.
[2915] Notes of a Meeting held at Ōtaki, 6 January 1874, p. 4, MA 75/2/12.

> Welcome to Ōtaki, you the spring from which thoughts flow; come to the Ngatiraukawa. Give the land into my hands. The quarrel is not mine, but Hunia's. Kawana Hunia was the first offender; he was also the second; the Court was the third; and Kawana Hunia was the fourth, fifth, and sixth. I claim this land at Horowhenua under the Treaty of Waitangi, and through long and uninterrupted residence. Give to us our land this day.[2916]

After Nerehana, his brother, Te Puke, then spoke. His words perhaps lacked the rhetorical finesse of Nerehana's, but there was no mistaking their meaning:

> Welcome, Ngatitoa and Ngatiawa. Come to Ngatiraukawa. Welcome, Mr McLean, chief of the Maori tribes of this country. Come to me, to the man who has defiled the name of Raukawa; that name, however was not first defiled by me, it was by another man. You have come on account of my quarrel. You would not have come if I had not taken the matter into my own hands. Give me back my land.[2917]

These sentiments, and indeed the very words, were then echoed by Tauteka and Kararaina. McLean could have been in no doubt as to what they desired. 'It is good that you should welcome me, Watene,' McLean began in response, and using words that would take on great significance later, '– you who are the direct descendant of the old chief Whatanui.'[2918] He then rehearsed, briefly, his view of what had caused the present discontent. And then he offered a solution: 'I now propose to meet the descendants of Whatanui by themselves, as they are only persons interested in this question, and then we can go more fully into the matter.'[2919] Portraying himself as a doctor who held out a cure to an ailing patient, he finished by asking those present to 'leave the matter entirely between Whatanui's descendants' and himself.[2920]

Wātene Te Waewae, as he had done at the outset, immediately assented to this proposal. Te Puke, however, was less willing: 'I cannot agree to give up this quarrel into your hands, or you will next ask me to give up my claim to the land between Waingaio and Waiwiri.'[2921] Still, other influential voices, including those of Ihakara Tukumaru and Mātene Te Whiwhi, spoke in favour of ending the quarrel and allowing McLean to determine a settlement with the descendants of Te Whatanui.[2922] The final words of the meeting were spoken by Wātene to McLean: 'The quarrel is dead – it is now in your hands'.[2923]

Thus it was that a third meeting was held, but this was not between McLean and all of Ngātiraukawa; rather, it was between McLean and 'the descendants of Te Whatanui'.[2924] Wātene began the meeting with a long speech describing the

[2916] Notes of a Meeting held at Ōtaki, 12 January 1874, p. 4, MA 75/2/12.
[2917] Ibid.
[2918] Ibid, p. 5, MA 75/2/12.
[2919] Ibid.
[2920] Ibid.
[2921] Ibid.
[2922] Ibid, pp. 5–6, MA 75/2/12.
[2923] Ibid, p. 6, MA 75/2/12.
[2924] Ibid.

causes of the conflict as he understood them, starting with the death of Te Whatanui Tūtaki:

> The commencement of this trouble was when Whatanui Tutaki died, in 1869. During his lifetime there was no trouble, all were of one mind. The mana of the land descended to Whatanui's three children; that mana extended over the portion of the land which lies to the south of the Horowhenua Lake; the land held by the Muaupoko was north of the lake, and one party did not interfere with the other.[2925]

Without Tūtaki's mana to maintain the peace, there had then ensued the tug-of-war between Ngāti Raukawa and Muaūpoko that had brought them to the point at which they now found themselves. The houses of Ngāti Raukawa had been burned time and again, a pā tuna was stolen, guns were brandished.[2926] And while this contest had been dragging on, the government had declined to uphold justice, while the Native Land Court, Mātene said, 'has given my land, the land of my fathers, to men of another tribe'.[2927]

Subsequently, Te Puke spoke. 'Myself and my ancestors have been living on this land since before the Treaty of Waitangi,' he said.[2928] The boundary between the hapū of Ngāti Raukawa and Muaūpoko was established at Mahoenui when Whatanui, Te Paea, and others were living at Horowhenua. Later, Whatanui Tahuri had established a boundary at Waiwiri, to which Te Puke had objected – he believed it ought to have been at Waioneone. Then, in 1864, following Hukiki's sale of land to Searancke, Whatanui Tūtaki settled the issue by putting a boundary at Waimoana. All had been well, until 'Kawana Hunia commenced burning'.[2929] 'My work,' said Te Puke, 'was then clear.'[2930] Again, he insisted, 'Do you give me back my land'; 'If you do not give it, I shall continue to live on it'.[2931]

After Te Puke, his brother, Nerehana, spoke. Muaūpoko alone were responsible, he said, for the trouble over the land. They it was who had disputed the placement of the boundary, they it was who had broken fences, stolen crops and burned houses. And yet, Nerehana insisted, this land belonged to Ngāti Raukawa: 'My reason for living at Mahoenui is, that I have always lived there, as did my father before me.'[2932] And, he emphasised, the land he and his hapū claimed was not the same land as that claimed by Wātene; Ngāti Hikitanga, in other words, staked a separate claim from that of Ngāti Pareraukawa.[2933]

[2925] Ibid.
[2926] Ibid, p. 7, MA 75/2/12.
[2927] Ibid.
[2928] Ibid, p. 8, MA 75/2/12.
[2929] Ibid.
[2930] Ibid.
[2931] Ibid.
[2932] Ibid.
[2933] Ibid.

After Nerehana, the Ngāti Raukawa rangatira Horomona Toremi got up to speak. Whatanui and Ngāti Raukawa, he said, had rightful possession of that land, the land at Māhoenui, at Horowhenua, at Muhunoa. 'Muaupoko never in those days,' he continued, 'contested our rights.'[2934]

The last speaker of the day was another Ngāti Raukawa rangatira, Karanama Kapukai. What he had to say was of particular significance for Ngāti Hikitanga. He reminded those listening that Searancke had purchased some of the land over which they were quarrelling. Then he said the following: 'Between the block purchased and Horowhenua Lake is the land belonging to Horomona and Watene; from Muhunoa to Ohau is the property of the Crown, with the exception of Puke's claim, which was reserved.'[2935] Again, although not spelled out, 'Puke's claim' referred, presumably, to the 500 acres stipulated (although unspecified) in the purchase deed agreed with Featherston in 1864.

A fourth meeting was then held three days later. Again, the speakers rehearsed the varied histories of the quarrel, and again various boundaries were posited and various claims were made.[2936] When McLean finally spoke, he insisted that the matter was to be resolved by the law and not with guns; the Ngāti Raukawa, he said, 'have long professed to be obedient to the law; show now, by your future good conduct, that you have the good sense to live in peace'.[2937] Rather unfairly – and frankly a little oddly, given their actions – he then added, 'The Muaupoko have behaved much better in this affair than you have.'[2938] Having chastised Ngāti Raukawa, he then promised to devote himself 'to considering the settlement of this difficulty', although he warned that it would not be easy, given that the land had already been given by the Court to others.[2939] He would leave for Wellington the following day, and Kemp would be summonsed to meet with him there.[2940]

10.4 Confusion, the agreement(s) of 1874

And that, more or less, is what subsequently occurred. McLean invited the concerned Ngāti Raukawa to join him in Wellington and, as promised, he summonsed Kemp to meet them there. In February 1874, the parties signed an agreement – or, to be precise, agreements – to settle, at last, the long-running dispute. Unfortunately, as shall be seen, the settlement may have ended the armed

[2934] Ibid, p. 9, MA 75/2/12.
[2935] Ibid.
[2936] Ibid, pp. 9–10, MA 75/2/12.
[2937] Ibid, p. 10, MA 75/2/12.
[2938] Ibid. How McLean could make this statement, given that it was Kawana Hunia and none of the Ngāti Raukawa, who ended up before the magistrate for his part in provoking the conflict, is difficult to comprehend.
[2939] Ibid, p. 16, MA 75/2/12.
[2940] Ibid, pp. 16–17, MA 75/2/12.

conflict, but rather than resolving the matter, it in fact precipitated decades of uncertainty, litigation, and hearings. This was McLean's legacy.

Frustratingly, and somewhat strangely, no records of the meeting at Wellington appear to have been made at the time, or if they were, they soon disappeared. As a result, the precise details of what took place and what was said remain unclear. The only available evidence is from the testimony given over two decades later by witnesses before the Horowhenua Commission. From this testimony, a picture of what took place emerges, the broad outlines of which appear reliable, to the extent that different witnesses more or less agree. Inevitably, however, caution must be exercised with respect to individuals' recollections, particularly when claiming to recollect precisely what was said. It is not only that memory is notoriously fallible; it is that those who gave evidence before the Commission in 1896 were hardly disinterested parties.

Before he invited Kemp to meet, McLean telegraphed him to say that he wished first 'to have matters settled with Ngatiraukawa'.[2941] He then added, in passing, 'I am much displeased with Hunia for causing this trouble' – a statement entirely at odds with his having previously praised the good behaviour of Muaūpoko.[2942] According to Kemp, when he did arrive in Wellington, he found Ngāti Raukawa already there in some number: Horomona Toremi, Te Puke, Wātene Te Waewae, Mātene Te Whiwhi, and others. Kemp then went to the Native Office where he met McLean, who invited him to dinner. It was after this dinner, he said, that McLean asked him to give to him some land, 'a piece of Horowhenua', to settle the dispute.[2943] Kemp agreed that he would give McLean 1200 acres (which, in addition to the 100 acres previously set aside by the Court at Raumatangi, would make 1300 acres). McLean – having indicated that he thought Kemp might have given up more – then began to draw up the agreement. As he was doing so, said Kemp, McLean asked him to whom the 1200 acres were to be given. 'To the descendants of Te Whatanui,' Kemp had replied.[2944] With the agreement freshly signed, McLean then went to his office, followed by Kemp. 'I knew,' he said, 'the Ngatiraukawa were with him, and when I went there the place was filled with them.'[2945] The agreement was read out to all those present, said Kemp, 'down to where I had mentioned about the descendants of Te Whatanui'.[2946] After this, Kemp concluded, the agreement was signed and everyone returned to their homes.[2947]

A more fulsome account was provided to the Commission by Neville Nicholson (Te Aohau Nikitini), a grandson of Hitau, the sister of Te Whatanui. Nicholson,

[2941] McLean to Kemp, 7 January 1874, MS-Papers-0032-0093.
[2942] Ibid.
[2943] Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 26.
[2944] Ibid.
[2945] Ibid.
[2946] Ibid.
[2947] Ibid.

as a young man, had been present at the meeting in Wellington and had signed the agreement that it produced. To those named by Kemp as being present, Nicholson added Nerehana and his sister, Rakera Te Paea, along with Tauteka, Roera Hukiki, and Hoani Taipua.[2948] Significantly, this means that the three senior members of Ngāti Hikitanga – the siblings Te Puke, Nerehana and Rakera – were all present at the meeting. Nicholson was not sure if Kemp had been present, although he believed Kawana Hunia was (Kemp was, however, staying 'at the same house' as the Ngāti Raukawa).[2949] 'What,' Nicholson was asked, 'did McLean tell you?' To this he replied as follows:

> He addressed Watene and Tauteka, and said, "Listen to what I have to say. I have settled your disturbance, and the number of acres that is to be given to you, the children of Whatanui, that Kemp has given to me to hand over to you, is 1,300." Then McLean turned round to Puke and his people, and said ,"Puke, your land was sold by your father Te Paea and Hukiki, and was purchased by Mr Serang [Searancke], but now I will give you £1,050 for the people who are living south of Mahoenui, and some reserves of land also for you"; and then McLean ended his talk, and Watene got up and said, "I thought, McLean, that you would have given me back all my lands." Then Mātene te Whiwhi said, "You must be satisfied, and let it rest at that." And Tamahana [*sic*], Te Rauparaha, and others got up and said, "You must agree to it."[2950]

Nicholson was then asked about the reserves which had been 'spoken of as part of the settlement of this dispute':[2951]

> Yes, they were spoken of in connection with the settlement of the difficulty. Te Whatanui [*sic – presumably Watene is meant*] and Te Puke and others said, "You had better send some one to have these reserves surveyed off at once." Sir Donald McLean said he would do so at the first opportunity that occurred.[2952]

And so to the agreement itself. The agreement, in fact, has three parts, each of which was signed on separate days. Two of the three parts clearly fit together and form one agreement. The third part stands alone and forms a second and distinct agreement. The agreements were intended to bring an end to the discord, but they merely precipitated decades of bitterness. The infelicitous, ambiguous wording of both, combined with McLean's refusal to act and Kemp's procrastination and prevarication over the course of many years, ensured this would happen.

The first part of the agreement, which forms the bulk of the document, was signed on 7 February 1874:

> We the undersigned members of Ngatihikitanga, Ngatipareraukawa, Ngatiparekowhatu, and Ngatikahoro hapus of Ngatiraukawa Tribe hereby acknowledge to have received from the General Government of New Zealand, by the hands of James booth, Esquire, on this seventh day of February, one thousand eight hundred and seventy-four, the sum of

[2948] Ibid, p. 205.
[2949] Ibid.
[2950] Ibid.
[2951] Ibid.
[2952] Ibid.

> one thousand and fifty pounds sterling, in recognition and final extinguishment of all our claims to that portion of the land lying on the west coast of the Province of Wellington. Bounded as follows: On the north by a line commencing at Tauteka's post on the sea-beach at Mahoenui, thence inland to Te Rua o Te Whatanui, thence in a direct line to the Ohau River, which it crosses at Tokaroa, thence along a line bearing eastward; on the east by the Tararua range to Pukemoremore; on the south by a direct line from Pukemoremore to the mouth of the Waiwiri Stream; on the west by the sea-coast from the mouth of the Waiwiri Stream to the commencing point at Mahoenui, as the same is more particularly delineated on the plan drawn hereon and colored red, excepting certain reserves hereafter to be surveyed between the Papaitonga Lake and the sea; these reserves being made with the full consent of Keepa te Rangihiwinui, to whom this block in question, being part of the Horowhenua Block, was awarded by the Native Land Court. We hereby agree not to alienate or mortgage any of the above reserves.[2953]

This statement, seemingly clear enough in its intentions, was then signed by Mātene Te Whiwhi, Karaipi Te Puke (Te Paea), Horomona Toremi, Wātene Te Waewae, Nerehana Te Paea, Rākera Kipihana (Te Paea), Te Aohau Nikitini, Ngāwiki Tuainuku, Kipihana Te Kanaroa, Tāmihana Te Rauparaha, and Rākapa Topeora.[2954]

Immediately beneath this statement and the signatures, there follows a second statement, this one dated 9 February 1874, and signed by Meiha Keepa Te Rangihiwinui (Kemp):

> I hereby agree to allow the reserves mentioned above to be made for the Ngatiraukawa hapus whose representatives have signed the above receipt, but only for those of them who have been permanent residents on the block in question.[2955]

Together, these two parts constituted the first agreement. On its face, it was clear enough, but as shall be seen, the unspecified extent of the reserves became a snare for Ngāti Hikitanga and their kin hapū.

The second agreement was set out on a separate sheet of paper – although it was clearly part of the same document – and was dated 11 February 1874:

> I Te Keepa Rangihiwinui on behalf of myself and the Muaupoko tribe whose names are registered in the Native Land Court as being the persons interested in the Horowhenua Block hereby agree to convey by way of gift to certain of the descendants of Te Whatanui to be hereafter nominated a piece of land within the said Horowhenua Block near the Horowhenua Lake containing one thousand three hundred (1,300) acres the position and boundaries to be fixed by actual survey. The said piece of land to be conveyed in such a manner as will prevent its alienation by sale or mortgage by the persons to whom it is to be conveyed.[2956]

The first agreement was ambiguous with respect to the land that was to be reserved. This second agreement was ambiguous with respect to 'the descendants

[2953] Muhunoa Block Deed, 7 February 1874, ABWN w5279 8102 Box 320.
[2954] Ibid.
[2955] Muhunoa Block Deed, 9 February 1874, ABWN w5279 8102 Box 320.
[2956] Ibid.

of Te Whatanui' who were to receive the 'gift'. Over the course of the next several decades, bureaucrats, officials, and judges would take all these ambiguities and make of them an unholy mess.

10.5 The unquiet peace, 1874–1886

During this period of 12 years, those who had signed the 1874 agreements sought to obtain what they understood to have been conferred on them. It is regrettable that the correspondence of Te Puke in this regard appears to have been lost, but a sense of the frustration of all those concerned can be felt in the letters, petitions, and entreaties sent to the government by others over the course of these years.

At the end of July 1874, Wātene Te Waewae told McLean that Hēnare Matua and Meiha Te Keepa had visited him and told him not to survey 'the portion of Horowhenua' granted to him.[2957] Possibly they were concerned that Kāwana Hūnia would follow through with his threat to shoot anyone, whether 'European or Maori', should they be foolish enough to attempt such a thing as a survey.[2958]Certainly, Te Waewae was expecting trouble; others would soon come, he told McLean, to destroy his fences and his cultivations.[2959] Then, in early September of that year, Te Waewae wrote to Clarke, asking when the land would be surveyed: 'Many years have now passed and I am not yet quietly settled on this land'.[2960] At the same time, he wrote to McLean, informing him that 'Muaupoko and party' had ceased damaging his fences, although he gave no explanation for this apparent alteration in their attitude.[2961]

Almost a year later to the day, Te Waewae wrote to Fenton to inquire about 'the piece of land at Horowhenua, which was given … by Sir D. McLean & M^{r} Kemp'.[2962] The land was supposed to have been surveyed, Te Waewae continued, at some point in 1874, but 'the year 1875 has now arrived and it is still lying unsurveyed'.[2963] Twice, he said, he had written about the land to McLean, but McLean had not condescended to reply.[2964] 'Do you look into it,' he concluded.[2965] Then, later that month, McLean received a further letter on the subject:

> Greetings to you. Your letter to Te Watene respecting the 1300 acres given to us the descendants of Whatanui has reached us. Friend, Te Watene is dead, and we his children

[2957] Te Waewae to McLean, 9 July 1874, MA 75/2/14.
[2958] Knocks to Under-Secretary, 28 May 1874, MA 75/2/11.
[2959] Te Waewae to McLean, 9 July 1874, MA 75/2/14.
[2960] Te Waewae to Clarke, 6 September 1874, MA 75/2/14.
[2961] Te Waewae to McLean, 6 September 1874, MA 75/2/14.
[2962] Te Waewae to Fenton, 9 September 1875, MA 75/2/14.
[2963] Ibid.
[2964] Ibid.
[2965] Ibid.

> are left. This is our word to you. You must send a surveyor to survey those 1300 acres.[2966]

So Wātene Te Waewae did not live to see the land he believed he had been promised made over to him. His nephews and nieces, along with other descendants of Te Whatanui, were no more successful in having the block surveyed, despite their repeated applications to the government – at least nine applications were made between September 1875 and November 1877.[2967] Without the survey, they said, there could be no secure tenure, and without secure tenure, they could not farm the land as they wished to do.[2968]

McLean was finally roused – shortly after receiving yet another request for a surveyor[2969] – to some sort of action in February 1876, penning a note to Clarke: 'I understood Major Kemp had settled this matter, will you cause it to be looked into.'[2970] In September 1876, Waretini Tuainuku and others, still awaiting any sign of a surveyor, then asked if they might meet McLean in person, informing him at the same time that Kemp had agreed that '1300 acres should be given to the children of Te Whatanui'.[2971] There is nothing to suggest this meeting ever took place. Instead, Clarke made a note, in October, to the effect that Kemp had gone to Horowhenua 'to see these natives'.[2972] Still, it seems, McLean did nothing.

A further letter sent to Clarke at this time presaged some of the confusion and conflict that was yet to come with respect to this land. Teri Whatanui told Clarke that he had heard of the letter sent by Waretini Tuainuku the previous month. Well he might have heard of it: his name was signed on it. But he evidently did not agree with its contents. 'Friend,' he told McLean, 'you must cease writing to Waretini, but write to me instead, to the person to whom this land belongs, land which was given back to the children of Te Whatanui by Te Keepa.'[2973] 'Now,' he went on, 'I am the only child of Te Whatanui's now living.'[2974] In fact, given that Waretini was descended from Hītau, Te Whatanui's sister, and given that Teri was descended from Te Maianewa, Te Whatanui's brother, neither had a better claim than the other.

[2966] Watene Tuarua and others to McLean, 27 September 1875, MA 75/2/14.
[2967] See MA 75/2/14 for the several applications made by Te Watene's descendants and others on their behalf. One letter to McLean begins simply, 'This is again another application from us to you – to send a Surveyor for Horowhenua, viz. for the 1300 acres that were given to Te Watene'. And it concludes, 'This matter, which may be the cause of trouble, rests entirely with you'. Waretini Tuainuku, 13 December 1875, MA 75/2/14.
[2968] Luiten and Walker, *Muaupoko Land Alienation and Political Engagement Report*, Wai 2200, #A163, p. 120.
[2969] Teri Whatanui to McLean, 29 January 1876, MA 75/2/14.
[2970] McLean to Clarke, 8 February 1876, MA 75/2/14.
[2971] Waretini Tuainuku and others to McLean, 12 September 1876, MA 75/2/14.
[2972] File Note, 6 October 1876, MA 75/2/14.
[2973] Teri Whatanui to McLean, 9 October 1876, MA 75/2/14.
[2974] Ibid.

As it happened, McLean was not long in a position to do much in any case – on 5 January 1877, he died. His role as Native Minister was taken over by Pollen, and in April of that year, Teri Whatanui and others wrote to the new Minister yet again on the subject of those 1300 acres:

> This piece of 1300 acres was given by Sir Donald McLean and Major Kemp to the descendants of Te Whatanui subsequently to the decision of the Court in the case of Horowhenua in favour of Major Kemp in 1872 [*sic*]. Now Sir Donald McLean is dead and you are his successor we therefore pray you to send us a surveyor for that reserve for we have been in want of it for the last 5 years.[2975]

A note was attached to this letter by Young, helpfully explaining to the Minister what it was about. 'This was brought before you at Ōtaki and the promise made that a surveyor should be sent up,' Young wrote.[2976] Then he continued, 'It was also pointed out that the delay they complain of was their own fault as they interrupted the survey before, when the surveyor was sent up to do it.'[2977] This last point seems at least questionable, to the extent that the file contains nothing whatsoever to support the contention that a surveyor had ever been sent.

Clarke then instructed that the survey was to be completed 'as soon as possible'.[2978] Still, it should perhaps come as no surprise that Waretini Tuainuku felt compelled, more than six months after Clarke had given this instruction, to write yet again to the Minister with 'an earnest appeal' that the 'survey of the land may be done speedily and not left as a cause of trouble'.[2979] He might just as well have saved himself the ink. At the end of December, Clarke again referred the matter to Booth: 'The Government,' he said, 'will be very glad to have this Reserve settled as soon as possible.'[2980] He might have added that all those awaiting the reserve would be very glad also, but perhaps this was taken as given.

It was not only Te Wātene's children who were anxious to see a survey completed, however. For some time, Kāwana Hūnia had been writing to the government, asking that the entire Horowhenua Block – title for which remained solely in the name of Kemp – be surveyed so that it could be subdivided and apportioned to the various hapū.[2981] In a file note dated 17 December 1878, Clarke recorded that McLean had given Kemp an undertaking that the government would carry out the survey of Horowhenua, by way of gratitude to Kemp for having given up the 1300 acres.[2982] And so it was that surveying finally did begin,

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[2975] Teri Whatanui and others to Pollen, 28 April 1877, MA 75/2/14.
[2976] Young to Pollen, 14 May 1877, MA 75/2/14.
[2977] Young to Pollen, 14 May 1877, MA 75/2/14.
[2978] File Note, 18 May 1877, MA 75/2/14.
[2979] Tuainuku to Pollen, 22 November 1877, MA 75/2/14.
[2980] Memorandum, 28 December 1877, MA 75/2/14.
[2981] See Hūnia to Defence Minister, 13 April 1878; Hūnia to Clarke, 4 May 1878; Hūnia and others to Sheehan, 28 July 1878; Hūnia to Sheehan, 22 October 1878. All contained in MA 75/2/14.
[2982] File Note, 17 December 1878, MA 75/2/14.

although not at all in response to the entreaties of Te Wātene's children, but solely in response to those of Hunia. And it appears, too, that Karaipi Te Puke found in the surveying something to object to, for it was reported to Clarke by Booth that Te Puke and two women had obstructed the surveyors in their work.[2983] 'I think a good sharp telegram from you to Karaipi,' Booth wrote, 'would have the desired effect – if Karaipi & his people persist in these interruptions they run a risk of losing the land promised by Kemp.'[2984]

According to a file note dated 29 January 1879, Clarke duly telegraphed Te Puke 're the matter'.[2985] Then, in mid-February, Booth wrote to Sheehan, the new Native Minister, to say that he and Kemp had 'arranged differences satisfactorily' with Te Puke, particularly with regard to the Waiwiri boundary line.[2986] Still, however, nothing was finally resolved, and as long as that remained so, matters continued to simmer. Hūnia continued to advance the claims of Muaūpoko to have the Horowhenua Block subdivided. He continued, too, to act in ways he knew would provoke others. According to one complaint, made to Baker in June of that year, 'Kawana Hunia had embraced the opportunity of Major Kemp's absence to try and fix himself on the choicest part of the Block, and … had threatened to take and keep possession with gun, sword and hatchet.'[2987] Baker's report was forwarded to the Under-Secretary by Ward, the Resident Magistrate, who recommended that Hūnia be 'bound over to keep the peace'.[2988] When the report and the recommendation were forwarded to the Hon. Robert Ballance, his sage advice was simple: 'Better let the Natives,' he said, 'settle their own difficulty.'[2989]

In any case, in the midst of all this uncertainty and inaction, the Ngāti Raukawa reserves, both those promised to Ngāti Hikitanga and their kin hapū, and that promised to the descendants of Te Whatanui, were entirely lost sight of. And this is how matters then continued for the next half-decade or so. Requests were submitted to the government by various people to have Horowhenua surveyed, trouble periodically flared between Muaūpoko and Ngāti Raukawa over claims to land (trouble at the centre of which Kāwana Hūnia could almost invariably be found), and the government, more or less, did nothing.[2990] As did Kemp, without whose application to the Court, it seems, the internal boundaries of Horowhenua could not be surveyed. Kemp's name, it will be recalled, was the only one set down as the owner of the entire 52,000-acre Horowhenua Block, in consequence of which he was 'in the position of Trustee for the tribe', at least according to Booth's view of the matter (as emerged later, Kemp's exact status was subject to

[2983] Booth(?) to Clarke, 28 January 1879, MA 75/2/14.
[2984] Booth(?) to Clarke, 28 January 1879, MA 75/2/14.
[2985] File Note, 29 January 1879, MA 75/2/14
[2986] Booth to Native Minister, 17 February 1879, MA 75/2/14.
[2987] Baker to Ward, 7 June 1879, MA 75/2/14.
[2988] Ward to Under-Secretary, 9 June 1879, MA 75/2/14.
[2989] File Note, June 1879, MA 75/2/14.
[2990] See MA 75/2/14 for details of the correspondence and reports during this period.

considerable contention).[2991] So Kāwana Hūnia and the rest of the Muaūpoko could complain all they liked, but until Kemp chose to submit the application, nothing would be done. And as long as that remained the case, neither the reserves promised by McLean and Kemp in 1874 to Ngāti Hikitanga and the other Ngāti Raukawa hapū, nor the 1,300 acres promised to Watene Te Waewae, would ever eventuate.

In July 1881, Ngāwiki Mātene and five others applied to the Under-Secretary 'to make a settlement on the land at Horowhenua given back to us by the Government in Sir Donald McLean's time', the land in question being the 1300 acres 'given back to us by Sir Donald McLean and Major Kemp'.[2992] The response from Lewis was to tell his correspondents that he would inquire into the matter. In the meantime, they were to do nothing that might 'create trouble' or constitute a breach of the law.[2993] It is reasonable to suppose that Mātene and the others may have felt a degree of exasperation to hear that the matter needed inquiring into, given that they had now been waiting seven years for the promised land. Booth was asked to report on the matter as soon as possible, particularly with regard to whether or not the 1300-acre reserve had been surveyed.[2994] The depth of ignorance on the part of the officials is difficult to fathom.

When Booth reported, it did, perhaps, give some insight previously lacking among the officials into what had occasioned such a delay. Helpfully, Booth also exculpated the government of at least some of the blame. Having noted that the land had indeed been promised by McLean and Kemp, Booth then went on: 'Kemp promised to have the 1300 acres surveyed off but he always put it off, my impression was that he had not informed the Muaupoko tribe & was afraid to carry out his promise.'[2995] In Kemp's absence, nothing could be done, Booth said, for the 'registered owners of the block were not parties to the transaction'.[2996] Indeed, Booth concluded, it was Kemp's absence that had forestalled the survey efforts in 1877.[2997]

While the subdivision of Horowhenua, including the setting apart of any reserves for the Ngāti Raukawa hapū, remained undone, the survey of the external boundary was completed by August 1881.[2998] As to the internal boundaries and the reserves, Lewis finally concluded that the Native Land Court was the suitable and indeed only venue for settling the intractable disputes between Kemp, Muaūpoko and Ngāti Raukawa.[2999] All that was required was for Kemp to be

[2991] File Note, 13 August 1879, MA 75/2/14.
[2992] Mātene and others to Under-Secretary, 6 July 1881, MA 75/2/14.
[2993] File Note, 18 July 1881, MA 75/2/14.
[2994] Lewis to Morpeth, 21 July 1881, MA 75/2/14.
[2995] Booth to Lewis, 26 July 1881, MA 75/2/14.
[2996] Booth to Lewis, 26 July 1881, MA 75/2/14.
[2997] Ibid.
[2998] Surveyor-General to Under-Secretary, 18 August 1881, Booth to Lewis, MA 75/2/14.
[2999] Under-Secretary to Native Minister, 29 August 1881, Booth to Lewis, MA 75/2/14.

similarly persuaded that this was so.[3000] But until such time as he came around to that view, the troubles would continue. Almost two years precisely later, Te Aohau Nikitini wrote to Lewis to complain that the Muaūpoko were again building houses and fences on the land promised by McLean and Kemp. 'If the Government does not cause the Muaupoko to remove from our land,' he wrote, 'we will create trouble.'[3001]

This letter prompted a long report from Lewis to the Native Minister on what Lewis mildly termed the 'Horowhenua difficulty'.[3002] In the course of the report, he stated unequivocally that 'Major Kemp gave to Watene's people 1300 acres of land', for which generosity Kemp was repaid by the government's carrying out of the survey of the Horowhenua block's external boundaries.[3003] If, however, Lewis went on, Kemp and the Muaūpoko continued to prevent the creation of the 1300-acre reserve, then they might be told that the full cost of the external survey would now be charged to the block, and a hefty sum it was bound to be.[3004] In other words, Lewis was recommending to the Native Minister that the government resort to threats as a means of settling the dispute.

This, apparently, did not faze Bryce, the Native Minister, who merely observed that as applications had now been made to the Court for subdivisions of the block, the reserve issue might be dealt with at the same time.[3005] In response, Lewis concurred that the 1300 acres might be set apart at the time the subdivisions were created. The concerned Ngāti Raukawa would be informed accordingly, he wrote. For good measure, they would also be told, Lewis said, that 'it is an intertribal matter they should settle peaceably amongst themselves'.[3006] Bryce then had the last word: 'They can be informed that their claim [will be heard] when the case comes before the Court but you must abstain from expressing an opinion as to what the judgment will be.'[3007]

Not surprisingly, perhaps, Te Aohau Nikitini and his hapū were less than impressed with the suggestion that they might settle the dispute with Kemp and Muaūpoko themselves:

> This is our word to you the Government. Sir Donald McLean and the Government never told us to look to Kemp in this matter while the Horowhenua question was in dispute, but Sir Donald McLean said that the Government would settle all the trouble about this land, it was because Sir Donald McLean said this that we consented to put a stop to the trouble, that is why we continue to look to the Government, the Government should

[3000] Ibid.
[3001] Te Aohau Nekitini to Lewis, 17 August 1883, MA 75/2/14.
[3002] Under-Secretary to Native Minister, 18 August 1883, MA 75/2/14.
[3003] Ibid.
[3004] Ibid.
[3005] File Note, 20 August 1883, MA 75/2/14.
[3006] Under-Secretary to Native Minister, 24 August 1883, MA 75/2/14.
[3007] File Note, 25 August 1883, MA 75/2/14.

> carry out Sir Donald McLean's promise which [has been] in abeyance for 9 years, and the Government are not dealing with the matter.[3008]

Lewis' response to this was at least consistent. He recommended that Nikitini be informed that the government could not interfere 'with the decision of the Native Land Court which made Major Kemp the certificated owner of the block'.[3009] And, he warned, 'If any breach of the law takes place the offenders will be punished.'[3010] Bryce instructed that Nikitini was to be informed accordingly. It does not require an especially vivid imagination to suppose that Nikitini found this all profoundly vexing. On the one hand, the government was refusing to act to assist in remedying the dispute, while on the other, it was repeatedly made eminently clear that the government was all too ready to act should anyone breach the peace. That the officials would not see any connection between the two positions was a display, on their part, of either disingenuousness or obtuseness.

In any case, matters simply continued as before, which is to say, nothing was done and nothing happened. By July 1885, yet another Minister of Native Affairs, this time Ballance, was appealed to by Nikitini for assistance in obtaining the 1300 acres:

> I therefore have to request you the Minister to ask Major Kemp to arrange about that 1300 acres, because twelve [*sic*] years have now elapsed. Major Kemp may die and then there will be difficulty. Sir Donald McLean has died, and left this trouble, and [*indecipherable*] ministers will never arrange the matter, and carry out Sir Donald McLean's promises. Friend, do you fulfil this request.[3011]

Asked for his advice, Lewis' response to this was to recommend to the Native Minister that Nikitini simply be informed that as the Horowhenua Block had now been set down for a subdivision hearing in the Native Land Court, the issue of the 1300 acres would have to await the Court's judgment.[3012] Regrettably, however, it seems Lewis' optimism in this regard was misplaced. The final note on the document, dated 6 October 1885, records simply, 'Application for division dismissed.'[3013] And so, needless to say, nothing was done.

The extent of the official neglect of this matter was then brought fully into the light nearly a year later. In June 1886, Rū Rēweti, a great-grandson of Te Whatanui, wrote to Lewis and asked for a copy of the 1874 document that set out the details of the 1300-acre gift from Kemp to the 'descendants of Te Whatanui, that is, to us'.[3014] 'We are living in constant doubt,' wrote Rēweti, 'seeing that it had already taken place for a long time, and yet no assurance of its truth has been

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[3008] Nikitini to Under-Secretary, 7 September 1883, MA 75/2/14.
[3009] Under-Secretary to Native Minister, 10 September 1883, MA 75/2/14.
[3010] Ibid.
[3011] Nikitini to Native Minister, 10 July 1885, MA 75/2/14.
[3012] Under-Secretary to Native Minister, 17 August 1885, MA 75/2/14.
[3013] File Note, 6 October 1885, MA 75/2/14.
[3014] Reweti to Under-Secretary, 21 June 1886, MA 75/2/14.

given to us.'[3015] The official tasked with finding the document wrote a dispirited note to Lewis the following month: 'The information relative to the 1300 acres that Kemp is said to have given to the Ngatiraukawa is continually referred to in this file of papers but I have not been able to find any trace of the document itself.'[3016] Lewis was also reminded, by the by, that Teri Te Whatanui had long since been informed that 'his application to have the 1300 acres surveyed would be given effect to'.[3017]

Relying on what was now becoming a stock response, Lewis instructed that Reweti be told that, as the Horowhenua Block was shortly to come before the Native Land Court, the matter would be dealt with there.[3018] He then further instructed that the missing deed be located, if at all possible; given that the Court was shortly to consider the Block, 'this document will no doubt be required', he wisely surmised.[3019]

In the meantime, neither the 1300 acres promised the descendants of Te Whatanui, nor the reserves between Lake Papaitonga and the sea promised Ngāti Hikitanga had been created. More than 12 years had passed since the signing of the agreements that the officials could no longer, seemingly, put their hands on.

10.6 Horowhenua divided, 1886

10.6.1 The Court's award

And so it was, in November 1886, that the Horowhenua Block was finally brought before the Native Land Court for subdivision. This at least held out the possibility that the promised lands would soon be made over to the long-waiting Ngāti Raukawa. With a certain inevitability, however, matters were not to be as simple as all that. Indeed, it was at this point that the confusion amongst officials concerning the two distinct agreements signed in February 1874 first became manifest. The confusion would remain unresolved into the next century

Lewis himself appeared before the Court. With respect to the reserves promised to Ngāti Hikitanga and their kin hapū, to be made between Papaitonga and the sea, he said nothing. Indeed, no reference to these reserves was made by anyone, including Kemp. It was as if the undertaking to provide them had never been made.

[3015] Ibid.
[3016] Davies to Under-Secretary, 8 July 1886, MA 75/2/14.
[3017] Davies to Under-Secretary, 8 July 1886, MA 75/2/14.
[3018] Under-Secretary to Davies, 10 July 1886, MA 75/2/14.
[3019] Ibid.

The 1300-acre reserve promised to the 'descendants of Te Whatanui' was discussed by Lewis, however, having previously been acknowledged by Kemp.[3020] Lewis began by giving a brief account of its origins. Then he admitted that he neither knew where the reserve was to be located, nor indeed where the deed itself was to be found. He hoped, however, that it would be uncovered soon and had sent an 'urgent wire for information on this point'.[3021] No objectors appeared and an order was made in favour of Kemp for the reserve, which was to be numbered '9'. Although the minute book does not record mention of it, it seems Kemp must have persuaded the Court that the reserve should be 1200 acres, rather than 1300, on the basis that Te Whatanui's descendants were already in possession of the 100 acres at Raumatangi. In any case, the minutes do record that the area of subdivision No. 9 of the Horowhenua Block was 1,200 acres.[3022] At this juncture, it appears that Te Aohau Nikitini asked of the Court exactly where the 1200 acres were to be located, and having then been told, he objected. His objection, however, was over-ruled by the Court, as he was 'not an owner named in the Certificate'.[3023] Some days later, the Court then put down in writing the proposed location for the reserve:

> It is located on the south side of the stream Hokio but is so be [*sic*] adjoining the 100 acres on the south & west sides of the same (already granted to the Whatanui, known as Raumatangi), the land [*indecipherable*] will go in the direction of the sea, it is to be a straight line (the northern boundary) in no place approaching within 2 chains of the stream at the nearest point, or(?) a graveyard named Owhenga.3024

The details of what actually occurred at the time of the Court's sitting are scanty. More details did emerge, however, during the course of the sitting of the Horowhenua Commission in 1896. It seems that, at first, the 1200 acres reserved in accordance with the 1874 deed were to be located in a block which was numbered '14'.[3025]

This section, however, was rejected, in part at least seemingly because it lay south of Māhoenui. In other words, it took in the lands of Ngāti Hikitanga and their kin hapū. Kipa Te Whatanui, questioning one of the witnesses, asked, 'Did we not object to take this land, because it was not ours?'[3026] And then again, he asked, 'Did you not know that it was because Kemp recognised the justice of our objection to this that he brought it back to the side of the Horowhenua Lake, in order that our dwelling-houses, our cultivations, and our eel-weirs might be included?'[3027] This account is supported by the evidence of the Muaūpoko chief

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[3020] Evidence of Keepa Te Rangihiwinui, Ōtaki MB No. 7, 25 November 1886, pp. 183–184.
[3021] Evidence of Under-Secretary, Ōtaki MB No. 7, 25 November 1886, p. 185.
[3022] Ōtaki MB No. 7, 25 November 1886, p. 185.
[3023] Ōtaki MB No. 7, 25 November 1886, p. 186.
[3024] Ōtaki MB No. 7, 1 December 1886, p. 188.
[3025] The Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 10.
[3026] Cross-Examination of Alexander McDonald by Kipa Te Whatanui, 14 March 1896, The Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, p. 86.
[3027] Ibid.

Te Rangi Mairehau. Asked about what had occurred in 1886, he stated that 'the descendants of Te Whatanui would not agree to accept' the land at Papaitonga.[3028] Instead, he said, 'they wanted the land at Hokio, and their particular desire was for eel-weirs'.[3029] In short, Section 14 would not do for Wātene Te Waewae and his people because they had no claim to that land; their land was north of Mahoenui, closer to the Hokio Stream.

So it was that it was this subdivision of 1200 acres that was placed in Kemp's name 'for the purposes of fulfilling an agreement between himself & the Government'.[3030] As it happened, when the land was finally surveyed, it was found not only to have no fresh water – touching neither the Hokio Stream nor Lake Horowhenua – but it also failed to include the land on which the houses and cultivations of the Ngāti Raukawa. This would, in time, become yet a further source of contention and confusion.

Before proceeding further, it is well to emphasise two points. Firstly, the fact that a reserve had finally been laid off did not, in any way, mean that now at least one part of the 1874 agreement had been effected. For one thing, exactly whom the recipients of this reserve were remained a vexed issue: there were, as shall be seen, several contenders for the title 'descendants of Te Whatanui'. Secondly, none of the Court's deliberations or decisions in 1886 did anything by way of providing the reserves promised in 1874 to Ngāti Hikitanga and their three kin hapū. It was, as noted above, as if no such undertaking to provide these reserves had ever been made.

10.6.2 Section 9 and 'the descendants of Te Whatanui'

What followed the 1886 decision was a precipitous descent into confusion. The Court, it should be noted, had deftly avoided having to address the looming difficulty itself by simply awarding Section 9 to Kemp, with the proviso that it was given to him 'for the purpose of fulfilling an agreement between himself and the Government'; in other words, Kemp was to be entrusted with the responsibility for resolving the matter.[3031] In any case, broadly speaking, there now appeared two sets of competing claimants for the title 'the descendants of Te Whatanui'; that is, for the right to claim the 1200 (or 1300) acres promised by the second of the two 1874 agreements. On the one hand, there were those who traced a direct line of descent from Te Whatanui, either through his granddaughter, Te Riti, or his grandson, Wiremu Pōmare (the two cousins who had then married each other, thereby uniting the lineage). Most of these claimants lived in the Bay of Islands, and almost none of them had lived at or near

[3028] Evidence of Te Rangi Mairehau, 14 March 1896, The Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, p. 93.
[3029] Ibid.
[3030] Ōtaki MB No. 7, 1 December 1886, p. 188.
[3031] Ibid.

Horowhenua; the one notable exception was Heni Kipa, a great-granddaughter of Te Whatanui, who lived at Ōtaki with her husband, Kipa Te Whatanui.[3032] On the other hand were those whose descent was by way of Te Whatanui's sister, Hitau, prominent amongst whom were Watene Te Waewae, Kararaina, and Ngāwiki Tauteka.[3033] Later, Te Aohau Nikitini, or Neville Nicholson, a son of Kararaina, would be the main champion of their cause. The former party came to be referred to as the 'direct' or 'lineal' descendants of Te Whatanui, the latter as the 'indirect' or 'collateral' descendants. To understand fully the dispute between these two familial groups, it is necessary to return to the time just after the death of Te Whatanui Tūtaki in early 1869.

In the months immediately following Tūtaki's death, Wī Pōmare wrote a number of letters to various individuals who had, in different ways, an interest in the land about Horowhenua. To Riria Te Whatanui, he wrote that she ought to remain at Horowhenua – she was not to allow others to push her out.[3034] He told her, too, that he and his wife, Te Riti, would be coming to Horowhenua soon. In the same vein, he wrote to Hector McDonald.[3035] And to Tauteka and Kararaina, Pōmare wrote the following:

> Friends,– Salutations to you two, the living semblance of our dead parent, Te Whatanui...
>
> This is a word to you about the lands of our ancestors and parent, Te Whatanui; listen to what we two have to say. Be strong in the matter of our lands, lest through ignorance you allow others to take it, for because of Te Whatanui's death trouble will ensue with respect of our lands. Friends, be strong, expect us …[3036]

Then, in April, Riria Te Whatanui told Swainson that he was to cease his survey of Horowhenua.[3037] In doing so, she invoked Pōmare's name: Pōmare, she claimed, had never said that Horowhenua was to be surveyed. Six months later, Pōmare wrote to Tāmihana Te Rauparaha about 'my land, Horowhenua'.[3038] He wished him to 'speak to the people who are making a disturbance about that land', implying that he would have done it himself if he had not been so 'very busy now carrying on affairs' in the north.[3039] He asked also that the 'Minister of that district' write to him, so that Pōmare would know who he was, 'and that he may know who I am'.[3040]

[3032] Anderson and Pickens, *Rangahaua Whānui—Wellington District*, Waitangi Tribunal, August 1996, p. 241.
[3033] Ibid, pp. 241–242.
[3034] Pōmare to Te Riria Te Whatanui, March 1869, AJHR, 1871, Sess. I, F.-08, p. 3.
[3035] Pōmare to McDonald, [Undated], AJHR, 1871, Sess. I, F.-08, p. 3.
[3036] Pōmare to Tauteka and Kararaina, 17 February 1869, AJHR, 1871, Sess. I, F.-08, p. 3.
[3037] Riria Te Whatanui to Swainson, 14 April 1869, AJHR, 1871, Sess. I, F.-08, p. 4.
[3038] Pōmare to Te Raupahara, 28 October 1869, AJHR, 1871, Sess. I, F.-08, p. 6.
[3039] Pōmare to Te Raupahara, 28 October 1869, AJHR, 1871, Sess. I, F.-08, p. 6.
[3040] Ibid.

All in all, it is clear enough that Pōmare, and at least some others, believed that he had some sort of legitimate claim to this land – or that he could at least make one out – even if he had never resided on it.[3041] Most signally of all, even Wātene Te Waewae, on one occasion at least, granted that Pōmare had a legitimate claim, of some extent. When Travers had interviewed Te Waewae in December 1871, he unambiguously stated, 'I admit [Pomare] has a claim there.'[3042] His only qualification to this was to say, 'I am the elder branch of the same family, and I am in occupation of the land; this keeps his claim good as well as my title.'[3043] Precisely what this is intended to mean is not clear.

Indeed, that Pōmare had some sort of legitimate interest in the land was reflected in the decision of the rūnanga that convened in May 1870 to resolve the conflict at Horowhenua. In Pōmare's absence, it was decided that the investigation would be 'left open'—'Wiremu Pōmare and Hinematioro [Te Riti] will be waited for'.[3044] Pōmare finally visited Horowhenua in June. In early July, he told McLean that the tribes 'about' Horowhenua had 'given up the arrangement in respect of that land' to him (the tribes themselves, it should be noted, were decidedly silent on this point).[3045] He wrote to McLean again a few days later, asking that McLean permit Mītai Penetani to accompany him to Waikanae (the request, it appears, was turned down).[3046] On the same day, he wrote to Mītai himself, asking for his help—'Friend, come, that you may assist me in this trouble'.[3047] Of course, the exact role he was playing here is unclear: was he acting as a rangatira of the Ngāti Raukawa with an interest in the Horowhenua land, or was he acting as an outsider to the dispute, a neutral arbiter acceptable to the conflicting parties who could facilitate a peaceful settlement? It is not clear.

Perhaps the strongest advocate for Wī Pōmare's claim to the land was Hector McDonald, whose father had many years previously leased his land from the original Te Whatanui. McDonald went so far as to tell the Premier that Te Whatanui Tūtaki had personally told him 'many times before his death that all his things and lands' were to go to Wī Pōmare and Te Riti on his demise.[3048]

[3041] When Hector McDonald appeared before the Horowhenua Commission, he was asked if he had seen Pōmare at Horowhenua. He replied, 'I have a very faint recollection of him. He paid a short visit once. He came to Ōtaki, and I believe he was at Horowhenua'.—AJHR, 1896, Sess. I, G.-02, p. 115. Given that McDonald and Pōmare were seemingly colluding, McDonald's statement carries extra weight.

[3042] Horowhenua Land Dispute—Travers Report, 16 December 1871, MA w1369/27/1872/272.

[3043] Ibid.

[3044] Maiti Paraone Kaiti to Pōmare, 5 May 1870, AJHR, 1871, Sess. I, F.-08, p. 10.

[3045] Pōmare to McLean, 4 July 1870, AJHR, 1871, Sess. I, F.-08, p. 11.

[3046] Pōmare to McLean, 9 July 1870, MA 75/1/5.

[3047] Pōmare to Penetani, 9 July 1870, AJHR, 1871, Sess. I, F.-08, p. 17. Note that in the official record, the date of this letter is recorded as '9 July 1871'. This is most certainly an error – all the available contextual information, such as the date of Pōmare's visit to Horowhenua and his letter to McLean requesting that Penetani be allowed to accompany him, argue for the correct date as being '9 July 1870'.

[3048] McDonald to Fox, 25 October 1869, AJHR, 1871, Sess. I, F.-08, p. 5.

McDonald then added that Pōmare, a 'great chief of Mahurangi', and Te Riti would be coming soon 'to take possession of the land'.[3049] They were, he later described them, the 'right owners of Horowhenua'.[3050]

The reliability of McDonald's testimony, however, is open to some doubt. After Te Whatanui Tūtaki's death, it seems that Tauteka and Kararaina had firstly demanded that McDonald pay the rent for his land to them, and then, when he had refused, they had endeavoured to throw him off the land. In October, along with Wātene Te Waewae, they had told McLean that McDonald was 'squatting' on their land and that they wanted to be rid of him.[3051] It also appears that McDonald's father had, for some time, been paying the rent directly to Pōmare.[3052] And Pōmare had later given assurances to the younger McDonald that he 'should have the place as long as' he liked.[3053] In other words, McDonald had good reason to support Pōmare's claim to the land: the promise of an indefinite lease. It should be noted, too, that no one else, least of all anyone close to Te Whatanui Tūtaki, repeated McDonald's claim concerning the bequest of 'all his things and lands' to Pōmare and Te Riti. In any case, the important point is that McDonald's views presumably reflected an intention on the part of Wī Pōmare – and presumably Te Riti – to claim possession of the land.

But then a curious thing happens. After his letters to McLean and Penetani in July 1870, Pōmare is not heard from again in connection to this land for over a decade. Nor is he referred to in the communications of others, as he had been previously. He simply disappears.[3054] Those seemingly with an interest in the land – both as that interest was claimed by themselves and acknowledged by others – were Wātene Te Waewae and his kin, notably Kararaina and Tauteka, the descendants of Te Whatanui's sister, Hitau. In May 1870, when the rūnanga had determined that it would await the arrival of Pōmare and Te Riti before reaching any judgement, Te Waewae reminded Cooper that he had earlier told him that he personally would not be waiting for Pōmare. To emphasise the point, he then continued:

> The runanga say, leave it until Pomare arrives. I – in fact, all of us – did not consent, for there is no reason why we should wait for Pomare. We, the people who are living here, can arrange with Pomare. You have heard what I said to you, "The children ought not to

[3049] McDonald to Fox, 25 October 1869, AJHR, 1871, Sess. I, F.-08, p. 5.
[3050] McDonald to Fox, 26 October 1869, AJHR, 1871, Sess. I, F.-08, p. 6.
[3051] Te Waewae and others, 25 October 1869, AJHR, 1871, Sess. I, F.-08, p. 5.
[3052] Evidence of Hector McDonald, 16 March 1896, AJHR, 1896, Sess. I, G.-02, p. 117.
[3053] McDonald to Fox, 25 October 1869, AJHR, 1871, Sess. I, F.-08, p. 5. See, also, Pōmare to McDonald, 11 August 1869, AJHR, 1871, Sess. I, F.-08, p. 6.
[3054] When cross-examining Alexander McDonald before the Horowhenua Commission, Kipa Te Whatanui asked him if he was not aware that 'Wiremu Pomare and Watene te Waewae and Tauteka' had applied to have Horowhenua investigated in the Native Land Court (AJHR, 1896, Sess. I., G.-02, p. 85). If it is correct that Pomare joined the application, then this would be the last that is heard of him in connection with the land until the Court sat in 1886 to subdivide Horowhenua.

> lay up for the parents, but the parents for the children." That word is in Scriptures. I use that word with reference to Pomare; therefore I say that I will not wait for Pomare, because we are the elders, and Pomare is the child. We, the people who have always lived at Horowhenua, have the management.[3055]

As if that were not clear enough, in August 1871, Tāmihana Te Rauparaha wrote to McLean in response to yet further efforts by Hūnia and Muaūpoko to drive Wātene and his people off Horowhenua. 'Te Watene and party are the descendants (or remains of) Te Whatanui,' he wrote, Are they to be turned off?'[3056] And McLean's own communications during this period to Wātene Te Waewae and others such as Mātene Te Whiwhi make it clear that he believed that the only descendants of Te Whatanui with an interest in Horowhenua were those associated with Wātene Te Waewae.[3057]

Perhaps the clearest evidence in this regard comes from the account of the meeting McLean held with certain Ngāti Raukawa in January 1874. The purpose of the meeting was to find a resolution to the continuing conflict with Muaūpoko. Pōmare did not attend the meeting, nor was his name ever mentioned at it. Throughout the course of the meeting, the phrase 'the descendants of Te Whatanui' was used repeatedly with reference to Wātene Te Waewae and his kin. By way of example, there is the following statement from McLean:

> It is good that you should welcome me, Watene, – you who are the direct descendant of the old chief Whatanui. … I now propose to meet the descendants of Whatanui by themselves, as they are the only persons interested in this question, and then we can go more fully into the matter.[3058]

In a similar vein, Wī Parata commented that it was 'for Watene and the other descendants of Whatanui now to speak of their troubles before Mr McLean'.[3059] Such examples can be multiplied many times, but the key point is simple enough: there can be no doubt that Wātene Te Waewae and his kin were, for present purposes, the descendants of Te Whatanui that everyone had in mind. Neither Wī Pōmare, nor Te Riti, were taken into account. And so, the following month, when the agreements between the various Ngāti Raukawa hapū and Kemp were signed, it is simply inconceivable that the Ngāti Raukawa referred to in the second agreement by that phrase, 'the descendants of Te Whatanui', could be anyone but Wātene Te Waewae and his kin. These were the people with whom McLean had met to resolve the conflict with Muaūpoko, these were the people he had himself described with those words, these were the people who had lived on that land, these were the people whose houses had been burned and whose crops had been

[3055] Te Waewae to Cooper, 9 May 1870, AJHR, 1871, Sess. I, F.-08, p. 5.
[3056] Te Rauparaha to McLean, 24 August 1871, AJHR, 1871, Sess. I, F.-08, pp. 24–25.
[3057] See McLean's many communications on the subject of Horowhenua from 11 August 1871 onwards. AJHR, 1871, Sess. I, F.-08, pp. 23–34.
[3058] Notes of a Meeting held at Ōtaki, 12 January 1874, p. 5, MA 75/2/12.
[3059] Notes of a Meeting held at Ōtaki, 13 January 1874, p. 5, MA 75/2/12.

destroyed, and these were the people who had fought for the land.[3060] Any other interpretation of that phrase would be nonsensical.

So there can be no doubt as to whom the phrase was intended to refer, but there is one final piece of evidence that is worth noting. When he gave evidence before the Horowhenua Commission, Kemp was asked why he had not given the land to Pōmare. He had found out, Kemp said, that Pōmare was 'a bad man', and it was for that reason that he 'gave it to the descendants of Te Whatanui'.[3061] While his stated motivation may be questionable, it is clear enough whom Kemp himself took to be the descendants of Te Whatanui with an interest in the land.

And so we return to 1886, when the Native Land Court subdivided the Horowhenua Block, awarding to Kemp as it did so 1200 acres 'for the purpose of fulfilling an agreement between himself and the Government'. But now, what had been entirely unambiguous in 1874 was, apparently, no longer so. The long-promised reserve had finally been marked out, but to whom was it to be awarded? After over a decade during which he had, seemingly, evinced no interest in the land, Pōmare now apparently wanted to claim it.

For the next several years, this uncertain state of affairs prevailed. For at least some of the time, however, the competing sets of claimants appear to have been willing to accommodate each other. Following the 1886 hearing, the list provided to Lewis for the 1200-acre and 100-acre blocks by Hītau (a descendant of Hītau, Te Whatanui's sister) and Neville Nicholson included some of the direct descendants.[3062] In August 1887, a letter was sent to Lewis to inquire about the land. It was signed by Waretini, a grandson of Hītau, and by Hare Pōmare, a grandson of Te Whatanui.[3063] Then, during the course of 1889, it appears an attempt was made to reach an agreement on a division of Section 9 between the competing claimants for the land.[3064] Kemp in fact wrote to the Native Minister in July 1890 to say that the two parties had agreed to divide the land equally, but they wished to avoid the burden of legal expenses.[3065] Lewis thought the proposal 'reasonable' and recommended that the government assist him to the fullest

[3060] Two decades later, one of these descendants had the following put to him before the Horowhenua Commission: 'Pomare claims to be the representative of Whatanui. From the time of the Court, through all the dispute of the Muaupoko, during all the time when you were on the verge of a conflict with them, in all your difficulties, has Pomare taken one step to assist you against the Muaupoko or fight your battles for you?' Te Aohau Nikitini replied with just one word: 'No.' Evidence of Te Aohau Nikitini, 9 April 1896, AJHR, 1896, Sess. I, G.-02, p. 205.
[3061] Evidence of Meiha Keepa Te Rangihiwinui, 7 April 1896, AJHR, 1896, Sess. I, G.-02, p. 189.
[3062] Hītau Ranginui and Te Aohau Nikitini to Lewis, 13 December 1869, MA w1369/17.
[3063] Waretini and Hare Pōmare to Lewis, 8 August 1887, MA w1369/17.
[3064] Evidence of Kipa Te Whatanui, Native Affairs Committee—House of Representatives, 12 August 1891, reprinted in JALC, No. 5, 1896, p. 33.
[3065] Kemp to Mitchelson, 24 July 1890, MA w1369/17.

extent possible. But he also doubted the likelihood of 'securing unanimity as to the list of names'.[3066]

In any event, in August 1890, the matter was finally referred by Order-in-Council to the Native Land Court for resolution, seemingly at Kemp's request.[3067] The Native Land Court was instructed to ascertain who the descendants of Te Whatanui were to whom Section 9 was to be awarded. However, for reasons that are not clear, the case was some time in coming before the Court. In 1892, Kipa Te Whatanui again petitioned Parliament – he had submitted an earlier petition in 1890, but with the 'probable early prorogation of Parliament looming', the Native Affairs Committee had declined to consider it – 'that their claims to portions of the Horowhenua Block may be heard'.[3068] The Native Affairs Committee recommended that the government 'take the whole questions affecting the Horowhenua Block into their consideration' and pass legislation, 'if possible', that would 'finally settle all disputes' concerning the block.[3069] A further petition – asking simply that the Committee's 1892 recommendation be acted upon – was submitted by Kipa Te Whatanui in 1894.[3070] By the time the Committee reported back, in mid-August, simply repeating its previous recommendation, the Native Land Court had finally responded to the Order-in-Council.

The hearing, which began on 5 June 1894, in fact got off to something of a false start. When Ru Reweti, representing Pōmare's party, asked the Court to proceed with the investigation of Section 9, the Court's response was to say that 'a mistake had evidently been made in sending in a claim of this kind as all the Horowhenua Block had passed the Court' previously.[3071] After some digging around, the Court discovered that 'this application was identical with the matter referred to the Court by Order in Council dated 19th August 1890 to ascertain who were the descendants of Te Whatanui to whom the aforesaid Section should be apportioned'.[3072] The Court thus enlightened, the case could proceed.

Rū Rēweti was the primary witness for the Pōmare party. Under cross-examination by Te Aohau Nikitini, he stated that, in the company of Heni Kipa, a

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[3066] Under-Secretary to Native Minister, 28 July 1890, MA w1369/27.
[3067] Chief Judge to Under-Secretary, 21 August 1890, C J1/545/1895/1295; *Wiremu Pomare and Others v Piukanana and Others* [1895] 14 NZLR 340, 341.
[3068] No. 12, 1890, and No. 156, 1891—Petition of Kipa Te Whatanui and Others, AJHR, 1892, Sess. I, I.03, p. 5. For the earlier petition, see Petition of Kipa Te Whatanui and 76 Others, No. 12, 1890, AJHR, 1890, Sess. I, I.-03, p. 9. Kipa Te Whatanui was himself an indirect descendant of Te Whatanui – he was a descendant of Te Maianewa, Te Whatanui's brother. He was, however, married to Heni Kipa, who was a great-granddaughter of Te Whatanui. On this basis, he aligned himself with the direct descendants of the great chief – that is, Pōmare's party – and over the course of the next several years was particularly active in advancing their claims.
[3069] No. 12, 1890, and No. 156, 1891—Petition of Kipa Te Whatanui and Others, AJHR, 1892, Sess. I, I.03, p. 5.
[3070] No. 104—Petition of Kipa Te Whatanui (No. 1), AJHR, 1894, Sess. I, I.-03, p. 6
[3071] Ōtaki MB No. 21, 5 June 1894, p. 194.
[3072] Ōtaki MB No. 21, 12 June 1894, p. 230.

niece of Wiremu Pōmare who was also his wife, he had met with Nikitini's sister, Hinemateora, and Waretini, a nephew of Wātene Te Waewae, 'to come to an agreement about subdividing the land between the descendants of Hitau and the descendants of Te Whatanui'.[3073] Rēweti had proposed giving the descendants of Hitau 500 acres, while the descendants of Te Whatanui would keep for themselves 700 acres. The offer was angrily rejected, said Reweti, by Hinemateora, and so now they found themselves before the Court.[3074] (In the subsequent Appellate Court hearing, Nikitini described this same meeting, but with the additional comment that after Reweti's offer had been rejected, he – Nikitini – had suggested instead that they divide the land equally, an offer Reweti had apparently then accepted.[3075])

In short, the essence of the Pōmare party's argument was, as Rū Rēweti put it, that Te Whatanui 'did not leave his mana to Watene and [his sister] Hinepourangi [*sic*]', for the simple reason that 'they did not live at Horowhenua, but at Muhunoa'.[3076] 'They only went to Horowhenua,' Reweti continued, 'after Tutaki's death, after 1869.'[3077] Nor would Rēweti allow that Wātene had been instrumental in trying to preserve the land from the claims of Muaūpoko. Rather, said Reweti, it was Ngāti Raukawa who had done this, a usefully vague reference that also emphasised the fact that Watene had other tribal ties.[3078]

In response, Te Aohau Nikitini told a quite different story, one which he supported with letters and documents. The story he told was, more or less, the story related in this report, according to which Te Whatanui had obtained mana over a part of the Horowhenua Block, that he had been joined there by others, some of whom were the descendants of his sister, Hītau, that these others and their own descendants had remained on the land until the present time, and that it was these people who had fought to keep the land when Kāwana Hūnia and Muaūpoko had tried to drive them off.[3079] Most important, perhaps, were these words of Nikitini: 'The uri o te Whatanui are represented by us, we upheld him and kept possession of the land up to the present time.'[3080]

The Court delivered its judgment on 23 June. Its reasoning might be described as curious. The evidence of the Nicholson party – curtly summed up in the phrase, 'Wātene's attitude in the matter' – was deemed to be entirely unpersuasive. Meiha Keepa had only deigned to set apart the land for the descendants of Te Whatanui, the Court said, as an expression of his and Muaūpoko's gratitude to the great chief for having sheltered them from Te Rauparaha. Had Te Whatanui

[3073] Ōtaki MB No. 21, 21 June 1894, pp. 349–350.
[3074] Ibid, pp. 350.
[3075] Ōtaki MB No. 28A, 23 January 1894, p. 38.
[3076] Ōtaki MB No. 21, 21 June 1894, p. 344.
[3077] Ibid, p. 345.
[3078] Ibid, p. 345.
[3079] Ibid, pp. 341–343.
[3080] Ibid, pp. 342.

not played this role, then Keepa would never have set the land aside for his descendants. Therefore, the Court concluded, it was Pōmare's party who had the best claim.[3081] In other words, none of the events between the death of Tutaki Te Whatanui in 1869 and the agreement worked out by McLean and Kemp in February 1874 were, apparently, relevant to the question.

Having delivered itself of its judgment, the Court then made its award. Perhaps with the previous attempt by the contending parties to agree on a division of the land between them in mind, it appears they now agreed to allow the Court to divide the land as it saw fit, rather than simply awarding it all to Pōmare's party. 'All circumstances considered', the Court said – unintentionally engaging in considerable irony – 'a fair division between the parties would be to allot 800 acres to the lineal descendants of Te Whatanui and 400 acres to the descendants of Hitau.'[3082]

The Nicholson party promptly appealed the decision.

Before the appeal could be heard, however, it seems the Pōmare party decided they would adopt another tactic. In November 1894, Alfred Knocks wrote on behalf of Heni Kipa and others to Sheridan, a Native Land Purchase Officer, offering to sell to the Crown their interests in Horowhenua Section 9.[3083] 'They would sell their shares at a very reasonable figure,' so Knocks explained, 'as the land is of no use to them', living as they did in the Bay of Islands.[3084] In his response, Sheridan pointed out an insurmountable hurdle to this proposition: title to the block was yet to be settled. Until it was, there could be no negotiations for its purchase.[3085]

The Native Appellate Court began hearing the appeal on 23 January 1895. Morison, the counsel for the Nicholson party, began with a strong assertion of the rights of his clients, which he then deftly followed up with a magnanimous olive branch. If the question concerning the descendants of Te Whatanui referred to in the 1874 agreement were revisited, he said, 'my opponents would be excluded altogether'.[3086] However, he went on, his clients did not wish to see this happen; the essence of their complaint was simply that the descendants of Te Whatanui 'living on the land' only received 400 acres, while those who were not living on the land had received 800 acres.[3087] Theirs was an application, in other words, for fairness.

[3081] Ōtaki MB No. 22, 23 June 1894, pp. 15–17.
[3082] Ibid, p. 18.
[3083] Knocks to Sheridan, 23 November 1894, MA-MLP 1/37/1895/87.
[3084] Ibid.
[3085] Sheridan to Knocks, 13 December 1894, MA-MLP 1/37/1895/87.
[3086] Ōtaki MB No. 28A, 23 January 1895, p. 28.
[3087] Ibid.

In response, counsel for the Pōmare party was equally assertive on the part of his clients – but he was less magnanimous with respect to the appellants. The Appellate Court, he said, had no jurisdiction under the 1890 Order-in-Council to consider the appeal, because the Order referred solely to the 'descendants of Te Whatanui', which clearly – according to counsel – meant the 'lineal' descendants.[3088] As descendants of Te Whatanui's sister, counsel continued, the Nicholson party had no legitimate claim to the land.[3089]

In case, however, this was not deemed persuasive enough, Pōmare's counsel later went a step further. McLean, he suggested, had erred. 'I shall submit that McLean,' he said, '[was] under [a] misapprehension perhaps as to [the] connection between Watene and Whatanui and might naturally [have supposed] that Whatanui's descendants might include Watene.'[3090] With McLean conveniently unable to rebuff this suggestion, it was left to hang unchallenged in the air.

Considerable evidence was heard by the Court from a number of the most prominent interested parties. Wī Pōmare denied that Watene had any right at Horowhenua: 'Only Whatanui the elder and his direct descendants,' he said, 'had a right to the land.'[3091] He then admitted, however, that he did not know that McLean had met with Ngāti Raukawa in January 1874, and that 'McLean said it was Watene's dispute and asked Kemp to give him 1200 acres to settle it'.[3092] He was also asked why he was only taking an interest in the land now, to which he replied simply enough, 'The reason I take an interest in this land now is that it has been awarded to us.'[3093] And, he added, 'If I am adjudged the owner of this land those residing there will have to move.'[3094] Here, at least, was some clarity.

Pōmare was not the only significant witness to appear. So, too, did Meiha Keepa. For the first time, in an official forum at least, he was asked to explain why the ambiguous phrase had been used in the February agreement in the first place. His reply, it must be said, did no favours for the Pōmare party: 'I objected to Pōmare's name being put into the agreement because he had not replied to my letters and I thought he was a bad man so I said put in "the descendants".'[3095] Under cross-examination, he repeated his point: 'Pōmare's name was not mentioned in [the] agreement because he had not behaved properly towards me, that is why I said let it go to the descendants of Te Whatanui.'[3096] While this may

[3088] Ibid, pp. 28–29.
[3089] Ibid, p. 29.
[3090] Ibid, pp. 50–51.
[3091] Ōtaki MB No. 28A, 24 January 1895, p. 63.
[3092] Ibid, p. 64.
[3093] Ibid, p. 65.
[3094] Ibid, p. 65.
[3095] Ōtaki MB No. 28A, 25 January 1895, p. 73.
[3096] Ibid, p. 73.

not have clarified, precisely, who the descendants referred to were, it did seem to suggest that Pōmare was not one of them.

In any case, Meiha Keepa surely knew that those concerned in the February 1874 agreement were Wātene and his kin, not Wī Pōmare, despite his denial of any knowledge of the meetings between McLean and Ngāti Raukawa at Ōtaki prior to the signing of the agreement.[3097] Charitably, we might suggest he had forgotten, but whatever the explanation, the evidence is clear that, at the time, he knew full well who the interested parties were.[3098] On 6 January 1874, McLean had sent Meiha Keepa a telegram, telling him that he wished to 'come to some understanding with Ngatiraukawa' and had sent for Ihakara and Watene to that end.[3099] And he wrote again to Meiha Keepa the following day, saying 'Before asking you to meet me I should like to have matters settled with Ngatiraukawa, those at Horowhenua refused to come here today, but I have sent again …'.[3100] In other words, not only would Meiha Keepa have known of the meetings, he would have known they concerned the Ngāti Raukawa at Horowhenua. They did not concern Wī Pōmare.

It is difficult, in fact, to know what to make of Meiha Keepa's evidence. On the one hand, he appeared, quite unambiguously, to be striving to keep Wī Pōmare's party out of the land. On the other, he was showing no willingness to allow the Nicholson party a claim either. He even went so far as to deny that McLean had mentioned 'the Horowhenua trouble' when the two men had dined alone in Wellington prior to the signing of the February agreement.[3101] This is utterly implausible. All the evidence, including the two telegrams just referred to, make it clear that McLean had asked Meiha Keepa to come to Wellington solely for the purpose of resolving the Horowhenua dispute. The idea that the two men would dine alone and never mention it is absurd. Yet perhaps Meiha Keepa's denial points to his real objective: a desire to see none of Ngāti Raukawa succeed to the land, so that it might, instead, be claimed by Muaūpoko, his people with whom he had never consulted before committing them to that agreement in February 1874.

The Court gave its judgment on 5 February 1895. It conceded that the Nicholson party were not, perhaps, 'descendants' of Te Whatanui, at least 'according to the European meaning of the term'.[3102] Though not explicitly stated, the obvious implication was that they could well be considered descendants according to other cultural norms. In any case, Pōmare's party had not objected to the descendants of Hitau being admitted during the course of the first hearing.

[3097] Ibid, p. 75.
[3098] His memory was evidently much sharper when he appeared before the Horowhenua Commission. See Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 26.
[3099] McLean to Kemp, 6 January 1874, Object #1007875, MS–Papers–00032–0093.
[3100] McLean to Kemp, 7 January 1874, Object #1012674, MS–Papers–00032–0093.
[3101] Ōtaki MB No. 28A, 25 January 1895, p. 76.
[3102] Ōtaki MB No. 28A, 5 February 1895, p. 102.

Therefore, the Court concluded, it was improper for such an objection to be raised for the first time before the Appellate Court.[3103]

Having dealt with that objection, the Court then made its award: each party would receive 600 acres; the land was to be divided equally.[3104] The Court declined, however, to elaborate on its reasons for overturning the lower court's award. They must, as a consequence, remain forever a mystery. 'Wī Pōmare's party have stated,' the Court noted, 'that they would probably appeal to the Supreme Court to exclude the other party altogether.'[3105] Should they succeed, the judges observed, 'they will destroy our work'.[3106]

The Pōmare party promptly applied for judicial review of the decision.

The review, however, would not be heard until July. Before then, and acting with great alacrity following the Appellate Court's decision, the Pōmare party appears to have determined to attempt again what it had earlier failed to do: simply sell the block to the Crown. This time their wishes were represented to Sheridan by one of the Native Land Court judges, William James Butler.[3107] They were prepared to sell the entire block to the Crown at 20 shillings an acre, Butler told Sheridan. Again, however, the Pōmare party were to be stymied in their efforts: 'But what does Kemp who is at present sole certificated owner say?' Sheridan enquired.[3108] Butler, seemingly unaware of all that was going on, sent the following reply: 'Kemp must convey to the persons nominated by the court – and it occurred to me that you might like to negotiate with descendants of Whatanui who have been nominated as the land adjoins THE STATE FARM'.[3109] The sale, needless to say, did not proceed.

The Supreme Court began the review on 18 July. The applicants asked the Court to grant a 'writ of prohibition' that would exclude any but those who were directly descended from Te Whatanui from having a claim to Horowhenua Section 9.[3110] The Pōmare party denied that 'the descendants of Te Hitau had any legal right to come under the Order'; that they had been allotted any of the section previously, it was implied, was owing to the goodness of the Pōmare party.[3111]

Delivering the Court's verdict, the Chief Justice observed, 'It was apparent that, intentionally or otherwise, the Order in Council had so limited the scope of the

[3103] Ibid.
[3104] Ibid.
[3105] Ibid.
[3106] Ibid.
[3107] Butler to Sheridan, 12 February 1895, MA-MLP 1/37/1895/87.
[3108] Sheridan to Butler, 12 February 1895, MA-MLP 1/37/1895/87.
[3109] Butler to Sheridan, 13 February 1895, MA-MLP 1/37/1895/87.
[3110] *Wiremu Pomare and Others v Piukanawa and Others* [1895] 14 NZLR 340.
[3111] Ibid, 342.

inquiry that the present defendants must have been excluded'.[3112] The Nicholson party, in other words, could have no claim to the land, so far, at least, as the Order-in-Council was concerned. As a result, when the two lower courts had nonetheless awarded the Nicholson party a portion of Section 9, they had been acting outside the jurisdiction conferred upon them by the Order. And, what is more, they had known that they were doing so.[3113] Judgment, accordingly, was entered for the applicants: the prohibition was granted.[3114]

The Court did, however, make one final observation, in passing. It seemed 'highly probable', the Court suggested, that the executive branch of government would 'be asked to enlarge the scope of the inquiry' into all of the Horowhenua lands, and that this inquiry would consider again the question of Horowhenua Section 9.[3115] It was regrettable, therefore, that the Pōmare party had made the application for the prohibition; it had come at great cost, 'without prospect of any advantage'.[3116]

And so the matter remained unresolved. And, in the midst of all this uncertainty, the claims of Ngāti Hikitanga for the reserves promised them in 1874 between Papaitonga and the sea had more or less been lost sight of altogether. Indeed, Ngāti Hikitanga themselves had more or less been lost sight of. But this, it turned out, was only a temporary disappearance.

10.7 The Commission, the Courts and more confusion, 1896–1898

As foretold by the Supreme Court, the executive government was indeed called upon to enlarge the scope of the inquiry into the Horowhenua Block. One of the calls came by way of a petition submitted by Te Aohau Nikitini in the wake of the Supreme Court's writ of prohibition.[3117] 'According to Maori ideas,' it said, 'we are the descendants of Te Whatanui and were always spoken of as such though not his lineal descendants.'[3118] Then, having given a succinct accounting of the various efforts undertaken to obtain justice, the petition ended with an unequivocal statement: '… as a matter of fact we the descendants are the only people for whom the land was intended by Sir Donald McLean as we were the occupants there at the time the Muaupoko burnt our whares and had been in occupation ever since Te Whatanui and his people came from Waikato'.[3119]

[3112] Ibid, 345.
[3113] Ibid, 346.
[3114] Ibid, 347.
[3115] Ibid, 346.
[3116] Ibid, 347.
[3117] Petition of Neville Nicholson or Te Aohau, [?] 1895, J1/545/1895/1295.
[3118] Ibid.
[3119] Ibid.

The Native Affairs Select Committee recommended that the petition be referred to the government for a favourable response.[3120] And, in response, the government finally acted. In October 1895, the 'Horowhenua Block Act' was passed. It stipulated, among other things, that the 'Governor in Council shall appoint a Royal Commission to inquire into the circumstances connected with the sales or dispositions by the Natives of any or the whole of the blocks contained in the Horowhenua Block … and as to the purchase-money paid for the same, and as to what trusts, if any, the same respectively were subject to'.[3121]

The Royal Commission duly sat for several months during the first quarter of 1896. It reported back to Parliament, with commendable, if rather questionable, speed in May of that year.[3122] As shall be seen, Ngāti Hikitanga and their promised reserves, having been overlooked for some years, reappeared in the evidence given before the Commission, only to disappear again in the decision of the Commission itself. In making its decision, as shall also be seen, the Commission managed to confound entirely the intentions of both the 1874 agreements, confusing both the distinct sets of reserves and their intended recipients.

10.7.1 Ngāti Hikitanga and the Promised Reserves

Throughout the hearing, the Commission heard from various witnesses as to the places where the different tribes had had their kāinga and their mahinga kai, where they had had pā tuna and where they had taken firewood. And from this evidence, a clear picture of the place of Ngāti Hikitanga emerged. It is particularly notable that many of the witnesses who confirmed the places to which Ngāti Hikitanga had rightful claims were Muaūpoko. In the circumstances, it might have been understandable had they sought to deny such claims. But they never did.

On 11 March 1896, Wārena Te Hākeke, a son of Kāwana Hūnia, spoke in some detail concerning the place of Te Puke and his people. Asked if Waiwiri was the 'principal home' of Karaipe Te Puke, Te Hakeke confirmed that it was.[3123] And again, asked if Otāwhaowhao was not, also, a 'principal residence' of Te Puke and his people, he again confirmed that it was (contradicting, as he did so, Kemp's claim that 'Te Puke's people' belonged to 'the southern side of the

[3120] Report on the Petition of Neville Nicholson, No. 464/1895, J1/545/1895/1295.
[3121] The Horowhenua Block Act 1895 (59 VICT 1895 No. 16).
[3122] Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, p. 1. See Luiten and Walker, *Muaupoko Land Alienation and Political Engagement Report*, Wai 2200, #A163, p. 257, regarding the dubiously impressive speed with which the Commission reported back.
[3123] Evidence of Warena Te Hakeke, 11 March 1896, Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, p. 42.

Waiwiri').[3124] They had lived there, Te Hakeke said, before 1873, and they had continued to live there after that date. And, he added, they were there because they had a 'claim on the land', that is, on 'Waiwiri and the adjacent land'.[3125] In other words, they had a claim to the land at Otāwhaowhao, at Rākauhāmama, at Māhoenui, at Muhunoa – all places adjacent, that is, to Waiwiri.

Subsequent witnesses then corroborated what the Commission had been told: Wirihana Hūnia, another son of Kāwana Hūnia, Te Rangi Mairehau, a chief of Muaūpoko, Kerehi Tomu, a chief of Ngāti Hou, Hector McDonald, a long-time farmer around Horowhenua, and Hēni Te Rei, the daughter of Mātene Te Whiwhi.[3126] Significantly, the latter witness referred by name not only to Keraipe Te Puke, but also to his brother, Nerehana Te Paea, and to his sister, Rākera Te Paea.[3127] And then, asked specifically who, of the Ngāti Hikitanga, had a right to the land south of Māhoenui, she again named them.[3128]

Perhaps the most illuminating evidence, however, was that of Te Aohau Nikitini. His evidence is the most consistent with what is known from other sources regarding the 1874 agreements. He was, in fact, the only witness to give an explanation of the agreements that, for the most part, did not conflate or confuse the various parties named and the various promises made in the two distinct parts of the document. Furthermore, his whakapapa connected him to both of the 1874 agreements; that is, to the four hapū that had signed the agreement with Kemp on 7 February, and to the 'descendants of Te Whatanui' to whom Kemp had promised the 1300 acres on 11 February.[3129] As a consequence, he had legitimate claims to interests on either side of the boundary that separated Te Wātene's people from Te Puke's. Furthermore, Nicholson was present at the meeting in Wellington in 1874. He was, therefore, well placed to have as clear an understanding as anyone of what had taken place.

Nicholson told the Commission of the boundary that separated the land of 'Whatanui and his children' from the land of Te Paea.[3130] This was the Māhoenui boundary, south of which the land was occupied by Te Paea, the father of Keraipe Te Puke, Nerehana Te Paea, and Rākera Te Paea, while north of which it was occupied by Te Whatanui and, subsequently, his descendants, prominent

[3124] Evidence of Warena Te Hakeke, 11 March 1896, Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, p. 42; Evidence of Meiha Keepa, 10 March 1896, Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, p. 25.
[3125] Evidence of Wārena Te Hakeke, 11 March 1896, Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, p. 43.
[3126] See Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, pp. 59, 92, 109, 115, 221.
[3127] Evidence of Hēni Te Rei, 10 April 1896, Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, p. 221.
[3128] Ibid, p. 222.
[3129] See Exhibit Z, Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, p. 315; Evidence of Neville Nicholson, 9 April 1896, Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, p. 205.
[3130] Evidence of Neville Nicholson, 9 April 1896, Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, p. 203.

among whom was Wātene Te Waewae.[3131] This boundary, Nicholson said, was recognised by both Wātene and Te Puke.[3132] He noted, too, that there were several hapū – Ngāti Pareraukawa, Ngāti Kōhatu, and Ngāti Kahoro – on the southern side of Māhoenui, not just Ngāti Hikitanga, the hapū of Te Puke.[3133] And, he said, this boundary was the source, in a sense, of the agreements signed in February 1874. McLean had recognised that he was not dealing with a single group of Ngāti Raukawa who laid claim to a single piece of land. Instead, there were two distinct groups, and for each he arranged with Kemp that there should be distinct agreements. To the one, he had given £1050 and the promise of 'reserves hereafter to be surveyed between the Papaitonga Lake and the sea'.[3134] To the other, the 'descendants of Te Whatanui', was promised a block of 1300 acres.[3135]

But while the 1300 acres had, eventually, been laid off, the reserves to have been made for the four hapū between Papaitonga and the sea simply never eventuated. When he was asked by the chairman of the Commission where he would locate those reserves, Nicholson replied, 'The reserve to be made for us by Kemp, in accordance with his agreement with Sir Donald McLean, is, according to my view of the matter, to include the whole of the land to the south of the Māhoenui boundary, excepting the Waiwiri Lake.'[3136] But Kemp never made any reserves at all between Papaitonga and the sea. When Nicholson had asked Kemp about the reserves in 1886, Kemp had told him, 'Wait until it is finished', referring to the Court hearing.[3137] And asked by Hēni Te Rei the same question, he said, 'Wait till my troubles are over.'[3138] Always Kemp procrastinated, always he dissembled.

As noted earlier, it appears that at least some Muaūpoko believed that Kemp had acted beyond his remit when he had committed himself – and Muaūpoko – to making those reserves. Asked if Kemp had ever spoken to him about the reserves, Te Rangi Mairehau denied he ever had. Nor, he said, had Kemp ever held a meeting with Muaūpoko to discuss the granting of such reserves. Then he was asked, 'Have you as a member of the Muaupoko Tribe agreed directly or indirectly to give any reserve out of this estate to the Ngatiraukawa save and excepting the 1,200 acres?'; he replied, 'We never agreed to give any reserve to the Ngatiraukawa', other than the 1200 acres.[3139] Finally, Te Rangi was asked,

[3131] Ibid.
[3132] Ibid.
[3133] Ibid.
[3134] Muhunoa Deed of Cession, 5 February 1864, MA 13/119/75a.
[3135] Ibid.
[3136] Evidence of Neville Nicholson, 9 April 1896, Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, p. 208.
[3137] Ibid, p. 205.
[3138] Evidence of Hēni Te Rei, 10 April 1896, Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, p. 221.
[3139] Evidence of Te Rangi Mairehau, 13 April 1896, Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, p. 231.

'You refused to give the Ngatiraukawa any other than the 1,200 acres?'; to which he replied, 'Yes; I would not give them any more.'[3140]

So perhaps Kemp felt unable to make the reserves, despite having put his name to the agreement in 1874, for want of proper authority. But there is an additional reason: by this time, Kemp had alienated at least some of the land in question, including most of the land immediately around Lake Papaitonga. After Section 14 was turned down in favour of Section 9, it was subsequently 'set aside for Kemp to hold absolutely and in his own right' by the Court – whether for his own use and enjoyment, or in trust for Muaūpoko was never clear.[3141] Either way, Kemp felt justified in alienating the land, and so he sold part of it and then leased the remainder. And, as it happens, the purchaser and the lessee, one in the same man, turned out to be none other than his good friend – and representative before the Horowhenua Commission – Sir Walter Buller.[3142] Through a series of transactions, by the time the Commission sat, Buller had acquired 11 acres of the block by purchase, while the remaining almost 1200 acres were subject to leases of at least 21 years.[3143] And that these events were to the detriment of Ngāti Hikitanga was made explicit during the sitting of the Commission: 'Are you not aware,' Kipa Te Whatanui asked Te Rangi Mairehau, 'that the land that has been leased to Sir Walter Buller at Papaitonga is land belonging to Keraipe Te Puke and others?' Yes, Te Rangi had replied, he was aware. So it was that Kemp alienated at least some of the land on which the reserves between Papaitonga and the sea that he had so long ago promised were to have been made.

10.7.2 Section 9 and 'the descendants of Te Whatanui' revisited

On the subject of Section 9, the Commission, predictably enough, heard quite contrary accounts as to the meaning of the phrase 'the descendants of Te Whatanui'. Not so many years previously, there had been seemingly no doubt. For instance, in August 1881, the Under-Secretary had informed the Minister that 'Kemp gave to Watene Te Waewae and his people 1300 acres of the land' to settle a dispute.[3144] The Under-Secretary used almost precisely the same words, two years later, in another memo to another Minister of Native Affairs.[3145]

[3140] Ibid.
[3141] Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, pp. 3, 14. The issue of Kemp's right to hold in his own name Section 14 dominated much of the Commission's time.
[3142] Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, p. 1, 14. That at least some observers considered Buller's involvement in these matters to be suspect is reflected in comments made to the House by Hon. John McKenzie, the Minister of Lands. 'Sir Walter Buller was a man knighted by Her Majesty presumably for good conduct,' he said, 'and who ought to be in gaol for his dealings with the natives.' Buller responded by calling on McKenzie to repeat his 'slanderous statements' beyond the safe confines of the House. *The Evening Post*, Vol. L, Issue 102, 26 October 1895.
[3143] Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, p. 15.
[3144] Under-Secretary to Native Minister, 29 August 1881, MA 75/2/14.
[3145] Under-Secretary to Native Minister, 18 August 1883, MA 75/2/14.

Nothing could have been clearer. Yet, a little over a decade later, and much of the clarity had vanished.

Still, the preponderance of the evidence did support the claim of the Nicholson party. Wārena Te Hakeke (one of Kāwana Hūnia's sons), Te Rangi Mairehau, his wife Mākere Te Rangimairehau, and Hoani Puihi, all of Muaūpoko, were unequivocal in asserting that the 1874 agreement had been made with a view to resolving the conflict between themselves and Watene and his people.[3146] The phrase at issue, therefore, unequivocally referred to Wātene and his people. Conversely, it did not refer to Wī Pōmare. Hoani Puihi was particularly explicit in this regard. Asked who he understood were the '*uri* of Whatanui', he replied, 'The descendants of Te Whatanui living there, those are the people for whom the land was intended – Te Hitau, Caroline, Waitene Tuainuku, Tauteka, Aohau, and Rere, children of Caroline and the children of Watene Te Waewae.'[3147] And he was similarly categorical in his rejection of any claim to the land by Pōmare. 'I heard,' he recounted, 'some time after the name of Pōmare being spoken of, and I said, "We will not consent to give Pōmare anything; what we give we will give to the descendants of Whatanui who are living on the land."'[3148] The 1200 acres were intended, he made clear, 'for the descendants who were actually residing on the land'.[3149]

The Commission also heard from the farmer Hector McDonald. He had been born at Ōtaki and grew up at Horowhenua, and he was well acquainted with those on both sides of the dispute. 'Was it not understood and talked about as a matter of common knowledge,' he was asked, 'that Watene and his people were those to whom the land was given back by Kemp and Sir D. McLean?' To this he replied, 'I believe that is what was stated by Muaupoko.'[3150] This evidence is particularly significant, given that McDonald had no reason whatsoever to support the claims of Watene and his people. It had been his father whom Kararaina and Tauteka had harassed after the death of Te Whatanui. And it had been Wī Pōmare who had offered his father support in the face of this harassment. Nonetheless, and to his credit, he would not deny Wātene's rightful claim.

Kemp's own evidence before the Commission was both confused and confusing, and he often appeared angry and defensive. When asked which descendants of Te

[3146] Evidence of Wārena Te Hakeke, 11 March 1896, Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, pp. 42–43; Evidence of Te Rangi Mairehau, 14 March 1896, Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 85; evidence of Makere Te Rangimairehau, 16 March 1896, Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 104; evidence of Hoani Puihi, 31 March 1896, Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 143.
[3147] Evidence of Hoani Puihi, 31 March 1896, Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 143.
[3148] Ibid.
[3149] Ibid.
[3150] Evidence of Hector McDonald, 16 March 1896, Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 116.

Whatanui were in Wellington at the time the 1874 agreement was signed, Kemp replied that Pōmare had been there – which he had not.[3151] Asked if he would swear to what he had just claimed, Kemp then declared, 'I do not know.'[3152] Shortly after that, Kemp then denied that the agreement had been made to resolve the dispute between Ngāti Raukawa and Muaūpoko – which it most obviously had been.[3153] And asked by his friend and advocate Buller if he had given a commitment to set apart 'another 100 acres … to make up for what you had promised Sir Donald McLean', he testily replied, 'What is the good of asking those questions? No; why should I have done so? If you are not satisfied, I will take the land back.'[3154]

But on the subject of that vexatious phrase, Kemp at least appeared to be a little clearer. He had, he said, met with Pōmare in Auckland in 1872, and promised him that were he successful in obtaining the Horowhenua Block, he would remember the words spoken by his ancestor Taueki.[3155] By this he presumably meant to say that he would give to Ngāti Raukawa the land Taueki had given to Te Whatanui in return for the latter's protection (according, that is, to the Muaūpoko version of history). It was for this reason, Kemp continued, that Pōmare did not attend the Court in 1873; he already had Kemp's undertaking, and so his presence was unnecessary. However, when Kemp had written to Pōmare, on several occasions, following the hearing, Pōmare had failed to reply. This, said Kemp, was a grave insult, and it was after suffering this insult that he determined that he would instead give the land 'to the descendants of Te Whatanui' – a statement that would appear to imply that Kemp did not consider Pōmare to be a member of that body (at least, not for present purposes).[3156]

That, in any case, is how the phrase came to find its way into the agreement: McLean asked Kemp to whom the land was to be given, to which Kemp replied, 'to the descendants of Te Whatanui'.[3157] The agreement was then read out, Kemp said, before 'Matene, Watene, Matene's wife, Caroline, and others', and it was read down to the words, 'the descendants of Te Whatanui'.[3158] The use of the phrase in that situation, the presence of those particular individuals, all would suggest that Kemp viewed Watene and his people as the descendants of Te

[3151] Evidence of Meiha Keepa, 7 April 1896, Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 188.
[3152] Ibid.
[3153] Ibid, p. 189.
[3154] Evidence of Meiha Keepa, 8 April 1896, Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 194.
[3155] Evidence of Meiha Keepa, 10 March 1896, Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 26.
[3156] Evidence of Meiha Keepa, 7 April 1896, Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 189.
[3157] Evidence of Meiha Keepa, 10 March 1896, Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 26.
[3158] Ibid.

Whatanui whom he believed were to receive the land. No other interpretation could possibly make sense.

10.7.3 The Commission's Wisdom

The hearings produced some degree of clarity, although there remained a good deal of confusion, particularly over the vexed question concerning the descendants of Te Whatanui. It remained, however, for the Commission itself to put a formal seal on the confusion, arbitrarily rendering non-existent as it did so the promised reserves of Ngāti Hikitanga. The Commission's confusion commenced with its understanding of the 1874 agreements. 'Our interpretation,' said the Commission, 'is that the Crown paid £1,050 to extinguish these claims, Kemp agreeing to give 1,300 acres, and to make certain reserves for the Ngatiraukawa between Papaitonga and the sea.'[3159] From the outset, in other words, the Commission treated the reserves promised to Ngāti Hikitanga and their kin hapū and the 1200 acres promised to 'the descendants of Te Whatanui' as being part of one and the same agreement. They would, therefore, deal with them as if they were part of one and the same agreement.

The Commission's next step into confusion was its identification of 'two classes of claimants to this land'.[3160] Firstly, the phrase 'this land' underlined the Commission's view that the Papaitonga reserves and the 1200 acres were essentially part and parcel of the same thing. Secondly, the 'two classes of claimants' the Commission identified were 'the lineal descendants of Te Whatanui', on the one hand, and those who were 'descended from Te Whatanui's sister, Hitau', on the other. The Commission had, in other words, been so mesmerised by the tug-of-war between the Pōmare party and the Nicholson party, it lost sight altogether of Ngāti Hikitanga and the other three hapū. In the Commission's wisdom, they were simply made to vanish from the reckoning. The degree of the Commission's confusion is perfectly captured in the following:

> … it is evident that Sir Donald McLean, who had all the parties before him, was satisfied that the Ngatiraukawa who were causing all the disturbance, and not the lineal descendants of the Te Whatanui, had claims; for he paid £1,050 to extinguish them, and prevailed on Kemp to set aside 1,200 acres, and also make reserves.[3161]

Here the Commission manages, as noted above, to resolve the distinct agreements into one, and to identify as the only legitimate claimants, by disallowing the claims of the direct descendants of Te Whatanui, those descended from Hītau; that is, Wātene Te Waewae and his people. The confusion is now complete. But for Ngāti Hikitanga, there is worse to come.

[3159] The Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 9.
[3160] Ibid, p. 10.
[3161] Ibid.

To its credit, it appears the Commission did undertake a 'personal inspection' of the land at issue.[3162] Less to its credit was the conclusion it reached as a consequence. 'It is apparent to us,' the Commission wrote, 'that it would be absurd to lay off reserves between Papaitonga and the sea.'[3163] Such reserves, it said, would be 'small in area and non-contiguous', and they would therefore be 'of little benefit to the owners' (the Commission, it should be noted, never explained why the reserves would be small and non-contiguous).[3164] Of course, when the Commission made this statement, it neither asked the owners if they agreed with it, nor even had in mind the right people when speaking of 'the owners'. And yet, on this basis, it recommended that:

> … instead of laying off the reserves already referred to [i.e. those between Papaitonga and the sea], the northern boundary of Section 9, commencing at Raumatangi, and thence to the point where the boundary bends to the southward, to avoid the Owhenga burial-place, be made coincident with the southern boundary of the Hokio Stream, and that the owners of this subdivision should have the right to fish and erect eel-weirs in that stream.[3165]

This would, the Commission concluded:

> …give the Ngatiraukawa a fishing-ground and the land on which their houses stand, and also give them their land on one block, instead of 1,200 acres in one block, with reserves of small area scattered about Block No. 11.[3166]

And thus the Commission, with good intentions certainly, recommended that the slightly adjusted Section 9 be confirmed in the possession of Wātene Te Waewae and his relatives Hītau, Tauteka, Kararaina, and Wharetini, along with Erena Te Rauparaha (descended from a brother of Te Whatanui), and Te Wiiti (a distant relative of Te Whatanui). They, at least, might have felt that justice had finally been done (even if, in fact, there remained yet a further twist to come).

As for Te Puke and his people, they were, quite simply, forgotten. At some point in the process, between the hearing of the evidence and the giving of the Commission's recommendations, Ngāti Hikitanga and the land they had been promised between Papaitonga and the sea simply disappeared.

Quite how the Commission came to be so confused remains something of a mystery. Some of the confusion, certainly, can be traced to the wording of the Commission's instructions, which had required the Commissioners to determine who the rightful claimants of the 1200 acres were, but which said nothing about the reserves between Papaitonga and the sea.[3167]

[3162] Ibid, p. 11.
[3163] Ibid.
[3164] Ibid.
[3165] Ibid.
[3166] Ibid.
[3167] The Horowhenua Commission, AJHR, 1896, Sess. I. G.-02, p. 17.

Still, it was entirely within the Commission's power to untangle the confusion for itself. Even allowing for the acknowledged confusion of some of the witnesses, the Commission was told often enough of the distinction between Keraipe Te Puke, Nerehana Te Paea, and Rākera Te Paea, on the one hand, and Wātene Te Waewae and his people on the other. And, furthermore, they had before them a copy of the document of 1874 which, clearly enough, contains two distinct agreements. Perhaps the Commission was simply overwhelmed by the task. Or perhaps it was because the outcome of the hearing was 'predetermined'; the Commission, as noted above, managed to produce its report with astonishing speed, just 10 days after hearing the final submission.[3168] In all likelihood, it was a combination of these factors that contributed to this state of affairs. Only the consequences for Ngāti Hikitanga were, so it seemed, clear enough: they would get nothing.

10.8 The Horowhenua Block Act 1896

But appearances can, after all, be deceiving. In September 1896, the Horowhenua Block Bill was introduced into the House to give effect to the Commission's findings. It was passed the following month.

In the debate preceding its passing, Hone Heke Ngapua, the member for the Northern Maori electorate, proposed that the whole question of who had a rightful claim to the Horowhenua Block be revisited. The judgment of the Court in 1873 was, he said, based on false evidence. Only in this way would 'fair justice' be done to all parties: Wirihana Hūnia and his brother, Meiha Keepa, and Muaūpoko, and the 'members of Te Whatanui'.[3169] Heke had, in fact, earlier suggested this course of action, and he was not alone in thinking that justice required it; in the Legislative Council, MacGregor observed that if justice were to be done, then they ought to take as their maxim, *Fiat justitia ruat coelum*.[3170] But neither then, nor later, was the government willing to consider opening the case again – the possibility of creating an ungodly mess loomed too large, it seems.

The government was, however, open to a quite different suggestion. Prior to the Bill's third reading in the House, J G Wilson, the member for the Ōtaki electorate, drew the Minister's attention to the fact that the Bill made no provision for the direct descendants of Te Whatanui to establish any claim to Section 9. This, he suggested, was not fair to them.[3171] On this point, Wilson received strong support from Robert Stout. 'Does the House know what it is

[3168] Luiten and Walker, *Muaupoko Land Alienation and Political Engagement Report*, Wai 2200, #A163, p. 257.
[3169] Heke, 25 September 1896, NZPD, Vol. 96, p. 225.
[3170] Heke, 25 October 1895, NZPD, Vol. 91, p. 684; MacGregor, 10 October 1896, NZPD, Vol. 96, p. 656.
[3171] Wilson, 2 October 1896, NZPD, Vol. 96, p. 396.

doing?' he asked.[3172] 'Does the House think the lineal descendants of Te Whatanui are not to get any land from their ancestor?'[3173] The fact that they may never have lived on the land could not be used as an excuse to 'deprive them of their right to the land', he declared.[3174] And further support on this point came from the Legislative Council, where J Rigg insisted that 'the descendants of Te Whatanui have not received … the amount of land they should possess'.[3175] There could be no question of revisiting the 1873 decision – 'The difficulties are such that the European titles all over the place would be upset, and there would be no knowing where the litigation would end' – but this did not mean the descendants of Te Whatanui should be treated unjustly.[3176]

The Committee agreed. The Bill was amended.[3177] And so, with respect to Section 9, the Horowhenua Block Act 1896 not only instructed the District Land Registrar to issue a Certificate of Title in the names of those specified by the Commission; the Registrar was also to issue certificates to 'such other persons, if any, as may by the Court be declared to be equitably entitled'.[3178]

Nor was this the only change prompted by the parliamentary debates. The Commission, Wilson pointed out, had recommended extending the boundaries of Section 9 'so as to include the kaingas where the occupants live'.[3179] 'Some portion should be cut off the southern boundary,' he went on, 'and it should be widened to come down to the stream to give the people access to the water.'[3180] Again, Wilson had the trenchant support of Stout. It was 'utterly ridiculous', he said, that the Bill did not give the people their village 'where they have lived for sixty years'.[3181] (Stout, seemingly, saw nothing contradictory between this and his having earlier championed the cause of those who did not live at Horowhenua – the direct descendants). The Bill was duly amended. The Act thus enshrined the Commission's recommendation regarding the additional 80 acres.[3182] As shall be seen, this became yet a further source of contention.

Mysteriously, however, the Act did more than just give effect to the Commission's findings. For reasons which remain obscure, the Act resurrected the claims of Ngāti Hikitanga and their kin hapū. Section 8(d) of the Act made the following stipulation:

[3172] Stout, 2 October 1896, NZPD, Vol. 96, p. 399.
[3173] Ibid.
[3174] Ibid.
[3175] Rigg, 10 October 1896, NZPD, Vol. 96, p. 653.
[3176] Ibid.
[3177] Horowhenua Block Bill, 12 October 1896, Vol. 96, p. 667.
[3178] The Horowhenua Block Act 1896, ss. 8(a).
[3179] Wilson, 2 October 1896, NZPD, p. 396.
[3180] Ibid.
[3181] Stout, 2 October 1896, NZPD, p. 399.
[3182] The Horowhenua Block Act 1896, s. 8(b).

> A certificate of title [is to be issued] for such part of Division Eleven as the [Native Appellate] Court shall order to be vested in the members of the Ngatihikitanga, Ngatipareraukawa, Ngatiparekohatu, and Ngatikahoro Hapus of the Ngatiraukawa Tribe which the Court shall consider entitled to the reserves provided for by an agreement signed by Meiha Keepa, dated the ninth day of February, one thousand eight hundred and seventy four.[3183]

Any member of the four named hapū then had one month from the passing of the Act within which to lodge a claim.[3184] And so, just like that, it seemed that the reserves between Papaitonga and the sea might yet come to be made.[3185] As noted, it remains a mystery how it is that the Act came to include this provision. Nowhere in the Horowhenua Commission's findings is there anything comparable. Furthermore, the provision is exemplary in its simple clarity, a far remove from the lack of clarity that marked so much of the Commission's work. Whatever the explanation, those responsible for drafting the Bill clearly had a better understanding of the 1874 agreements than had the Commission. All that remained were for the requisite applications to be lodged with the Court and the long-anticipated reserves could at last be constituted.

10.8.1 A return to Court, 1897–1898

10.8.1.1 Ngāti Hikitanga and the Promised Reserves (again)

The Horowhenua Block Act 1896 required those with an interest in the block to lodge their claims with the Native Appellate Court for determination. Among the 13 applications the Court received, one was from Alfred Knocks, as agent for Mrs Matilda Morgan (Matiria Mōkena, the daughter of Rākera Te Paea), for an 'award to [the] Ngatihikitanga Tribe' of the reserves referred to in Section 8(d) of the Act.[3186] Sitting in Levin, the Court began to hear the applications towards the end of February 1897. It sat for nearly five months, concluding at the end of July. Several of its judgments, however, were not issued until over a year later. This included the judgment concerning the application of Ngāti Hikitanga, which was not given until September 1898. In part, this was owing to the complexity of the various issues before the Court. However, in part it was also because of a stipulation in the Act that required the Public Trustee to initiate proceedings in the Supreme Court concerning the validity of Sir Walter Buller's dealings with Section 14.[3187] The Supreme Court sat in August 1897 and quickly settled the

[3183] Ibid, s. 8(d).
[3184] Ibid.
[3185] It should be noted that Division (or Section) 11 of the Horowhenua Block encompassed all the land between Papaitonga and the sea, along with much else besides.
[3186] The Horowhenua Block: Minutes of Proceedings etc., AJHR, 1897, Sess. II, G.-02, Schedule.
[3187] The Horowhenua Block Act 1896, s. 10. For a fuller discussion of this complicated situation with respect to Buller, Kemp and Section 14, see Luiten and Walker, *Muaupoko Land Alienation and Political Engagement Report*, Wai2200, #A163, pp. 263–.

issue before it (in short, it found there was no evidence to suggest that Buller had acted in a fraudulent manner).[3188] However, the Supreme Court was then called upon again by the Native Appellate Court to settle a technical matter concerning the Appellate Court's jurisdiction as conferred on it by the Act, occasioning yet a further delay.[3189]

In any event, the Native Appellate Court heard Ngāti Hikitanga's application for the reserves promised to it under the terms of the 1874 agreement in April 1897.[3190] They were represented before the Court by Morison, who acted also on behalf of Ngāti Pareraukawa and Ngāti Parekōhatu. Buller appeared on behalf of Kemp to oppose Ngāti Hikitanga's application, as well as those of the other three hapū.[3191] Indeed, there were a number of Muaūpoko parties who found themselves allied by virtue of having the same object: '*i.e.*, to keep out the Ngatiraukawa'.[3192] The crux of their case, as the Court itself would later observe, was that the 'Agreement made by Kemp was "ultra vires" as he did [*sic*] it without the authority of the people'.[3193]

The case presented by Morison was straightforward enough. He began by making clear to the Court the distinction between those Ngāti Raukawa, Te Whatanui and his descendants, who had had lands to the north of the Māhoenui boundary – 'running from Rakauhamama, on the beach, through the Rakauhamama Lagoon eastward to Mahoenui'[3194] – and those whose lands were to the south, that is, Te Puke and his people.[3195] Muaūpoko, Morison said, had never claimed the lands to the south of Māhoenui, Te Puke's lands. Indeed, Morison continued, the Mahoenui boundary was precisely the southern boundary that Kemp had described to Travers in late 1873.[3196] Nonetheless, the Native Land Court thought fit to grant the lands south of Māhoenui to Muaūpoko when making its ruling in 1873 on the Horowhenua Block. Ngāti Hikitanga, of course, refused to be expelled from their lands, and so began the conflict between the tribes that was finally ended by the agreements of February 1874.[3197] 'Two agreements,' Morison told the Court, 'were signed on different days.'[3198] By their agreement with Kemp, said Morison, Ngāti Hikitanga and their kin hapū were promised reserves that were clearly intended to be 'of a substantial nature, for the benefit of these people'.[3199] That this was so, Morison argued, was evident from the fact that the

[3188] The Horowhenua Block: Memorandum *re* Proceedings etc., AJHR, 1897, Sess. II, G.-02b, p. 16.
[3189] The Horowhenua Block: Minutes of Proceedings, etc., AJHR, 1898, Sess. I, G.-02.
[3190] The Horowhenua Block: Minutes of Proceedings, etc., AJHR, 1898, Sess. I, G.-02a.
[3191] Ibid, p. 1.
[3192] Ibid.
[3193] Ōtaki MB No. 40, 19 September 1898, p. 206.
[3194] The Horowhenua Block: Minutes of Proceedings, etc., AJHR, 1898, Sess. I, G.-02a, p. 2.
[3195] Ibid.
[3196] Ibid.
[3197] Ibid.
[3198] Ibid.
[3199] Ibid.

reserves were to be made inalienable; this requirement would only make sense if the reserves were meant to be used for 'the occupation and maintenance of the four hapus'.[3200]

This was the basis of Ngāti Hikitanga's claim to the reserves. It was clear and straightforward. But then, said Morison, the Horowhenua Commission sat, and in their wisdom, the commissioners treated 'the two agreements as one'.[3201] And the result, of course, was that the Commission's recommendations effectively erased the claims of the four hapū – they were simply made to vanish. It had required the Legislature, Morison said, to recognise that the Commission's recommendations could not be 'a carrying-out of the agreement of the 9th February, 1874'.[3202] To remedy this, Parliament had now empowered the Court to determine the full extent of reserves to be made for the four hapū:

> I claim for my clients that the words in [the] agreement "between Papaitonga and the sea" cannot be words of limitation, but must simply indicate generally the locality. They indicate an eastern and western limit. [There is] no indication that "between Papaitonga and the sea" means that we must not go north of Papaitonga.[3203]

Having hinted at what was to come, Morison then made plain his application on behalf of Ngāti Hikitanga and their kin hapū:

> I am going to ask the Court to give my clients all the land lying between Papaitonga and the sea – the Mahoenui boundary on the north and the Waiwiri Stream on the south. It cannot have been intended by the Government, the Natives, or Kemp that these reserves should be other than substantial reserves. It was not intended to confine the reserves to valueless sandhills.[3204]

In support of the claim, Morison then referred to the evidence given before the Horowhenua Commission that demonstrated clearly that the area now sought for the reserves was part of the lands on which the four claimant hapū had traditionally lived.[3205] As he emphasised to the Court, this evidence was provided almost entirely by Muaūpoko witnesses; they were not witnesses who had been called in support of the claims of Te Puke and his people.[3206]

This marked the conclusion of Morison's opening statement. Before calling witnesses, however, he first read out the names of the Ngāti Hikitanga who now looked to the Court to make good the 1874 agreement: Matenga Moroati, Hihira Moroati, Rākera Te Paea, Matilda Morgan, Perawiti Te Puke, Nerehana Perawiti, Te Puke Perawiti, Whakarau Perawiti, Te Kaharunga Perawiti, Maikuku Perawiti, Hītau Perawiti, Mereana Perawiti, Rangiwhiua Te Puke, and Hura

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[3200] Ibid.
[3201] Ibid.
[3202] Ibid.
[3203] Ibid.
[3204] Ibid.
[3205] Ibid.
[3206] Ibid.

Ngahue.[3207] Morison then called Neville Nicholson, Te Aohau Nikitini, as his first witness.

Te Aohau recounted in some detail the extent of the interests that Ngāti Hikitanga and the other hapū had in the lands to the south of the Mahoenui boundary:

> I heard that Topeora, Te Paea, Te Whatanui, and Maianewa laid down the Mahoenui boundary. The Muaupoko did not occupy south of Mahoenui boundary before 1873, nor have they since, unless they have gone there recently. I lived at Horowhenua and Otawhaowhao permanently at [the] time of [the] disputes. None of the Muaupoko ever cultivated or collected food south of the boundary in my time … Muhunoa to Waiwiri was all one land formerly. After Horowhenua was heard it was divided. … The post denoting [the] Mahoenui boundary is still standing on the coast. Te Rua-o-te-whatanui, another point on the boundary, can be seen now. Mahoenui is the most suitable place in the locality for cultivation and residence. There are also kaingas at a place called Waiwiri, near the sea. The Mahoenui boundary runs through Mahoenui and Otawhaowhao.[3208]

Questioned by the Court, Te Aohau elaborated on what he had just said. 'In my time,' he stated, 'the Waiwiri cultivations were south of [the] southern boundary of Horowhenua, but I was told that in olden times north of Waiwiri Stream was cultivated.'[3209] And, he continued, 'Mahoenui, Waiwiri, and Rakauhamama were worked up to [the] time of [the] disputes in 1873.'[3210] Then Te Aohau spoke of the signing of the agreement in 1874. The agreement, he said, was read out to them in Māori and, he added, the 'promise of reserves induced us to sign it'.[3211] As he concluded his response to the Court, Te Aohau then struck a regrettably prophetic note: 'I at one time thought,' he said, 'we should have all the land claimed for us by Mr Morison this morning, but after what the Commissioners said about it I cannot expect it.'[3212]

Other witnesses then followed in support of the claims of the four hapū, all of them affirming the right of the hapū to the lands south of the Māhoenui boundary. One of the witnesses was Hura Ngahue, who then lived at Papaitonga:

> I know Kemp's boundary at Waiwiri as laid down by [the] Court in 1873. I know a boundary north of this, from Rakauhamama to Mahoenui. [I] can give names of all kaingas between those boundaries. There is a cultivation at Mahoenui, near Papaitonga Lake. There were houses there when the land was cultivated. … There were other cultivations at Otawhaowhao, near the boundary from Rakauhamama to Mahoenui. … Rakauhamama was a fishing kainga. Whakamate was another kainga on the north side of Waiwiri Stream, some distance north of [the] lake. Our elders lived there, and caught eels and cultivated. I know Waiwiri kainga. It is on north side of Kemp's boundary. … I remember [the] dispute in 1874. I was living at Muhunoa then. There were people living

[3207] Ibid, p. 3.
[3208] Ibid.
[3209] Ibid.
[3210] Ibid.
[3211] Ibid, p. 4.
[3212] Ibid.

> at Waiwiri at that time on this land. Te Puke was the elder living there; Waretini, myself, and others were with him. … I can give names of eel-pas between the boundaries: Te Karaka, an eel-pa on the Waiwiri Stream, near Papaitonga; Te Kahika, another eel-pa further down the stream; Te Mapau, an eel-pa; Te Whakamate, an eel-pa; Te Rere, an eel-pa; Te Karetu, an eel-pa; Whakamaungaariki, an eel-pa; Te Uku, an eel-pa; Te Karamu, an eel-pa. [The] latter is near the sea. They are all on the Waiwiri Stream. The people I have mentioned made use of these eel-pas.[3213]

Following this, Ngahue then spoke about the events that followed the Court's decision in 1873 to award the land to Muaūpoko:

> I remember the survey of Waiwiri; I was there. We spoke of the boundary being wrong before [the] survey was made, and determined to resist the survey. I accompanied Te Puke to [the] mouth of Waiwiri Stream when Kemp put his post up there. We made threats against Kemp then. Kemp told us that if we allowed the surveys to be made he would provide reserves; that is why we allowed it to proceed.[3214]

Under cross-examination by counsel for one of those opposed to the claims of the four hapū, Ngahue stated that Ngāti Raukawa had not set up a claim to the land south of the Mahoenui boundary before the Court in 1873 because Muaūpoko 'did not claim south of Rakauhamama in the *Kahiti*' (he did, however, concede that he had not actually seen the *Kahiti* in question).[3215] In response to further questioning, Ngahue confirmed that all the pā tuna he had named were on the Waiwiri Stream, and that all those who had used them had lived 'on the other side of Kemp's line'.[3216] But, he said, all these pā tuna were abandoned after the new boundary was surveyed.[3217] Finally, he was asked what he knew of the reserves promised in 1874. 'Te Puke and others told me,' he said, 'of the reserves; they told us all.'[3218] They were told that 'Kemp and McLean had agreed to set apart reserves for the four hapus on the land' about which he had just been speaking.[3219] And then he added, 'It was after Te Puke returned from Wellington that he told me he wanted all the land between the boundaries' for the reserves; 'He told me,' said Ngahue, 'that he would not cease to agitate until he got it.'[3220]

Following this, Ngahue was then re-examined by Morison, who was evidently keen to make clear to the Court the extent of the interests of the four hapū. Under Morison's questioning, Ngahue elaborated on the relationship of the hapū to the land and its waterways:

> Muhunoa is 40 chains from the lake. The Muhunoa kainga is a long way from Waiwiri kainga, which is near the sea. Waiwiri was a permanent kainga when it was occupied. Topeora, Te Puke, and others occupied Waiwiri in my time. We ceased to occupy it

[3213] Ibid, pp. 4–5.
[3214] Ibid, p. 5.
[3215] Ibid.
[3216] Ibid, p. 6.
[3217] Ibid.
[3218] Ibid.
[3219] Ibid.
[3220] Ibid.

> when Te Puke died. He lived sometimes at Waiwiri and sometimes near Papaitonga. The majority of the people left Waiwiri in 1874 and went north – I mean Hikake and others. We went inland to live after the roads were made. Te Puke continued to catch eels in Waiwiri Stream after 1873 up to the time of his death.[3221]

After calling several more witnesses, Morison closed his case. The first witness for those opposed to the claims of the four hapū was Kemp. According to Kemp, the reserves promised in 1874 amounted to no more than a 'kainga and burial-place … at the mouth of Waiwiri, on the south side of the stream'.[3222] Then he offered an altogether different account of the meeting between himself and Te Puke over the survey peg:

> We saw Te Puke, and I asked him if he was obstructing the survey. He said he was, and I told him I was going to put in my post, and dared him to pull it up. The post I put in was some distance north of the post put in by the Judge's directions, and excluded Te Puke's place. He expressed himself satisfied, and the survey was made. If I had adhered to the first post it would have taken in Muhunoa and all the kaingas. Let the Court go and see both boundaries. I think the Ngatiraukawa ought to be satisfied with these concessions. They were made long after the agreement was signed. The Ngatiraukawa are not entitled to any more reserves.[3223]

In short, Kemp was of the view that he had done all that was required of him: 'I consider that I have fulfilled my promises to Ngatiraukawa.'[3224] Cross-examined by Morison, Kemp did not alter his position. 'In bringing back the boundary to Waiwiri I consider I was making a large concession to Ngatiraukawa,' he insisted.[3225] And, he further insisted, this 'satisfied the Ngatiraukawa claims for reserves'.[3226] Kemp was then asked by the Court about the 1874 agreement. His response was curious:

> The agreement I signed in 1874 was not translated to me. It was explained to me. I was told that it related to certain reserves for Ngatiraukawa. [Agreement read.] I meant the reserves for the permanent occupants, Nerehana and Te Puke. I do not remember the hapus being named in the agreement. I would not have consented if I had known it.[3227]

Regardless of Kemp's recanting of the agreement, there remained the question of what Muaūpoko themselves thought of it. If the evidence of Hoani Puihi is a reliable gauge of their feeling, it would suggest they thought very little of it indeed:

> I am one of the principal occupants of Horowhenua. I am well acquainted with some of the affairs of Muaupoko. It was only when the Commission sat that I heard of there being reserves in this block. I had not heard of it before. I object altogether to the claim of Ngatiraukawa for reserves in No. 11. The whole tribe disapprove of it. I hear now that

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[3221] Ibid.
[3222] Ibid, p. 8.
[3223] Ibid, p. 9.
[3224] Ibid.
[3225] Ibid.
[3226] Ibid.
[3227] Ibid.

> Kemp entered into an agreement to give Ngatiraukawa some reserves. I object to it altogether. We have given the Whatanuis No. 9, and that is sufficient. The tribe will never agree to give the Ngatiraukawa any more of their land.[3228]

On that truculently unequivocal note, the hearing of Ngāti Hikitanga's application for its promised reserves came to a close. The Court immediately reserved its decision and announced that one of the sitting judges, Butler, would go with the Assessor the following day to inspect the land.[3229] All that Ngāti Hikitanga could do now was wait, something to which they had, of course, become quite accustomed.

The Native Appellate Court finally gave its decision on 19 September 1898. It began by stating that it had 'held an inquiry for the purpose of ascertaining the names of the members of the Ngatihikitanga, Ngatipareraukawa, Ngatiparekohatu and Ngatikaharo hapus of the Ngatiraukawa tribe' who were entitled to the reserves 'provided for by an Agreement signed by Meiha Keepa dated the 9th February 1874'.[3230] This was, of course, what the Court had been instructed to do by Parliament under the terms of the Horowhenua Block Act 1896.[3231] In fact, however, what the Court was about to do was to determine, finally, not only the names of those entitled to the reserves, but the location and the extent of the reserves themselves. It was now some 24 years since the signing of the agreement that had promised 'certain reserves … to be surveyed between the Papaitonga Lake and the sea'.[3232] Whether or not the Court was empowered to make this decision concerning the location and extent of the reserves was not an issue the Court itself appeared to consider.

Having summed up the argument made by Morison on behalf of the claimants, and noted the evidence presented for its consideration, the Court observed that the 'occupation of Mahoenui and other places by Ngatiraukawa was not denied but nothing was elicited about either the position or the number or the probable size of the reserves excepting one referred to by Kemp at the mouth of the Waiwiri'.[3233] This was the first indication the Court gave that Morison's claim for 'all the land lying between Papaitonga and the sea' had not fallen on sympathetic ears.[3234]

The Court then rehearsed the history of the events that had preceded the signing of the 1874 agreements. It did so with more or less accuracy. The Court's statement that 'Mr McLean decided that it was practically the descendants of Te Whatanui who were chiefly concerned in the question at issue with Muaupoko and that they were the proper persons to negotiate with for a settlement of the

[3228] Ibid, p. 10.
[3229] Ibid.
[3230] Ōtaki MB No. 40, 19 September 1898, p. 205.
[3231] Section 8(d).
[3232] Muhunoa Block Deed, 7 February 1874, ABWN w5279 8102 Box 320.
[3233] Ōtaki MB No. 40, 19 September 1898, p. 207.
[3234] The Horowhenua Block: Minutes of Proceedings, etc., AJHR, 1898, Sess. I, G.-02a, p. 2.

difference' is a doubtful description of McLean's position.[3235] It appears to be based on just one statement that McLean made at a moment when addressing Wātene Te Waewae. Having just acknowledged Te Waewae as 'the direct descendant of the old chief Whatanui', he then went on to say that it was Te Waewae and his people who had provoked the troubles with Muaūpoko.[3236] Taken in the context of the several meetings McLean held in January 1874 with numerous Ngāti Raukawa, including Keraipi Te Puke and Nerehana Te Paea, along with the two agreements later signed in February 1874, it is clear McLean understood that any resolution of the conflict required that he settle with two distinct groups of Ngāti Raukawa – not only the descendants of Te Whatanui, but also those of Ngāti Hikitanga and their kin hapū.

The Court's tendency to diminish the presence and status of Ngāti Hikitanga was evident again shortly after when it described Wātene Te Waewae as the 'chief spokesman' at the meeting held on 13 January 1874. It is true he spoke first and at length. But then Te Puke spoke, and then Nerehana Te Paea spoke.[3237] There is nothing to suggest in the record that Te Waewae held the pre-eminent role the Court ascribed to him.

Despite these shortcomings, the Court did manage to conclude that two agreements had been reached in Wellington in February 1874: the one between the four hapū, the other between the descendants of Te Whatanui.[3238] The former, the Court observed, had received £1050 and the promise of 'certain reserves between the Papaitonga Lake and the sea', in exchange for which they gave up all claims to the land described in the agreement.[3239] But, the Court stated again, it was clear that McLean did not think that:

> … [the] members of the four hapus to whom the payment of £1050 was finally made in extinguishment of their claims to the tract of country referred to were the proper persons with whom to negotiate for a settlement of the difference as the land they had been clamoring [*sic*] about was practically the property of the Crown, negotiations for sale having been entered into and payments made on account many years before.[3240]

This, of course, was a reference to the negotiations begun by Searancke and concluded, after a fashion, by Featherston, in the 1860s, although the Court gave no regard whatsoever to the promise of 500 acres for the sellers that had also constituted part of that agreement. The problem with the Court's view of this

[3235] Ōtaki MB No. 40, 19 September 1898, p. 209.
[3236] Notes of a Meeting held at Ōtaki, 12 January 1874, p. 5, MA 75/2/12. Incidentally, McLean's statement here to Wātene Te Waewae appears to clarify without any shadow of a doubt who was intended by the phrase 'the descendants of Te Whatanui' contained in the 11 February 1874 agreement. Quite why it was never resolved by recourse to the notes of this meeting is not clear, but as it is a peripheral issue to the one at hand, I shall say no more on it.
[3237] Notes of a Meeting held at Ōtaki, 12 January 1874, pp. 7–9, MA 75/2/12.
[3238] Ōtaki MB No. 40, 19 September 1898, p. 210.
[3239] Ibid, pp. 210–211.
[3240] Ibid, p. 211.

transaction, however, is that it would suggest that the sale of the land in question was an uncomplicated and simple transaction carried out according to all the usual and requisite procedures. But it was nothing of the kind. For one thing, there was never any settled understanding of what land, precisely, had been sold. Nor was there any statement of how much money, precisely, was paid, nor to whom. Indeed, everything about this transaction was vague, uncertain, unspecified, and more or less unrecorded. It was surely for this very reason that McLean felt compelled to make a not insubstantial payment in 1874 to be sure that any claims were finally extinguished. He would not have done so had the Crown previously purchased the land through a legitimate and transparent transaction.

It may seem, however wrong the Court was on this, that it is not especially significant. However, the Court relied on this view of things in reaching its decision regarding the extent of the reserves to be granted to the four hapū, and so it is, contrarily, of considerable significance. Compounding this process by which the claims of the four hapū were steadily being diminished, for the third time the Court insisted that it was the descendants of Te Whatanui who were 'the persons the Minister considered were the parties with whom negotiations should be made to effect a settlement of the existing disputes'.[3241] This entirely ignores the fact that Te Puke was deeply involved in the long-running conflict with Muaūpoko, and that it was only when Kemp, Hūnia, and others had sought to extend their reach south of the Mahoenui boundary into the lands of Ngāti Hikitanga and the other hapū that the conflict had considerably worsened. And it entirely ignores the fact that McLean felt the necessity of brokering an agreement with the four hapū in the first place. Had he truly felt only as the Court tried to suggest he had, he would not have bothered with the first agreement.

In any event, the Court now moved on to misinterpret the decision of the Horowhenua Commission, which itself, of course, was based on a misinterpretation of the 1874 agreements. The Commission, it may be recalled, had recommended that instead of making reserves between Papaitonga and the sea, that a block of some 80 acres might more usefully be appended to the 1200 acres of Section 9.[3242] However, the Commission did not recommend that these 80 acres be given to the four hapū, as the Court erroneously believed.[3243] Rather, the Commission had recommended that they be granted to the descendants of Te Whatanui. And so the Court's statement that 'this recommendation has been rendered impossible of being given effect to owing to the provisions of "The Horowhenua Block Act 1896"' was entirely wrong; the Act merely codified the recommendation of the Commission.[3244] However, on the basis of this misinterpretation and the Commission's reference to 'reserves of small area

[3241] Ibid, p. 212.
[3242] 'Horowhenua Commission', AJHR, 1896, Sess. I, G.-02, p. 11.
[3243] Ōtaki MB No. 40, 19 September 1898, pp. 213–214.
[3244] Ibid, p. 214.

scattered about Block No. 11',[3245] the Court then concluded that the Commission was:

> … evidently of opinion that the rational construction to be put on the terms of the Agreement relative to the setting apart of reserves to the westward of Papaetonga [*sic*], that the reserves were intended to be parcels of small area only and not open to the supposition that it was intended that such reserve should include the major part of the land between Papaetonga [*sic*] and the sea.[3246]

The Court simply ignored the fact that, as has been noted, the Commission itself never gave any rationale for its conclusion that the reserves would be small and non-contiguous. And so the Court, as it came ever closer to concluding its judgment, was proceeding on the basis of a misinterpretation of a recommendation that was itself based on a misinterpretation and, let it be said, on the basis of an entirely unwarranted and unsubstantiated conclusion concerning the size and location of the reserves; the Commission's view that the promised reserves would be small of area and scattered has no basis at all in the evidence the Commission heard. It is something simply pulled out of a hat.

The Court then considered the evidence concerning the extent to which Ngāti Hikitanga and the other hapū had actually been present in the area. There was, the Court concluded, a 'cultivation at Mahoenui and some places for fishing purposes at Otawhaowhao [and] Rakauhamama and a kainga at the mouth of the Waiwiri Stream'.[3247] 'These,' the Court declared, 'were the places occupied by members of the three hapus', Ngāti Hikitanga, Ngāti Pareraukawa, and Ngāti Parekohatu.[3248] As for Ngāti Kahoro, there was only one person with any claim, and that was Horomona Toremi, whose claim 'consisted of an eel weir at Waiwiri'.[3249] The Court was unwilling, it seems, to consider the possibility that Māori utilised resources beyond the land they were simply occupying. Occupation and occupation alone was what would count.

The Court also considered the evidence given by Kemp. Given that he had been singled out by the Horowhenua Commission as being particularly unreliable in his evidence, it is curious that the Court felt no compunction in relying on his word.[3250] According to Kemp, the Court observed, when McLean had asked him to sign the 1874 agreement, he was of the understanding that it committed him to providing nothing more than 'a reserve for Ngatiraukawa at the mouth of the

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[3245] 'Horowhenua Commission', AJHR, 1896, Sess. I, G.-02, p. 11.
[3246] Ōtaki MB No. 40, 19 September 1898, p. 214.
[3247] Ōtaki MB No. 40, 19 September 1898, p. 214.
[3248] Ibid.
[3249] Ibid, p. 215.
[3250] 'We regret that we have to report, speaking generally, that the evidence is most unreliable. . . . As an illustration of this we may refer to the evidence of the person who has the most intimate knowledge of the history of, and the dealings with, the land in question – Major Kemp.' The Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 2.

Waiwiri Stream', along with an urupā for Ngāti Huia.[3251] In other words, one of the two individuals who together had worked out the deal in 1874 now insisted that the four hapū were only ever meant to get a very small area of land. At least, that is how he claimed to have understood it. As it was, neither of those individuals could be called upon to say any more on the matter: McLean had died many years earlier, while Kemp had died the day following the Native Appellate Court's judgment upholding his claim to Section 14 of the Horowhenua Block.[3252]

In any case, the Court felt sure enough of how things stood. 'It is evident,' the Court declared, 'that the expression in the agreement of 1874 between Papaetonga [*sic*] and the sea could not apply to the old cultivations at Mahoenui, although it might possibly by straining the expression be supposed to apply to the occupation at Otawhaowhao and Rakauhamama.'[3253] Evident to the Court perhaps, but on what basis? Regrettably, the Court did not condescend to elucidate this point, and so it remains entirely unclear as to how the Court found this conclusion to be 'evident'. Still, Mahoenui was to be excluded, and therefore the 'area occupied at the other places was very limited as the occupation about fisheries is usually confined to a few acres'.[3254] Again, only occupation would count. The possibility that more land was used than was occupied was never considered.

It must be said that it is difficult to escape the conclusion, when reading through the judgment, that the Court was intent on finding that the four hapū were entitled to very little. It might be said that the Court was necessarily and appropriately setting down its reasoning prior to making its award. But the problem with this view is that the Court's judgment has very little reasoning in it, and a great deal of assertion. For instance, what are we to make of statements such as this?

> The original occupation of the Ngatiraukawa of certain parts of the land is not of much importance, excepting so far as it affords a clue to a certain extent to the localities where the reserves were probably intended to be, as all the rights of the hapus enumerated in the Agreement of the 7th day of February 1874 are extinguished under the terms of that Agreement within the boundary described excepting the reserves stipulated for to the westward of Papaetonga [*sic*].[3255]

Surely the 'original occupation' of the four hapū is vitally important. And surely the fact that the agreement extinguished their claims to the rest of the block is irrelevant. In return for giving up the block, Ngāti Hikitanga and their kin hapū were promised reserves in the very area they had originally occupied, between Papaitonga and the sea.

[3251] Ōtaki MB No. 40, 19 September 1898, p. 215.
[3252] Luiten and Walker, *Muaupoko Land Alienation and Political Engagement Report*, Wai 2200, #A163, p. 268.
[3253] Ōtaki MB No. 40, 19 September 1898, pp. 215–216.
[3254] Ibid, p. 216.
[3255] Ibid, pp. 216–217.

Having set out the supposed basis of its decision, the Court then made its award:

> The Court is of opinion that the outside quantity that could possibly have been contemplated to provide for the reserves in terms of the Agreement could not have exceeded 210 acres and it has been decided to allot that quantity for the purpose.[3256]

This was the Court's opinion, certainly, but as has been said, the basis of this opinion is entirely unknown. None of the Court's preceding commentary could possibly have been relied upon to show that this figure, seemingly conjured from the air, was anything but an arbitrary determination made by the Court. Morison's claim for all the land between Papaitonga and the sea – an area the Court rightly suggested contained some 800 acres or so – was dismissed out of hand. And his argument that the restrictions on alienation placed on the reserves by the 1874 agreement must have meant that they were to be sizable enough to support the four hapū was simply ignored altogether by the Court. It did not, apparently, even warrant a rebuttal. All in all, the judgment is a remarkable instance of a court's power to render a decision *ex nihilo*.

Perhaps, compared with the 80 acres the Court erroneously believed had been granted by the Horowhenua Commission to the four hapū, the Court's award might seem to be something of an improvement. But then the Court was entirely mistaken, as we have seen, with respect to the Commission. The Commission had been proceeding on the basis that the 80 acres were to be in addition to the 1200 acres granted to the descendants of Te Whatanui, thus giving them 1280 acres in total (along with the 100 acres, of course, of Raumatangi). But by misinterpreting the Commission's report, the Court took the view that the Commission had intended to grant just 80 acres to the four hapū. In light of this, the Court could commend itself on its generosity in awarding 210 acres.

Perhaps, too, the Court may have taken a different view of matters had it given any consideration to the deed signed in 1864 according to which Muhunoa was first sold, and according to which 500 acres were to be reserved for the sellers.[3257]

But such was the Court's decision. It remained only to locate and apportion the 210 acres, now to be called Horowhenua 11A1, between the four hapū. As for the location, the reserve was to be:

> … laid off starting at the southern boundary of the [Horowhenua] Block at the beach at the mouth of the Waiwiri Stream and extending inland along the southern boundary of the Horowhenua Block for a distance of 140 chains or thereabouts and then at right angles in a northerly direction for a distance of 14 chains or thereabouts thence turning in a westerly direction along a parallel line to the sea coast so as to include the required area of 210 acres.[3258]

[3256] Ibid, p. 217.
[3257] Muhunoa Purchase Deed, 5 February 1864, MA 13/119/75a.
[3258] Ōtaki MB No. 40, 19 September 1898, p. 217.

The apportionment was carried out a little over a week later, on 28 September. 'The hapus,' the Court noted, 'after consultation amongst themselves agreed to divide the land in the following order starting from the mouth of the Waiwiri Stream and running inland along the southern boundary'.[3259] Following further discussion, the four hapū then agreed on the following apportionment:[3260]

Ngāti Hikitanga	75 acres
Ngāti Kahoro	12 acres
Ngāti Parekōhatu	60 acres
Ngāti Pareraukawa	63 acres
	210 acres

Individually, the Ngāti Hikitanga award was divided as follows:

Matiria Mōkena	20 acres
Perawiti Te Puke	20 acres
Hautāwaho Perawiti	(shared)
Rangiwhina	20 acres
Hura Te Ngahue	15 acres
	75 acres

A further, unspecified amount was added to the awards of Ngāti Hikitanga and Ngāti Kahoro 'as compensation for the sand-drift', while Ngāti Pareraukawa were to receive an additional three acres 'as compensation for the swampy character of their division'.[3261]

This, then, was what the Ngāti Hikitanga and their kin hapū had been forced to wait nearly a quarter of a century for – absurdly small reserves, diminished even more by sand and swamp. They might have been forgiven for feeling somewhat embittered.

10.8.1.2 Section 9 and the descendants of Te Whatanui revisited again

As was recounted earlier, the Horowhenua Commission had recommended that Section 9 be granted to seven individuals, all indirect or collateral descendants of Te Whatanui. This was, irrefutably, what had been intended by the original agreement of February 1874 that had, in essence, created Section 9. And yet the parliamentarians, or a majority of them at least, had deemed this unfair; there was no sound reason they could see for excluding the direct descendants. And so, as

[3259] Ōtaki MB No. 36, 28 September 1898, p. 251.
[3260] Ibid, p. 252. Initially, in fact, certain individuals were named whom the Court ultimately decided 'appeared to have no right of admission' (Ōtaki MB No. 36, 28 September 1898, p. 250). The list that appears here was that which was ultimately accepted by the Court.
[3261] Ōtaki MB No. 36, 28 September 1898, p. 252.

noted above, when the Horowhenua Block Act 1896 was passed, it included provision for those other than the seven named individuals to apply for the title to a portion of the land. Needless to say, this is precisely what occurred.

Both Heni Kipa and Rū Rēweti, two of the living direct descendants of Te Whatanui, filed applications with the Native Appellate Court under Section 8(a) to be considered 'equitably entitled' in Section 9.[3262] The Court sat at Levin and began hearing the application on 12 May 1898.[3263] None of the counsel for the contending parties – Morison for the collateral descendants, Baldwin and Fraser for the direct descendants – called any witnesses. They relied, instead, on the material previously presented to the various courts and before the Horowhenua Commission. The Court also heard an application from Wirihana Hūnia to be considered as 'equitably entitled'. The application was declined by the Court.[3264] Notably, however, during the course of his evidence, Wirihana stated that the land in question was meant for Wātene and his people – of this there could be no doubt, and this was understood generally amongst Muaūpoko.[3265]

The judgment was delivered just four days after the hearing began.[3266] In passing, the judges observed that the award of 'a paltry 100 acres' in 1873 to Te Whatanui's people suggested that 'the Court in 1873 could not have fully considered the important part taken by Te Whatanui in preserving the Horowhenua land and the Muaupoko people' from Te Rauparaha.[3267] With respect to the crucial issue at hand, however, the judges took the view that neither McLean nor Kemp had intended 'to exclude from the agreement or gift the direct descendants of Te Whatanui'.[3268] Professing themselves to have 'some knowledge of the manners and customs of the native race', the judges declared that it would be 'utterly repugnant' to the Māori idea of justice to have excluded the direct descendants.[3269] The land would be divided.

The Pōmare party submitted a list of 15 names, headed by Wī Pōmare, although he was by this time deceased.[3270] Most of them lived in the Bay of Islands; just Heni Kipa and Moroati Kipa lived at Ōtaki.

The situation was more complicated for the collateral descendants. Of the seven who had been named by the Horowhenua Commission in 1896, only Waretini was still alive. The Appellate Court, therefore, began the process of determining the successors to Hitau, Tauteka, Kararaina, Watene, Erena Te Rauparaha, and

[3262] *New Zealand Gazette*, No. 24, 7 April 1898, p. 606.
[3263] Minutes of Native Appellate Court, 12 May 1898, MA 75/3/19.
[3264] Minutes of Native Appellate Court, 14 May 1898, MA 75/3/19, p. 14
[3265] Minutes of Native Appellate Court, 13 May 1898, MA 75/3/19, pp. 10–11.
[3266] Minutes of Native Appellate Court, 14 May 1898, MA 75/3/19, pp. 13–18.
[3267] Ibid, p. 16.
[3268] Ibid, p. 18.
[3269] Ibid, p. 18.
[3270] Ibid, p. 18.

Te Wiiiti. A great deal of the Court's time was spent on determining the successors to Tauteka; in the end, the Court named her siblings, Waretini and Kararaina, along with the latter's children.[3271] Te Wiiti's next of kin were named as Nepia Pōmare and Iritana Pōmare, the children of Wī Pōmare and Hine Matioro.[3272] The successors to Kararaina Whāwhā, who had died in 1877, were her five children.[3273] Hītau had died in 1891. She had had no children, but had adopted a child, Wiremu Kipa, the son of Kipa Te Whatanui. Hearing lengthy evidence from several witnesses, the Court determined that while it would name Wiremu Kipa as a successor to Hitau, it would also name Hītau's brother, Waretini, and the five children of her sister Kararaina.[3274] The case to determine the successors to Wātene Te Waewae, who had died in 1875, was much simpler; his three children, Piukanana, Arara, and Raniera were named.[3275] It was similarly straightforward with respect to Erena Te Rauparaha. She had died in 1878, leaving behind one daughter, who was named her mother's successor.[3276]

Counsel for the contending parties then requested the Court to determine the relative interests of the block.[3277] Neville Nicholson gave evidence. He was the only person to do so. 'I have,' he said, 'taken an active part in disputes connected with this land since 1869.'[3278] He then detailed all the many efforts Watene and his people had made and the great costs they had incurred to retain the land, while Pōmare had done nothing and expended nothing.[3279] When previously he, Nicholson, had said they were prepared to share half the block with Pōmare's party, he had not then taken into account the considerable expenses they had since incurred in defending their right to the land.[3280] He noted, too, that it was at about that time, when the division of the land had become an issue, that Ru Rēweti had married Meiha Keepa's daughter, Wiki Keepa.[3281] Finally, he said, he was told by Lewis, the Under-Secretary, that all the power to make over the land resided with Kemp; the government could do nothing. And given that Kemp had 'broken the first arrangement' (that is, the promise of reserves for Te Puke's people), Nicholson felt he had no choice but to accept an arrangement which he believed to be unfair. He had incurred expenses of over £382, and yet he and his people still did not have the land promised them in 1874.[3282]

[3271] Minutes of Native Appellate Court, 17 May 1898, MA 75/3/19, p. 32.
[3272] Ibid, p. 33.
[3273] Ibid, p. 33.
[3274] Minutes of Native Appellate Court, 18 May 1898, MA 75/3/19, p. 41.
[3275] Ibid, p. 41.
[3276] Ibid, p. 42. See also MA 75/4/24 for lists of successors.
[3277] Minutes of Native Appellate Court, 18 May 1898, MA 75/3/19, p. 42.
[3278] Ibid, p. 44.
[3279] Ibid, pp. 44–45.
[3280] Ibid, p. 45.
[3281] Ibid, pp. 45–46.
[3282] Minutes of Native Appellate Court, 18 May 1898, MA 75/3/19, p. 46.

The Court was not swayed. The land was divided, effectively, in half. Six hundred acres were awarded to the Nicholson party, 575 acres were awarded to the Pōmare party, and 25 acres to Te Wiiti's heirs, Nepia and Iritana Pōmare.[3283] With the agreement of the parties, the Court then ordered the block to be partitioned by a line running east to west, parallel to the southern boundary of the Horowhenua Block.[3284] The northern portion, Horowhenua 9A, was to be for the Nicholson party; the southern portion, Horowhenua 9B, for the Pomares.[3285]

And so the matter finally rested. It remains only to note that within a year, the Pomares had successfully applied to have their portion exempted, with respect to leasing, from the constraints of the Native Land Court Act 1894.[3286] And, shortly after that, Heni Kipa, who had been awarded 150 acres of Horowhenua 9B, then applied for the right to sell her portion to a Peter Bartholemew. As part of her application, it was stated that she wished to sell the land as she permanently lived in the far north, where she had a considerable estate.[3287] The request was duly granted.[3288]

10.9 But what of the 80 acres?

And so, 28 years after McLean and Kemp had agreed to give Te Puke and his people, and Te Wātene and his people, certain lands, the promises had finally been fulfilled, after a fashion. Yet the matter was not yet done with. It will be recalled that the Horowhenua Commission had recommended that an additional area of land, thought to be around 80 acres, be added to Section 9, so that the houses of Wātene and his people would be kept within the boundaries of the land awarded to them, while also giving Watene and his people access to their fishing places on the Hokio Stream.[3289] This recommendation was then given legislative force in the Horowhenua Block Act 1896.[3290] The addition was named as Horowhenua 11B, Section 41.

It may also be recalled that the Commission's recommendation was based on a failure to understand properly the discrete nature of the two agreements of February 1874: the one between Kemp and Te Puke's people, the other between

[3283] Minutes of Native Appellate Court, 19 May 1898, MA 75/3/19, p. 47.
[3284] Ibid, pp. 47, 48.
[3285] Ibid, p. 47. See Minutes of Native Appellate Court, 19 May 1898, MA 75/3/19, p. 51 for details of individual interests.
[3286] Order-in-Council, 25 April 1899, J1/650/1900/1272.
[3287] Heni Kipa, Application for Order-in-Council, 7 September 1900; Fraser to Under-Secretary, 7 September 1900, J1/650/1900/1272.
[3288] Order-in-Council, 29 October 1900, J1/650/1900/1272.
[3289] Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 11.
[3290] The Horowhenua Block Act 1896, s. 8(b).

Kemp and the 'descendants of Te Whatanui'. The 80 acres, the Commission had said, would be in place of the reserves between 'Papaitonga and the sea'.[3291]

Finally, it may also be recalled that the Horowhenua Block Act 1896, as well as making provision for the additional 80 acre – and reflecting a better understanding of the two agreements of 1874 – also provided for the reserves for Te Puke's people.[3292] In other words, while the Commission had intended that the 80 acres be in place of those reserves, the legislation, probably in an effort to untangle some of the Commission's confusion, made provision both for the 80 acres and for the reserves the 80 acres were intended to be in place of.

The matter was complicated further by an allegation – probably made by way of two petitions submitted by Wirihana Hūnia – that houses and cultivations of the Muaūpoko were located on the land in question (contrary to the specific statements in that regard made by the Commission).[3293] On the recommendation of the Native Affairs Committee, once the land had been surveyed, nothing further was to be done with it until the allegation had been investigated.[3294]

As it happens, when the land was surveyed, it delivered a further complication: rather than containing 80 acres, it contained something in the order of 132 acres, at which point the Surveyor-General refused to certify the plan.[3295]

Confusion indeed.

The government's response was to appoint a commissioner, H.G. Seth-Smith, formerly Chief Judge of the Native Land Court, to inquire into the matter. The inquiry was to hear evidence in October 1902. After hearing the evidence, the commissioner accepted the substance of Wirihana Hūnia's complaint and concluded that sufficient grounds existed to warrant the repeal of Section 8(b).[3296] The effect of the Commission's confusion and the attempts of the 1896 legislation to remedy that confusion, Seth-Smith stated, was that the land that was supposed to have been granted in place of the reserves between Papaitonga and the sea had instead been granted *in addition* to those reserves. Furthermore, the fact that the land in question had subsequently been found to contain not 'eighty acres, more or less', as stated in the legislation, but in fact contained considerably more than that amount, meant that, in sum, more than 350 acres had been

[3291] Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 11.
[3292] The Horowhenua Block Act 1896, s. 8(d).
[3293] Petition No. 337, AJHR, 1901, Sess. I, I.-03, p. 4; Petition No. 783, AJHR, 1901, Sess. I, I.-03, p. 27; Pitt, 17 October 1905, NZPD, Vol. 135, p. 752; Sheridan to Barron, 12 May 1898, MA 75/4/21; Horowhenua Commission, AJHR, 1896, Sess. I, G.-02, p. 11.
[3294] Report of the NAC on Petition No. 783, AJHR, 1901, Sess. I, I.-03, p. 27; Sheridan to Barron, 12 May 1898, MA 75/4/21.
[3295] Pitt, 17 October 1905, NZPD, Vol. 135, p. 752.
[3296] Rigg, 17 October 1905, NZPD, Vol. 135, p. 751.

awarded when the Court had determined that 210 acres was sufficient to meet the obligations under the first agreement of 1874.[3297]

Once it had Seth-Smith's report the government then did nothing. The matter was eventually raised in the Legislative Council by a member for Wellington, Rigg, in October 1905, three years after the report had been submitted.[3298] That same month, Neville Nicholson had petitioned Parliament to widen the scope of any relevant legislation, so that the entirety of the 1873 Horowhenua judgment might be revisited, a petition that was met with favourable responses from Native Affairs Committee and the Legislative Council.[3299]

Possibly at Rigg's instigation, a Bill was then passed through the Legislative Council that would have given effect to Seth-Smith's recommendation (which included making provision for a grant of land to the McDonald family).[3300] In the House, however, the Bill met staunch opposition; it was, said Heke, 'entirely a wrong action on the part of the Government to bring down legislation of this kind'.[3301] If the government were to refer any land back to the Native Land Court for investigation, he continued, then it ought to refer 15,000 acres of the Horowhenua Block, not a mere 132 acres.[3302] The Bill was defeated.[3303]

The Legislative Council tried again the following year. During the debate on the Bill in the House, Heke, observing that the 'strings of the Government have always been pulled against these people [Ngāti Raukawa]', asked why it was that the Muaūpoko were to be empowered to set up a claim to the 132 acres, when the Ngāti Raukawa had been consistently denied a right to claim all of Horowhenua No. 11.[3304] In response, Carroll gave the standard government line: what was done was done; there was no sense in having 'the block ripped up because of some alleged grievance against the judgment of the Court in 1873'.[3305] For good measure, he then further said, with outstanding condescension, that 'the sentimental desire to fight out again the old traditional grounds, should not be entertained'.[3306] The Bill was passed, and in September 1906 the Horowhenua Block Act Amendment Act came into effect.

[3297] Ibid.
[3298] Ibid, pp. 751–752.
[3299] Petition of Neville Nicholson and Others, 2 October 1905, MA w1369/27; Extract from the JLC, 26 October 1905.
[3300] The Horowhenua Block Act Amendment Bill, 26 October 1905, NZPD, Vol. 135, pp. 1071–1074.
[3301] Heke, 28 October 1905, NZPD, Vol. 135, p. 1242.
[3302] Ibid, p. 1243.
[3303] 28 October 1905, NZPD, Vol. 135, p. 1243.
[3304] Heke, 30 August 1906, NZPD, Vol. 137, p. 288.
[3305] Carroll, 30 August 1906, NZPD, Vol. 137, p. 289.
[3306] Ibid.

The Act repealed Section 8(b) of the Horowhenua Block Act 1896.[3307] It then stipulated that the Native Land Court was to determine who the persons were that were 'equitably entitled' to the 132 acres and what their relative interests in the land would be.[3308] The Court duly heard the case and delivered its judgment on 21 July 1908.[3309] It gave 47 acres to the Nicholson party and 85 acres to Wirihana Hūnia's party, on the basis that 210 acres had already been granted to Ngāti Raukawa (in other words, it merely confounded the confusion instigated by the Horowhenua Commission).

A petition seeking a rehearing was then submitted by Edward Nicholson. The Native Affairs Committee referred the petition to the government for favourable consideration in September 1910.[3310] The government responded by including the matter in the washing-up legislation, the Native Land Claims Adjustment Act 1910. The Native Appellate Court was empowered to hear and determine any appeal from an order made by the Native Land Court under section two of the Horowhenua Block Act Amendment Act 1906.[3311] Significantly, the Act also empowered to the Court to 'proceed as if the judgment of the Native Land Court given in the year eighteen hundred and seventy-three' did not apply to the 132 acres. At the same time, the Court was to give 'due weight to the occupation of such lands since eighteen hundred and forty by any claimant or the ancestor of any claimant'.[3312] The stipulation concerning the 1873 judgment was, in all probability, included because of the effect of the repeal of section 8(b) of the Horowhenua Block Act 1896 by the Horowhenua Block Amendment Act 1906. Section 8(b) had granted the land to Te Wātene and his people, the descendants of Te Whatanui. The repeal of that section effectively returned the 132-acre block to the owners of the Horowhenua block named in 1873, that is, to Muaūpoko. If this were accepted, then any claim to an interest in the 132 acres by Ngāti Raukawa would be dismissed on the basis that the 1873 decision had already granted the land, as part of the wider Horowhenua block, to Muaūpoko. Thus, the stipulation that the Appellate Court was to proceed on the basis that the 1873 ruling had no bearing on the 132 acres was the only way to avoid this unwanted state of affairs. It was a convoluted necessity in keeping with the earlier efforts of the government and the courts.

In any event, Edward Nicholson duly lodged an appeal. The Native Appellate Court began hearing the appeal in early September 1912.[3313] Once more, Neville Nicholson found himself before a formal tribunal, pleading his people's cause.[3314] For Muaūpoko, Baldwin argued that the Horowhenua block was Muaūpoko land,

[3307] The Horowhenua Block Act Amendment Act 1906, s. 2.
[3308] The Horowhenua Block Act Amendment Act 1906, s. 2(b)(iii).
[3309] Ōtaki MB No. 49, pp. 203A–203C.
[3310] Petition No. 557, AJHR, 1910, Sess. I, I.-03, p. 13.
[3311] NLCA Act 1910, s. 12(1).
[3312] Ibid, s. 12(2).
[3313] Wellington Appellate Court MB No. 3, 3 September 1912, p. 202.
[3314] Ibid.

irrespective of the status of the disputed piece before the Court, that the alleged conquest of Muaūpoko and their lands by Ngāti Raukawa had never been proved, and that the 100 acres at Raumatangi was 'the whole recompense that Whatanui was to receive for services rendered'.[3315] In response, the appellant's case, presented by Skerrett, was straightforward: the 1873 judgment was simply 'wrong according to Maori law and custom'.[3316]

The Court delivered its judgment on 25 October 1912. Having given an admirably clear and concise rehearsal of the events leading up to the present point, the Court then made a number of observations. The 1908 decision of the Native Land Court, by which the Nicholson party were dispossessed of more than half of the 132 acres, was based, the appellate judges rightly declared, on a mistaken understanding of the 1874 agreements (one that had repeated the mistake of the Horowhenua Commission). The Court had then compounded this mistake by erroneously concluding that the 1896 legislation ought not to have provided for reserves for Te Puke's people (believing, as it did, that the 132 acres were supposed to be in place of such reserves). And this erroneous reasoning then became the basis for the Court's decision to deduct from the Nicholson party over half the acreage of the 132-acre block, by way of recompense for Muaūpoko for the 210 acres granted to Te Puke's people.[3317] In short, it was a decision based 'upon a mistaken view of the facts'.[3318]

Having cleared that up, the Appellate Court then moved on to the question of who had had rightful ownership of the Horowhenua Block. To this extent, as it observed, the Court was in effect a 'court of first instance'.[3319] To this extent, too, the appeal was the rehearing of the 1873 case that Ngāti Raukawa had long sought, even if only in theory. The Court made it clear that any conclusions it reached would only affect the 132 acres.[3320]

The Court first declared that it was clear from the evidence that the 1874 agreement had meant that Kemp was to give Wātene Te Waewae and his people 1300 acres, not 1200 acres; the claim that the previously awarded 100-acre Raumatangi block made up the difference was fallacious.[3321] Furthermore, because the Ngāti Raukawa applications for a rehearing had been refused, Kemp was 'in a position to dictate, and the Whatanuis had to take whatever they could get'.[3322] With respect to the 132 acres in dispute, the Court accepted Te Aohau Nikitini's statement that the land was supposed to have been included in the original Section 9, and it was only as a result of a faulty survey that it was ever

[3315] Wellington Appellate Court MB No. 3, 4 September 1912, p. 214.
[3316] Ibid, p. 220.
[3317] Wellington Appellate Court MB No. 3, 25 October 1912, p. 258.
[3318] Ibid, p. 259.
[3319] Ibid.
[3320] Ibid, pp. 269–270.
[3321] Ibid, pp. 260-261.
[3322] Ibid, p. 261.

excluded.[3323] And on the question of whether or not Ngāti Raukawa had a legitimate claim to the Horowhenua Block – that is, had they conquered Muaūpoko and then occupied the land and exercised rights of ownership? – the Court was unequivocal. Without the intervention of Te Whatanui, the Muaūpoko would have been 'annihilated'.[3324] 'It is clear,' the Court continued, 'that Whatanui's people were the owners of the rights of fishing in the Hokio Stream, and there is not a particle of doubt, that the N'Raukawa in 1840 were the absolute masterful owners of the block.'[3325]

There could not be a clearer repudiation of the 1873 judgment.

The Court also took the view that Ngāti Raukawa's possession of the land was never subject to question until several decades after 1840, and that any such disturbance of their occupation was 'to a very great extent … the result of Native Land Court decisions and the condition of affairs at the end of the Maori Wars'.[3326] And the apparent contradictions between the evidence Kemp and others had given in 1873, and later statements made by themselves and other Muaūpoko witnesses, were, said the Court, 'sufficient justification for our preferring our own conclusions to those of the court of 1873'.[3327]

And so the Court reached its concluding statement on the matter:

> As in our opinion this particular area of 132 acres was at the year 1840 held by Te Whatanui and his people under an effective conquest, as it was not only within the Tauateruru boundary but south of the Hokio Stream, and close to Te Whatanui's residence, as the right to take the fish from the Hokio belonged to Te Whatanui from before 1840 till his death, as Macdonald [*sic*] held the land as the Whatanui's tenant for years without interference by Muaupoko, as Whatanui's people were the first to build there after 1840 and have been there ever since, and between the years 1896 and 1906 had an absolute title to the land by virtue of the Horowhenua Block Act 1906 … we think it just and equitable that the whole of the disputed area should be considered to belong to them.[3328]

Just and equitable that the entirety should belong to Ngāti Raukawa, perhaps, yet there remained one more qualification. It seems that some of the Muaūpoko had in the very recent past – that is, subsequent to the 1896 Commission – built a house on the disputed land. In the Court's opinion, they had done so in the full

[3323] Ibid, p. 262.
[3324] Ibid, p. 265.
[3325] Ibid, p. 265. The reference to 'the block' here is ambiguous – it is not clear if the Court meant the entire Horowhenua Block or only a part of it – but it did later state that the 'lengthy evidence strongly supports our opinion that there was an effective conquest in respect of at any rate that portion of Horowhenua No. 11 lying to the south of the Hokio Stream and including Raumatangi, No. 9 and this disputed portion'. Wellington Appellate Court MB No. 3, 25 October 1912, p. 268.
[3326] Ibid, p. 268.
[3327] Ibid, p. 268.
[3328] Ibid, p. 269.

knowledge that 'the Whatanui party were likely to obtain a title'.[3329] Nonetheless, the Court determined that it would give them the 'fullest benefit of any slight doubt', while it hoped that the appellants would be 'generous enough not to object to an award sufficient to cover the house and improvements' the Muaūpoko had so recently constructed.[3330] On this basis, the Court awarded 127 acres to the Nicholson party (11B41A, 11B41B, 11B41C, 11B41E), and five acres to the Muaūpoko (11B41D).[3331] So it was done.

[3329] Ibid, p. 270.
[3330] Ibid.
[3331] Ibid.

CHAPTER 11

LAND AND RESOURCE LOSS AND THE STRUGGLE TO REASSERT RANGATIRATANGA, 1880–1900

11.1 Introduction

At 1880, Māori still held much of the territory to the east of the proposed railway line. That was to change dramatically over the next twenty years. Although the Crown was to withdraw from major purchase operations in the district, its role would be taken over by the Wellington and Manawatu Railway Company. Despite the prevailing ethos of 'self-help' and "laissez-faire" the Company expected – and received – government support, and predicated its plans on the continuing acquisition of cheap Māori land, maintaining this was in the interests of close settlement and progress in the colony, rather than its own financial gain. With the railway came more settlers in an open land market, assisted in the most part, by changes in the land laws passed by a parliament which they continued to completely dominate. Even the re-imposition of Crown pre-emption in 1894 did nothing to stop this. The result was an intense period of partitioning and further 'individualisation' of the land as it continued to transfer out of Māori hands. Numerous sales took place as the region became more attractive to purchasers as a result of the development of its infrastructure. In the meantime, hapū leadership continued to assert their rangatiratanga through their rūnanga, their petitions to Parliament and the Queen, their participation in commissions of inquiry and the parliamentary system which they sought to expand, and by direct action (obstruction, occupation, the charging of tolls and the development of autonomous political movements).

11.2 Population and social socio-economic decline 1880–1900

By the late 1870s, the Ngāti Raukawa population appeared, to some at least, to be in decline along the Kāpiti coast, although not necessarily because of increasing mortality. Migration from Ōtaki and the Manawatū to the Upper Waikato as a result of resource loss and on-going connection was, in part, also a factor.[3332] Not everyone was of the view that the population was declining. The Resident Magistrate at Marton, Ward, argued that the apparent decline was illusory: at times there were temporary absences of numbers of people (caused, for instance, by the need to attend the Native Land Court), while ordinary mortality amongst the elderly was being compensated for by birth rates.[3333]

[3332] Lange, 'Social Impact of Colonisation and Land Loss', pp 57-8.
[3333] Lange, 'Social Impact of Colonisation and Land Loss', p 58.

In May 1881, Ward gave a fulsome expression to his favourable view of the health and well-being of Māori in the Manawatū district. There had been, said Ward, a 'marked improvement in their physical, moral, and social condition'.[3334] Less alcohol was being consumed, the people were 'more industrious and saving in their habits', their houses were clean, and they were themselves 'generally better clothed'.[3335] Ward surmised that the 'great commercial depression' afflicting the colony at large had forced Māori 'to understand the value of money' and hard labour![3336] No doubt it helped also that there had been no epidemics in the area for three years.[3337] Ward was, however, concerned that the 'importance of educating their children' was not well appreciated by Māori. In a district in which there were several hundred children who ought to have been attending school, no more than 10 or 12 were doing so (resulting in later calls from Ngāti Raukawa leadership for the return of lands gifted for education since they were no longer being used for that purpose).[3338] As it happens, the month prior to Ward's report being submitted, it was reported elsewhere that there had 'been quite an influx of Māori children at the Turakina school, some seven having turned up during the last fortnight'.[3339] Nonetheless, Ward was of the view that there was a decline in literacy amongst Māori – a result of the declining influence of missionaries in education and a consequent need for providing young Māori with opportunities for learning trades, 'thus putting them in a way of earning their living when they have alienated their lands and spent the proceeds of the sales'.[3340] In the absence of money to develop and utilise what remained of their own lands, those Māori who found work most often obtained it in temporary employment on road gangs and as farm-labourers.[3341] In 1882, Ward reported that he knew of only two Māori skilled tradesmen.[3342]

The air of inevitability regarding the loss to Māori of their lands is revealing. It was as if everyone knew they were witness to a tragedy which no one was capable of averting nor, for many, was there any inclination, it seems, to do so. Later efforts of Māori to halt the loss of land would prompt responses from leading politicians of the day that they should be protected from 'denuding themselves' entirely of land by which they could support themselves and their families, but that their day of predominance was over. That was, in effect, the response of Premier Atkinson at an important formative meeting of the Kotahitanga movement in 1888 when Wī Parata spoke of Māori as the possessors of the land. Atkinson told the gathering:

[3334] 'Mr Ward's Report on the Natives in this District', *Manawatu Herald*, 26 July 1881, p 2.
[3335] 'Mr Ward's Report on the Natives in this District', *Manawatu Herald*, 26 July 1881, p 2.
[3336] 'Mr Ward's Report on the Natives in this District', *Manawatu Herald*, 26 July 1881, p 2.
[3337] Lange, 'Social Impact of Colonisation and Land Loss', p 61.
[3338] 'Mr Ward's Report on the Natives in this District', *Manawatu Herald*, 26 July 1881, p 2; Minutes of Native Land Laws Commission, *AJHR*, 1891, sess II, pp 74-8
[3339] *Rangitikei Advocate*, 28 April 1881, p 2.
[3340] *Wanganui Chronicle*, 9 August 1882, p 2.
[3341] Lange, 'Social Impact of Colonisation and Land Loss', p 89.
[3342] Ward to Under-Secretary Native Department, 25 May 1882, *AJHR*, 1882, sess I, G.-01, p 12.

> Now when one of the speakers said that the Māoris were the owners of New Zealand, and that the land was their own, he ought to have added a qualification, that – until the white man came – it was only a man's own land so long as a strange man did not come and knock him on the head and take it away from him.[3343]

Still, Ward as a local government officer, continued to be sanguine with respect to the well-being of Māori in the district into the mid-1880s. In 1886, the census results confirmed, he said, his view that 'during the past eight years the Native population in my district has been holding its own'.[3344] Ward thought that there were several: reasons for this

> I am of opinion that the number being maintained is due, to a great extent, to the following causes: The absence of any serious epidemic: the fact that the Natives are more settled in their minds re land matters, large tracts of land having been dealt with by the Native Land Court, so that they have been able to lease unrequired portions to European tenants at fair rentals; from this source they have in many cases good incomes: they live in better houses, have more comfortable homes and surroundings, are better fed and clothed, and are decidedly more temperate in their habits as to drinking.
>
> As the return shows, they possess large flocks of sheep, and many cattle and pigs; their cultivations, however, are not extensive. Their moral condition is much improved; in short, I rejoice to be able to say that, on the whole, they are, comparatively with the past, more "healthy, wealthy, and wise."[3345]

Ward's optimism, however, was not shared by all local observers – indeed, some were convinced of quite the contrary. The clergyman at Ōtaki reported in 1885 that whooping cough, in particular, was a cause of considerable illness and death among Māori there.[3346] And the previous year, Dr Buller, considered to be 'an authority' on the matter, had given it as his opinion that 'in all probability, five and twenty years hence, there would only be a remnant left of the once numerous and powerful aboriginals of New Zealand'.[3347] He had himself heard, said Buller, 'Māoris speculate … on their speedy extinction, saying in a melancholy way, that as the Norwegian had destroyed the native rat, and as the indigenous birds and shrubs were being supplanted by introduced ones, so surely would the Māori disappear before the Pākehā.'[3348] He professed a longer perspective:

> And this was no mere fancy. The abnormal condition of the population – the females far outnumbering the males – was the surest indication of national decay. Every successive enumeration of the people told its sad tale, and the decrease must of necessity go on in progressive ratio. … He [Buller] knew of districts swarming with Māoris in former years

[3343] 'Native Meeting', *Wanganui Chronicle*, 2 May 1888, p 2.
[3344] Ward to Under-Secretary Native Department, 22 March 1886, *AJHR*, 1886, sess I, G.-12, pp 11-12.
[3345] Ward to Under-Secretary Native Department, 22 March 1886, *AJHR*, 1886, sess I, G.-12, p 12.
[3346] Lange, 'Social Impact of Colonisation and Land Loss', p 62.
[3347] 'Decadence of the Māori Race', *Manawatu Standard*, 18 February 1884, p 2.
[3348] 'Decadence of the Māori Race', *Manawatu Standard*, 18 February 1884, p 2.

> now depopulated. He had known whole hapus disappear, and he had seen an entire family die out in the course of a year. Twenty years ago he was stationed as Native Resident Magistrate at Manawatu, and he had ten under his nominal control and management something approaching three thousand Māoris. It would be difficult now within the same district to find as many hundreds. In 1866 he was present at Rangitikei, when Dr Featherston paid over the purchase money of the Manawatu Block … and there were some 1500 natives present. … [H]e doubted whether in the same district 300 will be brought together for that purpose, even counting the Hawkes' Bay contingent! Last week he was at Otaki, and took some visitors to the Māori Church. There, where formerly 1000 natives assembled to the ministrations of Archdeacon Hadfield … it seemed now difficult to fill the front seats. It the settlement itself – veritably a "deserted village" – where formerly there were hundreds, it would be hard now to find scores; and, in answer to inquiries on all hands, the response is "kua mate". And in this connection he mentioned a curious feature in the mortality of the race, namely, that the children and middle-aged people are the first to succumb, the old stock, appear better able to resist the new order of things, generally holding out the longest. That the race was doomed he had no doubt whatever in his own mind.[3349]

Of course, from Buller's unflinching Darwinist perspective, all this was according to the 'inscrutable laws' of nature. These decreed that the 'aboriginal race must in time give place to a more highly organised, or, at any rate, a more civilised one'.[3350] The reporter of Buller's views regarding the decline of the Māori communities in the Kapiti – Manawatu region shared his opinion:

> The evidences of the decadence are only too apparent in Otaki, Waikanae, and other places in the vicinity. It is sad to think that one of the finest and most interesting and intelligent aboriginal races that has ever lived is hastening, like the natives of Tasmanian [*sic*] have done, to its "last man," whom many of the present generation will probably look upon with feelings of sorrow, little thinking what a powerful race were his progenitors fifty years before.[3351]

The more prescient amongst the Pākehā observers had, at any rate, long foreseen this apparent happenstance, which had given rise to Featherston's falsely solicitous observation on the matter nearly 30 years earlier:

> The Māoris are dying out, and nothing can save them. Our plain duty as good, compassionate colonists, is to *smooth down their dying pillow*. Then history will have nothing to reproach us with.[3352]

Others amongst the Pākehā – always there will be those who can find for themselves a silver lining – recognised the positive benefits to colonisation this decline amongst Māori would inevitably bring:

> Of course, there will be temporary opposition to surveys, and other minor troubles, but the natives know their fast growing weakness, and will never dream of determined or long continued resistance to the opening up of the whole island by roads and railways, and the progress of settlement will inevitably follow. The colonists dreading no real

[3349] 'Decadence of the Māori Race', *Manawatu Standard*, 18 February 1884, p 2.
[3350] 'Decadence of the Māori Race', *Manawatu Standard*, 18 February 1884, p 2.
[3351] 'Decadence of the Māori Race', *Manawatu Standard*, 18 February 1884, p 2.
[3352] 'Decadence of the Māori Race', *Manawatu Standard*, 18 February 1884, p 2.

> danger from the native race can now afford to deal justly and generously with them in their growing weakness and decay.[3353]

Having 'knocked them on the head', they could afford to 'smooth the pillow'!

It is, in fact, difficult to say precisely what was occurring in terms of the rise or fall of the population at this time. The accuracy of the censuses was never assured. The populations were mobile and dispersed, definitions changed, boundaries shifted.[3354] Commentary was deeply coloured by racist assumption and colonist self-interest. However, there is seemingly sufficient evidence to suggest that while the Māori population in the district was declining up to the 1870s, after that time it stabilised and, in fact, began slowly to increase in the 1880s, the prognostications of Buller and others notwithstanding.[3355] As a proportion of the overall population, however, Māori numbers were certainly decreasing. By 1891, Māori represented just 6 per cent of the total population in the region.[3356] The rapid rise in the Pākehā population followed speedily on the completion of the Wellington-Manawatu railway line in 1886, as discussed below.[3357]

The Māori decline in the region was also reflected in their involvement with sheep farming. In 1882, there were at least 25 Māori running sheep farms in the Otaki and Horowhenua districts, 30 in the Manawatu, and a further 37 in the Rangitikei.[3358] This was, however, all but the high point – the overall trend was downwards. In Horowhenua, for instance, there were 29 Māori sheep farmers in 1885 (and just one Pākehā farmer), but by the turn of the century this number had halved (and it fell to just six five years after that).[3359] And while the number of Māori farmers was declining, the number of Pākehā farmers was rising; there had been just the one Pākehā sheep farmer at Horowhenua in 1885, by the turn of the century Pākehā constituted two-thirds of sheep-owners in the district.[3360] This trend continued into the new century.

11.3 The changing balance of power at the local level

This is not to say that *all* Māori were poor. There remained some prominent local leaders, such as Hoani Taipua and Hema Te Ao, who built large, Pākehā-style houses for themselves and their families at Ōtaki and elsewhere in the district,

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[3353] 'The Decline of the Native Race', *Wairarapa Standard*, 5 March 1884, p 2.
[3354] See Lange, 'Social Impact of Colonisation and Land Loss', pp 58-60 for a discussion of the problems associated with the census data.
[3355] Lange, 'Social Impact of Colonisation and Land Loss', p 61.
[3356] Lange, 'Social Impact of Colonisation and Land Loss', p 68.
[3357] Lange, 'Social Impact of Colonisation and Land Loss', p 68.
[3358] Lange, 'Social Impact of Colonisation and Land Loss', p 74.
[3359] Anderson and Pickens, *Rangahaua Whānui-Wellington District*, p 305.
[3360] Anderson and Pickens, *Rangahaua Whānui-Wellington District*, p. 305; Lange, 'Social Impact of Colonisation and Land Loss', p 75.

although, as we discuss later in this chapter, their relative prosperity did not prevent them from criticising the laws that had so adversely affected their people.[3361] Indeed, it may well be that awareness of the inequalities and bias that were institutionalised within the political system, and increasingly pervasive in society at large, promoted their interest in parallel Māori institutions of their own – from the Otaki Māori Racing Club (established in 1886 and a 'Native College' at Otaki (1896) to a separate Māori parliament (1888–1900).

Nonetheless, by 1880, the balance of power had shifted decisively in favour of government and settler control as the Rangitikei-Manawatū block purchase was digested and settlement of the district gathered pace, underwritten by public works legislation and control of the political and legal system. Also, with settlement came local government: councils; and road, harbour, and other boards from which Māori were largely excluded by property qualifications and to which important powers devolved from the settler-controlled parliament.

The assumption of law-makers, local authorities, and the settler population, at large, was that 'progress' must prevail, even at the expense of acknowledged Māori rights and interests. For instance, the *Rangitikei Advocate* reported on the government's decision to bring the low-lying Kairanga block, 'about 8,000 acres of some of the richest land in the Manawatu district', onto the market for settlement in early 1880.[3362] This resulted in an engineering decision that the swamp had to be drained. According to the *Advocate*, however:

> The Natives say that this swamp has many a romantic story connected with it, and that many a sanguinary battle has been fought for the right of using it as an eel fishery. On this account the old people are very indisposed to permit the drain to touch their cherished patunas, but it cannot be helped, as the march of progress and civilization requires that the past should give way to the present.[3363]

Although a fortnight prior to commencement of the drainage operation, 'the Natives refused to permit the work to proceed', Resident Magistrate Ward took 'the matter in hand' and announced at the conclusion of a day's inquiry that the swamp would be drained under 'The Public Works Act, 1876', and if the Natives 'obstructed the work' they would be 'liable to a penalty of £50, which, in this instance, would most certainly be enforced'.[3364] In the *Advocate*'s view, it was 'a matter for congratulation that the obstruction difficulty in connection with these drainage works should have been brought to so satisfactory a termination, and to Mr. Ward's firmness and decision must be attributed the result.'[3365]

[3361] Lange, 'Social Impact of Colonisation and Land Loss', p 91.
[3362] 'Native Obstruction in the Kiranga Block', *Rangitikei Advocate*,18 March 1880, p 2.
[3363] 'Native Obstruction in the Kiranga Block', *Rangitikei Advocate*,18 March 1880, p 2.
[3364] 'Native Obstruction in the Kiranga Block', *Rangitikei Advocate*,18 March 1880, p 2.
[3365] 'Native Obstruction in the Kiranga Block', *Rangitikei Advocate*,18 March 1880, p 2.

This ‘draining of the swamp’ may be read as both metaphoric and exemplary of an unwritten strategy of expropriation that would play out time and again in the Manawatū: settler complaints about Māori concerning their management of ferries, their toll gathering, or perceived obstructionist behaviour which would result in council, then general government intervention, and commonly, invocation of the Public Works Act 1876, along with negotiations by native land agents and decisions of resident magistrates. All of this, when taken together, greatly facilitated infrastructure building that affected not only blocks newly acquired by the government, but also native lands and resources. As noted in the preceding chapter, public works legislation was an incisive instrument of settlement. The government was empowered not only to purchase Māori land but also to undertake a wide range of development projects. Section 3 of the Public Works Act 1876 rehearsed the areas and extensive range of its powers:

> “Public works” and “works” include surveys, railways, tramways, roads, bridges, drains, harbours, docks, canals, waterworks and mining works, electric telegraphs, lighthouses, buildings, and every undertaking of what kind so ever, which the General Government or a County Council or a Road Board is authorized to undertake under this or any other Act or Ordinance of the General Assembly or of any Provincial Legislature for the time being in force.[3366]

Furthermore, after due process, as set out at sections 23 to 24, and if within 40 days of the relevant proclamation (under section 25):

> …no objection is made, or if, after due consideration of all such objections, the Minister or the Council or Road Board, as the case may be, is of opinion that it is expedient that the proposed works should be executed, and that no private injury will be done thereby for which due compensation is not provided by this Act … the lands therein specified shall become absolutely vested in fee-simple in Her Majesty, discharged from all mortgages, charges, claims, estates, or interest of what kind so ever, for the public use named in the said Proclamation.[3367]

However, the vulnerability of the still rudimentary infrastructure also provided Māori with some bargaining opportunities when they perceived that they had been treated unfairly, disadvantaged, or found themselves at loggerheads with local, provincial, or central government.

Unsurprisingly in a region distinguished by its numerous rivers, lagoons, and swamps, control of river transport had been an early area of contest between Māori, settler and government. Indeed, this had been the subject of one of the first recorded encounters between Ngāti Raukawa and early settlers, when Edward Jerningham Wakefield and Taratoa had bargained over the price of a waka crossing.[3368] As discussed in chapter 3, as the colony developed, Taratoa and his hapū opposed the right of any European to ferry on the Manawatū River without their explicit sanction and threatened to expel anyone who challenged

[3366] s 3 Public Works Act, 1876, 40 Victoriae, 1876, no 50.
[3367] s 25 Public Works Act, 1876, 40 Victoriae, 1876, no 50.
[3368] Wakefield, *Adventure in New Zealand*, vol II, p 138-40..

their exclusive control of that business. Similar issues had arisen at Waikawa and Ōhau. For a number of years, the Native Department, under McLean, had responded by giving Maori rangatira at major rivers, official recognition and payment as ferrymen.

In the space of thirty years, however, control of crossings at the river mouth had shifted into the hands of Europeans, marked by the passage of general legislation governing the building of roads, bridges, ports, and harbours. The Whanganui River Report has noted three general Acts of this kind that were passed between 1858 and 1878. The Highways and Watercourses Diversion Act 1858 empowered superintendents and provincial councils to 'build Bridges Dams Wharves and other erections on the Banks or in the Beds of any … River Stream or Creek.' Crown titles were granted on any land for the purposes of the Act and later disposed of. Compensation for Māori prejudicially affected was not provided for and, as the Waitangi Tribunal has pointed out, nor were they represented on the local bodies to which increasing powers were being devolved. The Marine Acts of 1866 and 1867 dealt with ports, pilots, and lighthouses, setting out a comprehensive code for the control and management of ports, which, under section 3 of the 1867 Act, might include a 'navigable creek or river or lake or inland water within the limits defined for such a port'. The Act also delegated administrative responsibility to provincial superintendents, boards, or marine boards, subject to overriding powers of supervision and regulation vested in the Governor in Council. The power to define and re-define port perimeters was also in the hands of the Governor or a provincial superintendent (s 32).[3369] The post of ferryman fell victim to reductions in Native Department powers under McLean's successor (Pollen) being transferred to County Council employees.[3370] What was an economy for the government was, however, a violation of an agreed understanding for Māori; one for which they had made concessions in the past.

The interface between these fragile transport systems may be thought of as a zone of liminality where power relations between two competing populations, Pākehā and Māori, played out. This is neatly drawn by the following report in the *Evening Post* of 21 April 1880, in which the Chairman of the County Council announced the council's intention to acquire the necessary land to effect control of the crossing at the mouth of the Manawatū River prior to a court's determination of its compensatory value for the Māori owners. An incident at Manawatū in 1880 arose when the Foxton ferryman had tried to charge Māori tolls for crossing the river in their waka, prompting their immediate retaliation – a refusal to allow traffic across a beach area to the south of the river, which remained in their hands.[3371] On finding that the travelling public would be 'much

[3369] See Waitangi Tribunal, *The Whanganui River Report*, Wellington, 1999, p 166.
[3370] Ward, *Show of Justice*, p 276.
[3371] *Wanganui Herald*, 23 March 1880, p 2.

inconvenienced', they had then decided to charge a toll instead, much to the indignation of settlers and local politicians.[3372] The *Evening Post* reported:

> A conference took place on Saturday last, at the County Office, Foxton, regarding the road from the Foxton ferry to the Beach on which the Māoris recently stopped the coach, and compelled the driver to pay toll. We learn from the Manawatu Herald that Mr Macarthur, Chairman of the County Council, informed the natives that the Council was determined to carry a line of road through the land, and that the owners would have fair compensation awarded them by a Court, which would sit for that purpose. The natives were very determined on the matter, and said that until the £600 they asked was paid, they would allow no road line to be made, but would continue to charge toll, and that if any surveyors were sent on the ground they would drive them off. Mr. Macarthur replied that they would be liable to a fine of £50 if they did so, and the natives said they would stand the consequences. The Herald understands that Mr. Hayns, County Engineer, assisted by Mr. Owen, will begin the survey of the road on Tuesday, the 4th of May. The natives express themselves fully determined not to permit the survey to proceed, and state that one of their old women will throw the chain into the river if a surveyor attempts to lay off the line of road before their claim of utu is satisfied.[3373]

Ward hastened to assure the Native Department that their actions grew out of a 'misunderstanding' not political opposition and did not reflect any sympathy with Te Whiti or intention to emulate his 'doings' at Parihaka.[3374]

Māori were also perceived, or constructed in the settler mind, as not being up to the task of ensuring safety of transport[3375], being too controlled by emotion, too lacking in rationality, as these consecutive reports in the *Evening Post* suggest:

> A complaint is made of the Māoris in charge of the Manawatu Ferry, on the Forty Mile Bush road, having deserted it. Messrs. Hastwell, Macara, and Co. had, in consequence, yesterday to send a man up specially from Palmerston to see the coach safely across. The natives in question are stated to have given a great deal of trouble previously, and the matter will probably be strictly inquired into by the Government. …
>
> We hear from a private source that the cause of the natives abandoning the Manawatu ferry is that they got an idea into their heads that a flood even more disastrous than that which recently caused so much damage in the district was about to occur. In the interests of the public, however, we think it advisable that someone should be placed in charge of the ferry possessing not quite so much superstition, and considerably less impudence than the natives at present holding the position.[3376]

There were ways and means of dealing with such behaviour, according to the press. When the County Engineer refused Māori employment in favour of Pākehā, Māori responded on 21 April 1880 by preventing travellers at Awahuri from crossing the Oroua River, the travellers replying in turn by stock-whipping Māori. 'We highly approve of the remedy,' wrote the *Manawatu Times*, elaborating on 5 May:

[3372] See Ward to Under-Secretary Native Department, 11 May 1880, *AJHR*, 1880, G-4, p 18.
[3373] *Evening Post*, 21 April 1880, p 2.
[3374] Ward to Under-Secretary Native Department, 11 May 1880, *AJHR*, 1880, G-4, p 18.
[3375] Ward to Under-Secretary Native Department, 11 May 1880, *AJHR*, 1880, G-4, p 18.
[3376] *Evening Post*, 23 April 1880, p 2; *Evening Post*, 26 April 1880, p 2.

> The curse of the country has been and still is, that too much concession is always granted to the discontented rascals, and consequently their impudent demands are carried to a length which would not for a moment be tolerated in Europeans. The long lashes of the stockmen, however, proved a most convincing argument with the obstructionists, when milder terms had failed, and proved most potent in solving the Native difficulty. The average Māori is all bounce and bombast, but the application of a little persuasion invariably brings him to his senses and amenable to reason.[3377]

The *Evening Post* applauded, repeating verbatim part of the original report:

> The Manawatu Times highly approves the remedy, and adds that if the habit of dealing satisfaction out to the natives, when such occurrences take place, were more common, there would be a considerable falling-off of that obstructiveness now so rampant with the Māoris.[3378]

Pākehā invective was not all one way, however, with some recognizing that Maori were merely exercising their legal rights although the preferred solution was to acquire any of their lands required for settlement and its infrastructure. In response to a complaint that tolls being extorted from the pusillanimous Foxtonians on the Foxton Beach Road were exorbitant – '3s for a trap, and 4s for a coach, and 4s 6d for a bullock-dray, 1s for a horse, and 3d for a foot passenger' – the writer of the piece was reminded that settlers had 'no right whatsoever to enter forcibly on native land, and if the owners choose to charge tolls on a road which passes through their property, the European settlers can only patiently submit until the necessary steps are taken to acquire the roadway'.[3379]

The matter continued to simmer:

> The natives on the other side of the Manawatu, near Foxton, are still levying a toll upon travellers. The fact that this imposition has been allowed to exist so long is a disgrace. It is nothing less than a mild form of highway robbery, or an act of vagrancy, and as such would long since have been put a stop to, if committed by any persons other than Māoris. A few informations laid against the Natives by persons who were obstructed or assaulted in attempting to pass through, would soon dispose of the question. Not having the law to assist them in its collection, these self-constituted toll-keepers often find a difficulty in obtaining their money. The other day three sportsmen on a duck-shooting expedition passed through and protested that they had no money. The Māoris declared they should not go on, so after some chaff, one of the travellers produced a bill form, impressed with a sixpenny duty stamp, which he filled in and tendered as payment. Assured by the legal looking document, and the evident respectability of the trio, it was accepted. When duly interpreted, the Natives will find themselves in possession of a note at three months, for six shillings, payable to Whyte's Hotel, Foxton, and signed by "Ducks & Co."[3380]

Alexander McDonald, having recently received a temporary position as a Native Commissioner, brought his 'intimate knowledge of the antecedent circumstances

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[3377] 'Served them Right', *Manawatu Times*, 24 April 1880, p 2; 'The Milk in the Cocoa Nut', *Manawatu Times*, 5 May 1880, p 2.
[3378] *Evening Post*, 27 April 1880, p 2.
[3379] 'The Beach Road', *Manawatu Herald*, 16 July 1880, p 4.
[3380] *Rangitikei Advocate,* 8 May 1880, p 2.

of the whole West coast difficulties with regard to roads, etc.' to bear on the matter.[3381] Having arrived at Foxton in late July, he 'interviewed the natives' that evening, 'the result being that on the following morning, they charged the mail coach driver the usual toll, and immediately afterwards removed the gate'.[3382] While it remained, the *Manawatu Herald* added, the tollgate 'was a source of extreme annoyance to the travelling public, who will be heartily glad to hear of its abolition'.[3383] '[A]nd more especially cattle-drovers,' the *Rangitikei Advocate* chimed in, two days later.[3384] The *Manawatu Herald* could barely hide its delight:

> Several persons who were standing near the Railway Platform on Friday afternoon, enjoyed a hearty laugh at the last scene of the Māori toll gate farce. Old Haimona, the toll gate keeper, who has previously figured in these columns, was standing near, waiting the arrival of the coach, and presently "the genial" Pugsley drove up. At once Simon elbowed his way to the coach, and said: "Ullo, George! Homai to ringa; Kahore te Kreti; no more; all done – no more money! Ue!" It is presumed Simon wished to show Pugsley he felt no animosity towards him for all the blessings he had muttered on his aged head, and it is hardly necessary to say the Knight of the Rein extended his hand and warmly shook the old barbarian's paw.[3385]

But that was not the end of the matter. As the *Rangitikei Advocate* put it:

> Some Māoris at Foxton have been making claim for 25 years' rent on account of the land on which the pilot station stands. The Government have taken no notice of their claim, and the Māori have become wroth. They sent the pilot notice that unless their claim was satisfied within a brief specified period they would pull down the flag-staff.[3386]

The chief pilot at the mouth of the Manawatū River, A Seabury, duly arrived at Foxton on 11 February 1881 to report to the resident Native Officer, S M Baker, that perhaps as many as 100 Ngāti Raukawa from the Ngāti Parewahawaha hapū had threatened him and his assistant with ejection from their residences and the pulling down of the signal station if the matter of the lease of their land for the piloting facilities was not settled.[3387] The date for eviction from Te Wharangi, site of the pilot station, was 25 February, being the requisite fortnight's notice.[3388] The hapū was there and explained that they had no wish to resort to such tactics, but the land in question was still under native title and their 10-year lease with the government, signed on 1 January 1856, had still not been renewed despite their many representations on the matter.[3389] The lease in question, signed by Donald McLean for the government and Nēpia Taratoa and others for the hapū, was

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[3381] *Rangitikei Advocate*, 29 July 1880, p 2.
[3382] 'The Māori Tollgate', *Manawatu Herald,* 3 August 1880, p 2.
[3383] 'The Māori Tollgate', *Manawatu Herald,* 3 August 1880, p 2.
[3384] *Rangitikei Advocate*, 5 August 1880, p 2.
[3385] 'The Last Scene', *Manawatu Herald*, 3 August 1880, p 2.
[3386] *Rangitikei Advocate*, 17 February 1881, p 2.
[3387] *Rangitikei Advocate*, 17 February 1881, p 2l; *Manawatu Herald*, 15 February 1881, p 2; *Wanganui Chronicle,*17 February 1881, p 2.
[3388] *Rangitikei Advocate*,17 February 1881, p 2; 'Enquiry into the Pilot Station difficulty', *Manawatu Herald* 18 February 1881, p 2.
[3389] *Manawatu Herald*, 15 February 1881, p 2; *Wanganui Chronicle,* 17 February 1881, p 2.

shown to Baker as proof. With McDonald unable to assist due to his departure for the Waikato, Ward (R. M.) took a hand, meeting with the hapū four days later.[3390] Ward explained to the twenty, or so, hapū members who attended the informal inquiry in the Foxton Courthouse that he came as a 'friend'.[3391] Wereta Kimate opened for the hapū by stating that because the disputed land was ancestral, there had been no wish for it to be adjudicated on by the Land Court, and that it had certainly not been included in the sale of Te Awahou to the Crown.[3392] Wereta advised Ward that the hapū were demanding £750 from the government, being 15 years of lease at £50 per annum, and the return of the land on its expiration.[3393] Three times, he said, they had asked the government for payment and received no reply, despite McLean acknowledging their right to the land and his promises to settle the matter prior to his death.[3394] Following a break in proceedings, Ward warned the hapū not to harm the pilot station: '[You] might oppose the Government, but must not oppose the law.'[3395] He also told the gathering he had just seen a map that showed Te Wharangi was indeed included in the Awahou purchase.[3396] Furthermore, merely having a lease did not give the hapū power to eject the pilot; do not do anything illegal, he warned them again, as they would likely be punished if they did.[3397] In concluding the meeting, Ward said the Government must have had 'some reason for refusing to recognise their claim', and that he wished to find out what that was. For that he would need longer than the 14 days of the hapū's eviction notice.[3398]

On 10 March 1881, Ward enquired further into the dispute, this time formally. The government contended that the land on which the pilot house and station stood had been 'sold at the time Awahou No. 2 Block was disposed of', and 'the deed of sale signed with the mark of Nepia, the principal claimant' on it produced as evidence.[3399] Nepia (the son of Nepia Taratoa) denied he had either signed or authorised anyone to sign on his behalf.[3400] Nepia also stated 'that at the time of the sale he was in the police, and always wrote his name, never having signed with a mark', a matter able to be corroborated by his former senior officer.[3401] Had the purchasers – or the vendors – been falsifying signatures? Given the circumstances surrounding the purchase of the parent block, it was not an unreasonable question – and one that had been raised before. That possibility caused some initial anxiety among settlers. The *Rangitikei Advocate* commented:

[3390] *Manawatu Herald*, 15 February 1881, p 2; *Wanganui Chronicle,* 17 February 1881, p 2.
[3391] 'Enquiry into the Pilot Station difficulty', *Manawatu Herald*, 18 February 1881, p 2.
[3392] 'Enquiry into the Pilot Station difficulty', *Manawatu Herald*, 18 February 1881, p 2.
[3393] 'Enquiry into the Pilot Station difficulty', *Manawatu Herald*, 18 February 1881, p 2.
[3394] 'Enquiry into the Pilot Station difficulty', *Manawatu Herald*, 18 February 1881, p 2.
[3395] 'Enquiry into the Pilot Station difficulty', *Manawatu Herald*, 18 February 1881, p 2.
[3396] 'Enquiry into the Pilot Station difficulty', *Manawatu Herald*, 18 February 1881, p 2.
[3397] 'Enquiry into the Pilot Station difficulty', *Manawatu Herald*, 18 February 1881, p 2.
[3398] 'Enquiry into the Pilot Station difficulty', *Manawatu Herald*, 18 February 1881, p 2.
[3399] *Rangitikei Advocate*, 15 March 1881, p 2.
[3400] *Rangitikei Advocate*, 15 March 1881, p 2.
[3401] *Rangitikei Advocate*, 15 March 1881, p 2.

> The matter is an exceedingly important one, for should it be discovered that Nepia's signature, or rather his mark, was forged to the document, then the sales of the whole block would by law become absolutely void. We think the best plan would be for the Māoris to have the affair laid before Parliament and investigated by the Native Affairs Committee. In this way justice would be done to the Māoris without subjecting other people to hardship and injustice.[3402]

However, Ward dismissed the notion. On 24 March 1881, the *Evening Post* reported that the matter had been resolved, at least to the satisfaction of the government and the settler press:

> The difficulty about the Foxton pilot station is said to be now practically settled. The Government have all along contended that the land had been brought from the Māori, and have produced the deed duly signed. This deed was signed by Nepia's mark, and Nepia swore that he never signed it, and that in any case he would have written his name, not made a mark. Mr. Ward, R. M., however, called to mind the old Māori custom, which rules that during the life-time of the father any land to which the family had a claim belongs solely to the father, and he alone has a right to dispose of it. Now, the father of Nepia signed the deed, and hence the son's signature was not required. This disposes of the only real difficulty that existed. Mr. Ward has written to the Native Department, explaining how the matter now stands.[3403]

These by now familiar strategies for addressing ambiguity and conflict in the colony's liminal spaces would play out again on the upper Manawatū River between the troublesome Huru Te Hiaro (Rangitane) who had been causing so much grief to McDonald at Kaihinu (see chapter 9) and the government. On 21 July 1880, Huru had written to John Bryce, Minister of Native Affairs:

> Greetings
>
> This is an appeal of mine to you to enquire into the dispute between the council and ourselves relative to the Ferries at Manawatu and Mangatainoka, and also the Toll Gate. The Council wish[es] to terminate the services of [Nireaha] and myself in consequence of our having neglected our duties. I have asked the council and the commissioner to talk over the matter with us but they have not done so. The council telegraphed to Rawa (Carver) [who had been appointed as ferryman and toll-keeper] on the 23rd July to send for the Police and arrest us. I said nothing then, but now address what I have to say to you. I refused to hand over the ferries and toll gate because the land on which the toll gate stands is mine, and the road also runs through my land for a distance of 16 miles, this is my reason for acting as I have done; of course if it had been government property I would have had no right to do so.
>
> So now friend hearken to my words, the way to settle the dispute between me and the council will be to lease the Toll Gate and the 16 miles of road, also the land near the Toll Gate to the extent of 1300 acres. If you agree to my proposal, reply speedily.
>
> I cannot now finally settle the matter there are so many difficulties in the way.
>
> Your friend, Huru Te Hiaro.[3404]

Bryce's response, dated 31 July, appears as notes on the letter cover page:

[3402] *Rangitikei Advocate*, 15 March 1881, p 2.
[3403] *Evening Post*, 24 March 1881, p 3.
[3404] Te Huro to Bryce, 21 July 1880, Manawatu Ferry Miscellaneous papers, MA 24/2.

> The writer proposes to lease the road to the Govt with other land. This is absurd the road cannot belong to the Māoris. I think the Public Works Dept should look into the matter with the view of ascertaining the actual legal position of the road and ferry. If it is not a Public Road at present then sooner it is made one the better.[3405]

The locus of the conflict centered on Huru's land at Mangatainoka and so does not concern us here. However, we briefly mention the matter as an example of the strengthening grip of local bodies and government over resources that had formerly been controlled by Māori. Older negotiated agreements were surpassed and replaced by new arrangements underwritten by powers that the settler government secured to itself by passing laws in which Māori had no hand – or even knowledge – until confronted by their imposition. In this instance, Huru complained that he had given up opposition to the road going through his land in exchange for control over the ferry service on the upper Manawatu River and the salary attached to it. Then, on 21 September 1880, Lewis made a note to the effect that the approaches to the two ferries on the Manawatū and Mangatainoka Rivers were to be taken by proclamation in that week's *Gazette*.[3406] A week later, Bryce wrote of that note: 'The right course of action appears to have been taken.'[3407] In response to the proclamation, Huru wrote to Bryce saying he had been counselled by Matua and Alexander McDonald to give up his property, and asked for Bryce to send someone to negotiate the settlement.[3408]

Having been instructed to communicate the government's position to Huru, McDonald telegraphed Lewis, on 6 November, that 'Huru and his people had agreed to retire from the ferry pending arrangements'; and on 8 November, that Huru was asking £500 for 10 acres at the Manawatū ferry, 10 acres at the Mangatainoka ferry, Masterton Road, and for about four miles of road between these two points, 'about 50 acres in all?"[3409] Lewis, directed by Bryce, replied the same day: 'Huru's demand is entirely out of the question & Govt do not intend to purchase this land which is public property.'[3410] Huru's response is telling:

> I and my people are and have been in much trouble about these ferries and Roads. Before this road was made I derived an income from the Ferries (3) on the old track. The present road was then made on the understanding that I should continue to enjoy the income arising from the Ferries. There may or there may not be writings. In those days we believed the words of the officers of the Govt. I did not stipulate for any piece in the land

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[3405] Bryce notes, 31 July 1880, on cover sheet of Te Hiaro to Bryce, 21 July 1880, Manawatu Ferry Miscellaneous Papers, MA 24/2.
[3406] Notes of Under-Secretary for Native Department, 21 September 1880, No 80 3093, Manawatu Ferry Miscellaneous Papers, MA 24/2.
[3407] Notes of Bryce, Minister Native Department, 28 September 1880, No 80 3093, Manawatu Ferry Miscellaneous Papers, MA 24/2.
[3408] Te Hiaro to Bryce, 20 October 1880, Manawatu Ferry Miscellaneous Pap, MA 24/2.
[3409] Lewis, notes dated 4 November 1880 on cover sheet of letter from McDonald to Gill, 21 October 1880, No 3711; McDonald to Lewis (6 November 1880), No 3711; McDonald to Lewis, 8 November 1880, No 3711; Manawatu Ferry Miscellaneous Papers, MA 24/2.
[3410] Lewis, notes dated 8 November 1880 on reverse side of telegram from McDonald to Lewis, 8 November 1880, No 80/3711, Manawatu Ferry Miscellaneous Papers, MA 24/2.

> taken by the new road because I thought the increased traffic at the Ferries would repay me and my people of that land. I am now told that the Ferries are no longer mine, and I think if that is the case I ought to be paid for my loss of income and land. I have also been told that I am acting contrary to Law in demanding Ferry Tolls from passengers, and in refusing to allow a person appointed by the Wairarapa County Council, to take my place as Ferryman – Perhaps that is so. Who knows all the Law? I do not. What I do know is that I do not wish, and will not knowingly break the Law. But neither will I consent to be deprived without compensation of my land and my living. Let enquiry be made; and in the meantime lest I should continue to be thought a Law breaker I will hand over the Ferry to you, the messenger of the Minister, in the presence of these witnesses. … Let the Govt give me £500 for the 50 acres which will carry with them also the Ferry rights".[3411]

In light of the fact that the Public Works Department was about to acquire the ferry sites under the Public Works Act, Bryce authorised McDonald 'to acquire from the Māori owners 10 acres of land at the Upper Manawatu Ferry and 10 acres of the Mangatainoka Ferry at £10 per acre', or '£200 for all.'[3412] An agreement was negotiated that included the right of his whānau to cross the river free of the toll charge, a right that was to come under subsequent challenge, as at the river mouth, and put Māori once again on the wrong side of the law.[3413]

11.4 Ngāti Kauwhata Claims Commission 1881

The Claims Commission will be dealt with more fully in R Boast's report but is discussed here, briefly, as it marks an important stage in the struggle of Ngāti Kauwhata to assert an independent identity from that of "Ngāti Raukawa" and protect rights in their "homelands". It also highlights the problems they had encountered in engaging with Crown land and compensation court system. The Commission was the government's belated response to a petition submitted four years earlier by Tapa Te Whata and others.[3414] This had been signed by over two hundred individuals. It included 'All Ngatiwehiwehi, per Manahi Paori'.[3415] During the course of the hearing, witnesses including Metapere Tapa, Takana Te Kawa, Rawiri Te Hutukawa, Te Muera Te Amorangi, Tana Te Waharoa, Winia Pohitiraha spoke of the close relationship between Ngāti Wehiwehi and Ngāti Kauwhata. 'We were called Ngatikauwhata at Kapiti', Takana Te Kawa told the commission, 'Here we were called by the several children of Kauwhata, so also

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[3411] McDonald to Lewis, 9 November 1880, No 80/3790, Manawatu Ferry Miscellaneous Papers MA 24/2.
[3412] Bryce, reply dated 11 November 1880 on cover sheet McDonald to Lewis, 9 November 1880, No 80/3790, Bryce to Sheridan (2 December 1880), No. 80/788, Manawatu Ferry Miscellaneous Papers, MA 24/2.
[3413] See correspondence No 85/831, Manawatu Ferry Miscellaneous Papers, MA 24/2.
[3414] The issues surrounding the Commission have been thoroughly researched by Peter McBurney as part of the Waitangi Tribunal's inquiry into the Te Rohe Pōtae claims (see McBurney, *Ngāti Kauwhata and Ngāti Wehi Wehi)*. They will also be addressed in the report for this inquiry provided by Professor Richard Boast. A brief synopsis is included here as part of the context of the broader issues that are dealt with in this report.
[3415] Report of the Ngati Kauwhata Claims Commission, *AJHR*, 1881, Sess. I, G.-02A, p. 3.

Ngatiwehiwehi.'[3416] However, Winia Pohitiraha also made the point that while Ngāti Wehi Wehi was descended from Kauwhata, it was 'a distinct tribe in itself'.[3417] Accordingly, he declared to the commission, 'We are all full-blooded Ngatiwehiwehi'.[3418]

For Ngāti Kauwhata, Tapa Te Whata spoke first. Under examination, he stated emphatically that 'Ngatikauwhata were a distinct people from an ancient time'.[3419] Others then spoke in support of the Kauwhata claim, including Reweti Te Kohu, Metapere Tapa, Takana Te Kawa and Kereama Paoe.[3420] They spoke of the invitation from Te Rauparaha and others of Ngāti Toa to join them at Kāpiti, and the promise that was made by Te Rauparaha of 'food and guns and everything else', as Takana Te Kawa put it.[3421]

In essence, the petition stated that, in 1868, the petitioners had been misled by the then government, as a result of which they had been denied the opportunity to defend their interests in the Native Land Court.[3422] The Native Affairs Committee, on considering the petition, had concluded that the 'petition discloses a real grievance, arising out of circumstances which do not attach any blame to petitioners'.[3423] It noted, however, that most of the land in question had since been alienated to Pākehā and could not be returned to the petitioners, even if their claim was valid. The only question to be answered, therefore, was whether or not the petitioners were owed compensation. To this end, the Committee recommended that a 'competent tribunal' be established to make the necessary inquiries.[3424]

The Commission, composed of Frederick Brookfield, a lawyer from Auckland, and Henry Tacy Kemp, formerly a Land Purchasing Officer, began its hearings at Cambridge on 1 February 1881. It conducted its inquiry by dividing the claims into three classes. The first it described as a 'tribal claim' to Pukekura, Puahoe and Ngamoko No. 2—to these blocks there were 142 claimants, led by Tapa Te Whata. Secondly, there was another tribal claim, this one to Maungatautari, for which there were 56 claimants, led by Matiu Te Wheoro. Finally, there was what the Commission called a 'personal claim' to Maungatautari, made by seven individuals.[3425] The second claim was, in fact, then withdrawn, the claimants declining to pursue it further. The petitioners were represented by Alexander McDonald (still trusted by the hapu), while Major Mair appeared on behalf of the

[3416] Report of the Ngati Kauwhata Claims Commission, p 10.
[3417] Report of the Ngati Kauwhata Claims Commission, p 26.
[3418] Report of the Ngati Kauwhata Claims Commission p 26.
[3419] Report of the Ngati Kauwhata Claims Commission, p 8.
[3420] Report of the Ngati Kauwhata Claims Commission, pp. 8–11.
[3421] Report of the Ngati Kauwhata Claims Commission, p. 10.
[3422] Report of the Ngātikauwhata Claims Commission, p 1.
[3423] Report of the Ngātikauwhata Claims Commission, p 2.
[3424] Report of the Ngātikauwhata Claims Commission, p 2.
[3425] Report of the Ngātikauwhata Claims Commission, p 4.

Crown.[3426] At the Commission's opening, a dozen of the petitioners made statements, including Tapa Te Whata:

> I salute the Court. I have desired this day of inquiry. I salute the Waikatos. … this day we have met. Though you do not salute me, I salute you. The first thought will be of confiscated land, and the second of the lands wrongfully taken away by adjudication during my absence.[3427]

The Commission was then adjourned. It resumed the next day, and sat for the next three weeks almost without interruption. It then adjourned again, and concluded its hearings with a final sitting on 2 March 1881.[3428] During that time, it heard a mass of evidence from the claimants concerning their long-standing attachments to each of the areas in question. The Commission heard of Ngāti Kauwhata's whakapapa, of their distinct identity, how it came to be on those blocks, and how the iwi had held that land without interruption. And it heard of the events of 1868, when Ngāti Kauwhata had protested at the scheduled sittings of the Native Land Court, and of the promise they had received from the government that it would adjourn one of the hearings to ensure that Ngāti Kauwhata had every opportunity to protect their interests.[3429] But the Commission also heard from witnesses for the Crown who argued that the claims of Ngāti Kauwhata were without foundation, and that the Native Land Court had, in fact, awarded the land properly to those who had possession of it, to those with mana over it, that is, to Ngāti Haua.[3430]

The Commission reported its findings on 14 March. Having identified the blocks of land in question—Pukekura, Puahoe, Ngamoko No. 2 and Maungatautari Nos. 1 and 2—it then commented on the identity of Ngāti Kauwhata:

> . . . the petitioners are described as belonging to the Ngātiraukawa Tribe, whilst those who appeared before us as claimants describe themselves as being of the Ngātikauwhata, and ignore any connection with the former tribe, alleging that they themselves are a distinct tribe, and have been so from ancient days, when they numbered from 800 to 1,000 warriors. This, however, is strongly denied by members of other tribes, who assert that until a very few years ago they never heard of such a tribe as Ngātikauwhata, and that the claimants are, in fact, only a hapū of Ngātiraukawa. The object of this statement on the part of the petitioners will appear when we consider the

[3426] Report of the Ngātikauwhata Claims Commission, p 6.
[3427] Tapa Te Whata, 1 February 1881, Report of the Ngātikauwhata Claims Commission, p 6.
[3428] Report of the Ngātikauwhata Claims Commission, pp 6-32.
[3429] See, for instance, Report of the Ngātikauwhata Claims Commission. pp 8-12.
[3430] Report of the Ngātikauwhata Claims Commission, p 12.

> question as to whether they were or were not represented in the Court of November, 1868.[3431]

Then, having explained its approach to the hearing (the division into three claims, one of which was then withdrawn), the Commission gave its judgment, summarised in the following five statements:

> 1. That, in our opinion, prior to the year 1840 the petitioners, whether known as Ngātikauwhata or Ngatiraukawa, had lost all their right, title, and interest to the district known as Rangiaohia, which included Maungatautari Nos. 1 and 2, Pukekura, Puahoe, and Ngamoko No. 2.
>
> 2. That up to the year 1868 those rights had not been in any manner restored.
>
> 3. That at the sitting of the Native Land Court in November, 1868, the petitioners had no interest whatever in the above-mentioned lands.
>
> 4. That they were properly represented by an authorized agent in that Court.
>
> 5. That they are not entitled to any compensation whatever.[3432]

The Commissioners concluded their report by more or less accusing McDonald of having caused his witnesses to perjure themselves.[3433]

As it was, the petitioners had to wait some time before learning of the Commission's judgment, an extract of which was sent to McDonald in mid-April, but which he did not receive until 20 May.[3434] When he did receive the extract, McDonald was astonished:

> As regards the opinion expressed in this extract, it seems to me to be based upon anything rather than upon the evidence given before the Commission. So far as my notes of the evidence go, they seem to be conclusive that the petitioners are, "according to Māori custom," entitled to an interest in the land in question. And I have the assurance of the chiefs and tribes of Waikato, that in their view they (the petitioners) are so entitled.[3435]

[3431] Report of the Ngātikauwhata Claims Commission, p 3.
[3432] Report of the Ngātikauwhata Claims Commission, p 5.
[3433] Report of the Ngātikauwhata Claims Commission, p 5.
[3434] McDonald to Under-Secretary, 21 May 1881, *AJHR*, 1881, G.-2B, p 1.
[3435] McDonald to Under-Secretary, 21 May 1881, *AJHR*, 1881, G.-2B, p 1.

McDonald was, however, at pains to be reasonable, no matter how outraged he may have felt. He asked only that he be supplied with the 'argument by which the Royal Commissioners connect their opinion with the evidence'.[3436] He rejected any suggestion that Parakaia Te Pouepa could adequately represent Ngāti Kauwhata interests in the earlier 1868 investigation:

> I feel sure I may say that, if upon a perusal of the report the opinion expressed therein seems to be based upon the evidence, and not merely upon preconceived ideas, my clients will frankly accept the decision, and say no more about it. But now I must observe that the extract supplied to me, besides expressing an opinion, makes what purports to be a statement of fact—viz., that Ngātikauwhata "were properly represented by an authorized agent in that Court" (of 1868). I say, and I desire to be distinctly understood to say, that the Royal Commissioners have here made a statement which is not true,—which is emphatically untrue. . . . I do not wish to be offensive; I suppose the Commissioners believed they were stating the truth; but they have not done so, they have stated as a fact that which is not a fact, and I am bound to inform the Government that such is the case.[3437]

That this was the case—that Ngāti Kauwhata had not been properly represented before the Court in 1868—the Native Department itself would know to be true. Its own records would show that from 1867 until the present time, McDonald had always been agent for Ngāti Kauwhata with respect to those lands, and that, with respect to the earlier Court, Ngāti Kauwhata had represented themselves—no one, not Alexander nor anyone else, had been authorised to represent them.[3438] And, finally, McDonald addressed the accusation of his having induced perjury:

> . . . I, and the chiefs of the hapū, made direct oath before the Royal Commission, that no one had been authorized to represent them in that Court of 1868. The Commissioners, therefore, in stating what they have done, really charge me and the other witnesses with perjury. I do not retort by calling them bad names, but I do say that they are two very foolish men. The Government have now before them a distinct issue—viz.: "Were these Māoris entitled, in 1868, according to Māori custom, to an interest in this land?" To this question the Royal Commissions have answered "No;" all the chiefs and tribes in Waikato have answered "Yes;" and I say that any public meeting of Māoris, in any part of New Zealand, would

[3436] McDonald to Under-Secretary, 21 May 1881, *AJHR*, 1881, G.-2B, p 1.
[3437] McDonald to Under-Secretary, 21 May 1881, *AJHR*, 1881, G.-2B, p 1.
[3438] McDonald to Under-Secretary, 21 May 1881, *AJHR*, 1881, G.-2B, p 1.

> unhesitatingly answer "Yes:" and I hope the Government will also distinctly answer "Yes," or "No."[3439]

Some six or so weeks later, and having by that time read the complete judgment of the Commission, McDonald addressed his concerns directly to the Native Minister:

> The report intimates, 1st, That the witnesses gave false evidence in consequence of a statement made to them by me.
>
> 2nd. That Ngātikauwhata is really a section or hapū of Ngātiraukawa.
>
> 3rd. That they (the petitioners) were represented in the Court of 1868 by an authorized agent.
>
> And the opinion of the Commissioners is clearly influenced adversely to the petitioners by these premises which seem to have been in their minds.
>
> But I assert that these premises are absolutely false, and are quite capable of being shown to be false from the printed evidence; and I assert that, generally, the opinion expressed by the Commissioners is contrary to the plain tenor and weight of the evidence, as well as to common sense and reason.
>
> I appeal to you, Sir, as the proper and responsible head of the Māori people, to protect them against such an outrageously unjust decision as given by these Commissioners in this case.
>
> And I ask you to take any steps which may appear to you necessary, either to verify the charge I make against the Commissioners, of having decided contrary to the evidence, or of punishing me for having made so serious a charge against persons entrusted with so important and grave a duty as the investigation of title to land.[3440]

We briefly note that the Maungatautari block proper (immediately to the south of Puahue, the 1868 Maungatautari block and Pukekura) was investigated in 1884. Despite receiving the support of Rewi Maniapoto and other Waikato chiefs, Ngāti Raukawa once again were excluded from the titles, and Ngāti Kauwhata (who appeared as counter-claimants on this occasion) were likewise unsuccessful.

[3439] McDonald to Under-Secretary, 21 May 1881, *AJHR*, 1881, G.-2B, p 1.
[3440] McDonald to Native Minister, 8 July 1881, *AJHR*, 1881, G.-2B, pp 1-2.

11.4 Legislative developments relating to Māori land tenure and administration, 1880–1900

In the meantime, the colonial government continued to enact laws pertaining to Māori land tenure and administration. Although the basic form of title created by the Native Lands Act 1873 was maintained throughout the rest of the nineteenth century, there were a number of legislative developments that need to be briefly noted. These measures changed the rules and operation of the court – both for older blocks for which title had already been determined but now required partition or succession orders; and for lands being brought through the court for the first time. These changes took place in a see-saw fashion as the government responded to Māori criticisms on the one side and to electoral pressure to make more Māori land available for settlement on the other. As a result, the land laws were amended frequently and confusingly, with protections offered in one Act undone in the next as governments and policies changed. Eventually, legislation was passed to validate titles of settlers who had failed to fulfil the many technical requirements of the land laws under which they had made purchases.

In 1880, a new Native Land Court Act introduced an important modification of the title system. In the case of titles created under that Act, an individual rather than a majority of owners could apply to have his or her interest partitioned out. This capacity was then extended to land held under memorial of ownership under the 1873 Act, in 1883, by the Native Land Division Act of that year.[3441] The Hauraki Tribunal has commented that this legislation resulted in 'more than an individualisation of the title: it offered an individualisation of the land itself' by enabling 'an individual Māori or Māori family to secure a title in their own name for their own piece within the former tribal patrimony'.[3442] Notwithstanding that many Māori wanted a right to partition out land by majority consent, by this stage, they also wanted it underpinned by community consultation, whereas often it was the case that 'consent' was obtained by piecemeal acquisitions of individual interests, not by collective decision before transacting had begun.

In 1886, Native Minister Ballance, after consultation with Māori, attempted to prevent private purchasers from dealing in individual shares and to restore a community mechanism of land management. The Native Lands Administration Act 1886 was not directly concerned with the sort of titles being issued by the court, but it was the first time, since 1867, that the government drew back from its policy of converting customary ownership into individual, tradeable paper titles. The Act provided for a two-tier system. At the local hapū level, block committees were empowered to decide on the sale or lease of their lands, but Māori were also to hand their land over to a government-appointed commissioner, who would arrange any alienation and deduct fees.[3443] It was

[3441] Waitangi Tribunal, *Wairarapa ki Tararua Report*, vol 2, p 472.
[3442] Waitangi Tribunal, *Hauraki Report*, p 747.
[3443] Waitangi Tribunal, *Wairarapa ki Tararua Report*, vol 2, p 473.

rejected by Māori and fiercely opposed by Hoani Taipua, the Ngāti Pare, Ngāti Raukawa Member of the House of Representatives for Western Māori. He argued that the minority of owners would have no voice if the power to decide issues was given to the majority; that the costs of administration would eat up all the revenue generated by the land; and that handing over the land to a government commissioner would mean that the Māori owners would lose their independence.[3444]

The Native Land Court Act 1894, introduced by the Liberal Government, seemed to provide a 'corporate title' for the first time since the never-used provision for blocks over 5,000 acres to be awarded a tribal (hapū) title, abolished by the 1873 legislation. The 1894 Act enabled Māori owners to apply to establish incorporations and elect committees of management, on approval by the court. It empowered the court to inquire into hidden trusts behind the named owners on court titles, transferred the functions of trust commissioners into its hands, and also established the Native Appellate Court. This was, however, another piece of legislation that was of mixed benefit when it came to land retention. Nor were the provisions for elected block committees really intended for the likes of Ngāti Raukawa. According to the Waitangi Tribunal:

> It was envisaged that incorporations would manage and commercially utilise their lands – especially in 'remote' areas, and lands with poor soil which might not be suitable for small settler family farms. On the other hand, it seemed the government also saw incorporations as useful for facilitating purchase, because the law provided an owners' body which was sometimes easier to deal with than the painstaking acquisition of individual signatures. Under the 1894 Act the committee could alienate without gaining the consent of even a majority of owners. And the Crown could also continue to buy individual interests in incorporation land from owners who, at law, did not need the consent of others, or the committee.[3445]

These provisions for incorporations and trusts came too late to be of much use and, again, did not meet with much Māori enthusiasm.[3446]

Accompanying these changes in the way title could be awarded were alterations in the laws governing the purchase of Māori land and, in particular, how many – or what proportion – of owners were needed for an alienation to have effect. The tribunal in Wairarapa ki Tararua has summarised the overall trend of these law changes in the 1880s and 1890s as making it easier:

- to partition blocks;
- for individuals to sell their undivided interests with or without the agreement of other owners;

[3444] *NZPD*, 1887, vol 57, pp 210–13.
[3445] Waitangi Tribunal, *He Kura Whenua ka Rokohanga*, pp 26-7.
[3446] Waitangi Tribunal, *He Kura Whenua ka Rokohanga*, p 27.

- to remove restrictions on alienation;[3447] and
- to acquire individual interests without the consent of a majority of owners.[3448]

We do not detail these changes further here, because the Crown mainly withdrew from large-scale operations in the region, leaving the field to private purchasers (see discussion at section xx). Several matters should be noted, however.

The rules regulating subdivision changed constantly in this period. The 1873 Act had allowed the court to divide the land between sellers and non-sellers if a majority of owners consented to the subdivision, but subsequent legislation eroded even this limited protection.[3449] Under the Native Land Amendment Act 1877, the Crown could apply to the court to cut out its proportionate share when it had been purchasing undivided interests. The following year, this power was extended to an owner or 'other interested person' – in other words, a private purchaser of any undivided interest. The Turanga Tribunal has pointed out that this meant that 'the safeguard such as it was of majority veto in respect of subdivision was effectively removed within four years of its enactment'.[3450] Then four years later, that permission was revoked under the Native Land Division Act 1882, except in respect of interests that had been purchased but not partitioned out before that Act was passed. Another four years on, and another new Act reflected a change of philosophy under a fresh government (with Ballance as Native Minister). Section 33 of the Native Land Administration Act 1886 prohibited direct settler purchasing altogether although, again, transactions that had already begun could be completed. As noted above, the 1886 Act contemplated a new system of block committees, which would have left purchasers of undivided interests who had not yet cut them out in a 'sort of tenurial limbo', so another section of the Act (s.23) allowed any person, Māori or Pākehā, to apply to the court to have their interests portioned out.[3451] Another two years saw yet another change as the government sought to 'unravel the confusion' that had been created, and direct purchasing was restored. While the Native Land Court Act 1886 Amendment Act 1888 did not contain a provision allowing private purchasers to cut out their shares, section 3 did provide for any deeds or memoranda of transfer to be registered in the court.[3452] A year later, and a private purchaser could apply for partition if the deed on which that claim was based was first certified by a trust commissioner.

[3447] The effectiveness of the system of restrictions on alienation is discussed in the Husband's report.
[3448] Waitangi Tribunal, *Wairarapa ki Tararua Report*, vol 2, p 473.
[3449] Waitangi Tribunal, *Turanga tangata, Turanga whenua*, vol 2, p 458.
[3450] Waitangi Tribunal, *Turanga tangata, Turanga whenua*, vol 2, p 458.
[3451] Waitangi Tribunal, *Turanga tangata, Turanga whenua*, vol 2, p 458.
[3452] Waitangi Tribunal, *Turanga tangata, Turanga whenua*, vol 2, p 458.

All this confusion for the purchaser resulted in the Native Land (Validation Titles) Act 1893, which created the Validation Court to enable partitions that did not comply with changing legislative procedural requirements to be perfected. It has generally been assumed that the court operated largely on the East Coast, but it is apparent that it heard cases on the West Coast as well. Time has not permitted inquiry into its operation in this report and this may require further research.[3453] We note, however, that Hoani Taipua vigorously opposed the legislation, comparing it to the whirlpool, Te Waha o Te Parata, which had nearly destroyed Te Arawa waka on its journey from Hawaiki. He objected that section 9 of the Act, which validated imperfect European titles to Māori land, would mean that all Māori grievances about them would be swept into its jaws.[3454] The Native Land Court Act, 1894, under section 17, again enabled any person 'interested in the land' to partition out their interests while, as noted above, the trust commissioner was abolished and that requirement dropped. The partitioning procedure established under the 1894 Act remained in place until the twentieth century and the passage of the Native Land Act 1909. The Turanga Tribunal has commented that the rules had completely changed direction three times since 1873 and to 'further confuse matters, the rules applying to Crown and private purchasers were sometimes different and sometimes the same'.[3455]

Finally, we note that section 117 of the Native Land Court Act 1894 also restored Crown pre-emption, effectively barring private parties from acquiring Māori land except under some specific circumstances. Again, any blocks where private dealings had already begun were made exempt and, as a result, a number of private purchases of Ngāti Raukawa and other blocks were confirmed by the Native Land Court in the years that followed. Included here were parts of Aorangi, Manawatu-Kukutuauki Nos. 2, 3, 4, 7, Ngakaroro, Ohau and Pukehou blocks.[3456] Indeed, the introduction of this restriction, as in 1886, merely resulted in a surge of partition activity as private purchasers instituted proceedings to cut out the interests they had acquired before the law changed. Māori objected to the legislation, arguing that it was an act of coercion and a great injustice.[3457]

11.5 Native land purchase and the Wellington and Manawatu Railway Company

Russell Stone has pointed out that:

[3453] See, for example, re Manawatu Kukutauaki 4B section 1, Court of Appeal, 1897, vol xv, p 665; and Kereama Kaiaho v Stuart and Davies, Court of Appeal, 1899, vol xvii, p 758. For discussion of the Act see Waitangi Tribunal, *Turanga tangata, Turanga whenua*, vol 2, pp 46-4.
[3454] A Ballara, 'Taipua Te Puna-i-rangiriri, Hoani', Te Ara.govt.nz; *NZPD*, 29 September 1892, vol 78, p 516.
[3455] Waitangi Tribunal, *Turanga tangata, Turanga whenua*, vol 2, p 458.
[3456] Walghan, 'Block Research Narratives', draft 19 December 2017, vol 2, pp 288, 308, 333, 370 & vol 3, pp 30, 129, 208.
[3457] *NZPD*, 24 June 1896, pp 304-06.

> … almost all nineteenth-century railways were political railways; from the outset … financing, constructing, and operating railways were considered by Vogel and his colleagues to be the government's responsibility … part of a wider policy of state sponsorship of colonial development.[3458]

By the late 1870s, plans were well underway for the construction of a railway line on the west coast from Wellington to Foxton via Waikanae. The public works estimates of 1878 listed this among its proposals, provided that enough land could be purchased. A total of 100,000 acres had already been obtained and a further 180,000 acres were being negotiated. It was anticipated that the construction of the line would open up potentially productive land and eventually form a link with the North Island Main Line. It was proposed that the government would withdraw Crown land along the line from sale to prevent speculation. The proceeds when brought onto the market would cover the costs of construction, while the appreciation of land values through public works would go to settlers (and potentially Māori) rather than Wellington-based speculators. As noted in chapter 9, Grey (with Sheehan as Native Minister) had strengthened the government's control over the land market by passing the Government Native Land Purchase Act 1877. Although Grey and Sheehan had criticised previous administrations for tying up the land market, they justified the measure, and themselves, as bringing 'expertise' and 'incorruptibility' to Native affairs after a string of scandals concerning the activities of Crown land purchase agents.[3459] Then, Grey's ministry fell in 1879, partly as a result of a campaign by the 'free traders' for the overturn of this measure.[3460]

The emphasis of the new premier, John Hall, was on 'prudence', and he 'closely supervised financial recovery from the chaos of the late 1870s'. In contrast to the 'leaps and bounds' policy of Vogel, he advocated 'steady development on moderate borrowing'.[3461] The survey of the proposed line from Wellington to Manawatu was complete, construction approved, and the hiring of labour underway when Hall had it removed from the Public Estimates, and created a Royal Commission to review the government's public works programme. Chief Engineer John Blackett was asked several questions about the project, one being the cost already expended on the Wellington-Foxton line, which he replied was £18,000 in work, plant, and material. The cost of the entire line from Wellington to Foxton in Blackett's estimation would be £440,000. Because it was considered the roughest part of the line, the first 30-mile section (of a total 67½ miles) from Wellington to Paekākāriki would cost £250,000. The last section (Foxton onwards) was Māori land interspersed with some small European holdings. When asked if, in the near future, these native lands would be owned by Europeans, Blackett replied, 'I have no means of giving an opinion on that. I think, from

[3458] R Stone, 'The Thames Valley and Rotorua Railway Company Limited 1882-9, *NZJH*, 1977, vol 8, no 1, p 22.
[3459] R Stone, 'The Māori Land Question', *NZJH*, 1967, vol 1, p 52.
[3460] Hearn, 'One past, many histories', p 641.
[3461] W J Gardner, 'Hall, John', TeAra.govt.nz.

what I have learned on the subject, that it is very likely to be some time before it is in the hands of Europeans.'[3462] In these circumstances, the commission recommended that work on the Wellington-Manawatu line be abandoned. Much of the land between Wellington and Foxton was Māori-owned, 'unproductive', and, in their view, overvalued, making it an unprofitable undertaking. They advised that the expenditure on labour at the Wellington end of the line should be transferred to the Masterton and Mauriceville sections, which intersected a large block of Crown-owned land.[3463]

There was considerable disappointment in Wellington at the decision. A group of prominent businessmen backed by the Chamber of Commerce formed the Wellington-Manawatu Railway Company. On 15 February 1880, the prospectus was advertised, announcing 100,000 shares at £5 each. The prospectus also indicated that the company would seek powers to acquire native land from Otaki northwards.[3464] The company anticipated:

> … should this power be granted to them, the Promoters have reason to believe that the land when acquired would speedily be disposed of for settlement, at a profitable rate. In view of this, the Promoters are about to open negotiations with the native proprietors with respect to its acquisition.[3465]

Stone has commented that even before Hall came to power, it had been increasingly apparent that the government could not afford to build a line through 'every district where there was imagined to be a need', despite borrowed money and cheap native land purchase.[3466] As a result, a 'new formula' was developed: 'Residents in local districts should be encouraged to form companies to construct and operate those local railways … which could be linked to the main trunk system.' The District Railways Act 1877 had not been considered a success, however, because of restrictions on operations.[3467] In the Manawatū, it was thought unusable because the legislation prescribed that that there be a large population served by the railway lines constructed under it.[3468] In 1881, the Hall government introduced a further measure: the Railways Construction and Land Bill, modelled on the land grant schemes used to finance a number of the transcontinental railways in North America.[3469] The Act empowered joint-stock

[3462] Minutes of Evidence of Railway Commission, *AJHR*, 1880, E-3, pp 2-3.
[3463] Report of Railway Commission, *AJHR*, 1880 E-3, p ix.
[3464] K R Cassells, *Uncommon Carrier*, *The History of the Wellington and Manawatu Railway Company*, NZ Railway and Locomotive Society, 1993, p 20.
[3465] Preliminary prospectus, Wellington and Manawtu Railway Company, Annual Reports 1880-1909, MSX-2557, ATL.
[3466] Stone, 'Thames Valley and Rotorua Railway Company', p 22.
[3467] Stone, 'Thames Valley and Rotorua Railway Company', p 22.
[3468] Chamber of Commerce Quarterly meeting, 22 September 1880, Wellington and Manawatu Railway Company, Annual Reports, MSX–2557, ATL.
[3469] Stone, 'Thames Valley and Rotorua Railway Company', p 23.

companies to build private railways provided they were built to the government gauge and connected with a government line. It also authorised the government to subsidise a company constructing lines by grants of land to the extent of 30 per cent of its expenditure. It was anticipated that the land and other assets could be used to raise capital on the London market, 'where there was said to be a comparative abundance of capital seeking colonial investment at that time'.[3470] 'If they would put their hands in their pockets towards the cost of construction,' the Chamber of Commerce was told, 'that would induce the capitalists at Home to come to their assistance and all the more if Government would guarantee a small rate of interest…'[3471]

An immediate result of the company's formation was to place pressure on Māori land. At its meeting held at the Chamber of Commerce in September 1880, Dr Grace thought the first thing it should do was 'urge the Government to complete the Native land purchases between Paekākāriki and Manawatu.' In neglecting that policy, he suggested, 'all Governments had been exceedingly culpable, and, in not forcing the purchase upon the Government, the citizens themselves had been blameworthy.' In his view:

> The purchase could be immediately completed, and when it was completed there would be no difficulty about the line. ... [I]f the land were all bought the Colony would be quite willing to construct the line from the proceeds of the land. … The land to be sold on Waimate Plains would realise from 30 to 50 per cent. … It was facility of access that gave value to land, and if there was facility of access to the West Coast the increased proceeds from land sales would more than reimburse the Colony for the construction of the line.[3472]

Grace moved that a deputation visit the government to urge this course of action and that the meeting adjourn until such a purchase was completed. Not everybody agreed; not that the land should remain in Māori ownership but because the government was unequal to the task. Buckley objected that: 'There was now the old farce being enacted of somebody being there who was to complete the transactions (Mr Macdonald). That land could have been purchased by the provincial Government a year before abolition, but for the Native office.' However, Moorhouse (Member of House of Representatives) proposed that government should acquire 'the whole of the land required from the Natives on this side of the Manawatu'. As to how that should be effected:

> … it must be done by capable gentlemen – men well conversant with affairs, being appointed to treat with the Government – that was an important point…. No just

[3470] Stone, 'Thames Valley and Rotorua Railway Company', p 23.
[3471] Chamber of Commerce Quarterly meeting, 22 September 1880, Wellington and Manawatu Railway Company Annual Reports, MSX–2557, ATL.
[3472] Meeting 29 September 1880, Wellington and Manawatu Railway Company Annual Reports, MSX–2557, ATL.

> objection could be urged to this course, because to devote the land to this purpose would not affect the slightest vested interest.[3473]

The company made one significant change to the original Public Works survey: the line was to connect with the government's at Longburn (with attendant rise in land values) instead of Foxton, leaving the Palmerston North-Foxton track a branch line. The construction of the section from Ōtaki to Longburn across the swamps and river would require major works, including the draining of swamp land (and the beginning of significant exploitation of and destruction of that resource), bridging the river, and the construction of a wharf to allow steamers to offload the materials required.[3474]

The company was registered in 1881, and in March, the following year, a contract signed with the government under which it agreed to construct the line within five years. For its part, the Crown could grant any lands in its possession to the company for the 'construction of the permanent-way of the railway, and for workshops, stations, and other necessary buildings to be used for or in connection with the railway'.[3475] Significantly, the Act also empowered the company to sell or lease any of the land that was granted to it by the Crown if the land was not needed 'for the purposes of the railway'.[3476] The proceeds of any sale or lease were then to be used as part of the capital funds of the company.[3477]Under these terms, the Crown granted to the company some 210,000 acres, with a total value of £96,570.[3478]

The company was also authorised to purchase the land and materials used for the building of the line.[3479] As we have seen, the government had brought its purchasing in the district to a close in the early 1880s and, in effect, the company took up purchasing in the blocks in which the government had abandoned its negotiations. As usual, the idea was to buy cheaply, or even persuade Māori to give their land in exchange for shares, or outright. Not only did these laissez-faire business exemplars and exponents of self-help assume that the government should act as their patron but, as Stone puts it, they also felt they had 'a right to lean on Māori landowners to make, in a financial sense ... rough places plain'.[3480]

[3473] Meeting 29 September 1880, Wellington and Manawatu Railway Company Annual Reports, MSX–2557, ATL.
[3474] Harris, 'Town of Otaki', p 9; 'The West Coast Railway', *Evening Post*, 25 February 1881, p 2; Cassells, *Uncommon Carrier*, p 20.
[3475] Railways Construction and Land Act 1881, s 45.
[3476] Railways Construction and Land Act 1881, s 51.
[3477] Railways Construction and Land Act 1881, s 51.
[3478] 'Wellington and Manawatu Railway Contract', *AJHR*, 1882, D-7, p 7.
[3479] 'Wellington and Manawatu Railway Contract', *AJHR*, 1882, D-7, pp 1-8.
[3480] Stone, 'Thames Valley and Rotorua Railway Company', p 43.

The question of Māori land acquisition as a way of ensuring the success of the venture had been thoroughly aired at a meeting of prominent businessmen and politicians held in early 1881, at which all agreed that this was crucial. Mr Cooper proposed that: 'If there were 90,000 acres of Native land to be had for £1 per acre, which could be sold for £5 or £10 an acre when the line was made, there was the undertaking put out of the region of speculation at once – its success would be a certainty.'[3481] Mr Izard agreed but expressed some doubt as to whether the land could be acquired at that price:

> He understood that a great inducement was that they were to be allowed to acquire a great quantity of Native land along the line, from which they could make a profit. Was that so? Of course the concessions were all very useful to get this Native land. Would the Crown give up any claim it might have to the land, and, if so, what prospect would the Company have of acquiring it? No doubt some of the better educated chiefs were desirous of selling and having the line made, because they knew it would greatly increase the value of their property; still, they would try to make as much profit out of it as possible. If the land could be acquired by them there could be no doubt of their success, for the making of the line would increase its value very greatly; but without the land he did not very well see how the line could be made to pay.[3482]

The suggestion of James Wallace that 'if a company could get the Native land along the line, it could be made sufficiently valuable to render the undertaking independent of the Government' met with clear approval. ('Hear, hear.')[3483] He then suggested that:

> There was a piece of land extending from Waikanae right up to Manawatu, which the line would pass entirely through – it would touch no other land but Native land. The Government had always said the chief obstacle to the making of the line was that the land was Native land.[3484]

Mr Macandrew responded that he would 'try to stir up the Native Department to bestir itself to purchase the land'.[3485] Bryce spoke next, stating that it was 'a most valuable district … the best agricultural district in this Island, and the most suitable for immediate settlement by small farmers'. Land sharks – James Gear and 'another gentlemen' (probably Frederick Bright) – wanted the area for their business, but Bryce thought they would be prepared to sell out to the government as the railway was more important to them. He would leave no stone unturned to get the land, and would take care no shark got it. According to Bryce, Māori were very anxious to sell and wondered that the 'Government did not offer to buy, and

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[3481] Meeting at Chamber of Commerce, 20 January 1881, Wellington and Manawatu Railway Company Annual Reports, MSX–2557, ATL.
[3482] Meeting at Chamber of Commerce, 20 January 1881, Wellington and Manawatu Railway Company Annual Reports, MSX–2557, ATL.
[3483] Meeting at Chamber of Commerce, 20 January 1881, Wellington and Manawatu Railway Company Annual Reports, MSX–2557, ATL.
[3484] Meeting at Chamber of Commerce, 20 January 1881, Wellington and Manawatu Railway Company Annual Reports, MSX–2557, ATL.
[3485] Meeting at Chamber of Commerce, 20 January 1881, Wellington and Manawatu Railway Company Annual Reports, MSX–2557, ATL.

were quite willing to sell at a reasonable price'.[3486] However, the government wanted to conclude its old and current land purchases before embarking on new ones and would not interfere, it was reported:

> The land in question was about 2 miles wide and 40 long, and extended from Waikanae to Foxton. It was all flat land, some of it being forest, but a large portion open. On one portion was a most valuable totara bush. The whole amount was about 170,000 acres but the Government would be likely to want large reserves for the Natives. There were not many natives there, and the land was not necessary for their subsistence – they would all prefer going away to Taranaki or elsewhere. But there were from 90,000 to 100,000 acres which might be acquired.[3487]

Anticipating that the 'land could be soon acquired, as there would soon be a Land Court there to settle the purchases made for the Government by Mr. Macdonald' and convinced of the feasibility of the project, a motion was passed 'affirming the desirability of forming a company to make the line'.[3488]

At the first annual meeting of the company held in April 1882, it was stated:

> The Directors have made very large purchases of land from the Natives and others on the West Coast, and had now acquired nearly the whole of the line, so that only twelve miles remained to be dealt with. They had to thank the chiefs owning the land for the liberal manner in which they had dealt with them. Major Kemp and a number of others had accepted 1 pound per acre, and invested the amount that would have been realized by taking up paid-up shares in the Company to the full value. The land from Europeans had cost something more, but on the whole they had got it at an average of 16s 3d per acre. They must bear in mind that they had the very pick of the land.[3489]

Of the lands granted to the company, a little less than 55,000 acres (that is, just over 25 per cent of the total lands granted) were composed of lands from the Manawatū-Kukutauaki and Ōhau blocks.[3490] These grants included all the Crown purchases within the Manawatū-Kukutauaki no 2 block.[3491] The combined value was estimated at £38,061.[3492] The Crown had paid Māori something in the order of £16,095 for the same lands. As table 11.1 shows, there were also substantial grants made of Crown-acquired lands at Pukehou, Waiohanga, Ngākaroro, and elsewhere.

[3486] Meeting at Chamber of Commerce, 20 January 1881, Wellington and Manawatu Railway Company Annual Reports, MSX–2557, ATL.
[3487] Meeting at Chamber of Commerce, 20 January 1881, Wellington and Manawatu Railway Company Annual Reports, MSX–2557, ATL.
[3488] Meeting at Chamber of Commerce, 20 January 1881, Wellington and Manawatu Railway Company Annual Reports, MSX–2557, ATL.
[3489] Report of the First Annual Meeting of Shareholders, 3 April 1882, Wellington and Manawatu Railway Company Annual Reports, MSX–2557, ATL.
[3490] This figure excludes, on an approximate basis, the Pukehou blocks (approximate because it is not known how much of the Pukehou blocks were included).
[3491] Walghan Partners,'Block Narratives',vol I, pt I, draft,19 December 2017, p 93.
[3492] This figure includes the Pukehou blocks as it is not possible to disaggregate their values from those of the other blocks.

Table 11.1: Schedule of lands allocated to Wellington and Manawatu Railway Company and valued for selection

Name or Description of Block	Subdivision/Partition	Area (a.r.p.)	Value	Amount Paid by Crown [3493]	Vol. & Page No.
North of Manawatū River on Coast		10,000	£2000		AJHR, 1888, Sess. I, I.-5B, p.38
Fitzberbert, Manawatū River on coast		19,750	£20,187		
Manawatū-Kukutauaki	2F	1,600.0.0	£2,400	£300	AJHR, 1882, Sess. I, D.-7, p. 7
	2G (Part)			£270	
	2A, 2B, 2C, 2D (Parts)	25,200.0.0	£26,686	£11,052	
	2E (Part)	4,200.0.0			
	3 (Part)	7,400.0.0		£876	
	7A, 7B, 7C	2,191.0.0		£834	
	4A, 4B, 4C, 4D, 4E, 4G (Parts) and Pukehou 1, 2 and 3 (Parts)	15,000	£6,775	£2,659 [3494]	
Takapū	2	262	£459		AJHR, 1888, Sess. I, I.-5B, p.38
Tōtara and Muhunoa	3	814	£1,424		
	3 (Part)				
Muhunoa	4 (Part)	2,000	£1,350		
Ōhau	2 (Part)	4,300	£2,200	£914	
Pukehou	4 (Part)	5,126	£1,198		
	5A, 5B, 5C, 5D				
Waiohanga	2A (Part)	10,075	£3,299		
	2B, 3C,				

[3493] The amounts listed here are taken from the data previously cited.
[3494] This figure includes £600 as the purchase price for the three Pukehou blocks. See *AJHR*, 1875, sess I, G.-06, p 15.

Name or Description of Block	Subdivision/Partition	Area (a.r.p.)	Value	Amount Paid by Crown [3493]	Vol. & Page No.
	3D (Parts)				
	4 (Part)				
Wairarapa	Part	4,000	£2,900		
Ngākaroro	1C, 1A & 1B (Parts0	6,700	£1,340		
Ngākaroro & Ngawhakangutu 2	2A, 2B, 2C, 2D, 2E (Parts)	13,000	£3,250		
Maunganui	Part	9,100	£1,137		
Muaūpoko	Part	984	£925		
Between Akatārawa and Coast		36,600	£12,155		AJHR, 1888, Sess. I, I.-5B, p.38
East of Akatārawa to 15-mile line		15,200	£3,060		
Wainuiomata		17,000	£2,975		
TOTALS		210,502	£96,570		

Shortly after signing the contract with the Crown, the company employed surveyors to undertake an assessment of the lands they had been granted. Their report suggests some variations to the information contained in the contract. On the one hand, it appears the Company was granted slightly less land than the contract had envisaged; on the other, the land it granted was now valued much more highly.[3495] In total, the report shows the acreage of Manawatū-Kukutauaki subdivisions, for example, as standing at 44,565 acres.[3496] The estimated value of these lands was given as £58,705.[3497]

[3495] Palmerson & Scott (Surveyors and Land Agents) to Secretary (WMR Co. Ltd), 30 August 1882, MSX–2557, ATL. Because of the way the information is presented in the surveyors' report, it is not presented here in tablature form.
[3496] Palmerson & Scott (Surveyors and Land Agents) to Secretary (WMR Co. Ltd), 30 August 1882, MSX–2557, ATL. This is a little more than 5000 acres fewer than was reported in the contract (note that this calculation excludes Ohau No. 2).
[3497] Palmerson & Scott (Surveyors and Land Agents) to Secretary (WMR Co. Ltd), 30 August 1882, MSX–2557, ATL.

These were not the only parts of the Manawatū-Kukutauaki block, however, that became company property. The company had purchased in its own right some 17,960 acres by 1882, all of which were located within the same subdivisions granted to it by the Crown.[3498] These lands were said to be 'some of the very best land in the Manawatū County'.[3499] Their exceptional quality was reflected in their very high value: £137,740.[3500] Combining the Crown's purchases with its own in the Manawatū-Kukutauaki no 2 block, the company had acquired 37 of the block's 49 subdivisions by 1893.[3501]

Table 11.2: Wellington and Manawatu Railway Company purchasing in Manawatu-Kukutuauki no. 2

Subdivision	Agricultural (acres)	Pastoral (acres)	Price per acre (s. d.)	Total of Agricultural (£)	Total of Pastoral (£)	Total of Agricultural and Pastoral (£)
Nos. 2A, 2B, 2C, 2D, 2E, 2F, 2G, No. 3, Nos. 7A, 7B, 7C (Crown grant)	--	20,000	17/6	--	17,500	
	--	10,000	25/	--	12,500	£30,000
	2,000	--	35/	3,750	--	
	2,000	--	45/	4,250	--	
	1,262	--	50/	3,155	--	
	2,000	--	60/	6,000	--	£17,155
	7,262	**30,000**	**--**	**£17,155**	**£30,000**	**£47,155**
Railway Company's purchase of the Kukutauaki Blocks, 17,960 acres	3,000		300/	45,000	--	
	3,000		240/	36,000	--	
	3,000		200/	30,000	--	
	1,000		100/	10,000	--	
	1,000		80/	4,000	--	
	1,500		60/	4,500	--	
	1,500		40/	3,000	--	132,500
	--	1,000	30/	--	1,500	
	--	2,960	25/	--	3,740	5,240
	14,000	**3,960**	**--**	**£132,500**	**£5,240**	**£137,740**

[3498] Palmerson & Scott (Surveyors and Land Agents) to Secretary (WMR Co. Ltd), 30 August 1882, MSX–2557, ATL.
[3499] Palmerson & Scott (Surveyors and Land Agents) to Secretary (WMR Co. Ltd), 30 August 1882, MSX–2557, ATL.
[3500] Palmerson & Scott (Surveyors and Land Agents) to Secretary (WMR Co. Ltd), 30 August 1882, MSX–2557, ATL.
[3501] Walghan Partners, 'Block Narratives', vol 1, pt I, draft, 19 December 2017, p. 95.

According to the surveyors employed by the company to assess the quality of the land, the effect of the Crown and company purchases was to leave Māori with 14,169 acres within those subdivisions.[3502]

The company began selling land within a few years of commencing operations, and as each section of the line was completed, putting on special trains for prospective buyers so that they could inspect the thousands of acres that it was offering for sale. Land around Ōtaki itself became available in 1887, with 12,000 acres 'of the finest of the company's lands, and subdivided into sections of large and small areas, situated adjacent to the settled township'.[3503] The 'seventh sale' of land by the company was held in Wellington on 12 January 1888. Another 26,024 acres, the 'Otaki block' – near to the township – and the 'Ohau-Manakau' block of 28,340 acres, running along the line between the two townships, were offered in 1889. The company shared the government's belief in close settlement; the object was 'to sell lands to bone fide occupiers, and so create traffic for their line' rather than receive high prices, 'recognising that a large and energetic body of settlers' would be of 'more permanent value'. A deposit of 10 per cent and no further payment for five years with interest of 5 per cent was, the company claimed, 'eminently calculated to give to the industrious and provident, however poor, all the advantages usually obtained by those in possession of considerable capital'.[3504]

By 1895, it had sold just over 90,000 acres, generating as it did so £153,370 (about one-third of which was held in mortgages).[3505] Three years later, the company was able to report that the amount it had made from land sales had risen to £188,645.[3506] It was further estimated that the value of the unsold lands yet held by the company amounted to approximately £67,223.[3507] Reflecting its superior quality, the land the company had itself purchased directly from Māori, now calculated to amount to over 30,000 acres (including the Makerua swamp), had 'yielded a large profit'.[3508] The land granted to the company by the Crown, in comparison, had 'sold for but little more than the original value and expenditure thereon to the date of sale'.[3509] Given, however, that the land had been a grant from the Crown, the company's gain was still significant.

[3502] Palmerson & Scott (Surveyors and Land Agents) to Secretary (WMR Co. Ltd), 30 August 1882, MSX–2557, ATL.
[3503] *Evening Post*, 12 January 1888, p 3.
[3504] *Evening Post*, 15 March 1889, p 3.
[3505] Report of the Fourteenth Annual Meeting of Shareholders, 3 April 1895, MSX–2557, ATL.
[3506] Report of the Seventeenth Annual Meeting of Shareholders, 6 April 1898, MSX–2557, ATL.
[3507] Report of the Seventeenth Annual Meeting of Shareholders, 6 April 1898, MSX–2557, ATL.
[3508] Wellington and Manawatu Railway Company Ltd 1895; Seventeenth Annual Meeting of Shareholders, 6 April 1898, MSX–2557, ATL; Dealings with Native Lands, *AJHR*. 1883; G-6, p 9.
[3509] Report of the Seventeenth Annual Meeting of Shareholders, 6 April 1898, MSX–2557, ATL.


SKETCH MAP
OF THE
WELLINGTON AND
MANAWATU RAILWAY,
TO ACCOMPANY 3rd ANNUAL REPORT
OF THE DIRECTORS
PRESENTED TO THE MEETING
1st APRIL 1884
SCALE
REFERENCE

The railway line was completed in 1886 to much fanfare. The opening of the line from Ōtaki to Longburn was observed as a public holiday on 2 August 1886, and the Governor of the day, Lord Jervois, opened the Wellington to Palmerston North line in early November.[3510] A regular service between Wellington and Palmerston commenced in December 1886.[3511] It had been anticipated that its completion would make possible the rapid Pākehā settlement of the districts through which it ran. The anticipation was not misguided. Once the trains were running, private purchasing became the most common method of Māori land alienation.[3512]

For Maori, the railway line brought added value to their lands but also added pressure and further highlighted the exclusion of Maori from local government and its adverse consequences. Hoani Taipua complained about the inequities in attitude and treatment. The road from the station at Otaki to the village had been taken through a number of sections owned by Maori without prior arrangement and in clear preference to European land. He raised the matter in the House, he said, in the hope that the Government would 'give some instructions to the local bodies to secure that the making of roads should be cartri8ed out more fairly to the Natives.' He thought that wherever possible, roads should be taken 'equal to all', half through Maori and half through European land.[3513] Instead, three of them had been put through the land of Moroati [Kiharoa] of Ngāti Pare even though there was land adjacent, owned by colonists and by the Manawatu Railway Company itself; but 'care had been taken not to run any roads through these properties.' The costs and damages, Taipua argued, amounted to some £500.[3514]

It was revealed that a week before the station had been due to open, Moroati (and hapu) had erected a fence across the road and it had been removed only upon the Native Minister promising to ensure that their interests would be protected.[3515] At a meeting of Maori and the local authorities which had been convened by the Under-Secretary of the Native Department, it had been arranged that £100 would be paid in compensation, but upon the County Council finding that some of the land concerned had not passed through the Native Land Court, it 'declined to pay the money until the title had been first ascertained.'[3516] Taipua argued, that this being the case, at least such compensation as was owed for lands that were held under court awarded title could be paid.[3517]

A change of government – both general and local (as a result of a boundary change) - threw this commitment into doubt. Upon Taipua raising the question

[3510] Harris, 'Town of Otaki', p 9.
[3511] Anderson and Pickens, *Rangahaua Whānui-Wellington District*, p. 303.
[3512] Anderson and Pickens, *Rangahaua Whānui-Wellington District*, p. 303.
[3513] *NZPD*, 1888, vol LXI, p 609.
[3514] *NZPD*, 1888, vol LXII, p 399.
[3515] *NZPD*, 1888, vol LXII, p 541.
[3516] *NZPD*, 1888, vol LXII, p 541.
[3517] *NZPD*, 1888, vol LXII, p 541.

before the House, the new Native Minister, Mitchelson, acknowledged that 'he had had a great number of communications during the last few months from Natives in the Otaki district, who complained very bitterly of the actions of the local bodies in reference to the taking of land for roads.' He 'felt that proper care had not been taken before issuing the warrant to take the roads' and expressed himself as 'convinced that wrong had been done.'[3518] In reply to further question in the House from Taipua, Mitchelson stated that the government was considering measures to prevent local bodies from taking lands for roads 'indiscriminately without reference to the Natives or to the Native Department.'[3519] However further query as to what the government intended to do about the £100 owed, produced a less encouraging response that 'no promise had been made by the late Government'. The Horowhenua County Council had been advised by the current administration to hand the money over to Taipua for distribution at his risk, but they had refused. In contradiction of its earlier statements (at least as to principle) the Government disavowed any role beyond mediation: 'The responsibility rested entirely with the local body.'[3520]

11.6 Private purchasing, 1880–1900

With the exception of the Liberal government's purchase of Kapiti Island which is discussed in Grant Young's report, private purchasers now dominated the market. The Walghan block narratives have revealed an escalation of private purchase in the region in the 1880s and 1890s. Just as the Wellington and Manawatu Railway Company had followed closely on the heels of Crown purchase, directly assisted by the government's land grants, so private settlers accompanied and followed upon the opening up of the region by the construction of the line, and were assisted by land laws. Private purchasers did not enjoy the same advantages that the government had given itself through legislation but, as we discussed earlier, they could still partition out the shares they had acquired in blocks, even when the Crown acted to tighten up the land market. The Native Land Laws Commission, 1891, would reveal that scrutiny of transactions by the trust commissioners was largely ineffective and counter-productive (decreasing Māori land values) while, after 1893, there was opportunity to paper over breaches of the many rules that were supposed to regulate transacting in Māori lands and have titles validated by the court. This system and its effects would be roundly condemned by Ngāti Raukawa and, indeed, all tribal leadership.

More research is required into how private purchasing worked on the ground but a few observations are possible. With the advent of the railway, and as the company sold the lands it had received from the government, the town and lands in its immediate vicinity became more attractive for European investment: sheep

[3518] *NZPD*, 1888, vol LXI, p 609.
[3519] *NZPD*, 1888, vol LXII, p 399.
[3520] *NZPD*, 1888, vol LXII, p 541.

farming developed on the hilly country as the bush was cleared, a freezing works was built at Longburn in 1890, timber and flax milling grew, as did dairying on the flats, and then market gardening on the alluvial soils at Horowhenua and Ōtaki in the late 1890s, as it became possible to supply the Wellington market. Jan Harris points out, Otaki also became a destination in its own right; day excursions were advertised with sufficient time for passengers to 'visit the celebrated Native Village, Church and School, and see the natural beauties of the place'.[3521] Seaside development, such as 'Raumati by the sea', followed, led by entrepreneurs such as Edmond Tudor Atkinson who acquired land in the Paremata block specifically for that purpose (see table 11.8 below).

This process was itself made considerably easier by the continued process of subdividing the remaining Māori lands. The Manawatū-Kukutauaki and Ōhau blocks provide examples that the Walghan block research narratives show were repeated elsewhere in the district. In 1885, the first portion of Manawatu-Kukutauaki which remained in Māori possession, no 7D2, was divided into five pieces – and a further three subdivisions of the block would then occur before 1900. The sister block, 7D3, was spared subdivision by the Native Land Court, but only because it was alienated in its entirety, also in 1885. Later, in 1894, no 7D1 was subdivided into 12 sections.[3522] These twelve sections had between one and six owners. [3523]

It was similarly the case with the two Ōhau blocks that remained after the Crown and railway purchases. Ōhau no 1, containing 636.5 acres, was subdivided in July 1889 into eight parts, ranging in size from just 4 acres up to 149 acres.[3524] By 1900, the considerably larger Ōhau no 3 block, containing 6799 acres, had been subdivided into some 77 pieces of land (a process that continued unrelentingly into the twentieth century).[3525]

Table 11.3 below gives some sense of the extent of the later private purchasing with respect to what remained of the Manawatū-Kukutauaki Block. It will be seen that the bulk of the purchasing took place after 1894, despite the reassertion of Crown pre-emption under the Native Land Court Act of that year, and continued unabated as the century came to an end. While some of the purchases were only tens of acres in size, others were considerably larger, several hundreds of acres. Many of these purchases were accounted for by the same buyers, notably George Wood, Jens Hemmingsen, and, most particularly, Percy Baldwin,

[3521] *Evening Post*, 23 May 1887, cited Harris, 'Town of Otaki', p 9.
[3522] Walghan Partners, 'Block Narratives', vol I, pt I, draft 19 December 2017, p.103.
[3523] Walghan Partners, 'Block Narratives', vol 11, pt 11, draft 19 December 2017, pp 342-3.
[3524] Walghan Partners, 'Block Narratives', Vol III, pt II, draft 19 December 2017, p 102. Note that the different acreage given here (636.5) from that given in the table above (630) reflects the degree of uncertainty at the time, such that different sources specified different acreages.
[3525] Walghan Partners, 'Block Narratives', Vol I, pt I, draft 19 December 2017, p 176, and Vol. III, pt II, pp 104-7.

whose name appears on 10 separate transactions. Māori also continued to trade in land among themselves.

Table 11.3: Private purchasing in Manawatū-Kukutauaki blocks from 1878 - 1899

Subdivision/ Partition	Area (a.r.p.)	Date	Purchaser
1	2,076.0.0	5 March 1878	Robert Hart & Patrick A. Buckley
2E8	200.0.0	29 January 1885	John Carter
2D12F1	97.0.12	21 November 1891	George Hendrik Engels
2D12F2	401.1.36	21 November 1891	George Hendrik Engels
2D4A	201.0.0	1894	George Newman Wood
2E5	200.0.0	20 September 1894	Graham and James Gordon Andrews
2E6	200.0.0	20 September 1894	F.G. & J.G. Andrews
2E7	200.0.0	20 September 1894	Graham and James Gordon Andrews
2D6A	85.3.5	1895	John Smith
2D6B	125.2.5	1895	Jens Peter Hemmington
2D12D	98.1.16	20 November 1895	Arthur Richardson
2D12C	98.1.16	31 May 1898	John Cameron
2D12B1	49.0.28	16 February 1899	William May Richardson
3s.1A39	80.0.0	19 November 1898	Percy Edward Baldwin
3s.1B1	52.2.36	11 May 1899	Percy Edward Baldwin
3s.1B2A	77.2.0	11 May 1899	Percy Edward Baldwin
3s.1B2B	34.2.13	11 May 1899	Percy Edward Baldwin
3s.1B2D	51.2.17	5 June 1899	Percy Edward Baldwin
3s.1B2E	34.1.27	5 June 1899	Percy Edward Baldwin
3s.1B2C	51.2.23	26 September 1899	Percy Edward Baldwin
3s.1A7	30.0.0	2 October 1899	Percy Edward Baldwin
3s.1A4	40.0.0	2 November 1899	Percy Edward Baldwin
3s.1A6	50.0.0	2 November 1899	Percy Edward Baldwin
4B3s.1	196.1.1	1893	Thomas B. Bevan
4A1	215.0.0	3 April 1894	William F.B. Brown
4A2s.2	98.0.0	2 March 1895	F.B. Brown
4B1A	145.0.2	17 January 1899	Godfrey G. Halsted
4C3	166.1.35	29 May 1899	Edward & Julia Bevan
4C4	47.2.38	29 May 1899	Edward & Julia Bevan
7H	559.1.7	3 March 1882	Archibald Stuart & John Davis
7D3	3,100.0.0	24 September 1885	Archibald Stuart & John Davis

7D1s.8	50.0.0	26 April 1895	John Davies
7D1s.2	298.0.19	13 December 1895	Thomas Henry Eastward
7D1s.7	100.0.0	1896	John Davies
7G1	10.0.0	25 March 1897	Kassie Mary Gardner
7G2	100.0.0	25 March 1897	Kassie Mary Gardner
7G3	129.0.0	25 March 1897	Kassie Mary Gardner
7D1s.10	49.3.15	6 August 1897	Hannah Jane Davies

And it was similarly the case with both Ōhau no.s 1 and 3, despite their apparent classification as 'inalienable' as shown in table 11.4 below.[3526]

Table 11.4: Private purchasing Ohau no.s 1 and 3 blocks, 1890 - 1899

Ohau Section	**Area (a.r.p.)**	**Date**	**Purchaser**
3 s.23	50.0.0	8 March 1890	Frederick Bright
3 s. 9	300.0.0	4 July 1890	R.B. Martin Jnr.
3 s. 25	57.1.30	2 August 1890	Jeremiah Hurley
1 s. 2	54.0.0	1891	John Kebbell
1 s. 7	132.0.0	1891	John Kebbell
3 s. 1	75.0.0	4 February 1891	John Kebbell
3 s. 2	37.2.1	4 February 1891	John Kebbell
1 s. 3	55.0.0	29 October 1892	John Kebbell
1 s. 1	50.0.0	29 October 1892	John Kebbell
3 s. 26 pt. 7 pt	199.1.5	11 July 1892	Digby Hancock Jenkins
3 s. 26 pt. 7	199.1.5	4 July 1892	Digby Hancock Jenkins
3 s. 27	150.0.0	6 June 1893	Timothy O'Rourke
3 s.8	65.1.10	16 July 1894	Herbert Swainson
3 s. 26	1,807.0.0	26 July 1894	Ah Chee Kin
3 s. 6A	111.0.0	26 August 1895	Herbert Swainson
3 s. 11C	70.0.0	12 June 1896	James Edward Fulton
3 s. 26 pt. 6	72.2.0	1 January 1897	Timothy O'Rourke
3 s. 26 pt. 20	21.0.0	19 March 1897	Mary Jane Jillett
3 s. 26 pt. 8	62.0.0	26 June 1897	Mary Jane Jillett

[3526] See *AJHR*, 1886, G15, pp 18-19..

Ohau Section	Area (a.r.p.)	Date	Purchaser
3 s. 11D	129.0.0	2 June 1898	James Edward Fulton

As the following tables illustrate, there were a number of 'old residents' who began acquiring sizeable properties bit by bit, not by purchasing from the government and the company but directly from Māori. Notably, a large coastal property comprising some 2,000 acres was acquired at Ohau by John Kebbell, the oldest son of the early firm of Messers J & T Kebbell whose various ventures had included setting up a mill at Haumiaroa before the 1854 earthquake.[3527] Two years after that event, John had been put in charge of a new flour milling operation, wheat being extensively grown in the Manawatu region at that time. by a 'numerous' and 'industrious' Maori population.[3528] He had left the district in 1863, returning to Foxton in 1868 and taking up land at Ohau to the west of the proposed railway line in 1874.[3529]This seems to have been Kaingapipi, a block of 170 acres which had been brought through the court for title determination in that year and awarded to nine owners -??? It was subsequently partitioned in 1891 but three years later, investigation by the court under the Validation of Native Titles Act 1892 and the Native Land Court Certificates Confirmation Act 1893 revealed that a memorandum of agreement had been signed between Kebbell and Horohau and the other grantees on 19 July 1873. Accordingly, the fee simple was ordered in the name of Kebbell on 16 January 1894.[3530] We have been unable to locate this case at this point in the research.

As shown at table 11.5 Kebbell added a number blocks in Muhunoa, Ōhau, and Waiwiri west; to the estate he named 'Te Raurawa" from the late 1880s onwards. This impacted heavily on the land and resources of Ngāti Kikopiri in particular. By the end of the century, the area had been cleared and the marshes mostly drained, and sown in grass.[3531]

Table 11.5: Purchases by 'old residents' 1880-1900

John Kebbell Purchases

Block Name and No.	Area (a.r.p.)	Date

[3527] 'Character Sketch', *Manawatu Herald*, 5 December 1893, p 2; 'Farms of the District', *Horowhenua Chronicle*, 7 May 1910, p 4.
[3528] 'Character Sketch', *Manawatu Herald*, 5 December 1893, p 2.
[3529] 'Character Sketch', *Manawatu Herald*, 5 December 1893, p 2.
[3530] Maori Land Court Records, Document Bank Project, vol x, p 104.
[3531] 'Farms of the District', *Horowhenua Chronicle*, 7 May 1910, p 4.

Muhunoa No. 1A	80.0.0	1887
Muhunoa No. 2	3,600.3.0	1887
Muhunoa No. 3B	816.3.0	1887
Muhunoa No. 4A	50.0.0	1892
Muhunoa No. 4B	50.0.0	1892
Ōhau No. 1 s. 1	50.0.0	29 October 1892
Ōhau No. 1 s.2	54.0.0	1891
Ōhau No. 1 s. 3	55.0.0	29 October 1892
Ōhau No.1 s.7	132.0.0	1891
Ōhau No.3 s.1	75.0.0	4 February 1891
Ōhau No.3.s.2	37.2.1	4 February 1891
Kaingapipi No. 1	20.0.0	16 January 1894
Kaingapipi No. 2	150.0.0	16 January 1894
Muhunoa No. 3A2	50.0.0	29 May 1896
Muhunoa No. 3A3	50.0.0	29 May 1896
Muhunoa No. 3A4	50.0.0	29 May 1896
Waiwiri West	265.0.0	30 June 1887

Hewson Family Purchases

Block Name and No.	**Area (a.r.p.)**	**Date**
Waerenga No. 4	3.1.35	10 December 1874

Waerenga No. 5	4.2.29	10 December 1874
Hakuai No. 4	16.0.35	10 December 1874
Hurihangataitoko No. 2	3.1.10	4 September 1878
Waerenga No. 2B	0.2.39	16 January 1880
Tūtangatakino No. 5 (pt)		c. 1 April 1882
Tūtangatakino No. 7	8.1.33	c. 1883
Takapū-o-Toiroa No. 3A	2.0.10	c. 24 November 1895
Takapū-o-Toiroa No. 3B	6.0.30	c. 24 November 1895

Burr Family Purchases

Block Name and No.	Area (a.r.p.)	Date
Tūwhakatupua No. 2C2	100.0.0	5 July 1890

Hadfield Family Purchases

Block Name and No.	Area (a.r.p.)	Date
Moutere	0.3.0 (approx.)	14 August 1884
Muaūpoko No. A2 s.2 s.1	136.0.0	8 March 1892
Muaūpoko B	431.0.0	28 July 1886
Muaūpoko No. A2 s.2 s.3	101.2.0	23 May 1893
Ngāwhakangutu No. 1 South	1,890.1.24	20 July 1883

Block Name and No.	Area (a.r.p.)	Date
Pukehou 4E1	75.0.0	4 July 1884
Pukehou 4F2A	13.0.0	13 September 1890
Pukehou 4F2C	13.0.0	27 May 1891
Pukehou 4F2D	13.0.0	9 May 1894
Pukehou 4G1	36.1.6	25 April 1892
Pukehou 4G7	59.2.31	13 September 1890
Pukehou 4G8E	17.1.30	18 July 1891
Pukehou 4H1	17.2.26	19 October 1894
Pukehou 4H8A	59.0.0	3 July 1891
Pukehou 4H9	19.1.12	31 December 1890
Pukehou 4H10	19.1.12	2 January 1891
Pukehou 4H11	19.1.12	30 August 1892
Pukehou 4H12	53.0.0	6 May 1889
Tuahiwi 2 (s.21)	-	By 1885
Tuahiwi 1	-	By 1887

One of the largest purchasers of land in the district was James Gear, who is considered a 'significant figure in the business development of New Zealand.'[3532] He ran butcher shops in Wellington and began purchasing land for stock fattening at Karori and Petone, established his own slaughterhouse, and then diversified from the butcher's trade into farming. The further expansion probably owed as much to the beginning of the trade in refrigerated meat to London in the 1880s as to the building of the Wellington-Manawatu Railway, although he was a shareholder in the company. The Gear Meat Preserving and Freezing Company of New Zealand was established in November 1882 to acquire Gear's butchering

[3532] G R Hawke, 'Gear, James', TeAra.govt.nz.

and meat preserving business and to use it as the basis for trade in refrigerated meat.[3533] As table 11.6 shows, Gear's purchases were largely in the Ngākaroro block. This had gone through the Native Land Court in 1874, being divided at that time into twelve distinct parent blocks, each of which had between four and ten owners.[3534] Following the Court hearing, the Crown began purchasing a number of subdivisions—within two years it had completed six purchases. In 1879, a further purchase was completed, giving the Crown 59% of the block's total area.[3535]

Table 11.6: Purchases of James Gear family 1880-1900

BLOCK	AREA	TITLE GRANTED	DATE OF PURCHASE	BUYER
Kurukōhatu B	9.1.19	1879	1885	James Gear
Paremata 15 B	10.3.0	1878 for block; 1881 for partition	1886	James Gear
Ngākaroro 3 A 1	22.2.0	1874 for block; 1881 for partition; 1887 for section	1896	James Gear
Tūrangarāhui 2 A	30.1.0	1878 for block; 1881 for partition	1885	James Gear
Ngākaroro 3 B 5	46.0.14	1874 for block; 1881 for partition; 1891 for section	1892	James Gear
Ngākaroro 1 A 6 (part)	48.0.32	1874 for block; 1881 for partition and section *Walghan notes that Crown set aside 6.3.1 of A6 in 1889 for Railway; and purchase of another part 48.0.32 by Gear by 1905	1891	Gear & Ling
Te Rāhui 2 A	52.0.0	1881 for block; 1887 for partition	1893	James Gear & Isabella Ling

[3533] Hawke, 'Gear, James'
[3534] Walghan Partners, 'Block Narratives', vol III, pt II, 19 December 2017 draft, p 11..
[3535] Ngakaroro !A! of 2837 acres was also purchased in 1881. Walghan Partners, 'Block Narratives', vol III, pt II, 19 December 2017 draft, p 11 and p 36.

Ngākaroro 3 B 3	92.0.27	1874 for block; 1881 for partition; 1891 for section	1895	James Gear
Ngākaroro 3 B 4	130.2.13	1874 for block; 1881 for partition; 1891 for section	1892	James Gear
Ngākaroro 5 D (Part)	133.0.24	1874 for block; 1881 for partition and section	1884	James Gear
Ngākaroro 3 B 2	153.2.20	1874 for block; 1881 for partition; 1891 for section	1892	James Gear
Ngākaroro 5 C	207.0.0	1874 for block; 1881 for partition and section	1881	James Gear
Ngākaroro 5 B	208.0.0	1874 for block; 1881 for partition and section	1884	James Gear
Tūrangarāhui 2 B	302.3.0	1878 for block; 1881 for partition	1885	James Gear
Ngākaroro 3 B 1	314.3.27	1874 for block; 1881 for partition; 1891 for section	1896	James Gear
Ngākaroro 3 A 2	336.2.30	1874 for block; 1881 for partition; 1887 for section	1889	James Gear
Ngākaroro 5 A	401.0.0	1874 for block; 1881 for partition and section	1880	James Gear
Ngākaroro 2 F (1-97)	2437.1.0	1874 for block and 1881 for partition	1892	James Gear

One of Gear's stock buyers, Frederick Bright, followed his example, becoming a large-scale land purchaser in his own right. He lived for several years at Paekākāriki, where he kept an accommodation house, and at Pukerua where he worked a farm, before moving to Ōtaki in 1875. He ran a series of public hotels there (an ideal purchasing base) and began acquiring Māori land in the district for

farming in 1885. He and his family continued to add small plots to their holdings over the next 40 years, building up an estate of some 1,000 acres.[3536]

Table 11.7: Purchases by the Bright family 1880-1905

BLOCK	AREA	TITLE AWARDED	YEAR OF PURCHASE	BUYER
Pāhianui 10 B	0.1.15	1891; partitioned 1894	1894	Frederick Bright
Kiharoa 2 s.2	0.1.3	1867 for block; 1894 for partitions	1894	Frederick Bright
Kiharoa 2 s.3	0.1.3	1867 for block; 1894 for partitions	1902	Mary Ann Bright
Kiharoa 2 s.5	0.1.3	1867 for block; 1894 for partitions	1902	Mary Ann Bright
Haruatai 5A	1.0.0	1881	1901	Frederick Horton Bright
Tōtaranui No.11 s.C	2.1.0	1878 for block, 1887 for partition	1890	Frederick Bright
Haruatai 6	2.1.9	1885	1898	Frederick Horton Bright
Maringiawai 4 [aka s.29]	2.2.0	1879	1886	Frederick Bright
Pāhianui 10 A	2.3.38	1891 for block; 1894 for partition	1894	Frederick Bright
Kaingaraki 8	4.1.0	1879	1885	Frederick Horton Bright

[3536] The Cyclopedia of New Zealand (http://nzetc.victoria.ac.nz/tm/scholarly/tei-Cyc01Cycl-t1-body-d4-d121-d1.html).

Tawaroa No.3	4.2.28	1876	1895	Frederick Bright
Mangapouri 1 (pt)	6.3.2 (part of)	1878	1902	Frederick Horton Bright
Mangapouri 1 (balance)	6.3.2 (total amount of land)	1878	1904	Frederick Horton Bright
Rekereke 3 (aka s.17)	12.0.0	1876	1886	Frederick Horton Bright
Kaingaraki 6	12.0.25	1881	1888	Frederick Horton Bright
Mangapouri 2	19.0.6	1878	1886	Frederick Horton Bright
Kaingaraki 7	19.2.0	1879	1885	Frederick Horton Bright
Kaingaraki 4	23.1.0 (total with 5)	1881	1888	Frederick Horton Bright
Kaingaraki 5	23.1.0 (total with 4)	1881	1888	Frederick Horton Bright
Rekereke 2	35.2.0	1870	1885	Frederick Bright
Kaingaraki 3	42.0.0	1876	1889	Frederick Horton Bright
Waihoanga 3 A2 s.2	46.3.0	1874 for block; 1889 for partition	1890	Frederick Bright
Ngākaroro 1 A5	50.0.0	1874 for block; 1881 for partition	1886	Frederick Horton Bright

Ōhau 3 s.23	50.0.0	1881 for block; 1889 for partition	1890	Frederick Horton Bright
Waihoanga 3 A2 s.3	100.0.0	1874 for block; 1889 for partition	1890	Frederick Horton Bright
Ngākaroro 1 A3	122.0.0	1874 for block; 1881 for partition	1886	Frederick Bright
Ngākaroro 1 A2	123.0.0	1874 for block; 1881 for partition	1885	Frederick Bright
Waihoanga 3 A1	192.0.0	1874 for block; 1880 for partition	1891	Frederick Bright
Waihoanga 3 A2 s.1	458.1.32	1874 for block; [1880] for partition * Walghan states 1889 for the partition to Bright & 1888 for the purchase	1888	Frederick Bright

We know very little about these transactions.

The railway also opened the tourist potential of the district. Rangiuru-by-the-Sea was developed as a seaside resort by Edmond Tudor Atkinson who acquired land at the river mouth for that purpose and put sections on the market in 1895-97. A special excursion train was put on to encourage attendance at the auction sales, 'the very low fares charged' being seen as an 'inducement for others than intending buyers to enjoy an outing to this most attractive spot.'[3537] The township developed rapidly in its initial stages, with private residences and a large accommodation house being built. The *Cyclopedia of New Zealand* spoke enthusiastically of its 'splendid beach', expansive views, a 'particularly genial' climate and the air 'most pure and salubrious'. The good roads of the district provided 'every opportunity for riding, driving and cycling.'[3538] The district was considered prosperous and Otaki itself was described as 'well situated, and near the seacoast, and although under Māori rule, as it were' the authors of the cyclopedia thought that it was 'yet destined to become an important town … a resort for invalids, globe trotters, and people seeking relaxation from the cares of

[3537] 'Sale of Rangiuru-by-the-Sea', *Evening Post*, 15 January 1897, p 5.
[3538] The Cyclopedia of New Zealand (http://nzetc.victoria.ac.nz/tm/scholarly/tei-Cyc01Cycl-t1-body-d4-d121-d1.html).

city life.' [3539] The hotels were 'capitally conducted' and the 'streets clean' while, by this stage, there was a twice-daily return mail service from Wellington.

Table 11.8: Purchases by Edmond Tudor Atkinson 1880-1901

BLOCK	AREA	TITLE AWARDED	YEAR OF PURCHASE	BUYER
Rāhui Te Ngae 5B	0.1.37	1891, 1898 (partition)	1898	Edmond Tudor Atkinson
Rāhui Te Ngae 4A	0.1.38	1891	1898	Edmond Tudor Atkinson
Rāhui Te Ngae 5A	0.1.38	1891, 1898 (partition)	1898	Edmond Tudor Atkinson
Rāhui Te Ngae 2	0.1.37.7	1891	1900	Edmond Tudor Atkinson
Rāhui Te Ngae 3	0.1.37.7	1891	1900	Edmond Tudor Atkinson
Paremata 11 s.4 B	1.0.30	1878, 1891 (partitioned); 1893 (further partitioned	1895	Edmond Tudor Atkinson
Hakuai 13	1.2.15	1878 (not partitioned)	1894	Edmond Tudor Atkinson
Rāhui Te Ngae 1	1.2.20	1891	1898	Edmond Tudor Atkinson

[3539] The Cyclopedia of New Zealand (http://nzetc.victoria.ac.nz/tm/scholarly/tei-Cyc01Cycl-t1-body-d4-d121-d1.html).

BLOCK	AREA	TITLE AWARDED	YEAR OF PURCHASE	BUYER
Paremata 15 A 4	1.2.24	1878, 1881(partitioned), 1891 (further partitioned)	1892	Edmond Tudor Atkinson
Paremata 15 A 7	1.2.24	1878, 1881(partitioned), 1891 (further partitioned)	1892	Edmond Tudor Atkinson
Paremata 15 A 8	1.2.24	1878, 1881(partitioned), 1891 (further partitioned)	1893	Edmond Tudor Atkinson
Rāhui Te Ngae 4	1.1.33.1	1891	1898	Edmond Tudor Atkinson
Paremata 3B	2.0.0	1878, 1891 (partitioned)	1892	Edmond Tudor Atkinson
Rāhui Te Ngae 7	0.3.35.4	1891	1898	Edmond Tudor Atkinson
Rāhui Te Ngae 6	0.3.35.8	1891	1898	Edmond Tudor Atkinson
Hakuai 14	3.3.38	1878 (not partitioned)	1894	Edmond Tudor Atkinson
Paremata 11 s.2	4.0.0	1878, 1891 (partitioned)	1893	Edmond Tudor Atkinson

BLOCK	AREA	TITLE AWARDED	YEAR OF PURCHASE	BUYER
Paremata 11 s.1	4.1.0	1878, 1891 (partitioned)	1893	Edmond Tudor Atkinson
Awahōhonu 5	4.2.19	1891 (not partitioned)	1894	Edmond Tudor Atkinson
Paremata 11 s.3	5.0.0	1878, 1891 (partitioned)	1893	Edmond Tudor Atkinson
Paremata 3A	7.1.0	1878, 1891 (partitioned)	1892	Edmond Tudor Atkinson
Taumānuka 4 A	8.1.31.5	1880, 1894 (partition)	1894	Edmond Tudor Atkinson
Taumānuka 5	13.2.0	1880	1894	Edmond Tudor Atkinson
Paremata 11 s.4 A	14.0.10	1878, 1891 (partitioned)	1892	Edmond Tudor Atkinson
Haruatai 11	14.1.32	1891 (not partitioned)	1899	Edmond Tudor Atkinson
Haruatai 7	23.2.17	1889 (not partitioned)	1899	Edmond Tudor Atkinson
Waiariki 2	8.0.10	1870	1893	Edmond Tudor Atkinson

BLOCK	AREA	TITLE AWARDED	YEAR OF PURCHASE	BUYER
Waiariki 1A	8.3.10	1885, 1893 (partitioned)	1894	Edmond Tudor Atkinson
Waiariki 1B & 3	11.1.0	1870, 1893 (partitioned) & 1892	1894	Edmond Tudor Atkinson
Taumānuka 1	171.0.14	1880	1901	Edmond Tudor Atkinson
Paremata 12	15.3.0	1878	1894	Edmond Tudor Atkinson

11.7 Māori political response in the 1880s

Throughout the 1870s and 1880s, Ngāti Raukawa and other tangata heke searched for a way to respond to the many challenges posed by colonisation and the transfer of power out of their hands into those of the settler government and its adjunct, an expanding range of local authorities and law courts. There was no universal strategy; some had shown interest in the Repudiation movement in the late 1870s, many leaders sought expanded representation in parliament and on local bodies. Local runanga continued to function and many sought state recognition of their authority and powers of their own, at least over local affairs. Some went to join the movement at Parihaka. (Māori living in the vicinity of Halcombe near Feilding were reported to 'strongly imbued with the current faith in Te Whiti' causing considerable alarm among the local settler population.)[3540] Others continued to support the Kīngitanga and welcomed Tawhiao on his visit to the region although officials generally considered adherence to the movement to have declined. Others went to Wellington as the seat of government whose legislative activities they observed with considerable interest, and continued to petition both parliament and the Queen herself fo**r** their grievances to be settled.

[3540] *Rangitikei Advocate*, 2 June 1879. At Waikanae, Wī Parata was a well-known supporter of Te Whiti's movement.

The local press in these years reported on the continuing importance of local rūnanga although the issues at hand were not always clear to Pākehā observers. In November 1879, for instance, the *Manawatu Times* gave an account of 'considerable gathering of Natives in Palmerston, and a most animated *korero* held at the corner of the square'. The correspondent was uncertain, however, whether it was 'a kind of Native Lands Court, in advance' or an 'impromptu Divorce and Matrimonial Court' to deal with the alleged adultery of one of the chiefs.[3541] The latter was certainly a possibility; the local resident magistrate noting a good deal of interest in matrimonial laws at this time. Other issues discussed at runanga (noted by outside observers) included the consumption of alcohol at kāinga, and religious matters. In late 1884, two large hui at which large numbers of Māori living along the coast were represented, were held at Ōtaki and the latter question was again fully debated (as it had been some ten years earlier). A 'strong inclination to throw over Christianity' was reported although the final decision was to retain their existing faith.[3542]

There was some official comment, as well, although by the end of the 1880s, reports came only from the resident magistrate at Wanganui and stopped altogether soon afterwards. Manawatū was no longer considered a 'native district' and we have little information about local Maori affairs in this period, when private purchasing dominated, and the attention of government was focused elsewhere – namely on the opening of the King Country. As we discuss later in this chapter, however, the Native Land Laws Commission 1891 would reveal much about the continuing belief of Ngāti Raukawa in their own committees, and their wish for greater powers of self-government and expanded representation in Parliament.

Robert Ward (R. M.) reported a sustained and growing interest in having state sanctioned powers of local government in the late 1870s and early 1880s, reporting that-

> For many months past the Māoris have evinced a very strong desire that their runangas or committees should have certain powers given them by Parliament enabling them to settle small local disputes and punish minor offences at their own kaingas. During the last year, the Māori mind has been much exercised on this subject.[3543]

Ward was willing to give the idea cautious approval as 'worthy of consideration' arguing that to give 'certain restricted powers' to such committees, with the right of appeal to the local resident magistrate 'would work well and be of great benefit to the Natives.'[3544] At the same time, he noted two particular issues of interest; the legalising of customary marriages so that they could be recognised in

[3541] *Manawatu Times*, 8 November 1879, p 4.
[3542] 'Native News', *Manawatu Standard*, 6 October 1884, p 2.
[3543] Ward to Under-Secretary Native Department, 27 May 1879, *AJHR*, 1879, G-1, p 13.
[3544] Ward to Under-Secretary Native Department, 27 May 1879, *AJHR*, 1879, G-1, p 13.

the courts of law and made legally binding; and the suppression of liquor consumption in their kāinga under the Native Licensing Act 1878.[3545] Ward further commented, two years later, that he very rarely heard cases in which Māori were the litigants and that they 'settl[ed] their own differences and difficulties at their own *kaingas*. They appoint a committee of arbitrators, who hear and determine questions and cases brought under their consideration.'[3546] Little had changed in this respect from the preceding decades.

11.7.1 The Native Committees Act 1883

The government responded to this desire for self-government, which Maori throughout the country were expressing by passing the Native Committees Act, in the process ignoring a much more far-reaching measure that had been proposed by Henare Tomoana and the Maori members. The Act legalised some of the work local komiti were undertaking across the North Island but restricted their powers to the point of defeating the supposed purpose of the legislation. The Act was not really intended to confer significant powers in respect of determination of title or greater collective control of lands, and their role was advisory only.

It is not clear to what extent Ngāti Raukawa and the other hapu of the district utilised the legislation and whether committees referred to, at the time, was the cumbersome body enabled by this legislation or their more local, informal organisations. However, the Native Land Laws Commission 1891 (discussed below) described the Act as a 'hollow shell' which 'mock[ed] the Natives with a semblance of authority.'[3547] Although the Act remained on the statute books, by the 1890s, it was considered 'a dead letter' and was condemned by W L Rees as a 'mere pretence'.[3548] No funding had been provided, the committees lacked the authority to summon witnesses, and their jurisdiction in minor disputes was undermined by the need to gain the agreement of both parties. They also lacked the procedural machinery to investigate land titles. The Native Land Court, 'jealous' of the competition, treated their findings and reports 'with contempt', relegating them to 'the waste paper basket'. The committees then finding their reports 'thus disregarded, and themselves despised, discontinued their action'.[3549]

Ngāti Raukawa rangatira who gave evidence before the Commission consistently sought more state-sanctioned power for committees over a range of matters, but title determination in particular; a desire for self-government that was clearly unsatisfied by the 1881 Act.

[3545] Ward to Under-Secretary Native Department, 27 May 1879, *AJHR*,1879, G-1, pp 12-13.
[3546] Ward to Under-Secretary Native Department, 26 May 1881, *AJHR*, 1881, G-8, p 15.
[3547] Report of the Native Land Laws Commission, *AJHR*, 1891, Session II, G-1, p xvi.
[3548] W L Rees, *To the Honourable the Premier.* March 1893, Wellington (pamphlet ATL).
[3549] Rees, *To the Honourable the Premier.*

11.7.2 Parliamentary representation

Regional Māori leadership increasingly identified their lack of adequate representation in the settler-dominated Parliament as the reason for the loss of rangatiratanga. The impact was most clearly demonstrated in the constantly amended native land legislation, largely to satisfy settler demands for enhanced access to Māori land rather than to Māori petition and complaint about the effects on their capacity to retain land under their own customs, or to obtain a useable title that would enable them to have farms and properties of their own. The proposals put forward by Māori members to ameliorate the impact of those laws were constantly rejected and would lead to the establishment of the Kotahitanga movement. As we discuss later in the chapter, their efforts to secure a form of self-government would meet with little more success than the endeavours of their predecessors.

Despite the guarantees of the Treaty of Waitangi that Māori would enjoy all the rights of British subjects, there was sustained reluctance among settler politicians and officials to accord them a fair voice in Parliament; and despite their ownership of most of the land in the North Island, Māori were denied that voice on the grounds of property qualifications (their title not being individualised). In the eyes of Pākehā, Māori were not equipped to rule themselves, or to contribute to the governance of the colony. Fears were openly expressed that granting Māori any form of franchise similar to that of Pākehā would result in their being led as 'children' by interested parties to support their particular political ambitions to the detriment of the colony as a whole. The drive of the Pākehā -controlled parliament to convert Māori customary land tenure into individualised property ownership was accompanied by fears of an expanding, easily manipulated Māori electorate.

Initially, there was no legal distinction between Māori and Pākehā franchise, under the Constitution Act, 1852, which established parliamentary representation in New Zealand. There was, however, minimal Māori participation in the first elections for the House of Representatives although there was potential for this to change. An alarmist Featherston described what he perceived to be the danger: 'During the year 1854-1855 a few natives were registered as voters but of these no notice was taken, as their number was wholly insignificant.' By 1856, at a time when there were few Pākehā registered as well, the number of Māori voters had risen to 35 while he had also received a list of 49 voters from Otaki with an indication that as many as 100 would be added to the roll the following year. Hadfield who was encouraging local Māori to develop their properties along European lines anticipated that many more would follow. Featherston argued that, 'these facts seem to indicate the existence of a scheme to swamp the Europeans at the next elections, and to place the whole representation of this

province in the hands of the natives, or rather, of certain missionaries.'[3550] Two could play at that game, warned Featherston: it would be as easy for other parties to place Māori on the roll and 'bring them up to the poll like a flock of sheep.'[3551] (There is an irony that Featherston himself would be caricatured a few years later as driving Māori chiefs of the three competing iwi at Rangitikei-Manawatu as he would a herd of pigs!) Māori, he said, must be protected from the 'dangerous weapon thus proposed to be used against them.'[3552] He brought the matter to the attention of the General Government, arguing that the electoral regulations should be altered in order to defeat 'a scheme which if attempted to be carried out, must seriously endanger the peaceful relations which at present subsist between the two races.'[3553]

The Colonial Secretary of the day (Stafford) responded that the legal position was clear; section 7 of the Constitution Act 1852 conferred the franchise 'with no racial distinction' on all those who met the property qualification.[3554] This was set at £50 freehold land, a leasehold interest worth £10, or a town rental property worth £10 or a rural one of £5.[3555] While the government would strongly condemn Maori being used in this way for mere party purposes, it could not disapprove of those who possessed 'the requisite qualifications of electors being assisted … with a view to an intelligent exercise of their privilege.'[3556] The Government did not have the power to dispossess persons of rights conferred by the Constitution Act 1852, nor considered it proper to make any such attempt. Further, in Stafford's view, such limited numbers of Maori possessed the necessary property qualifications that, even if all were registered, there was no danger of the Pākehā electorate being swamped in the way predicted by the Wellington Superintendent.[3557] Governor Gore Browne echoed this opinion and also thought Featherston's fears unfounded. There were so few Māori possessing individual property title conferring franchise as to be 'quite insignificant' and there was provision, as well, for lodging objections to anybody on the roll who did not meet the qualification should there be attempts to emulate the fraudulent voting practices of Europeans. In his view, Māori would be excluded from 'any share in the representative institutions of the colony for many years.[3558] He warned that Māori were well aware of this and resented that 'the revenue to which they contribute so largely [in the form of customs and the land fund], is disposed of by persons whose interests (it is asserted) are strongly opposed to theirs, and of

[3550] Featherston to Colonial Secretary, 24 November 1856, *BPP,* 1860, vol 11, pp 664-5.
[3551] Featherston to Colonial Secretary, 24 November 1856, *BPP*, 1860, vol 11, pp 664-5.
[3552] Featherston to Colonial Secretary, 24 November 1856, *BPP*, 1860, vol 11, pp 664-5.
[3553] Featherston to Colonial Secretary, 24 November 1856, *BPP*, 1860, vol 11, pp 664-5.
[3554] Stafford to Featherston, 30 December 1856, *BPP*, 1860, vol 11, pp 665-6.
[3555] Sorrenson, M.P.K., 'A History of Maori Representation in Parliament', *AJHR*, 1986–1987, H-3, App B, p 13.
[3556] Stafford to Featherston, 30 December 1856, *BPP*, 1860, vol 11, pp 665-6.
[3557] Stafford to Featherston, 30 December 1856, *BPP*, 1860, vol 11, pp 665-6.
[3558] Gore Browne to Labouchere, 6 January 1857, *BPP*, 1860, vol 11, p 664.

whose desire to obtain land they are extremely jealous.'[3559] On the other hand, there was still much to fear in the future:

> There can be no doubt that if the natives did possess a sufficient number of votes, they might and probably would be used in the manner apprehended by the Superintendent; and it would be very unjust to the settlers that their representatives should be defeated by the votes of men taking advantage of the franchise conferred on them by the Constitution Act, but refusing obedience to British law except in particular cases, or when it suits their interest to do so. [3560]

In effect, the House was to be weighted heavily in favour of settler interests despite the supposed equality of franchise.

A measure of direct participation (of eligible Maori males and 'half-castes' over the age of 21 years) within the parliamentary system would be secured by the creation of four Maori seats (with Maori rather than European elected representatives) under the Maori Representation Act 1867. The motivations of legislators were mixed, however. Rather than create fair political representation, the underlying purpose was to balance the expanded numbers of South Island representatives as a result of the gold rushes and deflect criticism from Britain where the Aboriginal Protection Society was urging the return of confiscated lands, the recognition of the Maori King and the establishment of an independent Māori council to control Maori affairs. Creating the seats was seen as a way of rewarding loyal Maori and placating the Kingitanga. Nor was it intended that the provision would be permanent as amalgamation proceeded. As MPK Sorrenson has pointed out, 'there was no high principle involved. … In due course, when Maori had obtained the necessary property qualifications, they would vote on a common roll and the 4 Maori seats would disappear.'[3561]

Thus the creation of the Maori seats went hand in hand with the introduction of the native land laws. Both were championed by J E Fitzgerald who had moved a series of resolution aimed at expanding Maori participation within the civil and legal institutions of the colony in 1862. The two which emphasised amalgamation and the third article of the Treaty - generally read as making Maori into British subjects rather than as according them the rights and privileges of British subjects - were passed. The first of these resolutions proposed that the object of law and order policy should be the amalgamation of the two races – 'all Her Majesty's subjects in New Zealand into one united people'; the other that parliament assent to no law which Failed to accord equal civil rights and political privileges to each race. However, Fitzgerald's third resolution which required fair political representation was defeated 20 votes to 17. Sorrenson comments on this defeat, that Pākehā politicians were 'reluctant to allow Maori more than a token

[3559] Gore Browne to Labouchere, 6 January 1857, *BPP*, 1860, vol 11, p 664.
[3560] Gore Browne to Labouchere, 6 January 1857, *BPP*, 1860, vol 11, p 664.
[3561] Sorrenson, 'A History of Maori Representation in Parliament', p 20.

representation in the House' even though they were now numerically dominant.[3562]

A further debate took place on the issue the following year in the context of demands for increased representation for goldfields in the South Island, at which it was proposed that ten new seats be created in the South Island and three for the North Island of which two would be for European members elected by Maori votes. This proposal failed as did the suggestion of George Graham (in 1865) that Māori be granted universal male franchise to vote for European members to represent them. Sorrenson points out that Fitzgerald (now Native Affairs minister) preferred to pursue the course set down by native land legislation of individualising Maori land titles which would confer the necessary property qualifi8cations on Maori as owners of any lands left after the sale of the bulk to the colonists.[3563]

Ultimately, it was McLean who succeeded in introducing a degree of direct Maori representation to balance the increase of electoral seats for the South Island. He introduced the Bill as a peace measure, reminding the members, also, that Maori owned three-quarters of the land in the North Island and made substantial contribution to the colony's revenue. There was general support in the House of Representatives as well for an amendment to the Bill to ensure that members were to be drawn from Maori living in the electoral districts in order to prevent corrupt European influence, Only Hugh Carleton (and one other member) spoke against the measure, favouring, as he said, Maori gaining franchise through the transformation of tenure already under way rather than by 'special legislation for the native race'. There was also only limited opposition within the Legislative Council. Mantell, Colonel Whitmore and J H Harris opposed the Bill as 'special representation', but more particularly, as espousing the principle of manhood suffrage. This was condemned as 'class legislation' that 'even a chartist almost could desire.' The idea persisted, also, that Maori were not amenable to New Zealand laws and only 'nominal subjects of the Crown'; unable to 'appreciate' the privileges they were being accorded and incapable of exercising the attendant duties. As Harris, an Otago member, put it, they were 'totally incapable of legislating for themselves or others.' [3564] These views were echoed in the local press but gained little traction among legislators in the context of consolidating peace between Maori and Pakeha. In any case, the measure was regarded as a temporary expedient until the races were fully "amalgamated".[3565] In fact, the

[3562] Sorrenson, 'A History of Maori Representation', p 18.
[3563] Sorrenson, 'A History of Maori Representation', p 18.
[3564] Cited Sorrenson, 'A History of Maori Representation', p 20.
[3565] See, for example, *Daily Southern Cross*, cited Sorrenson, 'A History of Maori Representation', p 21.

seats would be made permanent in 1876, but that had not been the original intention[3566]

Fears of the consequences of creating manhood suffrage for Maori were offset by the very limited nature of the representation created for them (although it should be noted that Maori individuals who met the property qualifications could also vote on the general roll, potentially exercising a double vote) until 1893 when the law was changed). At 1867 there were 72 members in the House of Representatives. This equated to about one Maori representative for 15,000 compared to one Pakeha representative for 3500 voters.[3567] Furthermore, any impulse towards 'Chartism' was countered by the election regulations and supervision by the Native Department and Resident Magistrates. Rolleston (then Under-Secretary of the Native Department) argued against a general poll and registration of voters 'all over the country' in case this excited tribal jealousies and undermined chiefly influence. He advocated, instead, a meeting in one location within the electorate to which a number of influential men could be sent by their respective tribes, and where resident Maori would 'turn the election in favour of the local candidate' in the event of a poll.[3568] He stressed the importance of Maori sending their 'best men' to parliament – a view which we have seen, they advocated themselves in the hui of the early 1870s.

Rolleston's ideas were reflected in the regulations which provided for the appointment of returning officers, the notification of polling places, the issuing of writs specifying the time and place of nomination, the calling of a show of hands should there be more than one nomination and the holding of a poll if this should be demanded. This would be held a month later at specified polling places and voting would be by declaration.[3569] In the election of 1887, for example, the nomination was held at Alexandria with George Wilkinson acting as returning officer. Five candidates drawn from different iwi within the electorate (Waikato, Ngati Maniapoto, Whanganui and Ngati Raukawa) were nominated. None were present at the proceedings. A show of hands resulted in a narrow majority for Major Te Wheoro (33) as compared to the Ngati Raukawa candidate (Hoani Taipua (26) while the other three garnered only 7 votes between them. Then James Ransfield demanded a poll on behalf of Taipua and also by the other candidates' nominators, which ultimately resulted in Taipua's election.[3570]

The western seat encompassed all that area lying between south of the Tamaki stream which ran between the Waitematā and Manakau harbours and west of a dividing line running from the Wairakei stream in the Bay of Plenty to

[3566] Sorrenson, 'A History of Maori Representation', p 24.
[3567] B Stirling, 'Wairarapa Māori and the Crown, He Whakautu, the response', Wai 863, A50, p 227.
[3568] Cited Sorrenson, 'A History of Maori Representation', p 22.
[3569] Sorrenson, 'A History of Maori Representation', p 22.
[3570] Waikato Times, 18 August 1887, p 2.

Titiraupunga, to Lake Taupo to the summit of the Ruahine range to Turakirae in Cook Strait.[3571]

The first elections were held in 1868.with the assessor, Meter Kingi Paetahi, being the only nominee for the western seat. He was followed by W Parata (1871); H Nahe (1876) and Major Te Wheoro (1878 and 1881). Then, Ngati Raukawa candidates dominated the seat for the next decade. Te Puke Te Ao was elected in 1884; Hoani Taipua who was described at the time as a 'well-known chief… a Native Land Court assessor and member of the Public Trust Board' won the 1886 by-election polling 1,173 votes out of a total of 2,131 votes (215 more than the aggregate of the other four candidates including Major Te Wheoro).[3572] He was re-elected in 188 and similarly dominated the polls in 1890, gaining more than twice the vote of his nearest opponent.[3573] Ropata Te Ao won the seat in 1893. However, Henare Kaihau of Ngati Te Ata – the first candidate to be supported by the King movement – won in 1896 (by election) and 1899. It seems that voting gradually increased although it is not impossible to say precisely since electoral proceedings nor results were published with any consistency until the last decade of the nineteenth century.

We note that Maori women, accustomed as they were to being involved and leading land claims and obstructions, wanted to vote too. Under the Electoral Act 1893, Maori women were entitled to vote (although they were not entitled to be a member of the House of Representatives).[3574] There is a tantalising glimpse in the record. In 1893, the government received an application from Te Ara Takana and 51 other women from Awahuri asking to have their names placed on the electoral roll so to 'qualify ourselves to vote for a member to represent us in the New Zealand Parliament.' Several notes were scrawled on the file one of which says: 'Refer them to Electoral Acts, enclose copy in English and Maori.'[3575]

The Maori representatives tried to participate fully in the parliamentary system, resisted the suggestion that they could be bought. Sorrenson comments that: 'In view of the narrow basis of their support and their kupapa (loyalist) affinities, it would not have been surprising if the Maori members were mere ciphers for the Government. But this did not prove to be the case.'[3576] From the first, they were determined to use their voice in the House and argued vehemently against native land laws that adversely affected their people. Their effectiveness was greatly undermined, however, by the dominant use of English in the House, systemic racial prejudice, and on-going refusal to hand substantive control of the titling system and land management into the hands of Maori themselves.

[3571] Sorrenson, 'A History of Maori Representation', p 21.
[3572] *New Zealand Herald*, 20 December 1886, p 6.
[3573] *Wanganui Chronicle*, 29 November 1890, p 2.
[3574] Electoral Act 1893, s. 151.
[3575] Te Ara Takana and others to Minister of Native Affairs, 27 October 1893 , IA1/651/[17] 1893/3974.
[3576] Sorrenson, 'A History of Maori Representation', p 24.

The election of Hoani Taipua based in Otaki over Major Te Wheoro of the Waikato was welcomed by the settler press.[3577] but for all that, he was a fierce critic of land laws, and other policies that bore inequitably on Maori: whether it was an attempt to reduce an already inadequate number of Maori electoral seats, or the practices of county councils when it came to taking land for roads. He objected strongly when it was proposed in 1887 to do away with the seat for Southern Maori. To the contrary the number of Maori representatives should be increased so that the proportion they represented was made 'the same as that of the European members.' They needed better care and protection; 'greater care and greater supervision') than Europeans and also better representation in the House because 'many of the laws passed … affect the Natives vary injuriously, and that is due to their not being properly represented.' Like his predecessors at the Kohimarama Conference, Taipua aspired to equal footing in the affairs of the nation; and in particular, far greater Maori control of matters directly affecting them. He argued before the House: 'Now, when all the troubles have passed away, and there is no longer any danger of Maori war, when we are living as it were, as one people, I think we should have fair-play; we should work together; and devise laws for our mutual benefit.'[3578] He also advocated the translation of Bills into te reo, supporting Wi Parata in a motion to that effect. He brought to the House's attention, a number of occasions when Maori had gathered to meet government ministers supposedly to discuss new policies and legislation which reached them only 'in the spirit'.[3579] Given the repeated failure of past governments to protect Maori in their lands, he thought they were now justified in asking the House to 'cease making laws for the Native people. and to give us an opportunity of doing so.'[3580] Similarly, the Native Committees should undertake the investigation of title rather than the land court.[3581]

11.7.2 King Tāwhiao's visit

King Tāwhiao's visit was considered a significant political event by Māori and he was greeted warmly when he visited the district in January 1883. A stage some 120 feet long and 30 feet high was erected for the occasion at Awahuri which was attended by some 300 local Māori and numerous Europeans. A white flag showing a cross, a crescent moon and the southern cross was hoisted; and several haka performed. There was a hākari, waiata and a 'hau hau' ceremony officiated by a tohunga.[3582] From there, accompanied by his bodyguard Tāwhiao travelled on to Awapuni. It was reported that he visited McDonald and had intended to accept invitations sent to him from Bulls and Sandon as well, but 'his people would not hear of his "turning back in his footsteps" and so the route was

[3577] 'The Western Maori Election', *Evening Post*, 30 December 1886, p. 2.
[3578] *NZPD*, 1887, vol LIX, p 308.
[3579] *NZPD*, 1888, vol LX, p 332.
[3580] *NZPD*, 1888, vol LXI, p 89.
[3581] *NZPD*, 1888, vol LXI, p 690.
[3582] *Manawatu Times*, 27 January 1883, p 2.

changed and he did not go there.[3583] Although there was a lot of curiosity from local Pākehā, comment in the press was far from flattering. His biographer, R Mahuta, acknowledges that Tāwhiao's personal habits often 'provoked disillusionment' among his Māori hosts and there were indications of this in the reports of his visit to Awahuri.[3584] Mahuta makes the further point, however, that his role as the King movement leader and a prophet enabled Tāwhiao to weather this. In contrast to the districts through which Tāwhiao's party had travelled to reach the west coast, there appears to have been no report from local officials and we do not know the nature of the kōrero that took place.

We have read whatever English newspaper reports are available on the subsequent establishment of the Kauhanganui; the King's parliament established in 1892 that ran parallel to the Kotahitanga pāremata, discussed later in this chapter. While there is mention of Ngāti Raukawa participation, it is likely that this drew largely from the northern based part of the iwi. The English-language accounts are not sufficiently detailed to give much insight into the degree of their participation otherwise, although there may be evidence on the record of inquiry for the Rohe Pōtae. The evidence of witnesses in the korero tuku iho hearings suggests that the links remained strong, as evidenced in the naming of Poupatatē whare in celebration of a proverb uttered by Tāwhiao.[3585] The meeting house of Ngāti Tūkorehe built in 1892-94 has a carved image of Potatau Te Wherowhero on the poutuarongo (back wall support panel).[3586] That on-going support was demonstrated, also, during the visit of Mahuta in the early twentieth century.[3587]

11.7.3 The 'Huia' flag

In 1891, three years after Tāwhiao's visit, the son of then Governor General, Lord Onslow, and the first vice-regal child born in New Zealand, was named Victor Alexander Herbert Huia and inducted into Ngāti Raukawa. The adoption of the name of their 'noblest ancestor', the Onslow family was told, 'cemented' the 'friendship of the two races' and was seen as proof of their (Lord and Lady Onslow's) regard for the Māori people. The Governor was asked to restrain Pākehā from shooting further huia so that the boy might still be able to see the bird which bore his name when he grew up. Then Heni Te Rei (the daughter of Mātene Te Whiwhi) was reported to have taken the child, presenting him to Tamihana Te Hoia, who pressed his nose to his. The women sang a lullaby while further gifts, including a pounamu pendant, 'an heirloom of Te Rangihaeata

[3583] 'King Tawhiao', *Manawatu Standard*, 26 January 1883, p 2.
[3584] See, in particular, 'King Tawhiao', *Manawatu Standard*, 26 January 1883, p 2; R Mahuta, 'Tawhiao', TeAra.govt.nz.
[3585] Ngā kōrero tuku iho, Tokorangi marae, 18 May 2014, Wai 2200, 2.5.92 (a).
[3586] S M Smith, 'Hei Whenua Ora', p 35.
[3587] Rewiti Te Whena and ManahiPokaitara Te Hiakai of Ngati Wehi Wehi were spokesmen for the Kingitanga in the 1920s. See evidence of Reverend Te Hopehuia Hakaraia, Wai 898, doc K5, para 11.

family', were made.[3588] Lord Onslow who left the following year, gifted the tribe an union jack with 'Huia' stitched on it. Such gifts were not unusual, but an illuminating letter was later sent by Henare Roera Te Ahukaramu to the Onslow family in 1902, in respect of the flag that had been given a decade earlier: The letter was sent, Te Ahukaramu stated, because, 'I want him to know the honour that has been paid to that flag by the Ngāti Raukawa tribe generally even unto its Waikato branch, and of the respect paid to it by the adherents of the Māori King, owing to its association with the traditional name of Huia.'[3589] He then recounted how 'the whole of the Ngāti Raukawa people applied to us for the loan of the Huia flag, to be hoisted … as a welcome to Mahuta, the grandson of Pōtatau, the first of the Maori Kings' when he visited Ōtaki in 1902. As Mahuta could whakapapa directly to Huia, 'the whole of Ngāti Huia agreed that it was proper to lend the flag for such an occasion'. The flag was next seen on the death of the 'great Ngāti Huia chief, [Arekatera] Rongowhitiao' of the Kīngitanga (and also connected to Ngati Whakaue). According to Te Ahukaramu:

> The use of the flag was applied for … by all the tribes in the north, King Mahuta himself joining in the request. This desire was complied with by the custodians of the flag, and … sixty warriors of Ngāti Huia went to Waikato, bearing the Huia standard with them. This has now become a badge of the tribe's nobility.[3590]

It was also flown at Rotorua during the visit of the Duke and Duchess of Cornwall in 1901.[3591] The Honourable Huia Onslow (accompanied by a large party, including the Premier) was warmly greeted at the rūnanga house at Ōtaki by Rawiri Tahiwi, Robert Ransfield, Kipa Whatanui, Wi Parata, and others when he returned to New Zealand between December 1904 and January 1905. Further gifts and affirmations of friendship were exchanged on that occasion.[3592]

11.8 Native Land Laws Commission 1891

The 1891 Native Land Laws Commission met with Māori in many parts of the North Island, including Ōtaki – the last place visited – gathering a great deal of evidence regarding the defects of the Native Land Court and the existing legislation pertaining to title and land conveyance, possible remedies, and sundry other matters of concern. The commission comprised W. Rees, who was a long-standing critic of the legislation, James Carroll, and Thomas Mackay (a former West Coast Commissioner). The commission was otherwise known the Rees Carroll Commission.

The Commission sat in the rūnanga house at Ōtaki on 11 May and was met by a 'large assemblage' of Ngāti Raukawa, who extended a 'very cordial welcome',

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[3588] Helen Hogan, Hikurangi to Homburg, Christchurch, 1997, p 124.
[3589] Te Ahukaramu to Onslow, ?? 1902, cited in Hogan, Hikurangi to Homburg, p 125.
[3590] Te Ahukaramu to Onslow, ?? 1902, cited in Hogan, Hikurangi to Homburg, p 125.
[3591] Te Ahukaramu to Onslow, ?? 1902, cited in Hogan, Hikurangi to Homburg, p 125.
[3592] *New Zealand Herald*, 2 January 1905, p 6.

although some dismay was expressed both at the lack of notice, for the responses were unprepared, and the absence of proper protocol, as the commissioners rather than the home people opened proceedings.[3593].

Rees explained the purpose of their visit:

> Year after year for a long time past, Parliament has had petitions sent to it from all the Māori tribes, complaining of very many injuries which the Natives have suffered by reason of the dealing with their lands, and by reason of the operation of the Native Land Courts. The Parliament itself was unable to find out the truth of these statements, because some of the people cry out for one thing, and others of them cry out for some other thing, and it was therefore difficult for the Parliament, not knowing the facts, to decide which was right and which was wrong.[3594]

The intention was to elicit their grievances and views, and report back to Parliament on four main matters:

- the operation of the Native Land Courts, their method of conducting business, and 'whether the Māoris themselves can suggest any alterations that might be made for the greater benefit of the people';
- 'disputes between Natives and Europeans regarding the Native lands';
- what would be a 'better means of dealing with Māori lands in the future';
- what would be a 'satisfactory method of ascertaining the Māori title to lands'?

Plus they were welcome to raise any other matter of especial concern 'to do with the Māoris and their lands, and their general prosperity'.[3595] For several of the Ngāti Raukawa witnesses that was the fate of lands gifted as an educational endowment which were no longer being used for that purpose.[3596] (This issue falls outside the scope of this report and may require further research.)

Rees also noted the relatively unusual circumstances of Ngāti Raukawa:

> Now, we are aware that a great part of the Native lands here are subdivided and in the possession of the different individual owners. That is not the case, as the Natives here very well know, with many other tribes in other districts. And, although the dealing with the Native lands by Native Committees and runangas of the people may not affect the Natives of the Otaki district so much as it would affect others…[3597]

[3593] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, p 75.
[3594] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, p 74.
[3595] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, p 74.
[3596] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, pp 74-6.
[3597] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, p 74.

The commissioners were, nonetheless, anxious to hear their views 'for the benefit of the other Māoris, as well as for their own benefit in the management of their lands' because they should 'remember that they also are Māoris, and that therefore anything which conduces to the welfare of the whole Māori people they should be ready to speak upon and to act upon'.[3598]

James Carroll (then member for Eastern Māori) spoke next, much in the same vein; the intention was to ascertain the truth of the many criticisms that had been made of the existing system:

> The question to be determined is, by what means can the best legislation be decided upon in order that the greatest amount of benefit may accrue, and in what respect can such alterations be made that pace can be kept with the progress of the time: Shall we revert to the ways of our ancestors in dealing with our land; shall we let things proceed as they are now; or shall we advance and build up a system of dealing more in accordance with European ways?[3599]

Six people offered up their opinion: Hoani Taipua, Rōpata Ranapiri (Robert Ransfield), Akapita Te Tewe, Wiremu Kiriwehi, Kipa Whatanui, and Atanatiu Kairangi. All agreed that the Native Land Court should be reformed, or abolished; all agreed that Māori should have control over their own lands; and most said that their political representation should be expanded.

Akapita Te Tewe assured the commission that their opposition was confined to the Native Land Court laws and did not extend to the 'other laws of the Pākehā'. However, 'the grievances and afflictions that [had] fallen upon them' as a result of those land laws were 'deep and bitter'. He particularly condemned the court's practice of awarding title to only 10 persons. As we have seen, this had been the effect of the 1865 legislation, its impact initially softened in this region by the fact that many of the blocks brought for title determination were quite small and already allocated to individuals and whanau either by leading rangatira or rūnanga. But the practice continued even after the law changed and as large blocks started to be brought through the court for award of title and, as time passed, the impact deepened. He complained, too, of the removal of protections, exorbitant costs, and the machinery of local government that followed in the wake of the court and land sales. Te Tewe told the Commission:

> The first grievance that was inflicted upon us through the Native Land Court was the inclusion on only ten persons in a Crown grant. Great numbers of people, owning large areas of land, have suffered through that law. Then, when we realised the hardships arising from that law we applied to you, and another law was made. We, the Natives, looked to the law as the source of our salvation. Subsequently to that the Government passed a law making our lands inalienable. Then the law was so altered by the Government as to provide for removing the restrictions, and under that law also a great number of Natives suffered severely. All these grievances have arisen from the one

[3598] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, p 74.
[3599] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, p 75.

> source, the Native Land Court. After the establishment of the Native Land Court there came the Road Board system, and the rest of the machinery of local government, and the laws that were then made affected us severely. When we availed ourselves largely of the assistance of the Native Land Court in the beginning, we did not suffer so much as we do now. The troubles increase. It does not matter what area of land a block embraces – it may be 10,000 acres or 20,000 acres – in either case the investigation of the title costs a very large sum. After this main inquiry has concluded, then commences the subdivision, and £2,000 or £3,000 may be expended before we get our title. Hence it is that these laws which regulate the operation of the Native Land Court bring a great deal of trouble upon us.[3600]

There were winners and losers; those who 'got title to large areas did well enough but others suffer[ed] very much.' He complained, too. that the court divided Māori in other ways, commenting on 'the lying propensities that have been developed among the people; for it is the system pursued by the Court that affords encouragement to this sort of thing…'[3601] Te Tewe thought committees should have responsibility for subdivisions.

Having commented on the unusual circumstance of officials coming amongst them to discuss their welfare – 'In former times this class of people (the Commissioners) were land-purchasers' – Wiremu Kiriwehi agreed that the 'Native Land Court should be abolished because of the many grievances caused by its operation'. Only a small portion of their lands remained under customary title and like Te Tewe, he thought 'the balance of our land which has not yet been dealt with by the Court' should be dealt with by our own committees. Otherwise, their protests would continue:

> The whole of the Natives will be persistent in clamouring for the cessation of the Court's operations so long as the Court remains. If the Court is not abolished, the bitter grieving and the deep lamentations of the Natives will continue year after year, and their complaints will continue to be sent up to Parliament. The whole of the Ngātiraukawa recognise and deplore the evils that result from the Native Land Court, and all the tribes of the Island know that it is the root from which all their troubles spring.[3602]

Kiriwehi expressed a view that was gaining currency among many Māori at this time, that the real solution was not just to replace the court with their own institutions but to have the power of making laws for themselves. He told the commissioners:

> During the last thirty years, the making of these laws has been in the hands of the Europeans, they have failed to make good laws, and the Government therefore should allow the Māoris to try what they can do in that directions, seeing that it is they who are vitally affected by them.[3603]

It would appear that the next speaker, Kipa Te Whatanui, may have attended some of the hui that had been taking place in the north where tribes had been

[3600] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, p 76.
[3601] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, p 76.
[3602] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, p 76.
[3603] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, p 77.

gathering to discuss matters of common concern and the need for constitutional change. He referred to some of the cornerstones of Ngapuhi political thinking: the letter sent to King William, 'in which we expressed to him our desire that "you will be a parent to us, your children"'; the Treaty, which promised to conserve their 'right, authority, and power' over their lands; and the 1852 Constitution Act under which Māori would 'have a Parliament for themselves'. Then there had been the 'great Native meeting of Kohimarama', which had had unexpected consequences. As Whatanui saw it, 'the elders of this country agreed that the Native Land Court should be established' and, in exchange, the government had agreed to four Māori members being elected to Parliament:

> Then the European and Māori Parliaments became united; but the very great preponderance in number of the European over the Māori members gave rise to many evils that have afflicted us. Supposing a division takes place over any Māori matters, as there are only four Māori members in the House of Representatives they are defeated as a matter of course; and to the best of my understanding that is the cause of the evils that have grown up in New Zealand in connection with Native matters.[3604]

Whatanui then turned to the matter of the Native Land Court's decision at Rangitīkei-Manawatū, reiterating the accusation of the petitioners of the early 1880s that there was an inherent hypocrisy in the attitude of Pākehā and their officials: that Ngāti Raukawa should be denied rights by conquest and required to return their lands to the original occupants, whereas 'the lands of Taranaki, Waikato, and Tauranga were acquired through conquest by the Queen … These conquests were made according to law, and these lands have never been returned.'[3605] He tried to go on to discuss another court decision but was interrupted at that point by Rees since the commission was not permitted to look at particular rulings.

Atanatiu Kairangi focused on the matter of the school endowment but also favoured Native Committees having responsibility for the administration and subdivision of land that was still held collectively, defining what each hapū or individual should have. Then once the land was individualised, 'each particular owner should have the power of dealing with his own land for lease or for sale'. It is not clear, however, whether Kairangi thought that the Native Land Court should have some sort of supervisory power.[3606]

Taipua spoke extensively and made the following points:

- the Native Land Court 'should cease having anything to do the *papatupu* lands in large areas';

[3604] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, p 77.
[3605] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, p 77.
[3606] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, p 78.

- ‘Let not the Government place restrictions upon our lands. Do not let us be reduced to the position of slaves. Even though the areas may be large, let any restriction that may rest upon them be removed’;
- Ballances’s Act of 1886 should not be ‘put in force over our lands’. Questioned as to whether the Act should apply to them, the ‘whole assemblage with great vigour responded “No.”’);
- reserves of not less than 200 acres, should be set aside for all those with little land left and be made absolutely inalienable, otherwise, who could ‘tell at what time the Natives may not be “loafing” about the country as beggars’;
- the Native Land Courts should be done away with, and Native Committees appointed for the various districts and have powers conferred on them by law;
- land (including the Rohe Pōtae) should not be restricted in such a way that the government should be the sole purchaser so that it could acquire land at a low price
- individual dealing should be ‘absolutely discontinued’ in lands held in common and ‘strict safeguards be imposed, so that any individual may not be able to go to the Commissioner and draw money in respect of a block for which there are many owners’;
- rates should not be levied upon lands held by Natives that were ‘neglected’, ‘unproductive’, and ‘unable to [be] improve[d]’;
- stamp duty and other impositions that depreciate the value of Māori land should be abolished;
- some other steps should be taken to give effect to the ‘prayers of the Native petitions’ for the reports of the Native Affairs Committee recommending them to the Government for their consideration resulted in nothing being done and were ‘a delusion and a snare’;
- representation should be increased in both the Upper and Lower Houses;
- the school endowments should be inquired into;

- a Commission should be appointed to inquire into and settle all past grievances, including confiscated lands.[3607]

It is worth expanding on two of these points. Firstly, Taipua was very critical of the costs of the Native Land Court in its existing form and argued that their own committees would be a cheaper option for the government. Such committees, he said, would be able to do the necessary work:

> … at small cost … instead of having a Judge charging travelling-expenses right through, besides getting his salary of £600 a year; and if there are ten Judges they all get their £600 a year at present, exclusive of the money paid to them on account of their travelling.[3608]

He estimated the amount paid to the judges and the incidental expenses of the department to be 'something like £40,000 a year'.[3609]

He also pointed out that there were hidden financial penalties imposed on Māori land, noting the 5 per cent deduction without compensation for roads. He also complained that:

> If I lease my land to a European there is £10 per cent deducted from the proceeds; but if you, the Europeans, lease your land only 15s. per cent is taken. And if you sell land to one another that is the amount of duty that is chargeable. What is the reason, then, that I should have to pay at the rate of £10 per cent? [3610]

Rees responded that the duty was not to depreciate Māori land value, but 'put on because of the great cost of the Native Land Court and of the Native Department'. He suggested facetiously that the government's thinking was that Māori were 'so fond of the Native Land Court, and love the Native Department so much, that they like to pay the 10-per-cent duty to keep them going'. The Commission, however, would now be in a position to disabuse parliament of that notion.[3611].

During the course of the inquiry, evidence was also taken from various Pākehā officials and lawyers with experience in land matters. The long-serving Under-Secretary of the Native Department and head of the Native Land Purchase Department, Thomas Lewis, is often noted as having remarked that the whole purpose of the native land laws had been to facilitate the purchase of Māori land and that:

> Unless this object is attained the Court serves no good purpose, and the Natives would be better without it, as, in my opinion, fairer Native occupation would be had under the Māoris' own customs and usages without any intervention whatever from the outside …

[3607] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, pp 78-80.
[3608] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, p 79.
[3609] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, p 79.
[3610] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, p 79.
[3611] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, pp 79-80.

> [T]he object of the Native Land Court is to ascertain the native titles for the purposes of settlement.[3612]

He considered the effects of the Native Land Court on Māori to have been 'injurious in the extreme – their time is wasted, their money squandered, and their health in many cases ruined'. He also attributed much of their mortality 'to their manner of living while attending protracted sittings of the Native Land Court'.[3613] The Trust Commissioner system had been a failure, too. Not only would Māori be as well protected from fraudulent dealings by the ordinary court system, but the delay and uncertainty it caused to Pākehā purchasers had resulted in a reduction of 25 per cent in the price paid for the land. Like Taipua, he noted that land duties and other expenses affected Māori disproportionately since they were really deducted by the purchaser from what they paid.[3614]

A number of witnesses commented on the confusion that had been caused by the many changes in the technical requirements. Fox example, an Auckland lawyer, Dufaur, maintained that purchasers were 'compelled … in self-defence' to take actions that 'in any other case they would be ashamed to do' so as to complete their titles. Like Lewis, he thought the Trust Commissioner process, which was supposed to safeguard against abuses of the system, was a failure; 'a perfect farce'.[3615] Robert Stout (a former Attorney General) also condemned the legislation as 'exceedingly complex – in fact, in an almost chaotic state'. This had the greatest impact on the ordinary farmer, hindering closer settlement, while the large capitalists and speculators could afford to run some risk. At the same time, 'the cost to the Māoris connected with the ascertainment of title in the Court [was] … enormous and disgraceful'. In some cases, Māori were forced to sell one block in order to pay for the costs of gaining title to another. The costs of subdivision were equally iniquitous, with non-sellers losing up to half the value of their land simply in order to define it, In Stout's view, this was 'a great disgrace to us'.[3616]

The commission reported back to Parliament in May 1891, although Carroll appended a dissenting opinion in respect of the government's proposal to re-impose Crown pre-emption, which he condemned as a breach of the Treaty.[3617] Mackay also dissented from his fellow commissioners on a number of points, preparing a separate report, but he died before its completion. All three agreed, however, that Māori were best placed to decide the ownership of their own lands. They recommended that tribal committees should investigate land titles, with confirmation by the Native Land Court. Māori committees should also administer the lands after title determination.

[3612] Minutes of Evidence, *AJHR*, 1891, sess II, G-1, pp 145-46.
[3613] Minutes of Evidence, *AJHR*, 1891, sess II, G-1, p 149.
[3614] Minutes of Evidence, *AJHR*, 1891, sess II, G-1, pp 156-57.
[3615] Minutes of Evidence, *AJHR*, 1891, sess II, G-1, p 84.
[3616] Minutes of Evidence, *AJHR*, 1891, sess II, G-1, pp 165-67.
[3617] Note by Mr. Carroll, *AJHR*, 1891, sess II, G-1, pp. xxvii–xxix.

Criticism of the Native Land Court was found to be universal amongst Māori, while most Pākehā who gave evidence also identified many shortcomings in the land legislation and its implementation. The commission considered the following objections to be valid:

- Delay;
- Expenses, fees, and duties;
- Enforced attendance at distant hearings, the resultant poverty, demoralisation, injustice, false claims, perjury, and ruinous loss;
- Rehearings and applications for prohibition to Supreme Court;
- Political, government, and other interested influence, which is brought to bear on decisions and proceedings;
- The itinerant nature and non-local residence of the judges;
- Excessive survey costs, especially for subdivisions, and;
- Insecurity of title after adjudication.[3618]

These criticisms had been oft repeated by Māori over the preceding decades.

Stirling has commented that:

> The report read like a litany of the disasters that had befallen Māori since the introduction of the Native Land Acts, while it was also acknowledged that even lawyers and former Native Land Court Judges found the completion of a title under the 1873 Native Land Act and its innumerable amendments a Gordian knot beyond their ken.[3619]

The overall result, the Commission found, was the breakdown of Māori rangatiratanga:

> For a quarter-century the Native land law and the Native Land Courts have drifted from bad to worse. The old public and tribal method of purchase was finally discarded for private and individual dealings. Secrecy, which is ever the badge of fraud, was observed. All the power of the natural leaders of the Māori people was undermined. A slave or a child was in reality placed on an equality with the noblest rangatira or the boldest warrior of the tribe. An easy entrance into the title of every block could be found for some paltry bribe. The charmed circle once broken, the European gradually pushed the Māori out and took possession. Sometimes the means used were fair; sometimes they were not. The alienation of Native land under this law took its very worst form and its most disastrous

[3618] Report of the Native Land Laws Commission, *AJHR*, 1891, sess II, G-1, p xii.
[3619] Stirling, 'Wairarapa Māori and the Crown', p 245.

> tendency. It was obtained from a helpless people … The strength which lies in union was taken from them.[3620]

In the Commission's view, there was also an adverse impact on New Zealand society as a whole. The complexities of dealing in land under the existing system were such that 'every step [was] burdened with unnecessary cost', offering 'inducements to many species of fraud'; demoralising both Māori and Pākehā and 'frighten[ing] away capital, to paralyse industry, to turn the Courts of justice into theatres of oppression, and to hinder the settlement and prosperity of the country'.[3621]

In summary, the majority of Māori speaking at meetings held in the course of the 1891 Commission of Inquiry into the Native land laws had favoured reform of the Court and in the case of Ngāti Raukawa, its entire abolition. They also wanted reform of the title system and the laws regulating conveyance so that Māori would be in control of their own lands. There was recognition that some form of protection needed to be put in place to ensure that they were not left landless; and also, that such reforms were unlikely unless their power to influence the making of laws was enhanced. As we discuss below, those views and the situation which gave rise to them had resulted in an effort to develop a unified and co-operative response among all the tribes in efforts to have their collective grievances redressed. The Kotahitanga movement would be active throughout the 1890s. Yet there was little political will in a colonial parliament to implement either the findings of the majority report of the Native Land Laws Commission that title should be awarded to the tribe or hapū in recognition of communal ownership, or the reforms sought by Kotahitanga. Instead, the Liberal period of the 1890s was characterised by a drive for closer settlement, including the acquisition of Māori land. In that context, Māori demands for reform of title and of court processes would meet with only limited success.

11.9 Kotahitanga 1888–1900

During the late 1880s and 1890s, Māori decided that it was necessary to take much greater control of their own affairs and, in particular, the legal regimes which governed their lands. There was a concerted effort to bring about tribal co-operation and a more united and effective opposition to government policies. This rapidly developed into a movement to set up their own pāremata. The failure of the Crown to establish a system of colonial government, under the Treaty of Waitangi, that fully incorporated Māori into its structure had forced them into a situation where all legislation, including that directly affecting their lands, was controlled by a parliament in which they had only minimal representation and little power. They concluded that it would be necessary to persuade the colonial government and parliament to cede them the right to make their own laws under

[3620] Report of the Native Land Laws Commission, *AJHR*, 1891, sess II, G-1, p x.
[3621] Report of the Native Land Laws Commission, *AJHR*, 1891, sess II, G-1, p xiii.

the control of the Crown, although as time passed and little headway was made, the more radical elements of the movement began to favour a more separatist approach.[3622]

While elements within Ngāti Raukawa maintained their connections with the Kīngitanga, others supported the Kotahitanga and its objectives, which were not so very different, after all, from those being espoused by Tāwhiao. Although they hosted none of the inaugural hui or parliaments, Hoani Taipua, as an outspoken critic of the government's land legislation and an advocate for increased representation and the timely translation of Bills and parliamentary debates into Māori, was an influential exponent of many of the core ideas of the Kotahitanga movement. There were Ngāti Raukawa delegates at the pāremata and they were members of te runanga ariki, as discussed below. It was, however, Te Keepa who took the lead in this matter as far as the west coast-based iwi were concerned.

The idea of a political union was first raised at a hui at Waitangi in 1887. This was followed by a series of large, formative pan-iwi meetings in April and May of the following yea. These were held at Waitangi, Waiomatatini, Ōmāhu, and culminated at Pūtiki, thus representing the north, east, south, and west of the island.[3623] The Pūtiki hui was attended by Hoani Taipua, Wī Parata, Te Keepa, Topia Tōroa, S Taiwhānga, and 'a great many leading chiefs from various parts of the colony'. Also present were a number of senior Pakeha politicians including Atkinson (Premier), Mitchelson (Native Minister), James Carroll, Bryce, and Ballance.[3624] Tūroa opened proceedings saying that each of the tribes would speak so that the government would know 'how they were getting on' in carrying out their laws. He was followed by Te Keepa, who expressed his pleasure at seeing the Premier and Native Minister whom they had invited as they were the 'Ministers for the native peoples, and were … the government of the whole Colony, and the administrators of peace and goodwill'. He thought the island was in a 'bad state', and they had been asked to attend so that they could 'consider and consult with them'.[3625] He hinted at the new unity of purpose among Māori: this was the 'first time the people had all met together to consider matters, as in previous days each tribe had gone its own way'. Wī Parata then stated that:

> [T]he natives had assembled to consider the Acts which bore heavily on the Māori people, and to express their views on those Acts. Māoris were suffering from the confiscation of their land, and they considered that a great grievance. They were formerly the possessors of the whole island, but now they had a small portion only. It was on account of their land that they suffered, as it was in the hands of the Government.

[3622] Orange, *Treaty of Waitangi*, p 221; V O'Malley, *Agents of Autonomy: Maori Committees in the Nineteenth Century*, Wellington, 1997, p 205, and L Cox, *Kotahitanga: the search for Maori Political Unity*, Oxford University Press, 1993, p.66.
[3623] John A Williams, *Politics of the New Zealand Maori: protest and cooperation, 1891-1909*, University of Washington Press, 1969, p 50.
[3624] *Wanganui Chronicle*, 2 May 1888, p 2.
[3625] *Wanganui Chronicle*, 2 May 1888, p 2.

> The European suffered when his money ran short, and so the Māori suffered when his land ran short. They had only four members in the House, and the Europeans had a great number, therefore when their members made a proposal they were overruled by a great majority.[3626]

Hoani Taipua also spoke about their desire for political autonomy, contemplating a dual system in which Māori would make their own laws, which would then be submitted to Parliament for endorsement:

> They had come there to frame a new law, as they were not satisfied with the new laws relating to Māori lands. During the time of war some Māoris were loyal to the Crown, and fought against their tribes under the impression that they would be well treated afterwards, but all were treated the same, and now they were being oppressed by the laws. It had been left to the Parliament to pass laws for all, but he asked that the Māoris should be allowed to pass laws for themselves, so that if the laws were not satisfactory to them it would be their own fault, and they would ask Parliament to give effect to them.[3627]

Taiwhanga and Tuhaere both supported these sentiments while Carroll spoke more narrowly of the need for a new land law. This was the line taken by Atkinson and Mitchelson as well. Both ministers saw the interest of Māori in passing their own laws as a sign of their growing 'civilisation' that could be met in a limited way. Atkinson would be glad of Māori advice on the matter of the proposed law change and a 'second point': how Māori could 'in their own interests and the interests of New Zealand … dispose of their land to best advantage'. It was, however, 'quite useless' for them to ask for a separate parliament – and this was to be the consistent response of politicians over the next decade; there would be no serious consideration of any proposal that entailed assigning legislative powers to a Māori institution.

Atkinson conceded that they should have local government bodies the same as the Europeans – county councils and road boards (although those powers would also prove elusive). As to land, the government hoped to set up a court 'which will have a larger assistance from the natives than in the past'. Māori should not be permitted to 'denude themselves entirely' and should have a 'sufficiency of land' that was inalienable. Mitchelson also spoke at some length. He thought that the large attendance from all parts of the country showed that 'the natives have risen to the fact that it is necessary that they should now interest themselves in giving the government assistance towards legislating for them in a satisfactory manner'. He defended past legislative action, stating:

> … each Government [had] endeavoured to do what they thought best. … [T]he desire was to benefit the natives, and because they have hitherto failed, that is no reason why the present Government, with the aid of Parliament and the native people, should not administer legislation to aid the natives.[3628]

[3626] *Wanganui Chronicle*, 2 May 1888, p 2.
[3627] *Wanganui Chronicle*, 2 May 1888, p 2.
[3628] *Wanganui Chronicle*, 2 May 1888, p 2.

He saw Māori as 'desirous of Government assistance to relieve them from the difficulties they are labouring under' and acknowledged that it was 'right that their interests should be consulted' before the government passed its intended reform of the native land law, since their interests were at stake.

If this raised any hopes, they would be short-lived; there would prove to be little willingness to change legislative intentions in response to Māori criticism.

Mitchelson detailed the measure being proposed, arguing that:

> … if the control of the native lands were left entirely in the natives' hands, they would, in a short time, be denuded of their lands. Therefore, it is the more important that some attempt should be made by the Government to prevent such as calamity arising.[3629]

He represented his Native Land Bill as giving to them the 'power to dispose of their lands, either by sale or lease or to retain the land in their own possession', but it also contained a number of protections, namely a requirement that blocks be subdivided until there were no more than 20 persons in the title before it could be sold; that there would be no dealing in land permitted until three months after it had passed through the Native Land Court; and that the judges must be satisfied that vendors retained sufficient land for themselves and their families. The government measure was so far advanced that it would be translated the following week, and he assured his audience:

> It is the earnest desire of the Government to do everything that is right in the interests of the native people, and we trust, with the assistance of the Committee that have been appointed in various parts of the Colony, to prepare a suitable measure for Parliament.[3630]

Māori had their own ideas about what reforms were needed! A draft Bill mandated by the thousands of Māori who had attended emerged from the hui. This document proposed more far-reaching changes (while Taipua later described Mitchelson's Bill as the worst that had come before Parliament).[3631] They wanted all existing Māori land legislation to be repealed 'other than some parts of the Native Land Court Act', which was to be 'left open as far as to allow the Māori Committees [as established under the Native Committees Act 1883] to assist in settling disputed lands'. Those committees were to be 'empowered to act as the Native Land Court and to have the same jurisdiction as the said Court' and were to be 'released from the control of the Government … [T]he chairman shall have the power, with his Committee, to deal with cases according to Native custom.'[3632] Such committees would have the power to adjudicate on subdivisions as well. Further provisions of the Bill included Māori control of land alienation, provided that sufficient reserves had already been set aside for the vendors and

[3629] *Wanganui Chronicle*, 2 May 1888, p 2.
[3630] *Wanganui Chronicle*, 2 May 1888, p 2.
[3631] Ballara, 'Taipua Te Puna-i-rangiriri, Hoani'; *NZPD*, 11 July 1888, vol 61, p 690.
[3632] Native views on Native Land Legislation, *AJHR*, 1888, G-7, p 1.

their children. 'Fraudulent purchases', including obtaining possession 'in satisfaction of debts', were to be prevented. All leases were to be written in Māori and there was to be no dog tax in Māori districts.[3633]

It was also resolved at Pūtiki to put aside intertribal differences and establish a national Māori Parliament in order to give effect to the Treaty of Waitangi. Claudia Orange has observed that this compact, 'likened to the solemn covenant in a Christian marriage, was recognised by the symbolic action of a general partaking in a "giant" cake, pieces being sent to all parts of the North Island to symbolise the decision'.[3634] A committee of rangatira was elected to represent Māori interests to the politicians in Wellington and, in August 1888, three members (Pāora Tūhaere, Wiremu Pōmare of Whangarei, and Ākuhata Hōri Tūpaea of Tauranga) were allowed to address the Legislative Council with respect to the Native Land Bills then before Parliament.[3635] They asked the Legislative Council to defer the legislation until after a pāremata to be held at Waitangi in March 1889, in order to allow Māori the opportunity to comment on the Bills before they became law. The government was also invited to Waitangi to consult with Māori about laws affecting them. Pāora Tūhaere referred to the invitation extended to Māori to 'frame some Bills ourselves', adding that he and his associates had responded:

> Yes, we will do so upon the lines of the Treaty of Waitangi, which treaty provides that we should have the management of our own lands and of our own fishing-grounds, our own pipi-beds, and forests, and all other properties belonging to us.[3636]

However, the government had 'kicked them out of the house,' he said.[3637] Parliament largely ignored these criticisms of legislation that directly affected their interests and their pleas for Māori control of their own lands and their own futures, and the Native Land Bills were passed accordingly.

In the House, Taipua emphasised that what Maori wanted was 'that they should have the administration of their own lands'.[3638] Their opposition to the bills, he went on, was simply that Maori wished to have the opportunity to discuss them at the hui shortly to be held at Waitangi.[3639] He reiterated both these points when the bill was subsequently debated again, and then stated unequivocally, 'The Natives, one and all, ask to be able to deal with their own land, but this House will not

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[3633] Native views on Native Land Legislation, *AJHR*, 1888, G-7, pp 1-2.
[3634] Orange, *Treaty of Waitangi*, p 222.
[3635] Orange, *Treaty of Waitangi*, pp 222-23.
[3636] *NZPD*, 21 August 1888, Vol 63, p 209, cited Stirling, 'Wairarapa Māori and the Crown', p 221.
[3637] *NZPD*, 21 August 1888, Vol 63, p 209, cited Stirling, 'Wairarapa Māori and the Crown', p 221.
[3638] *NZPD*, 15 August 1888, Vol 63, p 62.
[3639] *NZPD*, 15 August 1888, Vol 63, p 62.

agree to that'.[3640] 'For many years,' he said, 'the Europeans have had the whole of the administering and bringing-in of laws relating to Native land, and the result has not always been satisfactory.'[3641] He was willing to allow, however, that there had been a degree of compromise with the bill—they had not got all they wished for, he said, but they had got something.[3642]

Another large hui gathered at Waitangi in early March 1889, many of the 1500 Māori present signing a pledge of union – kotahitanga – under the Treaty.[3643] Five hundred Māori also signed a petition to be presented to government ministers who were to attend the Ōrākei Parliament later that month. Ngāti Raukawa were among those present.[3644]

Pāora Tūhaere opened proceedings, speaking of the intent of the hui to unite Māori and Pākehā under the Treaty as equals:

> I wish you all to understand that you are called here to make the Natives and Europeans one people. I have three things to lay before you: – 1st. The consolidation of the races. 2nd. To lay before you the fact that in olden times [there] were chiefs, and now there are not. Last year, the first movement was made re the Treaty of Waitangi. The meaning of that Treaty was to make Europeans and Māori as one people. 3rd. I wish therefore, to make all of the native tribes one in asserting their rights against the Government.[3645]

Petitions and discussions with past governments had been to no effect, and so he had reached the conclusion that it was no use 'troubling' parliament: 'it must remain for ourselves to do what we can'. In his view, the present government had behaved 'treacherously' and 'broken' the Treaty. Those who brought their lands into the Native Land Court wanted 'to get a good title' but received 'no satisfaction'.[3646]

The following day, Tūhaere again complained of laws that 'fell heavily on the natives', which was why they wished to 'revert to the Treaty of Waitangi, which was made for both Māori and Europeans'. Like Taipua, he identified inadequacy of representation for Māori as the root cause of unequal laws that bore so heavily on them: 'Everything had been done in a one-sided manner for the benefit of the Europeans, but not for the natives.' He argued that 'the mana of the chiefs diminished' with the transfer of power into the hands of the colonial government and a parliament that allowed Māori only four seats: 'the Government did not look kindly on the Māori, and give them what they desired'. He sought 'a union

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[3640] *NZPD*, 27 August 1888, Vol 63, p 452.
[3641] *NZPD*, 27 August 1888, Vol 63, p 452.
[3642] *NZPD*, 27 August 1888, Vol 63, p 453.
[3643] Orange, *Treaty of Waitangi*, p 223.
[3644] 'Native Meeting at Orakei', *New Zealand Herald*, 28 March 1889, p 5.
[3645] 'Native Meeting at Orakei', *New Zealand Herald*, 28 March 1889, p 5.
[3646] 'Native Meeting at Orakei', *New Zealand Herald*, 28 March 1889, p 5.

of both peoples and one scheme of Government. The Māori had waited a long time to see where the kindness of the Government came in…'[3647]

The petition seeking a 'Māori Union of Waitangi' and for Māori to be 'allowed to administer their own affairs', signed earlier at Waitangi, was then presented to Mitchelson, who was in attendance along with the Attorney General (Whitaker), other members of Parliament, officials, and numerous settlers. Mitchelson acknowledged that 'past laws had been made which had not in all cases given satisfaction to the natives'. He also claimed that the government had consulted with Māori before passing its 1888 legislation, glossing over the fact that it had been vigorously opposed by the Pūtiki gathering and their delegates to Parliament. He agreed that 'there should be only one law for the Europeans and the Māoris', but 'before that could come to pass, it was absolutely necessary that the natives should bring their lands under the jurisdiction of the Land Courts'.[3648]Stirling comments: 'That is, they first had to surrender their lands to an unequal law before they could be granted equality.'[3649] Mitchelson acknowledged that the Native Land Court had been the cause of 'great friction' and claimed he would be 'only too pleased if the natives would point out some special way in which the Government could frame an Act more pleasing to the minds of the native people'. In fact, he appears 'to have forgotten that they had done this on many occasions, including as recently as the previous year, but had been consistently ignored'.[3650]

The Kotahitanga movement continued to gather momentum. Further hui were held in Te Tai Tokerau in 1891; Te Arawa petitioned the Queen 'for the formation of a representative council' elected by Māori to review all laws affecting them; and another important pan-tribal gathering, which Ngāti Raukawa were recorded as attending, was convened by Kemp on the Whanganui River at Parakino in January 1892.[3651] This meeting again rejected the latest land legislation being proposed by the government and declared that it was 'just that Parliament should assent that we, the native people should have the mana, the management of our own lands and our own possessions under the law of New Zealand of 1852.'[3652] They called for the Bills to be abolished and for a 'stop to all Government purchasing and to all the Europeans buying the lands of the natives and to make this a firm law. – to restrict all sales of land, all buying for ever, ever, and ever.'[3653] It was also proposed that a committee of twelve 'conduct all matters concerning native lands in the future', including surveys and leases, and that the Parliament 'make these committees law'. Parliament would appoint a

[3647] 'Native Meeting at Orakei', *New Zealand Herald*, 29 March 1889, p 6.
[3648] 'Native Meeting at Orakei', *New Zealand Herald*, 29 March 1889, p 6; Williams, *Politics of the New Zealand Maori,* pp 49-53,72.
[3649] Stirling, 'Wairarapa Māori and the Crown', p 224.
[3650] Stirling, 'Wairarapa Māori and the Crown', p 224.
[3651] 'Important Native Circulars', *Evening Post*, 3 February 1892, p 4.
[3652] 'Important Native Circulars', *Evening Post*, 3 February 1892, p 4.
[3653] 'Important Native Circulars', *Evening Post*, 3 February 1892, p 4.

person to decide on re-hearings and the Native Land Court laws would be 'utterly abolished'.[3654] A circular to this effect had been drawn up by the '70 members selected from the families' who had attended the meeting, and this was reported to have been sent to all parts of the country. According to the *Evening Post*, the meeting was evidence of the intense dissatisfaction 'smouldering in the native minds … with the manner in which their landed interests [were] being dealt with under existing legislation' and had been called with the specific purpose of organising a boycott against the Government in the matter of land selling.[3655]

The Parakino meeting led directly to one at Waitangi in April 1892, lasting six days and attended by well over 1,000 Māori from around the country. Present were James Carroll, who had recently been appointed to Cabinet as 'representing the Native race', and Alfred Cadman (Native Minister). There, they discussed the idea of forming a pan-tribal union to co-operate in efforts to bring their grievances before the government and have their rights protected on the basis of the Treaty of Waitangi.[3656] This was the first formal hui of the national Kotahitanga movement growing out of the general unity of sentiment that had been building among them. Their union was affirmed under the mana of the 1835 Declaration of Independence, the Treaty of Waitangi, and section 71 of the 1852 Constitution Act which contemplated the establishment of native districts. The goals of the new movement were also set out, echoing the sentiments of Taipua and other like-minded rangatira who had given evidence to the Native Land Laws Commission of the preceding year:

> Under the authority of this unity [kotahitanga] the Native Land Court and all its laws are to be abolished and it will remain for Māori committees to be established under the authority of the Treaty of Waitangi to investigate Māori papatupu lands which have not yet been adjudicated by the Native Land Court.[3657]

In addition, all gazetted and future Native Land Court sittings were to be 'boycotted by the assembly of chiefs of the unity of the Māori tribes of Aotearoa and Te Waipounamu'. Re-hearings could proceed, however, 'so that no misfortune befall the people' affected. The boundaries of the Kotahitanga's eight electoral districts were established, and the number of their representatives fixed, with a total of 96 members to be elected to the Māori Pāremata, which was to be held at Waipatu in two months' time.

Carroll, who made several speeches during the course of the hui, supported the idea of united action but cautioned them to 'consider proposals that might be brought into the domain of practical proposals' to be laid before the Legislature. The warning was implicit: an intention of establishing a separate Māori parliament was unlikely to be acceptable. Cadman welcomed statements that they

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[3654] 'Important Native Circulars', *Evening Post*, 3 February 1892, p 4.
[3655] 'Parakino Meeting', *Evening Post*, 12 January 1892, p 2.
[3656] 'The Native Meeting at Waitangi', *New Zealand Herald*, 21 April 1892, p 6.
[3657] Proceedings of the Meeting for Unity Held at 'The Treaty of Waitangi', 14 April 1892 (translation), MS-Papers-6373-026. p 9; Cox, *Kotahitanga*, p 9.

were ‘all the children of the Queen’, arguing that everybody should be under one law and pay the same taxes. The Minister thought that the Treaty had been broken long ago by both sides and could not now be mended; an opinion that was not received warmly by a ‘large section of those present’.[3658] Carroll made a final speech towards the end of the meeting in which he congratulated them on their proposal to adopt a parliamentary type structure, which he thought would be necessary to achieve local self-government because they would have to adopt European ideas and generally assimilate their customs with the ‘progressive action of the white man who are now firmly established in the land’.[3659]

The deliberations of ‘Te Kotahitanga Te Tiriti o Waitangi’ and its executive committee thus laid the foundation for the first ‘Māori Parliament’, held at Waipatu in June 1892. This was attended by some 2000 delegates, including a large contingent from the west coast led by Te Keepa. The election of members and the structure proposed at Waitangi were formalised first. The country was divided into four districts: Ngapuhi; Tai Hauauru, which included the Manawatu, extending from Wellington to Taranaki over to Otorohanga and Tauranga; Tai Rawhiti, which included Taupō and the east coast south of Tauranga; and Te Wai Pounamu. The Ngāti Raukawa delegates elected were Hoani Amorangi and Kipa Te Whatanui, described in the minutes of the parliament as ‘Ngāti Raukawa, Muaupoko’, and their kainga as ‘Otaki ki Manawatu’. Other delegates were drawn from Rangitane, Ngāti Apa, Te Ati Awa, and Ngāti Toa. There were also two Ngāti Raukawa listed as members of ‘te runanga ariki o te kotahitanga o te Tiriti o Waitangi’, a kind of Upper House. These were Rōpata Te Ao and Kipa Te Whatanui, who joined Te Keepa Te Rangihiwinui and Takarangi Mete Kingi from neighbouring iwi.[3660] A number of other persons were noted as involved in organising the polling; at Otaki, Hori Te Waru and Enoka Te Wano; at Ohau, Tamaiti Ranapiri and Henare Roera; and at Poroutawhao, Takana Whataupoko and Noa. There were also to be two members for the Aorangi, Te Awahuri, Rangitikei area to represent Te Tikanga, Ngati Raukawa, Ngati Pikiahu, Ngati Maniapoto, and Ngati Kauwhata. The organisers were listed as Te Rangiheuea, Kahoriki, Akapita Tahitanga, Hare Reweti Rongorongo, Paranihi Te Tau and Wiari Te Kuri.[3661]

After the election of a chairman, premier, speaker, and ministers, the Pāremata opened. The native land laws were discussed and a set of resolutions passed by a majority of the members early on in the proceedings:

- that all proceedings in the Native Land Courts be stopped forthwith;

[3658] ‘The Native Meeting at Waitangi’, *New Zealand Herald*, 23 April 1892, p 5.
[3659] ‘The Native Meeting at Waitangi’, *New Zealand Herald*, 23 April 1892, p 5.
[3660] Paremata Māori o Niu Tireni, Waipatu, June 13, 1892, MS-Papers-6373-026.
[3661] Paremata Māori o Niu Tireni, Waipatu, June 13, 1892, pp 41-2.

- that notices be sent to all tribes throughout New Zealand, asking them to withdraw all applications for original hearings, sub-division hearings, and all other claims pertaining to native lands; and

- that notices be sent to all native assessors, asking them to resign.[3662]

A petition embodying these resolutions was to be forwarded to the General Assembly, and the intention was to send a delegation to the next session to ask that the government grant Māori the right to deal with their own lands.[3663] Several bills on a variety of subjects were also submitted, debated, and passed. It was intended to place these before the colonial Parliament for ratification as well.

A number of important questions were debated at length during the session, including whether an 'effective substitute' could be found for the Native Land Court and how best to manage their remaining lands. This included the proposed development of a 'scheme for the utilisation and improvement of all uncultivated native lands'. W L Rees later claimed that a draft Bill that was drawn up, providing for the incorporation of Māori blocks and their management by elected committees, had been given 'much attention' at the Waipatu Pāremata.[3664]

11.9.1 The Maori Pāremata and the Colonial Parliament, 1893- 1900

The second full Kotahitanga Pāremata was held at Waipatu on 11 April 1893. Te Rangiheuea was the Ngāti Raukawa delegate. Business included legislation relating to the 1892 resolutions, fund raising[3665], and the establishment of a Kotahitanga newspaper to be called 'Huia Tangata Kotahi'; an important step for the movement in order to explain its intentions and actions.[3666] There was discussion, also, about enabling Maori women to elect their own members in the Maori Paremata, following the moves then being made towards female suffrage for Pakeha women. Mangakahia explained the reasoning: namely that there were many Maori women who owned land either under grant or as papatupu. They might have no men to assist, but there were also 'many intelligent women … who marry men who [did] not know how to run their land.' Furthermore, the many

[3662] 'The Māori Parliament – Proposal to Suspend Land Dealings', *Evening Post*, 25 June 1892, p 3.
[3663] *Nelson Colonist*, 24 June 1892, p 3; 'The Māori Parliament – Proposal to Suspend Land Dealings', *Evening Post*, 25 June 1892, p 3.
[3664] 'Native Land Legislation', *Ashburton Guardian*, 1 December 1892, p 2.
[3665] Te Rangiheuea said that the district did not support the collection of funds until the kotahitanga was finalised and should be then sent to the government 'so that it was not presented suddenly, and in that way upset the government's plans.' 'Opening of the Maori Parliament', 1893, pp 46-7, MS-Papers-6373-026.
[3666] 'Opening of the Maori Parliament', 1893, p. iii.

appeals to the Queen from male chiefs had not met with any success; perhaps she might listen to women 'over the many problems which affect us and our lands'.[3667] This proposal came at the close of the Pāremata and discussion was thus adjourned to the next sitting at which a day was set aside for consideration of women's issues.[3668] Also discussed was the question of the relationship of the Māori Members of Parliament to the Kotahitanga; whether it was appropriate for them to take the proposals of the pāremata to the House; or to the contrary should they be withdrawn. The speaker's opinion was that they should be left there 'as a voice for us' although the pāremata should make the laws for Maori that did not 'touch on the pakeha side.' [3669] That view prevailed, but the question continued to be debated in light of their lack of success in making any gains through the parliamentary system.[3670]

Debate about a petition and which of two Bills should be sent to the Pakeha Parliament – one proposed by H K Taiaroa, the other by Hone Heke – took up much of the session. The most significant difference between the two measures was the extent of authority that would be exercised by the Maori Parliament. Taiaroa proposed the establishment of District Committees acting under the authority of a Federated Maori Assembly for the purpose of land administration but a clause giving the Governor the power to ratify the decisions of those committees was rejected by the majority of members including Te Rangiheuea.[3671] In contrast, Heke's Bill sought formal recognition of a separate authority for a Maori parliament to enact laws for themselves which Taiaroa argued would have no chance of being approved. Te Rangiheuea suggested that it was unfair for one proposal to be favoured over the other; however it had been agreed that only one of the Bills would be forwarded to Parliament and Taiaroa's won by a narrow margin (25 votes to 22).

The Federated Maori Assembly Empowering Bill would authorise the assembly of Kotahitanga to administer Maori land and give effect to section 71 of the Constitution of 1852. The preamble to the proposed Act called for a:

> separate authority for them to have the right to administer their papatupu lands, land grants, land under certificates or memorial, or confiscated lands, through the authority of a Maori committee, and since the Maori greatly desire to be equal with the Pakeha who are able to arrange their own regulations regarding the sale, lease, or any kind of work whatsoever for their lands, and the property which they hold solely unto themselves, and since a covenant was written amongst the Maori chiefs of New Zealand and was signed by 21,900 people along with other papers attached, calling for the main

[3667] 'Opening of the Maori Parliament', 1893p120.
[3668] 'Opening of the Maori Parliament' p.38 and pp.119-120; Fourth Sitting of the Kotahitanga Parliament of the Maori People of New Zealand, 7 March 1895', pp. 41-42, MS-Papers-6373-026.
[3669] 'Opening of the Maori Parliament', 1893, pp 40-1
[3670] See ;Fourth Sitting', p 48.
[3671] 'Opening of the Maori Parliament', 1893, p 115.

> Parliament of New Zealand to give them the power to administer their lands and the authority to appoint a council named Kotahitanga Assembly, and for a Council of Paramount Chiefs to be appointed by the Main Council of this Kotahitanga Assembly, and since a great many troubles have grown out of the laws to administer Maori lands and the laws of the Native Land Court, the Maori tribes therefore considered finding a way of bringing some benefits to themselves. . . [3672]

The petition condemned the operation of the Native Land Court which was 'bad from the beginning' because of the 10-owner rule and the failure of the government to ensure that persons entered into the title, in this way, were trustees for their people. The 1873 Native Land Act saw 'an increase in the problems and suffering of the Maori people' resulting in their destruction because individual grantees were able 'to create trouble on the tribe's land' whereas previously 'the land had belonged to the whole tribe or sub-tribe.' They were unable to administer their land effectively: 'we were like a flock of sheep without a shepherd wandering around and bending down here and there,' the petition stated. The authority of rangatira had been undermined and Maori were 'belittled and left in ignorance by the laws enacted by Parliament and by the conduct of the Native Land Courts too.'[3673]

The Kotahitanga, thus, repeated the calls made so often by Maori leadership to be empowered to administer their land 'in the right way and with the considered intention of bringing prosperity to us and to our children.'[3674] The petition was later printed by the Pakeha Parliament, but despite the enormous support for reform of the land court and a greater measure of self-government, (21,900 signatures representing almost half the entire Maori population) their Bill was not even introduced. Once again theirs was 'the faint voice of a person, like the murmuring of the wind.'[3675]

Hone Heke's effort to introduce his more far-reaching measure - a Native Rights Bill seeking jurisdiction over Maori to be vested in a pāremata elected by Maori – met with a similar reaction the following year. Heke's Bill proposed that such a pāremata would pass laws which would 'relate to and exclusively deal with the personal rights and with the lands and all other property of the aboriginal native inhabitants of New Zealand'. The intention was to make Maori and Pakeha equal under the authority of the Queen, with 'neither one subordinate to the other'. A short debate followed in which Carroll, now a member for the general seat of Waiapu, suggested that it would be a 'kindness for parliament to free Maori of the 'delusion' that they would ever be granted a separate constitution. Pointing to the failed Native Committees Act 1883 – a piece of legislation he had formerly criticised as a 'hollow shell' – Carroll now suggest5ed that it showed that the idea

[3672] 'Opening of the Maori Parliament', 1893, pp. 136-137.
[3673] 'Opening of the Maori Parliament', 1893, pp. 136-137.
[3674] 'Opening of the Maori Parliament', 1893 pp 148-153.
[3675] 'Opening of the Maori Parliament', 1893, pp 148-153.

of Maori doing the work of the Native Land Court for themselves was an 'absurbity'.[3676] Again, the colonial parliament refused to even consider the measure with most Pakeha members walking out of the House bringing the brief debate to an end in absence of a quorum.[3677] In 1896 after two further efforts to have the Bill voted on, Heke's measure would be finally defeated.[3678]

In the meantime, the fourth Maori Paremata was held at Rotorua in March 1895. The minutes indicate that 'Ngati Raukawa at Otaki and throughout all the places of Raukawa' had 'joined in assisting and supporting this undertaking' and had signed the deed.[3679] Ropata Te Ao a well-known rangatira based in Otaki who had succeeded Hoani Taipua as the member for western Maori was elected to the House of Paramount Chiefs. Business discussed included their neglected petition of 1893, Hone Heke's rejected Bill of 1894, fund raising, and the enlisting of new iwi, in particular, Te Arawa and Tuhoe. There was discussion, too, about joining forces with the Kingitanga, but this never really happened although King delegates did attend future Pāremata.[3680] A direct appeal to the Queen and the Imperial Government followed, in 1897, which was simply referred back to the Native Minister who responded that the matter was under the consideration of the Government. He had assured the Queen that it 'was far from the wish of the Government and people of the colony that the Maoris should be rendered landless.'[3681] Steps in this direction would be undertaken by the end of the century, resulting in the passage of Maori Councils Act 1900 and the Maori Lands Administration Act 1900.

Kotahitanga's efforts to bring about constitutional change were unlikely to succeed given the attitude of the Liberal Government. As Seddon saw it, they were wanting to 'set aside the authority of the Queen' and there could be 'only one Parliament and one authority' in the country; this was in their best interests and in those of the country as a whole.[3682] However, increasingly anxious about the efforts of Māori in this direction, Seddon undertook considerable consultation although this does not seem to have directly involved Ngati Raukawa. They were not included in his extensive tour of 'native districts' in 1895. Rei Parewhanake and others based at Otaki did write into the government asking that jurisdiction similar to that exercised by the magistrate and the Native Land Court be conferred on their committee.[3683] No evidence has been found in the Manawatu region, however, of the sort of boycott of the Native Land Court that was

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[3676] *NZPD*, 1894, vol. 85, pp 550-4.
[3677] See Williams, *Politics of the New Zealand Maori*, pp 55-56.
[3678] O'Malley, *Agents of Autonomy*, p 215.
[3679] 'Fourth Sitting', p 14.
[3680] Stirling, 'Whakautu: The Response', p 273.
[3681] 'The Maori Address to the Queen', *New Zealand Herald*, 5 May 1897, p 5 and 'The Maoris and their Land', 1 December 1897, p 5.
[3682] Pakeha and MaoriL A Narrative of the Premier's Trip through the Native Districts of the North Island, *AJHR, 1895, G-1, p 34.*
[3683] Rei Parewhanake and others to Minister, 29 June 1896, J1/558/u.

attempted in some parts of the country, in these years, probably because there was very little papatupu land left. Seddon's view was that 'in many instances the natives ran after the land purchase agents and importuned them to buy' and that 'the Government could not be blamed for that.' Nonetheless, it was his intention to bring the land court system to an end once partitions and subdivisions already under adjudication had been completed.[3684]

Seddon and Carroll outlined the main features of their proposed reforms when they visited Pāpāwai where the Kotahitanga assembly was gathered in early May 1898. The following summary was provided in the Wairarapa ki Tararua Report:

- Division of the country into some 20 land districts;
- 20 Native owners must petition to bring the Act into force with a poll to be taken if equal numbers objected;
- A majority decision to bring Act in force would be followed by the formation of a committee or council of two Europeans nominated by the government, two Māori elected by Māori landowners of the district and the Commissioner of Crown Lands as chairman;
- All lands including papatupu lands could be vested in the committees except such lands as had been bought from Europeans or if, in the opinion of the Governor, the owners were capable of managing themselves;
- Once the Act was in operation in a district no Native owners would be allowed to sell their land or dispose of any interest they might have in it.[3685]

The role of the land councils once they were brought into operation was first to set aside sufficient land for the 'sole use and occupation of the Native owners' which would be made inalienable. This amount should be 'liberal' in order to 'provide for an increased numbers of Māoris.' Such reserves were to be cut up by the Board 'into convenient and sufficiently sized sections so as to give to each of the owners a piece of land for his own use, so that he may cultivate and live upon his own particular section just as is done in the case of European settlers.' The land would thus be held under individual title and the produce of each man's labour would be his property. The Board would then set apart land for leasing with first right of refusal to 'landless Natives'. Revenues derived from the leasing of the land would be used to defray the expenses of administration and pay off any mortgage on it, with the rest going to the owners according to their relative interests.[3686] Seddon also assured his audience that the Native Land Court, the effects of which, he described as 'one of the darkest blots' in the history of the

[3684] The Maoris and their Land', *New Zealand Herald*, 1 December 189, p 5.
[3685] Waitangi Tribunal, *Wairarapa ki Tararua*, vol II, p 524.
[3686] Waitangi Tribunal, *Wairarapa ki Tararua*, vol II, p 524

colony would be brought to an end, noting that many had gone to the courts to 'their destruction... they have suffered in mind and suffered in body'.[3687]

While Seddon claimed the Bill would give Māori real control over their lands for the first time, this proved illusory. The halt to land purchase was temporary only and the empowerment of Māori on boards which assumed many of the powers of the abolished Court was soon reduced. These are matters further explored in Dr Grant Young on the twentieth century.

11.10 Conclusion

The hapu of Ngati Raukawa and others continued to face a wide range of difficulties in the rapidly changing political and cultural order of the last two decades of the 19th century; Legal processes,-public works legislation, largely forgotten statutes such as the Highways and Watercourses Diversions Act and a limited franchise, collectively served to further reduce and confine such 'opportunity space' that Maori still possessed following land loss and the tenure changes brought about by the Native Land Acts. The social impact at the local level was to be seen in the loss of population and the increasing dominance of colonists over lands, resources; government bodies, and popular ideology.

Maori continued to struggle to exercise rangatiratanga, stop the loss of resources, win recognition of their right to manage lands and conduct matters of local importance for themselves, and to gain a measure of redress for the wrongs of the past. They submitted petitions, such as that headed by Tapa Te Whata in July 1877, which prompted the setting up of the Ngāti Kauwhata Commission four years later, although the lands in question, at Maungatautari and elsewhere in the Waikato, had already been alienated to Pākehā. At most, Ngāti Kauwhata could hope for some degree of compensation; for their troubles, they received precisely nothing. Much the same assessment could be made for most of Ngāti Raukawa's petitions in these years; or by the time there was any response the damage inflicted was largely beyond remedy.

The land loss continued. The Crown largely withdrew from the land market leaving the field open to private purchasers, under a title system that made it virtually impossible for Maori to hold onto their remaining territory. Notable were the activities of the Wellington and Manawatu Railway Company which became a major land holder and land purchaser in the region. In essence the company operated as the government's stand-in, endowed with handsome grants of land and authorised to undertake its own purchase operations. Despite the prevailing ethos of self-help, the directors assumed that the company had a right to enhance its financial position by persuading Maori to sell their lands cheaply or for shares. With the railway came an increasing number of settlers; both large

[3687] 'Notes of Meetings', cited Waitangi Tribunal, *Wairarapa ki Tararua*, vol II, pp 524-5.

and small owners as it became possible to transport produce to the Wellington market. Instead of three or four Crown purchase agents working in the district, now there were numerous purchasers and land agents at work, some of them publicans (such as Bright) who acquired many small blocks of land in these years, syndicates such as the Gear Meat Company, others former lessees (such as Simcox and Kebble). Time has not permitted an in-depth examination of how the direct purchase system operated on the ground, although the case of MacDonald discussed earlier in the report reveals how lands were mortgaged and vulnerable to foreclosure even though they remained nominally in Maori hands until it was profitable for the mortgagee to sell. Private purchasers had to navigate the complications of shifting land laws but were assisted by the high degree of partition activity and not inhibited, at all, by various supposed protections such as those exercised by trust commissioners, or measures such as the Native Lands Act 1894 which reimposed Crown pre-emption.

That fact was clearly exposed in the course of the Native Land Laws Commission of 1891. The criticisms of Maori leaders at Otaki were trenchant: the Native Land Court was 'the great source of all the evil' that had befallen Māori. They condemned the practices of the court, the expenses entailed, the imposition of a system allowing individual dealing without the knowledge of the hapū, inequitable impositions on native lands in terms of taking for roads, fees and rates on properties they were unable to develop.

> In their view the solution was to return control of the titling and management of their lands into the hands of their own institutions but in the face of the ongoing failure of the colonial government to make meaningful reform, or respond to their many petitions seeking change, Maori began to look at constitutional amendment as the only way to bring about real improvement. The view was often expressed that the making of these laws had been in the hands of the government and the colonists for the past thirty years; they had 'failed to make good laws', and therefore, the Government should allow Māori to 'try what they [could] do in that direction, seeing that it [was] they who [were] vitally affected by them.'[3688]

Ngati Raukawa were active in the electoral system, seeking expanded franchise and the Kotahitanga movement seeking both reform of the land court and the capacity to make laws directly affecting their interests for themselves with the sanction of Parliament. The links with the Kingitanga also continued and remained important in the region. The tragedy was, however, that by the time that laws introducing a measure of collective title were passed, it was too late for the hapū of the region to take advantage of them, while greater incorporation of Maori into decision making in the form of land boards and Maori councils would prove largely illusory and all too short-lived.

[3688] Minutes of Meetings with Natives and Others, *AJHR*, 1891, sess II, G-1, p 77.

CHAPTER 12

CONCLUSION

This report traces the decline of the capacity of Ngāti Raukawa, Ngāti Kauwhata and the other peoples who settled in the region with them to exercise rangatiratanga and their Treaty rights in the nineteenth century, as a result of colonisation and the policies of the Crown. Despite their early efforts to retain their lands and resources to develop them for themselves, despite their warnings to other iwi groups of the dangers of selling their lands too easily, despite their efforts to engage with the colonial government and economy on terms of equality, and despite their many petitions and protests, they were thwarted by a series of governors and settler dominated governments that privileged the interests of settlers over those of Maori. Nowhere was this exemplified more than in a series of policies and land laws designed to facilitate the transfer of Maori lands as cheaply as possible into the hands of the Crown and settlers. That this was happening was soon apparent but despite the many representations of Maori, and the introduction of some protections that proved largely ineffective, nothing much was done. Individual dealing without reference to the wishes of the community continued to be encouraged by the nature of the titles created under the native land laws, the tactics of purchase agents, and the mounting debts of Maori themselves. Nor was there any willingness to empower Maori institutions to look after their own lands or give them a fair share of the governance of the colony through parliament, local bodies or law courts. The colonial authorities – governors and parliament – were not prepared to assign llegislative powers or their equivalent to a separate Maori institution, or indeed enable Maori to more fully participate in the system that did exist. The result for the people concerned in this report was at worst dispossession and disenfranchisement; at best a minor voice within government – one that had to be in English to be heard – and the status of ‘curious spectacle’ and ‘tourist attraction’ in lands they had formerly controlled.

This decline of power was accompanied by a deliberate recasting of the customary status of “Ngāti Raukawa” by officials and by court decisions that were effectively impeached by the Crown’s prior dealings. The earlier, universally-held view among Pākehā observers and officials had been that the people whom they labelled as “Ngāti Raukawa” were the dominant tribe within the region. Although their hapū leadership generally recognised the authority of Te Rauparaha, their numbers were essential to the continued hold on the region and an essential counterbalance to the incoming Te Ati Awa hapū. This had been demonstrated after Haowhenua when Ngāti Kuia moved as far south as Porirua to take up residence with Ngāti Toa. Particularly significant were the views of

Hadfield and Williams who were the best-informed Europeans living in the district and who never doubted that "Ngāti Raukawa" were the principal right-holders in the region north of Waikanae, and they remained staunch champions of their rights in the face of colonial actions that undermined them by elevating their tribal rivals in the interests of land purchase. McLean who had toured the district, in the late 1840s, especially to inform himself of these matters, holding extensive discussions also was in no doubt as to who was in general control of the region as far north as the Rangitīkei River and even beyond that, although already there were modifications of custom as a result of colonisation. His advocacy would prove far less reliable than that of the missionary families and, as at Taranaki, he absented himself when those who had relied upon him for his informed support needed him the most.

This is not to say that the complexities of custom were fully understood, nor that the people the tangata heke had found in occupation, whom they had displaced or with whom they had reached customary accommodations had no rights at all, but those arrangements were put under severe strain by Crown purchase activity and by a new set of officials who, in the interest of acquiring land, reversed earlier perceptions to see Ngāti Raukawa and Ngāti Kauwhata rights as confined to the portions of the region in which they had actual residence, and then, only under sufferance. Oficials (and the land court) were even less disposed to recognise the rights of groups such as Ngāti Pikiahu, Ngāti Waewae, Ngāti Matakore (Ngāti Maniapoto), and Ngāti Rangatahi who had arrived and settled in the upper Rangitikei area after 1840 even though they were considerd by the other tangata heke to have a perfect right under custoim to do so.

Chapters 3 to 6 of the report discuss the beginning of this change in the fortunes of the people largely as a result of Grey's policies and early Crown purchase conduct as well as the introduction of new systems of law that largely replaced tikanga, at least at an institutional level although there was official recognition that Maori had a right still to live by their own customary laws (provided they did not violate the laws of humanity). There were some tentative and minor incorporation of Maori practices within the embryonic colonial justice system, but more importantly, after some wavering on the issue within the Colonial Office, it was accepted that Maori did own all the territory of Niu Tireni whatever Europeans might think about 'wastelands' and only occupation and labour as conferring rights of ownership. In other words, Maori would have to be paid for any land that the Crown desired for settlement but the price was to be kept as low as possible, the idea being that the real payment would come in the form of the advantages flowing from settlement and the rising value of the lands that they retained. Grey established a policy of acquiring large tracts of territory

before settlement, setting aside generous reserves for future Maori use, seeing this as, in essence, wastelands policy in a modified guise.

That policy was accompanied by actions in the Hutt valley and along the Kapiti Coast designed to undermine the authority and power of his major Māori opponents, Te Rauparaha and Te Rangihaeata, who were increasingly disillusioned by the New Zealand Company and the activities of the settlers at Nelson and Wellington also. On arrival, fresh from his military actions against Hone Heke in the north, Grey proceeded to demonstrate the power of the 'law', backed by the troops now at his disposal as well as allies from among other iwi resident in the region. He took pre-emptive measures against the two chiefs, whom he deemed to be in 'rebellion' – or at least, in imminent danger of it. In the process, he drove Ngāti Rangatahi off their cultivations in the Hutt valley, destroying their homes, 'arresting' Te Rauparaha, and violating *habeus corpus*. These actions were accompanied by measures aimed at 'civilising' Maori, wedding them to the Crown through the introduction of English institutions adapted to New Zealand circumstances, towns built along English lines, schools and marks of personal favour. The power balance along the Kapiti Coast was irrevocably altered although the Crown's control remained strategic rather than absolute. That would only come with greater European settlement.

Following upon its success in gaining control of the Hutt and Porirua, the Crown embarked upon a series of large-scale purchases in the 1850s and early 1860s, seeking not just to open land to settlers but to establish control between Wellington and Whanganui and prevent the migration of hapū into 'unoccupied' territories. Of particular concern was the prospect of large and powerful tribes uniting in their opposition to European settlement, under the leadership of senior rangatira who had links north and south. The purchase of land lying between Rangitīkei and Turakina from Ngāti Apa had an important advantage beyond enabling the expansion of settlement from Whanganui; in the words of McLean, having the people of that area located on reserves 'bound up with us will be as good security for the tranquillity of the district as a body of soldiers.'

Grey and McLean practised a mix of diplomacy, incentives in various forms, hard talking, and deployment of rangatira who had been already won to their side to persuade others to join them. The context of the actions against Te Rauparaha and Te Rangihaeata was all important; their capacity to prevent a transaction of which they disapproved deliberately undermined. However, there is no denying that McLean's negotiations at Rangitīkei-Turakina were painstaking and largely in accord with tikanga. It was led by those with acknowledged primary rights in the land, with the final arrangements made in the full light of day in the gathered presence of all. It also was in accordance with standards of Crown conduct of 'fully informed' consent. But that assessment only holds provided that the promises and understandings on which that transaction was based were kept. Furthermore, the way the boundary in the interior was determined pointed to the

future practice of buying the rights of a tribe to an undetermined point and then sorting out the claims of others where they overlapped.

What those understanding were has been hotly debated; but in the 1860s Ngāti Raukawa non-sellers consistently argued that they had agreed to the sale of this area by Ngāti Apa – and the two alienations that would follow, one by Rangitane and the other by those within their own hapū alliance who wanted to engage with the new economy in this way - in the belief that they would be able to retain the rest. There seems to us, to be evidence in the documentary record to support that view. From the viewpoint of Ngāti Raukawa leadership, the issues had been discussed and decided at the key meeting at Te Awahou in March 1849 and affirmed the following year. This had involved accommodation, on their part, of rights asserted by Ngāti Apa. They acknowledged that there were Ngāti Apa living south of the Rangitīkei River just as there were Ngāti Raukawa living on the north bank but a decision had been made as to who had the right to say what happened to, and on, the lands on either side. To the north, Ngāti Apa could sell the land if they wished although Ngāti Raukawa advised strongly against that course of action.

To the south, authority lay with them. Kāwana Hūnia had tried to argue that he had the right to sell that land as well, but that assertion had not been fully voiced in front of all and was not accepted by Ngāti Raukawa. Nor was it endorsed by the people of his own tribe whose support went no further than agreeing that any rights they might possess had been given up to Europeans, not that Ngāti Raukawa under Taratoa's authority could not prevent Europeans taking possession of territory on the south bank. McLean himself tacitly admitted as much in his later discussions with Ngāti Parewahawaha, Ngāti Kahore and Ngāti Kauwhata although he had failed to come to their support when those arrangements came under threat from a resurgent Ngāti Apa and a determined Crown purchase agent who pleaded ignorance of any earlier territorial accommodation. It was, McLean said, Featherston and Ngāti Raukawa who had elevated Ngāti Apa, not him. At the time of his initial negotiation, however, McLean had been very careful – again by his own admission – about what he said regarding the right of Ngāti Apa living at Ōrumapāpaka to sell that land and it is doubtful that Ngāti Raukawa fully understood this to be the Crown's position. Indeed, to the contrary, they were told that their consent was necessary to the sale of lands to the north. That Ngāti Apa could force the transaction of the whole of the territory between the Rangitīkei and Manawatū rivers had not been contemplated at all.

In the years that followed, the iwi debated as a whole, as to how to best respond to the pressures being exerted by the Crown and by colonisation. At first, encouraged by the missionaries, there had been agreement that land should be reserved – although it was less clear as to whether this was forever so that sufficient land would be available for their support – and practically on the

ground, to accommodate expanding stock numbers – or, merely until they could sort out ownership issues.. It would seem that it was decided to withdraw opposition to the sale of 'peripheral' blocks over which a claim to exclusive ownership could not be sustained.

The sale of Te Awahou was significant, signalling as it did the growing division of attitude as to whether interests were best served by keeping their lands and engaging with the new economy through their own production and leasehold arrangements with individual settlers (although they were legally vulnerable on this point after the passing of Grey's Native Land Purchase Ordinance 1846), or by entering into direct engagements with the government, just as their neighbours were doing. These opposed stances were fully aired during negotiations in the 1850s, the hui at which it was decided whether to raise the King's flag, and at the Kohimarama Conference.

Purchase officers and European observers consistently insisted that those who spoke in favour of holding onto the land were either few in numbers, or secretly wanted to sell, or tainted by their support for the King party which prevented them from pursuing what they really wanted to do. This was said of Taratoa, in particular, and the Crown purchase agents now responsible for the conduct of negotiations in the Manawatū region (Searancke and Grindell) repeatedly questioned his resolution, his motivations, and the integrity of his actions. Perhaps to their mind, this justified the first down-payment on an undefined area and without anything nearing tribal consent, reflecting the increasingly sloppy practices of a Native Land Purchase Department under pressure from settlers frustrated at the slowness with which lands were being acquired in the province and the colony as a whole. When Taratoa continued to withhold consent, it was made clear to him that he could not hold on to both the land and the friendship of the Crown. As the pressure mounted, he finally gave way, attempting to satisfy the demands of the selling contingent. who thought that their future lay in whole-heartedly adopting European ways, and thus prevent further fracturing and dissension amongst the tribe. In the course of these negotiations an attempt was made to establish a boundary as a barrier against further loss of land.

Although leasing continued to be favoured by a number of leaders, the distribution of rents would become increasingly contentious. The differences that had emerged over Te Awahou would continue. Those who wanted to engage with the Crown successfully could only do so by means of sale (not by lease), and it had been demonstrated that it was not possible to maintain a unified anti-selling position if particular leaders and hapū were determined to remove their 'plank' from the ship. The long-standing desire of the Crown to acquire the Rangitīkei-Manawatū area would generate more tensions within the iwi and with their neighbours, and under Featherston's management of negotiations (as Superintendent of Wellington and Land Purchase Commissioner), leasing was deliberately attacked, being blamed for provoking inter-tribal violence.

In the meantime, the promises of a measure of self-government which had been offered in different forms – in the shape of the annual conference proposed at Kohimarama, which Grey dismissed out of hand as a potential challenge to the Crown's sovereignty, or by means of his alternative 'new institutions' – had not produced anything of substance. The leadership had responded with enthusiasm – more or less guarded – in their desire for equality with Pakeha and their institutions, although some preferred to adhere to the Kingitanga; but once the military crisis in the Waikato had quietened, the Crown moved quickly to reduce any 'special treatment' of Maori, as exemplified by recognition of Maori rūnanga with powers of self-government. Instead, a Native Land Court was established, operating under a Pākehā judge with a much reduced role for Māori and a focus on converting their customary tenure into a title that could be more easily sold.

Chapters 7 to 9 focus on the hugely problematic Rangitīkei-Manawatū purchase and its effect on Ngāti Raukawa, Ngāti Kauwhata, Ngāti Wehi Wehi, Ngāti Tūranga Ngāti Pikiahu and the other hapū who had settled in the interior. Although they split into 'sellers' and 'non-sellers' divided again over their response to the government, the new settler economy, and their old tribal rivals, their differences began to lose their significance as the benefits of sale failed to be realised. Monies were improperly distributed, reserves had to be fought for, hard, secure grants failed to materialise for many years and other tribes were still not satisfied. Nor was the Crown for hardly had it secured that enormous block than its agents began seeking more land and on an equally large scale. As Hare Reweti expressed it, in 1873, they had been deceived three times: first by Featherston, then by the Court and finally by McLean.[3689] As time passed, other names could be added to that list.

The role Featherston played in the Rangitīkei-Manawatū purchase cannot be overstated. The acquisition of those lands was seen as the only means of rescuing a province in increasingly difficult financial circumstances and when he ran into problems he abandoned the careful pattern of negotiation that McLean had established in the region, employing tactics that were questionable, including threats and bribery – even of forgery. Instead of adjusting tribal rivalries, his actions encouraged them, and he then used the need to keep the peace of the colony as a justification for a purchase of the whole of the area. Tainted by the association of some sections of the tribe with the Kingitanga and their links to the northern 'rebels', loyalty to the Crown demanded willingness to sell land; to refuse to do so led to suspicion and accusations of 'hauhauism'.

He accepted Ngāti Apa's offer of sale of their interests which, as he phrased it, they 'may be found to have' but without any real investigation of what those interests were, their nature or extent. This was something that he, as purchaser decided; but instead of first ascertaining tribal, hapū, and other rights and

[3689] 'Notes of the speakers at a meeting held at Matahiwi … by Ngatikauwhata and Ngati Parewahawaha', 28 July 1873', MA 13/

purchasing accordingly, in the 'full light of day', he and Buller began collecting signatures of anyone making a claim and encouraging even those who, at first, maintained that they did not have any right to do so. In fact those with the most peripheral and distant interests were encouraged to sign first; a tactic clearly designed to undermine the will of primary right-holders who were reluctant to sell. Thus, the numbers who signed and were deemed to have assented did not reflect actual ownership rights or fully override the commitment of others to retention of the land. While the rights of Whanganui and Ngāti Apa, living north of the Rangitīkei were accepted without question, opponents of the sale among those hapu who were living at Ōtaki were represented as having no interests in the block. The leading opponents notably Parakaia Te Pouepa, were represented as isolated in their opinions, despite many saying that this simply was not the case; Te Herekau, Taharape, Tohutohu, Kooro Te One, Rawiri Te Wainui, Te Huruhuru, Akapita to name but a few. At the same time, Featherston retained the rents from informal leases, again on the pretext that they were causing trouble, but really, Buller was later to admit, with the deliberate intention of forcing reluctant owners into debt and the need to sell.

While Featherston held many meetings it was only in order to ensure that a sale would take place, not to determine the extent of rights, areas of contest, or the extent and location of reserves. The consent of all right-holders was not obtained but the deal was struck and the money paid out for distribution with opposition still being expressed, rights not yet determined and boundaries still unsettled and un-surveyed.

As members of the Native Contingent, Ngāti Apa, (and their allies) were well armed and engaged in acts of violence and intimidation in order to undermine Ngāti Raukawa's opposition to the sale. Featherston was accused of deliberately encouraging them in that course of action, which he denied. It was revealed that some of his statements to Ngāti Apa might bear that construction but the Native Minister of the day (Richmond) who was critical of Featherston's conduct of the purchase but thought that it had to go ahead, also thought that the matter should be dropped when it was decided that the title of the "dissentients" should be investigated by the Native Land Court after all.

This had been consistently sought; for title to be properly determined before any money was paid. The earlier exclusion of the block from the jurisdiction of the Native Land Court had a significant impact on the rights of Ngāti Raukawa, Ngāti Kauwhata, Ngāti Wehi Wehi and other right-holders in the block. It exemplified the capacity of the colonial government to pass laws and policies that directly affected the rights and interests of Maori without their knowledge - and that would be done over and over again in the context of land legislation. After several years of protest and appeal by Maori non-sellers, the exclusion clause was removed, but only after Featherston and the government considered that they had acquired the signatures of the overwhelming majority to his purchase deed. In

other words, investigation was refused while it might have been possible to adjudicate between one set of claimants and the other and to determine who the correct owners were. This, after all, was the supposed purpose of the Native Land Court although as we discuss further below, the real and overriding effect was to give Maori a form of title that facilitated the large scale transfer of land to the Crown and settlers.

Instead, that investigation was permitted when the question before the court had been vastly complicated and had become a question between the Crown and those Maori who had so far refused to sign the deed, and as Hadfield pointed out, 'one scale already weighted with £25,000, plus an unknown amount of expenses'.[3690] The scale was weighted in other ways as well. When Ngāti Raukawa sought to defend their claim to Hīmatangi, they found themselves facing not just other iwi, but the Crown itself. This was one of the first instances when the Crown appeared in the Native Land Court as an interested party, bent on denying the claims of one iwi so as to protect the interests it claimed to have purchased from others. And not only did Ngāti Raukawa (and those associated with them) find themselves facing the Crown as an adversary, they alone were required to substantiate their claim to the land, while the Crown's own claim would be left unscrutinised (and so the dubious methods of Featherston's land-purchasing agent, Buller, would also be left unexamined and un-condemned although he himself admitted to them).

From the moment the first hearing began, in March 1868, the Crown sought to upset, undermine, and do all in its power to throw into disarray Ngāti Raukawa's claim. Everything possible was done, every move was calculated, so as to place obstacle after obstacle in Raukawa's way. And the fact that the weight of evidence told for the people categorised as described as Ngāti Raukawa—that it showed how they, along with Ngāti Toa, had "conquered" and taken possession of those lands, that they held the mana over them, and that it was only by their consent that iwi such as Ngāti Apa and Rangitāne remained—mattered little to the court when it determined to conjure up its own species of customary title which placed exclusive weight on physical occupation as proof of ownership.. It was true, the court said, that Ngāti Raukawa had conquered the land and had taken possession of it, yet their conquest was not complete, it was a partial conquest, an unfinished conquest, a conquest that left Ngāti Apa and Rangitāne with a certain degree of mana over a certain amount of the land (although not so much that they could drive Raukawa off —in fact, in truth, they had no choice but to submit to the presence of Raukawa, even though, it must be remembered, Raukawa had not, so the court maintained, defeated them). It is difficult to reconcile the judgment with the situation as it existed at 1840 and traditional notions of customary ownership. And the same may be said of the judgment in the second hearing, when Maning contrived a confused, muddled and strange

[3690] 'The Manawatu Purchase', Wellington Independent, 30 May 1868, p 4

history in which Ngāti Toa and Ngāti Raukawa both did and did not conquer Ngāti Apa and Rangitāne and Muaūpoko, in which they both did and did not take possession of the land. It is hard, in short, to avoid the conclusion that Ngāti Raukawa and Ngāti Kauwhata were not treated as justice required. On the other hand, while the 1840 rule was not strictly applied to Ngāti Apa, it was in the case of those hapū who had arrived in the region in the decade that followed and they were judged by the court to have no rights whatsoever. A further blow was delivered when the Court at Cambridge deemed those who had migrated to the Manawatū region to have been "conquered" and to have lost all rights in their homelands, having been driven out.

The Rangitīkei-Manawatū purchase continued to cause great dissatisfaction among 'non-sellers' and 'sellers' alike. Even though Featherston had persuaded the government to proclaim native title to have been extinguished survey was disrupted at many points and. McLean was forced to intervene expanding upon Featherston's paltry reserves, adjusting boundaries at Ahuaturanga to satisfy complaints from Ngāti Kauwhata and Ngāti Wehi Wehi that the survey had included land they had not intended to sell, making provision for the people at Te Reureu whom the Court had decided had no rights in the block as more recent arrivals (even though their tenure was unopposed by other tangata heke) and advocating the return of Himatangi to Parakaia's people since (to Featherston's delight) this was now considered to belong to the Crown as they had failed to meet the survey requirements. These concessions, McLean explained, were required not so much on the grounds of justice as to prevent giving the Kīngitanga a popular cause on the west coast and to make the further purchase of adjacent lands easier in the future.

The Crown's vacillating and tardy response as provincial and general government continued to fight over who should take responsibility and pay for setting the matter to rest meant further delay, increasing disillusionment with McLean, and that Maori were obliged to rely on the services of agents (including Buller no less) and forced into more debt, added on to the burden already incurred during the long defence of their rights in the Native Land Court. Justice did not come cheap. In the case of Parakaia Te Pouepa's hapū although they had Hīmatangi returned to them, it was under a transformed title and with a large debt which had to be paid out of their share of the rents Featherston had impounded and for which they had to agitate for a number of years. Armed with a promissory note, and having come to a deal with the Native Department, Buller insisted that the rents be handed over to him rather than the owners so he could take his hefty cut first. Ngāti Kauwhata, reliant on their trusted agent, Alexander McDonald, fared no better. In an extraordinary turn-about, McDonald in an effort to forestall a challenge to his control by Enereta (the sister to his friend, client and patron, Kooro Te One who had died in the interim) engineered the foreclosure and sale of their lands at Awahuri. In an equally remarkable turn of events, the government began employing McDonald - a man often accused of fomenting

trouble among local Māori – to conduct purchase operations on its behalf. This blurring of lines between officer of the law and purchase officer and lack of clarity as to whose interests were being served undoubtedly increased the vulnerability of Maori in this period.

Throughout the 1870s and into the 1880s there was continuing protest, either directly in the form of obstruction of survey, or through letters and petitions. The distinction between seller and non-seller became less meaningful as time passed. There was a shared sense among all the hapū of dissatisfaction with a government, which did not respond to their petitions and ignored the recommendations of the Native Affairs Committee even when that body reported favourably. All groups had to deal with the failure to carry through on promises, frustration at the delays in getting a useable title, and deepening dissatisfaction with the Native Land Court's application of rules regarding customary title and with the different treatment of Maori and Pākehā by the law.

Their complaints highlighted the core shortcomings of the conduct of the initial purchase, which had, in effect, incrementally dispossessed a number of hapū by a process in which they had not consented, except for the necessity to protect what they could of their land and resources and, it may be, enjoy some of the 'benefits' forced upon them; namely, the advantages of a 'legal' court-recognised title that they could utilise commercially. There were mounting debts and still further delays in the fulfilment of promises, which left them vulnerable as settlement proceeded apace. Ultimately, both sellers and non-sellers found themselves in possession of a confined area under a title that was alien to them and subject to the same difficulties of individualisation and debt.

In July 1877, in a bid to obtain recognition of their rightful title to lands in the Waikato district of Rangiaohia, Ngāti Kauwhata and Ngāti Wehi Wehi submitted a petition to Parliament. The petition made manifest the fact that in 1868 they had been denied an opportunity to assert their rights in those lands by virtue of the government's misleading assurances, and it asked that an investigation be undertaken that the validity of their title might be established. There was no possibility that the lands would be returned to them—most had already been alienated to Pākehā—but if they could establish that the lands had been theirs in the first place, then they might, at the very least, receive some form of recompense. The Native Affairs Committee that heard the petition found that it disclosed a 'real grievance' and recommended that an inquiry be conducted, as the petitioners had asked. A commission was eventually convened—some four years after the petition had been submitted—and began its hearings in February 1881. It sat for three weeks, almost without a single adjournment. A mass of evidence was heard demonstrating the long-standing connections that Ngāti Kauwhata and Ngāti Wehi Wehi had to those lands. But they were again opposed directly by the Crown whose witnesses maintained that the lands had been properly awarded to Ngāti Haua. The commission rejected the Ngāti Kauwhata

and Ngāti Wehi Wehi case. They had lost all interests in the Rangiaohia lands by virtue of having apparently abandoned them in 1828, it said. And, in any case, as far as the commission was concerned, Ngāti Kauwhata and Ngāti Wehi Wehi had been properly represented at the 1868 Native Land Court hearings (by Parakaia Te Pouepa) so even if they had retained interests in those lands, they could have no cause for complaint. In short, they would get nothing for their troubles. Alexander McDonald who had represented them before the commission was astonished by the finding and left to appeal fruitlessly to the Native Minister for redress, but none was forthcoming.

Chapters 9 to 11 deal with the Native Land Court experiences of Ngāti Raukawa, Ngāti Raukawa and other hapū, and explore some of those title difficulties further. The impact of the Native Land laws on Maori rangatiratanga and their retention of land cannot be over-emphasised and has been repeatedly condemned by the Waitangi Tribunal.

Maori thought at first that the Court would provide impartial adjudication in cases of tribal dispute, a secure title and an avenue into full participation in the political and economic life of the colony but none of those objects were achieved. There seems little doubt that the intention of legislators was to convert Maori customary title to a form that expedited its large-scale transfer to settlers or the Crown. As this became clear to Maori leadership, they put forward proposals to ameliorate the impact, seeking reform or complete abolition of the court and the empowerment of their runanga to undertake the work themselves (and to have greater self-government in a wide range of areas from adjudication of criminal cases to control over the sale of liquor in their communities). They discussed ways of ensuring sufficient lands were reserved, sought expanded representation in parliament and the capacity to enact laws through their own institutions. These proposals were invariably watered down by the government, or more often, rejected outright; a repeated experience that would lead to the establishment of the Kotahitanga movement in a pan-tribal effort to secure a form of self-government.

Even before quiet possession of the Rangitīkei-Manawatū block had been fully achieved, the Government turned its attention to getting Maori to bring their claims to the large tract of territory south of the Manawatū River surveyed and into court for title determination. The intention was to purchase most of the land to the east of the proposed railway line before land values increased and by the end of the decade, this had been largely achieved, The passage of the Native Land Act 1873 which converted customary rights into tradeable paper titles facilitated this process. While the court was supposed to list all owners in a ‘memorial of ownership’, the practice of awarding title to a limited number of representative owners continued. Individuals received an undivided interest in land which they could do virtually nothing with other than sell and they could do so without the consent of other owners or the hapū. The trend in the land

legislation that followed was generally to make it easier to partition out interests for sale.

The government had wanted the whole of the district to go through as one block, much as it had been able to purchase north of the Manawatū River, and considered its task much complicated by the need for subdivisional survey. Nonetheless its position was much enhanced by the identification of the owners with whom its agents were to deal, and by the increasing debts faced by Maori as they attended court and undertook the requisite surveys They were assisted by Crown agents who made advance payments, in some instances before title had been determined breaking down any resistance there might be within the iwi or hapū to sale. More usually advances were made after an initial award had been made but before interests were delineated on the ground. The effect was much the same; once one of the named owners had accepted money on a block others were likely to do likewise. The Crown's capacity to exclude private competition and bring blocks through the court for award of its share, even if this was a minority interest, also greatly assisted in its purchase operations. The handful of owners who might not want to sell found that their interests were partitioned out, like it or not, leaving them with a much reduced land base.

We have paid especial attention to the Horowhenua block, a long prized resource area where the rights of Muaūpoko were privileged and those of Ngāti Raukawa almost completely disregarded. The decision of the Native Land Court in 1873 was, unequivocally, an act of injustice, perpetrated in the face of historical reason, sound sense and fairness, and evidently unconcerned with the proprieties of the law. It was, if anything, an act seemingly calculated to propitiate a man who had led his warriors in support of the Crown during the conflicts of the 1860s, for which he had not only the Crown's gratitude, but its guns also.

The evidence brought before the Court in 1873 concerning Ngāti Raukawa's rightful claim to at least a significant proportion of Horowhenua was substantial. And the basis of the claim—ownership by occupation—was precisely the same as that which had previously established, to the Court's complete satisfaction, the iwi's claim to the Manawatū-Kukutauaki block. And yet, the overwhelming preponderance of the evidence notwithstanding, the Native Land Court contrived a judgment—reached seemingly before the court had even heard all the evidence—that in one fell swoop disinherited the Ngāti Raukawa hapū of a great swathe of their rohe. Prior to the judgment, Ngāti Raukawa had had to endure years of harassment from Te Keepa Te Rangihiwinui and Kawana Hūnia and those they led, who attempted to take advantage of changing fortunes to usurp Ngāti Raukawa's mana over the land. Throughout this period, Ngāti Raukawa showed remarkable forbearance, declining to be provoked into conflict, insisting instead that the matter be settled peaceably, either by discussion or by law. They showed the same forbearance while the government declined to act, prevaricated, and dissimulated, and stood by watching and doing nothing. They even showed

themselves prepared to cede land to Muaūpoko in the interests of preserving the peace. But all this was to no avail. Immediately following the judgment, every effort of Ngāti Raukawa to seek redress was stymied by the combined efforts of the court and the government—applications for a rehearing were either rejected or simply ignored. They were again subjected to harassment—whare were burned, fences broken, guns brandished. And, to compound all this injustice, in the years that followed, years that steadily added up until several decades had passed, and the nineteenth had become the twentieth century, Ngāti Raukawa were made to defend their rightful claim in forum after forum—before a royal commission, select committees and in the courts—over and over again, until at last they were granted a paltry number of acres for their efforts.

The cost to Ngāti Raukawa of all that had occurred in connection with this injustice is incalculable. There was a bare cost in monetary terms, which if it could be calculated, would be immense. But far more significant than that was the cost in terms of their mana, their dignity, their sense of justice. And there has been an equal cost, too, in terms of the mental stress and anguish that had been suffered as a result. Considerable psychological damage is inflicted when a person or people are betrayed—and having committed themselves throughout to abiding by the law and to having the matter settled by the system of justice that had been so lauded by the Pākehā law-makers, the decision of the court and the subsequent behaviour of successive governments could only have been experienced by Ngāti Raukawa as acts of betrayal.

In the meantime, the Native Land Court carried on with its business and lands continued to transfer out of Maori hands, now, not into those of the Crown but into those of the Wellington and Manawatū Railway Company and, increasingly, directly to settlers. Although the government had withdrawn from its own large scale land purchase operations, in essence the railway company operated as its surrogate; an agent of the government, one step-removed. Not only was it endowed with generous grants of land but it was authorised to undertake its own purchase operations and directors of the company assumed that it had a right to enhance its own financial position by persuading Maori to sell their lands cheaply. With the railway came an increasing number of settlers both large and small owners. Instead of three or four purchase agents operating in the district (some of them resident magistrates or former agents of their own) now there were dozens: publicans, shopkeepers, former lessees, developers and syndicates. Time has not permitted an in-depth examination of how the direct purchase system operated on the ground, but clearly, they were assisted by the high degree of partition activity and not inhibited, at all, by various supposed protections such as those exercised by trust commissioners or measures such as the Native Lands Act 1894 which reimposed Crown pre-emption and merely prompted purchasers to get in first.

One consequence of the unusual level of court activity and subdividing of the land in the 1880s and into the 1890s was that, by the time that laws introducing a measure of corporate title had been passed, it was too late for the hapū of the region to take advantage of them. Nor was there much reason to undertake a boycott of the court as attempted by those who still had large tracts of papatupu lands in their possession. The criticisms of local leaders at Ōtaki of the native land laws, the practice of the court, the expenses entailed, individual dealing without the knowledge of the hapū, inequitable impositions on native lands in terms of taking for roads, fees and rates on properties they were unable to develop and in the absence of fair representation were trenchant. They told the Native Land Laws Commission of 1891.that

the Native Land Court was 'the great source of all the evil' that had befallen Maori. The solution, they argued, was to return control of their own lands to their own institutions so that they were no longer 'slaves' and did not become 'beggars' in their own country. These criticisms and arguments were repeated both in the colonial Parliament and in their own pāremata instituted as part of the Kotahitanga movement.

The leadership identified the root of the problem to lie in the failure of the Crown to establish a system of colonial government, under the Treaty of Waitangi, that fully incorporated Maori into its structure. Such participation had seemed to have been promised within the Constitution Act 1852, at Kohimarama in 1860, by Grey's proposed 'new institutions' 1863-62, and a measure of self-government at least, by Ballance's native committees in 1883 but all had proved a delusion. They had been forced into a situation where all legislation, including that directly affecting their lands, was controlled by a parliament in which they had only minimal representation and little power. Further, increasingly power over local matters had transferred into the hands of local authorities in boards and councils in which they had no place - controlled by a settler population that had little hesitation in expressing their disregard and open contempt for their Maori neighbours. There was very little recognition of the contributions and concessions Maori had made to the development of the colony. Thus, increasingly, the focus of Maori outside the Kīngitanga was on expanded representation in a colonial parliament that had proved so unresponsive to their many pleas for reform and redress of grievances over the past forty years. This went hand in hand with efforts to persuade the colonial government and parliament to cede them the right to make their own laws in matters directly affecting them. Leaders such as Hoani Taipua - himself a Member of the House of Representatives - did not see this goal as incompatible with loyalty to the Crown, the intention being to submit proposed legislation to parliament for its approval. As in the past, however, Parliament was unwilling to sanction any proposal that entailed the transfer of legislative powers to a separate Maori institution. It insisted on retaining direct control of the system which oversaw the provision of Crown recognised titles for Maori lands and the regulation of their

alienation by sale or lease. All Maori proposals for a different system under their direct control, or for law-making powers continued to be either reduced to a mere shadow, or rejected outright.

APPENDIX ONE

Hapu names recorded for Ōtaki pā

Ngati Pare:

Moroati Kiharoa
Hoani Taipua
Hema Te Ao
Matenga Kiharoa
Kipa Whatanui
Kairiana Te Tupe
Waiata Te Tawhara
Mohi Te Rawharu
Hakaraia Hoani
Inia Hoani
Pitiera Hoani Taipua
Peni Te Matenga
Paramena Pehitane
Wirihana Te Ahuta
Paranihia Whawha
Ema Tukumaru
Rihi Moroati
Hiria Hoani Taipua
Mere Hori Te Waru
Puihi Henare
Hemi Kuti

Ngati Whakatere:

Henare Te Herekau
Takerei Te Tewe
Arapere Tukuwhare
Neri Puratahi
Tamara Hihira Kiharoa
Areta Hoani Taipua
Karaitiana Te Tawharu
Te Teira Ngapawa

Ngati Waihurihia:

Ropata Te Ao
Hori Te Waru
Rei Parewhanake

Hirima Te Waru
Wirihana Te Rei
Matene Te Rei
Wari Te Rei
Maremare Te Waru
Iraia Te Kaparoa
Piripi Te Tuahu
Wi Kerei Tahatahi
Pou
Ngakuka Te Kaparoa
Ahawarihi Ropata
Heni Te Waru

Ngati Kahoro:

Horomona Toremi
Pene Arama
Arapata Hauturu
Hema Ropata
Nikoria Huarau
Miratana Te Rangitakahirua
Hamuera Te Whatuiti
Hira Te Retimana
Pene Huarau
Te Ritimana
Te Hauotaranaki
Hipora Eruera
Heni Pene Arama
Hunia Arona
Te Arai Te Rei Paehua
Mehe Huarau
Hemaima Tiemi
Hara Eruera Te Whioi
Te Rau Te Eruera Te Whioi

Ngati Maiotaki:

Rawiri Te Wanui
Rawiri Rota Te Tahiwi
Harawira Whareiro
Pene Te Hapupu
Nuna Te Taurei
Wiremu Paki Hianga
Manihera Te Rau
Tewiata Te Horu

Raika Takarore
Hohipuha Takarore
Hori Karaka Te Kaponga

Ngati Moewaka:

Keepa Kerikeri
Hekiera Te Wharewhiti
Rikihana Te Tarure
Wiremu Tamihana Te Manewha
Wiremu Rikihana
Wiremu Kiriwehi
Tamati Pahiwaero
Hohipuha Kareanui
Mohi Toahiko
Inia Te Horu
Ariki Hopihona Wharewhiti

Ngati Turanga:

Pineaha Mahauariki
Roiri Rangiheuea
Maka Pukehi
Hakopa Mahauariki
Roera Rangiheuea
Heta Ngatahi
Kipa Te Whitu
Kaporiki Pineaha
Roore Rangiheuea
Hiri Hemopo Tuwharetoa
Eparaima Mahauariki
Wiata Whakaki
Pitihira Te Roiri
Paora Taharuku
Karaira Te Roiri
Ripeka Katipo
Katarina Te Puke
Makareta Mahauariki
Hera Tuhangahanga
Mere Te Pokare
Hare Wirikake

Ngati Teau:

Pitihera Te Kuru
Wereta Te Waha
Hikopa Wahine
Paratene Taupiri
Eruera Te Whioi
Ranginui Te Whioi
Paiura Te Manaha

Ngati Rakau:

Nirai Taraotea
Kepa Parekawa
Renata Ropiha
Kihirini Taraotea
Wiremu Hemara
Hemara Mataaho
Hotereni Mataaho
Ihaka Ngamura
Taniora Kepa
Amiria Taraotea

Ngati Ngarongo:

Te Aputa Tukumaru
Kereopa Tukumaru
Petuha Te Mokonui
Hairuha Te Huoi
Tariuha Te Akanui
Hohepa Te Hana
Arona Te Hana
Karaitiana Hamapiri

Ngati Tuara:

Pipi Kutia Takerei
Pene Te Huirae
Rinowhia

Kaimona Te Hokinoa
Tamati Rooti
Tiemi Rooti
Morohita rupuha
Tame Tuki

Ngati Kopiri:

Puiriki Hape
Aperahama Te Kume
Arama Karaka
Hohepa Hinerau
Putai Te Ra
Hape Te Horohau
Hona Taupo
Hapeta Te Rangikatukua
Wirihana Taupo

Ngati Kapu:

Karanama Te Whakaheke
Eru Tahitangata
Enoka Te Wano
Haimona Hiwhenua
Waaka Pekeia
Paora Pekeia
Piripi Te Ra
Irihei Te Whakaheke
Mikaere Te Papa
Rei Paehua
Hoani Matepu
Tamihana Whakaheke
Haikema Rakaupeehi
Eru Tahitangata (Tamati Junior)
Henere Te Papa
Raureti Te Putu
Aterea Te Waha
Ruihi Piripi Te Au
Piripi Te Ari
Arekatera Eria Rawaraki

Akapita Tahitangata
Te Raika Tahitangata

Ngati Wehi Wehi:

Tamihana Whareakaka
Reti Te Kohu
Manahi Paora
Parakipane Te Kohu
Kerehoma Haruru
Henare Te Hatete
Ture Te Hou
Pini Whareakaka
Watene Te Punga
Raniera Te Tara
Watene Te Whena
Hakaraia Te Whena
Hapimana
Iharaira
Naera Te Angiangi
Ihaka Ngapari
Reihana
Perenara Te Poria
Wiremu Te Hira
Muera Te Naku
Pohe Ngapipi
Karehana Te Whena
Haimona Te Kohu
Tuangahuru
Akuhata Henare
Rewi Henare
Reweti Te Kohu
Kepa Toka
Tohutohu
Horopapera
Wiriharai Te Angiangi
Ihakara Ngatahuna
Mokohiti
Hapimana Hi

Te Mateawa:

Peina Tahipara
Natana Piahana
Penenara Te Tewe
Winara Katipo
Atanatiu Kairangi
Te Rangitawhia
Te Ri
Paramena Te Tewe
Pini Ngauehu
Paranapa Te Kanohi
Waari Te Kairangi
Kerehoma Te Kairangi
Akapita Te Tewe
Heremia Te Rangitawhia
Arapata Te Hiwi
Natana Te Hiwi
Pita Te Keremihana
Haroe Te Keremihana
Moihi Te Kotu
Teraiti Tonihi

Ngati Tukorehe:

Hare Hemi Taharape
Kaperiere Te Mahirahi
Wehipeihana Taharape
Tamati Ranapiri
Mohi Heremia
Rawiri Heremia
Hoani Tawhiri
Rana Tapaea
Poutama Te Tura
Taniera Rehua
Tamati Tima
Heperi Matiaha
Pape Ranapiri
Keremeta Teimana
Maka Whakawhiti
Hori Tapaea
Aterea Tauehe
Koroniria Te Whakawhiti
Matiaha Ranapiri
Harawira Tupuna

Akuhata Tupuna
Hemi Purere
Karauria Heremia
Roha Wehipeihana
Netahio Tauehe
Witariana Te Tihi

Hamua:

Roera Hukiki
Hoani Whareiaia
Teri Tuainuku
Karaipi Te Paea
Henare Roera
Nerehana Te Paea
Waretini Tuainuku
Kiniwe roera
Ropiha Takirau
Wiremu Te Riu
Hura Hotereni
Arara Watene
Aohau Neketini
Tauhu Roera
Hori Roera
Rerehi Hukehuka
Hukiki Waretini
Waihaki Watene
Porokoru Kapeto
Rutu Roera
Taruhira Teri

Ngati Parewahawaha :

Katene Rongorongo
Patoropa Te Nge
Nepia Taratoa
Hare Reweti Rongorongo
Winiata Taiaho
Aperahama Te Huruhuru
Wereta Te Huruhuru
Winiata Pataka

Hone Hare Reweti
Ngako Tuwhatu
Katene Tima
Porokoru Te Kauru
Witana Parera
Meihana Te Nge
Atareti Taratoa
Erenora Taratoa
Makareta Taherangi

Ngati Kauwhata:

Renao Te Wharepakaru
Koro Te One
Tapa Te Whata
Reupena Te One
Haimona Te Whata
Himiona Te Oha
Hoeta Te Kahuhui
Karehana Tauranga
Takana Te Kawa
Kereama Paoe
Koro Renao
Maka Renao
Ihaka Renao
Hanita Renao
Te Nuku Te Whata
Teiti Turanga
Pere Turi
Hori Te Mataku

Ngati Huia:

Tamihana Te Hoia
Teoti Kerei Te Hoia
Manahi Te Humu
Henere Korouaputa
Huia Te Karaha
Hutana Ngarepo
Karaha Te Wiwini
Hohaia Te Pahau

Wireti Te Ruinui
Hirama Te Hoia
Tatana Te Whataupoko
Kireona Whamaro
Kerehoma Wharetaiki
Tiaki Hawea
Kereama Kaiaho
Hirawanu Manahi
Paraone Tamihana
Nepia Te Rauangaanga
Tiopira Te Tuaiwi
Teoti Kerei Te Popo
Tuhera Kireona
Teamo Kaiaho
Hemi Hohaia
Epiha Tame Hawea
Mohi Enoka
Metera Karaha
Tamati Rupuha
Poniwahia Te Rakumia
Akuhata Kapukai
Mihaka Karepa
Epiha Karepa

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1867, G-13: Petitions presented to the House of Representatives; petition of Natives of Manawatu relative to Rangitikei lands

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1872, G-40B: Wellington claims

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1874, G-02: Reports from officers in Native districts

1874, G-07: Approximate census of the Maori population

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1875, G-06: Statement relative to land purchases, North Island

1875, G-07: Native land purchase agents

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1876, G-05: Purchase of lands from the Natives

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1876, I-04: Reports of Native Affairs Committee

1877, C-06: Lands purchased and leased from Natives in North Island

1877, C-09: Unsold land in each county

1877, G-01: Reports from officers in Native districts

1877, G-07: Purchase of lands from the Natives

1877, I-02: Reports of Public Petitions Committee

1877, I-03: Reports of Native Affairs Committee

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1878, G-01: Reports from officers in Native districts

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1878, G-04: Lands purchased and leased from Natives in North Island

1879, C-04: Lands on the West Coast taken under the New Zealand Settlement Acts (papers relating to)

1879, G-01: Reports from officers in Native districts

1879, G-01A: Further reports from officers in Native districts

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1880, G-04: Reports from officers in Native districts

1880, E-01: Public works statement (map)

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1883, G-07B: Lands reserved exclusively for Natives

1883, G-07C: Native reserves in New Zealand

1884, E-02: Education: Native schools

1885, G-02: Reports from officers in Native districts

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1885, G-06: Lands passed through Native Land Court and purchased by Europeans

1885, I-02A: Himatangi: report of Native Affairs Committee

1886, G-01: Reports from officers in Native districts

1886, G-12: Census of the Maori population

1886, G-15: Lands possessed by Maoris, North Island

1887, Session I, D-05A: Wellington and Manawatu Railway Company

1887, Session II, G-01: Reports from officers in Native districts

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1888, G-02: Native land purchases in the North Island

1888, G-02A: Lands purchased and leased from Natives in North Island

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1888, G-07, Position of Native Reserves

1888, I-05B: Report on petition of Wellington and Manawatu Railway Company

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1889, G-01: Ngarara, Porangahau, Mangamaire, and Waipiro blocks

1889, G-03: Reports from officers in Native districts

1890, E-02: Education: Native schools

1890, G-02: Reports from officers in Native districts

18090 G-04: Lands purchased and leased from Natives in North Island

1891, Session II, D-17: Wellington and Manawatu Railway, terms on which Crown is entitled to purchase

1891, Session II, G-01: Report of Commission into Native Land Laws

1891, Session II, G-05: Reports from officers in Native districts

1891, Session II, G-10: Native lands in the Colony

1892, G-04: Lands purchased and leased from Natives in North Island

1892, Session II, G-03: Reports from officers in Native districts

1893, G-04: Lands purchased and leased from Natives in North Island

1894, E-02: Education: Native schools

1894, G-03: Lands purchased and leased from Natives in North Island

1894,I-03: Native Affairs Committee (reports of the). Nga kupu a te Komiti o te Runanga Mea Maori

1894, J-01: Petition of Major Kemp relative to the Horowhenua block

1895, G-02: Lands purchased and leased from Natives in North Island

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1899, D-01: Public works statement [proposed state takeover of Wellington-Manawatu Railway]

1899, G-03: Lands purchased and leased from Natives in North Island

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1900, D-11: Report on the condition of the Wellington-Manawatu railway

1900, G-03: Lands purchased and leased from Natives in North Island

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1902, G-03: Lands purchased and leased from Natives in North Island

1903, G-03: Lands purchased and leased from Natives in North Island

1903, I-03: Report of the Native Affairs Committee

1904, G-03: Lands purchased and leased from Natives in North Island

1905, G-03: Lands purchased and leased from Natives in North Island

1905, G-05: Porirua, Otaki, Waikato, Kaikokirikiri, and Motueka school trusts

1906, Session II, G-03: Lands purchased and leased from Natives in North Island

1906, H-26A: Papers relative to the Maori population

1907, D-01: Public works statement [regarding the purchase of the Wellington-Manawatu railway]

1907, G-01: Native lands and Native land tenure

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1908, G-03A: Maori land purchase operations

1908, G-04: Island of Kapiti: return showing particulars in respect of

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1909 Session II, B-06: 1909 Session II, B-07A:

1909, G-03: Native lands in the North Island

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1911, G-06: Native lands in the North Island

1911, G-09: Native land courts and Maori land boards

1911, G-14E: Horowhenua 3E2: Native Land Claims Adjustment Act 1910, report and recommendations

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1911, H-14A: Census of the Maori population

1911, I-03: Native Affairs Committee (reports of the). Nga ripoata a te Komiti Mo Nga Mea Maori

1912, Session II, G-09: Native land courts and Native land boards

1913, G-09: Native land courts and Maori land boards

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1915, B-17B: Valuation of Land Commission

1915, G-09: Native land courts and Maori land boards

1916, G-09: Maori land courts and Maori land boards

1917, G-09: Native land courts, Maori land boards, and Native Land Purchase Board

1917, H-39A: Census of the Maori population

1918, G-09: Native land courts, Maori land boards, and Native Land Purchase Board

1919, G-09: Native land courts, Maori land boards, and Native Land Purchase Board

1920, G-09: Native land courts, Maori land boards, and Native Land Purchase Board

1920-1922, G-09: Native land courts, Maori land boards, and Native Land Purchase Board

1921, H-39A: Census of the Maori population

1922, G-09: Native land courts, Maori land boards, and Native Land Purchase Board

1923, G-09: Native land courts and other matters under control of Native Department

1923, I-03: Report of the Native Affairs Committee

1924, G-09: Native land courts and other matters under control of Native Department

1924, I-03: Report of the Native Affairs Committee

1925, G-09: Native land courts and other matters under control of Native Department

1926, G-09: Native land courts and other matters under control of Native Department

1927, G-09: Native land courts

1928, G-09: Native land courts

1928, H-28: Borough of Otaki, Report of the Commission of Inquiry

1929, G-09: Native land courts

1930, G-09: Native land courts

1931, E-03: Education of Native children

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Volume 6: Correspondence and papers relating to Native inhabitants, the New Zealand Company, and other affairs of the colony, 1847-1850

Volume 7: Correspondence and papers relating to Native inhabitants, the New Zealand Company, and other affairs of the colony, 1851

Volume 8: Correspondence and papers relating to the administration of the colony and other affairs in New Zealand, 1852

Volume 10: Select Committee report, correspondence and papers relating to the government of New Zealand, the New Zealand Company loan, and other affairs of the colony, 1854-1860

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These have not been explored in any systematic fashion, but the following references will be found to be useful:

D: 1861-1863, pp.611-654

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5: 1 June 1869 – 16 July 1869

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11, 1871, pp.182-183, 188, 485-486, 514, 640-641

13, 1872, p. 889-893

19, 1875, pp.319-330

59, 1887, pp.60-62 (1888)

91, 1895

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