BEFORE THE WAITANGI TRIBUNAL

**IN THE TE ROHE POTAE DISTRICT INQUIRY (WAI 898)**

**HEARING WEEK TWO – DAY THREE, WEDNESDAY 12 DECEMBER 2012**

**TE TOKANGANUI-A-NOHO MARAE, TE KUITI (DAY ONE – TWO)**
**WAITOMO CULTURAL AND ARTS CENTRE (DAY THREE – FIVE)**

Hui Commenced: 10 December to 12 December 2012

Tribunal: Judge D J Ambler
Professor Sir Hirini Mead
Professor Pou Temara
Mr John Baird
Dr Aroha Harris

Crown Counsel: Geoffrey Melvin
Stephanie Jones

Lead Counsel: Glenn Tootill
Richard Boast
Maui Solomon
Karen Feint
Tavake Afeaki
Jason Pou
Spencer Webster
Mark McGhie

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Waitangi Tribunal
*21 May 2013*
Ministry of Justice
WELLINGTON

Dominic Wilson
Matanuku Mahuika
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Tom Bennion
Kirikaiahi Albert
Moana Tuwhare
Cameron Hockly
Rebecca Sandri
Bernadette Arapere
Bryan Gilling
Gerald Sharrock
Terena Wara
Jude Murdoch
Te Atairehia Thompson

Annette Sykes
Alex Hope
Darrell Naden
Terena Wara
Eloise Lonnberg
Eve Rongo
Gene Bagsic
Clare Savali
Hemi Te Nahu

Witnesses:

James Pākau
Nigel Te Hiko
Paul Meredith
Frank Thorne
Dr Helen Robinson
Dr Donald Loveridge
Jim Taitoko
Moana Jackson
Piripi Crown

Toroa Pohatu
Toiamoko Manaia
Meto Hopa
Dr Alex Frame
Dr Paul Christoffel
Daniel Ormsby
Moepatu Borell
Tom Roa

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**TAKEN BEFORE JUDGE D J AMBLER**

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| | **COURT RESUMES ON WEDNESDAY, 12 DECEMBER 2012 AT 9.58 AM** | |
| | **PIRIPI WARETINI** | |
| | Kia ora tātau e te whānau, nau mai haere mai ki tēnei taha i te manga o te wā. Anō tērā Te Tokanganui-a-noho, ka huri tonu mai ki te raurau kia haere ki tēnei taha rāno. Nō reira, whakatau mai, whakatau mai, whakatau mai. | Piripi is opening up and greeting everyone present, in particular to us shifting residence yesterday, so welcome, again welcome. |
| | Mihi tonu ki ngā ringawera, ngā ringa raupā, i mahia nei te mahi ina pō rā anō. | Also acknowledgements to the people in the back preparing food. Very well received. |
| | Kāti rā, kei kō atu nei te putanga ki waho rā anō. | |
| | There's the exit over there. The assembly point in an emergency is across the road. I tērā taha rā anō. | |
| | Kei muri rā, ko ngā whare moroiti rā, wharepaku rā. | At the back there you will see other conveniences for people there. |
| | The breaks today; think half past the hour, 11.30, 1.30, 3.30, kia kore rā anō te puku e tangi ana. | So that our stomachs are adhered to. |
| | Just an update on Lucky, te ngeru, we raised $250. She's had her leg amputated, she's got a throat operation to come and Aunty Cindy, that's her favourite cat and she's a kuia of the marae, kia ora. I'm not too sure how much of that was actually legal aid. Kia ora tātau. Sorry, $350, thank you, thank you Jenny, I'll leave it to Jenny to straighten the waka. | |

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| 1000 | I tēnei rangi rā anō, i te tekau mā tahi o ngā hāora, ka eke tonu mai te tūpāpaku ki runga i te marae, tekau mā tahi o ngā hāora. Hei te Paraire, ka whakatuwheratia te karakia, te rā whakamutunga, te nehu, nē. I kī mai te whānau, ka mihi whānui tonu ki a koutou e te Kaiwhakawā e tautoko atu, te neke tonu mai ki kōnei mahi ai. He tohu rangatira kia rātau nā Taonui te kī. | Today at 11 o'clock the body will arrive at the marae at 11 o'clock. Now, this Friday they will have the final prayer this Friday. Now, the whānau has asked if... |
| | Katahi rā, me te kōrero mai ki a mātau ngā kaimahi o te iwi, e ki mai a Taonui, kaua e whakataruna te huarahi. Me noho tonu mahi ai, kawea nei te rākau o te iwi. Kei te mōhio hoki rā, he Māori anō te Māori, kei a koe tonu tērā te whakaaro engari nā Taonui me te whānau whanui te kī ai. Āe, ka tika tonu, kia, kia ora anō hoki tātau, fiafia (inaudible 10:00:47), kia orana, bula vinaka, konichiwa, tēnā ramarama, namaste, Talofa lava, ki te whānau ete o te kura nei, bon jour. | Now another notice we want to ask for those that need to be present here –<br><br>Again, Piripi is extending warm welcomes to all those present. |
| | Ko te kaupapa o te whakatau i te rangi nei, te kawau kakī māro, whanake ake, whanake ake. Mō wai ana te whenua nei, ana mō tātau mā te muru a te tini, te muru a te mano, anō hoki rā, ko ngā uri whakaheke mō āpōpō rā anō, kei tērā taha, hei kīnaki i te ata nei. Te kura rau tau, Centennial Park, tērā tonu te kura o ngā Māori i tēnei takiwā. | Now, Piripi has quoted a passage or a proverb of old. Now, for those... |
| | Tae noa mai, tirohia, āta tirohia mai, whakawetohia. Inanahi rā anō ka haruru mai anō te manu, e hara i te mea he manu tūturu. | Another request, could you please turn your cellphones off at all times during proceedings. |
| | Ki tua ka kī mai te matua i te rangi nei, arā, hei tērā o ngā – te rā o te Paraire, ki tērā te nehutanga o, hei te pō nei, arohaina mai, hei te pō nei, ka haere ā roopū te kāhui rōia, i | Now, this Friday is the final day of the funeral, now today. Now a request has been sent by the family. Now the Tribunal will make themselves present at the funeral and at |

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| | karangatia nei e te tuahine o te ure tārewa, te Kīngitanga, ā, Ngāti Pikiao Rangi, nāna i karanga atu nei kia koutou. I whakaaetia tērā e te tēpu. I kī mai te matua nei, Pou, ka haere hoki rā e te Taraipiunara tautoko ai, ā whakatau noa. Nō reira, ka oti atu tēnei o ngā pāohotanga. Ka huri tonu nei te rākau kia Uncle Harry, kia whakatutonu mai te karakia. Uncle Harry tells me he knows exactly what to do. Kia ora tātau. | this stage we will pass on to Harry to bless proceedings today. |
| | **HARRY KEREOPA** | |
| | Ā, te kete, te pūtea rā i waiho ki te ao tūroa, ā kia huihui mai rā tātau e tau nei i roto i tēnei rā i mua te aroaro o ō tātau rangatira i konei. Ngā pōkokohua i tāhaengia hoki o tātau whenua. Heoi anō, e mihi atu hoki ki tō tātau Mātua Nui i te Rangi i tiakina, i manaakitia mātau i tēnei pō. Tū atu hoki i tēnei (inaudible 10:03:22). Nō reira me īnoi tātau kia ia. | And the elder is welcoming all of us that are present and of course he pays reference to the Crown, and at which stage the elder is leading us through prayer. |
| | **KARAKIA (NĀ HARRY KEREOPA)** | |
| | E te Atua Kaha Rawa rā, tēnei o pononga e tau nei i mua i tō aroaro. Haramai rā i waenga nui o mātau, tātau, te whakahaere i ngā take painga mō tātau te iwi Māori me tauiwi hoki i tēnei rā. Āe rā, whakakorōria i tō ingoa tapu. Homai te ngākau papaku, te ngākau tapatahi kia mātau, tātau. Murua rā o mātau hara. Nāu hoki te tīmatanga, te whakaotinga o ngā mea katoa. Ake, ake, Āmine. | |
| | Otirā, o tātau tini aituā e hinga mai rā, e hinga mai rā, e hinga atu nei, kāre e taea e tātau te pātai mō tēnei hunga mate, he taonga hoki nō Tuawhakarere, ā kei te mihi atu. Kei te mihi atu i te taha hoki o tō tātau rangatira e noho mai | The kaumātua is paying reference to the dearly departed. The elder also acknowledges the Tribunal that are present here. |

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| | nei, me te tēpu me ō tātau kaumātua. Kāre e kaha rātau ki te tae atu i tēnei rā, ā ki te noho ki te mihi atu ki a ia e eke nei i runga nei i tō tātau marae. Otirā, mā tātau rā e mihi rā mō rātau e noho nei ki te pakanga, ki roto te Karauna. Nō reira e ngā rangatira o tēnei wā, tēnā koutou, tēnā koutou, tēnā tātau katoa. | "So to you all present, I greet you all." |
| | **PIRIPI WARETINI** | |
| 1005 | Piki mai, eke mai rā koutou e hika mā. | |
| | **WAIATA** | |
| 10:05:35 | Pakipaki tū... | |
| | **HARRY KEREOPA** | |
| | Ā koinā Rawiri ngā kuia, ngā kaumātua mō āpōpō ki te kōkiri haere ki ngā take e painga o ngā tiro rā, ā mō Maniapoto whānui. Nō reira i roto o tērā, kia tau kia tātau te atawhai o tō tātau Ariki ā Ihu Karaiti, te aroha o te Atua, te whiwhingatahitanga o te Wairua Tapu, ake, ake tonu ake, Āmine. | And these are our children that will be our elders as of tmorrow and onwards. So with that, may the blessings of our Lord be upon you all, and with that blessing, thank you very much. |
| | **PIRIPI WARETINI** | |
| | Tēnā ka mihi atu ki a koe e te matua, te Amorangi ki mua, te hāpai ō ki muri, e pūkenga wai he nōna tāngata. Tēnā ka tuku anō te rākau ki a koe e te matua. | And Piripi is handing proceedings over to the Judge. |

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| | **JUDGE AMBLER** | |
| | Kia ora mai tātau. Tēnā koe e te matua mō tō tātau karakia i te ata nei. E mihi ana hoki tēnei ki te tamariki o te kura, e whakaoho nei i a tātau katoa i tēnei ata. Tēnā koe hoki a Piripi. Tēnei rā, te rā tekau mā rua, ko te mārama tekau mā rua o te tau tekau mā rua. Nō reira waiho ake tērā mā koutou e whakaaro. He aha te tikanga o tērā. Kua pānuihia e Piripi tā mātau nei hiahia te tautoko i a koutou i raro i te kapua pōuri. Nō reira hei te mutunga o te rā, ka haere tahi ai tātau ko ngā rōia ki tō tātau marae ki tērā o ngā tūpāpaku e takoto i reira. Nō reira, i tēnei wā, kāore au i te tino mōhio āhea e mutunga a te rā, kei te haurua i te rima pea. Nō reira, me haere tonu. | Judge Ambler has thanked the elder for leading us in the prayer "and that you have woken us all up this morning, so kia ora to you Piripi." Today, the importance of the 12th of the 12th of the 12th, now we should leave that for you to consider and what we should make of that. Piripi has read out requests and this particular time with families in bereavement, so at the end of today we along with all the legal counsels will be heading to the marae and pay our respects to the family there. So, we're not too sure what time we're likely to finish today, probably around 5.30, but however we shall continue on. |
| | We will recommence with Ms Savali. Can I just make clear the acoustics in here are nothing compared to your whare. Your whare has good acoustics, so can people just be conscious of that in projecting their voices. | |
| | **CLARE SAVALI** | |
| | Good Morning, if we could just look at some of the alcohol issues and I'd like to ask you to turn to page 74 in the Crown's bundle of documents. It's I014. | |
| 1010 | **JUDGE AMBLER** | |
| | The page again? | |

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| | **CLARE SAVALI** | |
| | Page 74. | |
| | **JUDGE AMBLER** | |
| | Oh, okay. | |
| | **CLARE SAVALI** | |
| | And so this is a petition of the Maniapoto, Raukawa, Tūwharetoa and Whanganui tribes. The one that was presented to Parliament in 1883, and I just like to spend some time going through the petition a wee bit more detail and just looking at some of the, the – those wording or topics that they cover, and I'd like to turn to the second paragraph where it says: "We have carefully watched the tendency of the laws which you've enacted from the beginning from the beginning up to the present day. They all tend to deprive us of the privileges secured to us by the second and third articles of the Treaty of Waitangi, which confirmed to us the exclusive and undisturbed possession of our lands."<br><br>So right here, right at the beginning of this doc, of this petition, we have this linkage between what the – between alcohol and the land. So already they're saying that there's that link between liquor and a Treaty breach which we'll come back to that. Now the third – | |

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| | **DR PAUL CHRISTOFFEL** | |
| | Sorry. | |
| | **CLARE SAVALI** | |
| | Sorry? | |
| | **DR PAUL CHRISTOFFEL** | |
| | I didn't notice a reference to alcohol in there. My – the typeface is quite small but I – when you read it out, I didn't, I didn't notice any reference to alcohol. | |
| | **CLARE SAVALI** | |
| | Perhaps we'll come back to that. I'll just go through a couple of other passages. The third paragraph, they go on to say:<br>"We do not see any good in any of the laws which you have enacted affecting our lands. When they were brought into operation and adjudicating upon lands before the Native Land Court at Cambridge and other places, and the practices carried on at the Land Courts have become a source of anxiety to us and a burden upon us."<br>And so my question to you is, what do you think the chiefs would've been referring to in this paragraph when they refer to, when they're referring to the operation of the Native Land Court in Cambridge and other places. What, what do you think the practises would've been that they were referring to, | |

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| | which would cause, be a cause of anxiety and a burden upon them? | |
| | **DR PAUL CHRISTOFFEL** | |
| | The only – perhaps I can refer to my, look at my report and see what's, as you say, in there. So what, so in my report at page 13 I summarise some of these effects of the Native Land Court that were complained about and so these include fraud, drunkenness demoralisation and all other objectionable results attendant at sittings in the Native Land Court. So that's, yeah, fraud, drunkenness, demoralisation are those three things that are mentioned here. | |
| | **CLARE SAVALI** | |
| | And if we go down to the sixth paragraph in that petition where it says, "We are beset on every side by the outrageous practices and the temptations were exposed to by speculators." My, my assumption there is that they were referring to the impact of alcohol. Are you able to expand on this? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Sorry, I'm just going to get out my reading glasses, so I can look at this. | |
| | **CLARE SAVALI** | |
| | So it's half way down. | |

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| | **DR PAUL CHRISTOFFEL** | |
| | Yeah the, the lights not as good here as it was at the whare. So this is the, sorry, sixth paragraph did you say? | |
| | **CLARE SAVALI** | |
| 1015 | Yes, starts with, "We are beset." | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yeah. Well it's not, it's not very, it's not very specific about what it's referring to, but I understand often advanced payments were made to induce people to take their land through the Land Court so that they can get title to it and then they would receive the rest of the money after they had that clear title. Yeah, I'm not sure what else - | |
| | **JUDGE AMBLER** | |
| | Dr Christoffel, can you just make sure you project your voice please? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Sorry. | |
| | **CLARE SAVALI** | |
| | Perhaps we just keep on, keep going through. The last one, | |

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| | go down to the second to last paragraph. We're at the last sentence. They say, "We can live as we are situated at present without roads, railways or courts, but we could not live without our lands." Then, then they go on to state that they're not obvious to the advantages derived from road, rails and other desirable works of the European, but they say, "We are fully alive to these advantages, but out lands are preferable to them all." So would you agree that at this time, and we're talking – this is 1883, what was causing the most anxiety to the chiefs and the petitioners was the continued retention of their lands? They, they appreciated the advantages that would flow from roads, railways, but of more importance to them than any of those advantages was land and the retention of their land? Would you agree with that proposition? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yes I would, I would. | |
| | **CLARE SAVALI** | |
| | And then we turn the page and the petition sets out what they're asking for, and the very first thing that they ask for, and perhaps this is the matter that is of most concern to them, is they wish that they may be relieved from the entanglements incidental to employing the Native Land Court to determine their titles to the land, also to prevent fraud, drunkenness, demoralisation and all other objectionable results from attending sittings of the Land Court. And so I want to have a look at the connection | |

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| | between this statement and the overwhelming desire of the petitioners to retain their land. First of all, what, what do you think the incidental entanglements might have been, because I, I put it to you that they're referring to drunkenness, and alcohol and the availability of alcohol at these Native Land Court sittings? | |
| | **DR PAUL CHRISTOFFEL** | |
| | I think that's clearly one of the things that was being referred to, but they would also have been well aware by then of the way that the Native Land Court tended to, to operate, where people may make claims of a particular area of land and so you would find yourself drawn into the whole process in order to defend your, your own claims to the land, whether you liked it or not. And there are all sorts of expenses associated with that, and often those expenses had to be dealt with by ultimately, selling some of the land and was to defray expenses. So yeah, so there were – it sort of operated as a system where you couldn't help but be drawn into whether you liked it or not, and I think that was certainly would've been a major concern. But also with the reference to drunkenness and so on, people would have to travel to wherever the land court was located and spend some time there and inevitably alcohol would be on sale and often people sitting around waiting for things to happen, would, you know they would frequently spend a lot of their money on alcohol and obviously there was problems like drunkenness which has been referred to her. | |
| | **CLARE SAVALI** | |

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| 1020 | And why, why do you think it was so important at this time for Māori to retain their lands? | |
| | **DR PAUL CHRISTOFFEL** | |
| | It's not, it's not entirely clear to me they wanted to retain all their lands regardless. I think it was the fact that lost control of their ability to retain their lands through the Native Land Court was really the issues. So they wanted it to be their choice rather than to get sucked into a system that often ended up with them having to sell lands, which I think was the objection. | |
| | **CLARE SAVALI** | |
| | Would you accept that at this time, in that early 1880s, the issue of alcohol and its effects was greater than just a personal issue or a social issue? It was, it was more about, I suppose it was, I mean I'd put it to you that actually the concerns around alcohol was that once at Native Land Court sittings where there were people drinking and there was drunkenness, it wasn't about creating a public spectacle. It was about then, people perhaps selling land when they were not in a fit state to do so? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yes I think, I think that would definitely be a concern and I think also the fact that often to purchase alcohol, people may have got themselves into debt and then to defray that debt they may have ended up having to sell land in order to | |

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| | meet that expense. | |
| | **CLARE SAVALI** | |
| | So would you accept that in fact the control – the issue of control of liquor was actually fundamental to the future of Rohe Pōtae Māori in that if they lost control of liquor, then they I suppose lost control of their lands? | |
| | **DR PAUL CHRISTOFFEL** | |
| | I think the concerns being expressed here are in relation to liquor in conjunction with Native Land Court sittings. Certainly the evidence that I've seen from, from later periods, from people like John Ormsby, were that there was a strong concern to keep control of liquor as long as, as the Native Land Court was doing its – was carrying out its functions. So I think yeah what, what you're saying is probably correct so that that's – that there was a strong desire to at least for a people, keep strong control over the sale of liquor within the district. | |
| | **CLARE SAVALI** | |
| | Would you agree that the effects of being drunk in the 1860s and 1870s wasn't just about the loss of land. It was also about the loss of community and identity and sort of everything that went along with retaining your land? | |
| | **DR PAUL CHRISTOFFEL** | |

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| | Um, I'm really not sure. I – that seems quite a broad statement and I'm not quite sure whether I - | |
| | **CLARE SAVALI** | |
| | I suppose as a comparison, today if we look at the effects of say P on a community, it has a huge impact on, you know, on the individual and their family, but if you compare that to the effects of alcohol back in the late 1800s, the result of someone being drunk at a Native Land Court sitting could mean that a whole you know chunk of land was lost or sold or – and the flow-on effects from losing that land was just immense for not only, you know, that individual, but their hapū and the iwi as a whole? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yes I would agree with that. | |
| | **CLARE SAVALI** | |
| 1025 | If we turn to chapter 8 of your report, and you reached the conclusion that there was no sacred compact concerning liquor, and rather that that term was - a sacred compact was born in the 1900s as a result of the Temperance Movement. | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yes. | |
| | **CLARE SAVALI** | |

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| | Would you accept that around that time the Temperance Movement and the prohibitionists were concerned about the social, moral and I suppose personal individual effects of alcohol, so about disorderly behaviour and the moral, I suppose, effects of drunkenness? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Sorry, what period are you referring to? | |
| | **CLARE SAVALI** | |
| | So I'm talking about in the early 1900s, around 1900. | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yes, yes. | |
| | **CLARE SAVALI** | |
| | And would you agree that by the 1900s the major concern from, you know, the early 1880s, namely the correlation between drunkenness, alcohol and the loss of land was no longer so much at the forefront because the land had actually, was already going or gone by that stage, so it wasn't the only sort of issue left to deal with, was the individual impacts of alcohol? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yes, I would agree with that, yeah. | |

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| | **CLARE SAVALI** | |
| | So, in effect, the immediate or the most pressing concern for Māori had gone away and the Temperance Movement was left with dealing with the remaining effects which was the individual effects on the person? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yes. | |
| | **CLARE SAVALI** | |
| | And although you've come to the conclusion that there was no sacred compact concerning liquor, would you accept that liquor had a devastating effect on Māori communities in the nineteenth and twentieth centuries? | |
| | **DR PAUL CHRISTOFFEL** | |
| | It's not something that I went into a lot of detail on in my report. I think the effects would've been varied, but it does appear from the – for example from Apirana Ngata's visit to the district in 1900s that there seemed to be quite widespread concerns that there were a lot of illegal liquor sales going on in the district and this was having widespread detrimental negative social effects at the time and that was what led some, certainly some leaders to advocate that perhaps a licensing system would be – would provide more control over liquor than the regime they had when there was – there was no licensing system because technically all | |

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| | sales were illegal. | |
| | **CLARE SAVALI** | |
| | And by that stage a lot of the land had already gone, hadn't it? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yeah, but I think around about a third of all the land within the Rohe Pōtae had at least been sold at that stage. | |
| | **CLARE SAVALI** | |
| | And finally if I could refer you to Dr Loveridge's report, I think it's A89, I just want to refer quickly to the – he produces at page 60, McLintock's recapitulation of conclusions and the first of these is with regard to the no licence proclamation where McLintock concludes that the petition of September 1884 was inspired by the Gospel Temperance Mission or the blue ribbon army and had not the slightest connection with the projected main trunk railway and I put it to you that in fact the petition of September 1884 had in fact everything to do with land and that liquor, liquor had everything to do with land and control. Perhaps one way of putting it is you know, control the liquor and you control the retention of land. Would you agree with that proposition? | |
| | **DR PAUL CHRISTOFFEL** | |

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| 1030 | Sorry, that's quite a lengthy question. I – sorry, I don't actually have a copy of the document that you're actually referring to. Oh, here it comes. What page is that again? | |
| | **CLARE SAVALI** | |
| | On page 17. | |
| | **DR PAUL CHRISTOFFEL** | |
| | 17 did you say? | |
| | **CLARE SAVALI** | |
| | 17. | |
| | **DR PAUL CHRISTOFFEL** | |
| | Oh, 17. | |
| | **CLARE SAVALI** | |
| | Yeah. | |
| | **DR PAUL CHRISTOFFEL** | |
| | It's the Smith report. So page 17 seems to be the Smith report. | |
| | **JUDGE AMBLER** | |
| | Sorry is it page 117 or 17. | |

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| | **CLARE SAVALI** | |
| | It was 17 but actually sorry that was in A41 at page, it's page 17. I can read it to you again if you like. | |
| | **JUDGE AMBLER** | |
| | Yes, say that again. We are talking about document A89? | |
| | **CLARE SAVALI** | |
| | Yes. | |
| | **JUDGE AMBLER** | |
| | And what page? | |
| | **CLARE SAVALI** | |
| | Sorry I got the wrong page reference. It should be A41. | |
| | **JUDGE AMBLER** | |
| | I see A41. | |
| | **DR PAUL CHRISTOFFEL** | |
| | Sorry that's a different document are you saying? | |
| | **CLARE SAVALI** | |
| | Yes it is sorry. | |

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| | | |
| | **DR PAUL CHRISTOFFEL** | |
| | Oh okay, although there should be - | |
| | **JUDGE AMBLER** | |
| | Hold on we will get A41, and what page of A41? | |
| | **CLARE SAVALI** | |
| | Page 14, ah, 17. | |
| | **JUDGE AMBLER** | |
| | Thank you. | |
| | **DR PAUL CHRISTOFFEL** | |
| | Um, - | |
| | **CLARE SAVALI** | |
| | Sorry. | |
| | **DR PAUL CHRISTOFFEL** | |
| | No I think you – I think it is, I think it is the A89 but it should be a different page reference 'cos I do remember that, I do remember the quote. It may have been about – | |

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| | **CLARE SAVALI** | |
| | Page 16, A89, 60 A89. | |
| | **DR PAUL CHRISTOFFEL** | |
| | So 60 okay thanks. Okay so I've got the, um, - | |
| | **CLARE SAVALI** | |
| | And so I'm referring to paragraph 76. | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yeah. | |
| | **CLARE SAVALI** | |
| | And 1(a). | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yeah. | |
| | **CLARE SAVALI** | |
| | Where he, where they state the petition of September 1884 was inspired by the Gospel Temperance Mission and had not the slightest connection with the projected main trunk railway. And I'm putting it to you that in fact it had | |

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| | everything to do with the main trunk railway and the retention of Rohe Pōtae lands. | |
| | **DR PAUL CHRISTOFFEL** | |
| 1035 | Okay well I don't agree with McLintock's conclusion that had not the size connection with the rejected main trunk railway. However I also don't agree it had everything to do with land and the railway. The, the Temperance Movement was pretty well, pretty well organised and very adept at collecting signatures for petitions. Sorry I've got something in my eye, um, and they spent quite some time travelling around the districts assisted by Arthur Ormsby I think in the main, promoting, promoting their petition which they had drawn up as I understand because they were quite familiar with the particular clause in the Act, section 25 I believe it was. That enabled them to, if they got enough signatures, to declare a Māori district, dry. But clearly, they also managed to convince the Rohe Pōtae leadership to sign that petition along with an awful lot of other people who, who would've been influenced by that, and I think it's pretty clear from later pronounces such as the, oh sorry, from the 1883 petition that concerns about drunkenness associated to the land Court were a strong motivator for the leadership to – wants to go along with this. So I think there was an interaction between, between different forces, and I think the, the temperance people clearly, their motivation was, was more that to have a large area of the country declared a district where you couldn't sell alcohol would be a major, a major victory for them, and, um, that was, um, and they, they could see that there as a clause in the Act that would enable them | |

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| | to do that and I think as I point out at some point, I think it was in my summary, that this was even by the end of the century, this is still one of their greatest achievements was to have the King Country declared a dry district. So, I guess what I'm saying is I think there were different forces, a variety of different forces at work here in collecting really quite a remarkable number of signatures for this petition, some of which must've come from outside the district because it was a very, very big petition, so I don't think that McLintock's conclusion is correct, saying it was just the Gospel Temperance Mission work but on the other hand I don't think it's entirely to do with forces outside of the gospel Temperance Movement either. | |
| | **CLARE SAVALI** | |
| | Thank you, I have no further questions. | |
| | **JUDGE AMBLER** | |
| | Is Mr Hope next? | |
| | **ALEX HOPE** | |
| | Āe, tēnā koe e pā. Ko āku pātai, e toru noa iho. Ā tēnā kōrua ngā matanga rangahau noho ana kei mua i a tātau i tēnei wā. Ko au te roia mo tētahi rōpū kaikerēme o tō rātau tīpuna ko Te Moerua – | I stand here and I greet you all. My question is, I have three questions, I wish to greet both you and your excellent research within your fields. I represent one of the claimants and I – |
| | **JUDGE AMBLER** | |

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| | Mr Hope, I think you're going to need to ask the questions in English. | |
| | **ALEX HOPE** | |
| | Kua whakaritea kia whakapākehātia – | |
| | **JUDGE AMBLER** | |
| | No. Let me make this clear to you. The two witnesses we have here, English is their first language, I don't know the extent to which they speak the reo, but I expect you to ask your question of witnesses such as this in English, thank you. | |
| | **ALEX HOPE** | |
| | Karekau aku pātai. | I have no questions. |
| | **JUDGE AMBLER** | |
| | I'm sorry? | |
| | **ALEX HOPE** | |
| | Karekau aku pātai. | I have no questions. |
| | **UNIDENTIFIED SPEAKER** | |
| | Ms Feint, Sir? | |

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| | **ANNETTE SYKES** | |
| | Sir, can I ask for your recording to be made in writing because that's a matter that I would like to refer to the Māori Language Commission. | |
| | **JUDGE AMBLER** | |
| | No difficulty. | |
| | **KAREN FEINT** | |
| | Kia ora, Dr Robinson, I just had one question for you and that relates to your discussion of the Kotahitanga Movement at page 72 to 73 of your report and my question was simply that you say on page 73 that some Rohe Pōtae Māori were involved in the Kotahitanga Parliament but you don't refer to the involvement of Tūwharetoa leaders such as Te Reti Te Heuheu and my question was simply is that because you regarded them as being outside the district? | |
| | **DR HELEN ROBINSON** | |
| | My understanding is that the Tūwharetoa rohe is mostly outside of the inquiry district, but in retrospect it probably would've been a good idea to mention them though, you know, considering that there were strong connections with the district. | |
| | **KAREN FEINT** | |

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| 1040 | Thank you. And I just have one question for Dr Christoffel in relation to chapter 2 of your report where you discuss the Taupō-nui-a-Tia application and you make it clear in your introductory comments that you're relying primarily on the secondary sources such as Stirling, Loveridge and the Tribunal's CNI report. I just wanted to ask whether you're seeking to put a different interpretation on what they say or whether the intention there was simply to summarise or give an overview of those other sources? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Sorry can you just refer me to the section of that chapter where I discuss that. I, I think I've gone too far that's why. | |
| | **KAREN FEINT** | |
| | So page 35 onwards. | |
| | **DR PAUL CHRISTOFFEL** | |
| | All right, okay right. | |
| | **KAREN FEINT** | |
| | I'm just looking at the footnotes. I see your sources are primarily Stirling, the Tribunal's CNI report and Loveridge? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yes I should actually acknowledge I had a little bit of assistance too from some Tribunal staff members. I talked | |

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| | to, in particular, James Mitchell, who was doing a report on the Native Land Court with Paul Husbands and they at that stage, they were at a relatively early stage in their research and they, they were just drafting something up, which they allowed me to see some sort of rough draft of what they've written, so I did have a look at that to sort of some idea of what was going on. So that's not referenced in the footnotes but it was another, was another thing that I accessed. | |
| | **KAREN FEINT** | |
| | But, but my question was, the purpose of this section is to provide an overview of events based on those sources rather than to place a new interpretation, is that correct? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yes, that was, that was the intention yes. | |
| | **KAREN FEINT** | |
| | Thank you very much. I have no further question. | |
| | **JASON POU** | |
| | Kia ora Dr Christoffel. | |
| | **DR PAUL CHRISTOFFEL** | |
| | Oh kia ora. | |
| | **JASON POU** | |

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| | My name is Jason Pou. I only have two streams of questions to ask you. One relates to the matter that His Honour Judge Ambler picked up with you, you being an expert in the liquor licensing, history of liquor licensing. Now you had a discussion with Judge Ambler about the difficulties of regulation. Do you recall that? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yes. | |
| | **JASON POU** | |
| | But doesn't the history of regulating liquor in this country show in some instances the political efforts that the Crown would go to on the basis of regulating liquor, and the case in point that I'd like to refer you to is Rua Kēnana. Are you aware of that instance of - | |
| | **DR PAUL CHRISTOFFEL** | |
| | I am, yes. | |
| | **JASON POU** | |
| | Well the invasion of Maungapōhatu was based on liquor licensing wasn't it? | |
| | **DR PAUL CHRISTOFFEL** | |
| | It's not something I feel I really ought to be commenting on in this particular context, but I just make a general comment | |

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| | that I think the – there was also a war time context to what went on there, so it was quite a complex situation, and I understand that the Tribunal is about to or has I can't remember, released its for part of its report which will cover that or is about to. | |
| | **JASON POU** | |
| | But doesn't that instance show where there's a will there's a way. You talked about some instances where there were number of charges laid and not many convictions, but in that instance there was one charge, two deaths, a contingent of armed constabulary, extraordinary efforts taken into the middle of the heartlands all on the basis of regulating liquor. And I'm saying that well did that ever happen in this district where Māori wanted to keep it dry? | |
| | **DR PAUL CHRISTOFFEL** | |
| 1045 | Well I mean as I, as I mentioned yesterday, John Cullen who actually lead the invasion as you term it of Maungapōhatu, also in the 1890s went into the, the King Country licensing district posing as someone interested in purchasing alcohol in order to secure convictions for illegal liquor sales, so I think maybe that demonstrates potential continuity in his approach towards this particular issue. | |
| | **JASON POU** | |
| | But in terms of intention it's very clear what the Crown wanted to do in terms of Rua Kēnana and that level of effort for more convictions that may have been sustained in the | |

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| | Rohe Pōtae just doesn't seem matched and it just seems that the regulation of liquor tended to – well, could be used as a political tool, as it were. I mean Rua ended up in jail for a year for resisting arrest on that basis and I just want to, I think that in your response to the Judge that there were particular components that weren't taken into consideration in your response, would you agree? Would you agree? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Something that I didn't really cover in my response yesterday and this is perhaps getting a bit outside of the way you prefaced your question was that over time for whatever reasons the police complaints about their ability to enforce the law is declined over time which indicates perhaps they were being more successful. What the reason I would speculate that may have been the case was improved transport systems made it easier for people to import liquor into districts for their own purposes even when they were in quite isolated areas and that was perfectly legal for them to do, so people's ability to legally obtain liquor reduced their incentive to obtain it illegally and obviously reduce the market for people attempting to sell liquor illegally. | |
| | **JASON POU** | |
| | Rather than sending in someone like Cullen, famous for the wharf strikes and things like that, why didn't the Crown empower Māori to regulate liquor in terms of what Rua was trying to do? Why did they seem to savage Māori when they were trying to regulate liquor within their districts? | |

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| | **DR PAUL CHRISTOFFEL** | |
| | Well, a lot of the people involved in buying and selling liquor illegally were Pākehā and my understanding is that was who Cullen was actually attempting to target in his foray in the 1890s. I should say at that stage I think he was relatively junior in the police force at that point. | |
| | **JASON POU** | |
| | Did you get in the Pākehā districts, Pākehā are allowed to target Māori? This is still a Māori district, why didn't they empower Māori to regulate the use in sale of liquor, whether it be Pākehā or Māori in this district? There seems to be not just a lack of an attempt to do that but an abject refusal to allow that to happen, to allow Māori to regulate Pākehā in their own district. Would you agree? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yes, I would agree with that, yes. | |
| | **JASON POU** | |
| | So there seems to be an effort to restrict Māori in the exercise of authority within their district, you'd necessarily need to agree to that too, wouldn't you? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Well, there – the native councils were empowered to have a degree of control or over the sale and use of liquor within | |

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| | their districts. My understanding is that power did not extend to Pākehā but there were at least some measures instituted and Dr Robinson has in her chapter on the Native Council she concluded that there's not a lot of evidence about how effective they were, so that's – but at least there did appear to be some powers given there. | |
| | **JASON POU** | |
| 1050 | You've just segwayed into my next topic, the second topic that I wanted to talk to and that was the experiment with native councils. Richard Hill calls it a failed experiment, an experiment that was doomed to fail. Now, in terms of the Māori councils and the native committees and I want to put it into a context of a concession that's made by the Crown by Dr Loveridge who refers to pre-emption as a protective mechanism that was ultimately used to leverage large tracts of land from Māori as cheaply as possible. Now, I'm asking is in terms of Wahanui's desire to maintain mana whakahaere over the lands of his boundary, mana whakahaere, autonomy or the authority within his boundary over his lands, over dealings within his lands, not just over dealings with his lands, does it seem that the councils, the land boards and their relationship with the Native Land Court were an experiment ultimately aimed at defeating the ability of Māori to exercise that authority over their lands? | Management. |
| | **DR HELEN ROBINSON** | |
| | First of all you're talking about three different systems of | |

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| | self-government, sorry, the native committee such as the Kāwhia Committee which were active in the 1880s. The Māori Council is brought about under the Māori Councils Act 1900 and they didn't have any kind of powers over land and then there's the Māori land councils which later became the land boards which also came into power under the legislation passed in 1900 and so it's important to recognise that these are three completely different systems, rather than just kind of throwing them all together and arguing they were – | |
| | **JASON POU** | |
| | That being said, aren't they all systems which limit the ability or the ambit in the way which authority can be exercised. Those Native Committees and earlier Māori councils were given the ability to regulate tohunga and cultural practice limited within terms of what would be repugnant to English law, those councils you've agreed they came in, they sat underneath the land court so limited the ability, they were formalising an informal sort of arrangement, so isn't a common theme with all those institutions of – well, aren't they capturing Māori authority rather than allowing Māori to exercise authority? | |
| | **DR HELEN ROBINSON** | |
| | I think if your point is that they had very limited power, then I would agree with that. I'm not – you also seem to be arguing that they sort of, you know, Māori were forced into these systems and that reduced Māori power and I'm not | |

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| | sure that that's actually the case, primarily because Māori didn't have to be involved in these things, you know, they could ignore them if they wanted to, which – | |
| | **JASON POU** | |
| | But isn't that like saying that they could ignore the Native Land Court if they wanted to? | |
| | **DR HELEN ROBINSON** | |
| | Well, no, because the Native Land Court had quite a lot of legal power and these councils and committees didn't. | |
| | **JASON POU** | |
| | But then the Crown put it to you that the councils actually formalised a role which sat underneath the Land Court and so they became an implement of the – and my understanding of your evidence is they became an implement of the Land Court, just a formal mechanism to formalise the adhoc agreements that were made outside on the doorsteps of the Court. | |
| | **DR HELEN ROBINSON** | |
| | Well, you've misunderstood my evidence in that case because that's not – and what I was saying to the Crown counsel yesterday was the agreement, you know, that anything which the Kāwhia Committee did in relation to | |

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| | coming to agreements over land, wasn't legally any different from informal agreements which groups of landowners or whoever could come to by themselves outside the courthouse. In both cases the Land Court and Judges could ignore those. They could pay attention to them if they wanted to, but there was nothing compelling them to do so. | |
| | **JASON POU** | |
| | But what you're saying there is that those councils – | |
| | **JUDGE AMBLER** | |
| | Just pause Mr Pou. The trouble is you're cutting off the witness before she's completed her answer and – | |
| | **JASON POU** | |
| | I understand Sir and I was just to get into that – | |
| | **JUDGE AMBLER** | |
| | Just pause. | |
| | **JASON POU** | |
| | Sorry, Sir. | |
| | **JUDGE AMBLER** | |
| | Let the witness complete what she has to say and then you carry on with the next part of your questioning. | |

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| | **JASON POU** | |
| | Sorry, Sir, I've got Mr Tootill saying I've only got two minutes and I'm just trying to rush along. | |
| | **JUDGE AMBLER** | |
| | No, we want to hear from this witness in terms of full answers. | |
| | **JASON POU** | |
| | Thank you. | |
| | **DR HELEN ROBINSON** | |
| | Thank you Your honour. I'm trying to pick up my thread. | |
| | **JASON POU** | |
| | I'm sorry. | |
| | **DR HELEN ROBINSON** | |
| 1055 | Yeah, under the Crown counsel yesterday was arguing that the Native Committee system, that the Kāwhia Committee operated under, was, you know, it was a way of formalising these informal agreements that took place outside the Court House and you know, and possibly there's a case but I think it depends on what you mean by formalised, but if by formalise you mean it gave any kind of extra legal power to | |

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| | it, then I would disagree with that. | |
| | **JASON POU** | |
| | No, I wasn't saying that but they were institutions which were extensively for the exercise of authority but were explicitly beneath the mana of the Native Land Court. | |
| | **DR HELEN ROBINSON** | |
| | Yeah, I think that's a fair thing to say. | |
| | **JASON POU** | |
| | And when the land councils came in, you see a diminishment, there's an explicit relationship with the Native Land Court in that they ended up being folded into the Native Land Court eventually, don't they? | |
| | **DR HELEN ROBINSON** | |
| | Yeah, I think when the land councils were councils rather than boards and when they had a Māori majority, that and I think most historians who have studied the land councils even those that aren't particularly positive about them, most people agree that they were at least an improvement on land court in that they gave some degree of autonomy to landowners and communities and, you know, it was far from the ideal system but it was better than the land court being the only body which had any authority, but then that got, you know, once elected Māori members got removed and then | |

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| | they got turned into land boards, all that went out – | |
| | **JASON POU** | |
| | And that's essentially what I'm getting to. We have Wahanui, and his understanding of just relating it the compact having mana whakahaere over his lands. Then you get this committee that sort of has limited authority in particular areas, but still, and mana whakahaere in terms of excluding the Native Land Court as well. Then you have a diminishment of authority in the land councils where you have a majority, then you have that majority removed by the Crown where the land boards are Crown appointees and then that folds into the Native Land Court. That seems like a whakapapa that has as its genesis an objective to break the desires that Wahanui was originally seeking. | |
| | **DR HELEN ROBINSON** | |
| | Yeah, I think, yeah, you can definitely track through the different committees and councils and boards, a decline in particularly through the land councils and boards because the native committees can never do anything really much in regard to land, you know, a decline in the amount of control that Māori were able to exert over their land, yeah. | |
| | **JASON POU** | |
| | And I mean we use terms like self-government, that's different to the self-management of particular aspects of your life that has been promoted in these institutions, isn't it? | |

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| | **DR HELEN ROBINSON** | |
| | Yeah, yeah, I think it can be difficult to draw a line between the two, but, yeah, I think it would be pushing it to describe any of these organisations as being self-government, you know, even the longer staying loans as a country council, let alone the national Parliament. | |
| | **JASON POU** | |
| | In terms of that when Māori through the limited exercise of authority that they could try to exercise within these boards, they were seeking authority over aspects like rating, over liquor licensing, why weren't they allowed to regulate, why were Pākehā prioritise in the creation of local authorities? | |
| | **DR HELEN ROBINSON** | |
| | I think that probably goes a bit beyond the scope of what – you know, I suspect that that's actually a question that the Tribunal should be addressing rather than me. | |
| | **JASON POU** | |
| | Okay, now in terms of that question that I asked before, you said it's difficult but I'd like you to try and distinguish between the two, between self-government and self-management, self-government or the government, the mana – the Rohe Pōtae efforts to govern themselves and the limited aspects of self-management that were provided through these institutions that we've just talked about? | |

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| | **DR HELEN ROBINSON** | |
| | Hmm. | |
| | **JASON POU** | |
| | They are terms that you use sort of interchangeably it seems through your – – | |
| | **DR HELEN ROBINSON** | |
| 1100 | Yeah, yeah, and which – yeah, I probably do and there is a bit of a difference. I think, self – off the top of my head, I think self-management is a narrow thing, and that would apply most - you know, you manage yourself and you manage your own property within the rules that have been implemented by organisations above you, you know the council, Government and whatever else. Whereas self-government implies you get to make some of those own rules yourself you know, maybe not all of them. So for example a county council is quite limited in its power compared to the New Zealand Parliament. You know, it's only empowered to make by-laws and so forth over a limited range of things. But within, within where it's given scope to, to take action, it can make, it can, you know, decide on its own rules and its own by-laws. | |
| | **JASON POU** | |

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| | Would you agree with me that self-management is a slave of self-government? | |
| | **DR HELEN ROBINSON** | |
| | What, what exactly do you mean by that? | |
| | **JASON POU** | |
| | Well you've said that the self-management is within a limited set of rules that are made by others. If I live within a limited set of rules that are made by others, am I not a slave to those others? | |
| | **DR HELEN ROBINSON** | |
| | Um, well if you're talking about literal slavery, um, slaves do not – I'm not any kind of expert on slavery and how slavery law worked, but, um, - | |
| | **JASON POU** | |
| | Well, we'll use the term "servitude" then? | |
| | **DR HELEN ROBINSON** | |
| | Um, that's, that's probably a little bit more reasonable. I think, I think that's probably unnecessarily pejorative in that everyone lives under rules and laws not of their own making. You know I do, you do, everyone in this room does. That's, you know, that's just how it works when you live in any country with a fixed set of laws, and I don't think that means | |

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| | that we're in servitude to Parliament, but it does mean that we do lack complete and total autonomy over our lives, and that we can't just do whatever we want. You know, there are rules that we have to abide by otherwise there are, you know, there are consequences. | |
| | **JASON POU** | |
| | And that's what I'm saying. Maniapoto, Rohe Pōtae Māori had their own set of rules, their own set of leadership institutions, and essentially the structures that were imposed by the Crown brought their set of structures in their institutions underneath those of the settler government. | |
| | **DR HELEN ROBINSON** | |
| | Yeah, yeah that's - | |
| | **JASON POU** | |
| | And the settler government existed underneath the Crown. | |
| | **DR HELEN ROBINSON** | |
| | Yeah I mean the technicalities of how the settler government related to the Crown and to what extent they were actually separated entities is you know, outside the scope of my report. | |
| | **JASON POU** | |
| | But in - | |

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| | **DR HELEN ROBINSON** | |
| | But, um, - | |
| | **JASON POU** | |
| | In terms of the exercise of authority, the exercise of mana whakahaere, that was, that was essentially brought under the edicts of what the Crown wanted, and was judged in terms of what the Crown would find repugnant in terms of the, starting off with the Māori Council's Act. | |
| | **DR HELEN ROBINSON** | |
| | Um, yes that's, that's correct. | |
| | **JASON POU** | |
| | Thank you Sir. Those are the questions that I wanted to ask. | |
| | **JUDGE AMBLER** | |
| | Just before you finish Mr Pou, can I just be clear. I got the gist of the discussion about the difference between self-government and self-management but I just wanted to be clear is there a particular point that you are bringing to our attention in terms of this report as to how it's used? If so, I probably haven't got it from your questions. | |
| | **JASON POU** | |

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| | In terms of that Sir, I think the usage of the terms and it's something that lawyers we argue about ourselves, but the terms are used interchangeably and the submission that I will be making in closing is that it was not self-government or self-management that Rohe Pōtae Māori were seeking and that, and sometimes to use the terms interchangeably confuses the intentions, desires and agreements that were being made. I'm sorry if I was a bit vague on that. | |
| | **JUDGE AMBLER** | |
| | All right well perhaps. | |
| | **ANNETTE SYKES** | |
| | Sir, if I can put it this way, the key issue we're exploring is to what extent was the Crown obliged to support and recognise initiatives of Te Rohe Pōtae to retain their autonomy and self-government, and in that requirement, this report is highly relevant because the three examples she uses from 30, ah, paragraph 33 to paragraph 42 of her summary, and our submission highlights there was no self-government? | |
| | **JUDGE AMBLER** | |
| 1105 | All right, well can I just pick up on those points then because I want to be very clear, Dr Robinson, in terms of the interchangeable use of "self-government" and "self-management" in your report, is that intentional? | |
| | **DR HELEN ROBINSON** | |

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| | Yeah, I did, I think I did, I would aim to give a really clear answer to this, I think I'd have to re-read the entire report again with that in mind, but I think I did pretty much use them interchangeably which – and as I said, you know, I think there is a subtle difference between the two, although as I said to Mr Pou, there's quite a large overlap between the two so there's a lot of instances where either term would be appropriate. | |
| | **JUDGE AMBLER** | |
| | And in the sense, sorry, in terms of the particular institutions that we've been discussing, the native committees, the Māori councils, the Māori land councils then the Māori land boards, you don't see that as giving Rohe Pōtae Māori self-governance? | |
| | **DR HELEN ROBINSON** | |
| | Not effective self-governance, no, the – none of the organisations had enough effective power to do that. | |
| | **JUDGE AMBLER** | |
| | All right, thank you. I think that was all claimant counsel. Dr Harris. | |
| | **DR AROHA HARRIS** | |
| | Tēnā kōrua. I've got a couple of broad questions for you first, given that you say yourself in your report that you didn't | |

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| | have access to Cathy Marr's political engagement report that she was working on while you were working on yours. I think you didn't get all the translations in that you had been commissioned for some of the Māori language documents. There may be some other materials that you didn't have available. My question is, have you looked at any of the evidence since it's come in and in light of it, is there anything you'd want to change or want to review or would've perhaps further researched if you knew now what you, sorry, knew then what you now know? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Sorry, is this with reference to the Māori language documents that had been translated or just in general having access to Ms Marr's report? | |
| | **DR AROHA HARRIS** | |
| | Both, I mean you mentioned in your report that there were certain documents that you didn't have access to while you were completing it, so I'm wondering if you've accessed any of that material since then and in light of it, if you would have changed anything? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Well, from the point of view of the introductory chapter which was the main one, I think affected by not having access to Ms Marr's report and as I indicated in my summary it was the main reason why we wrote it in the first place, to get ourselves a feeling for what happened in that earlier period, I | |

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| | have since had a chance to read reasonably – well, reasonably large chunks of her report, obviously it's a very long report and I've only read bits of it and I think it would certainly affect how if I was to re-write that chapter, it would certainly affect how I would write it, yes. | |
| | **DR AROHA HARRIS** | |
| | Would it affect any of your conclusions, do you think? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Probably overall conclusions. I'm – I just need to refresh my memory as to why I actually concluded on that, and on the basis of that particular chapter and I think – | |
| | **JUDGE AMBLER** | |
| | Just remind me which chapter? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Sorry, this is chapter 1, I think. | |
| | **JUDGE AMBLER** | |
| | Chapter 1? | |
| | **DR AROHA HARRIS** | |
| | But I think you end with the bullet point list that was discussed yesterday. | |

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| | **DR PAUL CHRISTOFFEL** | |
| | Yes. | |
| | **DR AROHA HARRIS** | |
| | In those series of agreements. | |
| | **DR PAUL CHRISTOFFEL** | |
| 1110 | Yeah, so part of the intention of that chapter was to sort of set up what we saw as some of the main things that seemed to be agreed, whether they were precise or vague in some cases and which at least I think most of these we address at some stage in the rest of our, rest of our report. So I don't know if there's any really firm conclusions drawn in that chapter. It's intended primarily to be descriptive and where there are different perspectives put from the different sources, to just outline them I think without comment really. | |
| | **DR AROHA HARRIS** | |
| | Okay. You do, you're quite good in this report with setting out what previous authors have to say on different matters, including the series of agreements or compact or pact or Kī Tapu or a whakawati. I was – have you got a sense of where you fit alongside those other authors? Do you think – are you closer to Marr or Loveridge for example? | |

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| | **DR PAUL CHRISTOFFEL** | |
| | Sorry I'm having a bit of trouble with the acoustics, but there's I understand you're wanting to know – so can you sort of repeat the question? I missed the beginning bit of it. | |
| | **DR AROHA HARRIS** | |
| | Given that you've done the reading of a number of other authors who've written on the topics that you cover, have you got a sense of where you would locate yourselves in terms of argument and interpretation in relation to those other authors? So that I mean one example, one way, another way of asking that is, where do you position yourself in relation to Marr and Loveridge? | |
| 1115 | **DR PAUL CHRISTOFFEL** | |
| | Mmm, um, the – I'm still finding myself struggling a bit to work out what the compact is supposed to be. It seems to be referred to by different people and by claimants as being involving quite a wide variety of different things, starting with the 16 March 1883 exchange of letters with Wahanui and Bryce. Then you had the, the petition, the 1883, June 1883 petition. The 1st of December 1883 agreement over survey costs and various other things, which I am still a little confused as to what actually was agreed there. Um, and then on to the, the alcohol petition and the subsequent proclamation that resulted from that, and then the meeting with Ballance in – oh and then of course, sorry I've missed out the, um, - oh sorry there's the meeting with Ballance in | |

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| 1115 | February 1885 and then these sod turning ceremony in April that year. So there's a whole series of events that seemed to be in some way associated with being, described as being either part of the compact or being the compact themselves, and I think as I made clear in the reports, in the period that we were dealing with from 1886 through to 1913, the only reference to compact was in relation to alcohol, and not to any of these, not to any of these other things or, or at least they all involved alcohol in some way, even if they – some other aspects of what was involved varied a bit. Alcohol was common factor, whereas in certainly reading this Marr's report, I saw very little reference at all to alcohol in there. And where I think there's a clear difference in our reports, is that she appears to assert that the, the way that the Temperance Movement sought of took the idea of a compact involving alcohol and the railway and sort of ran with that, she seems to assert that that was directly derived from their knowledge of a compact already in existence, and I was unable to find any evidence certainly from the period that we covered that that was the, that that was the case, and the – it appears to me that when the idea of the compact emerged in 1900s it appeared to be based on entirely on existing written sources for example relating to the discussions around the sod turning ceremony and for the – you know, this was involving Stout and various Māori leaders and in fact they didn't use the word "compact" initially at all, it seemed to come out of subsequent events and have been used initially by the press rather than by the prohibitionists themselves and then they took on the compact notion, although I think may have also been used in churches and so on. | |

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| | Sorry, I'm giving a fairly lengthy answer here, but it does seem to be quite complex and I just think the main difference between our reports as I've pointed out which is that having had a chance to look at her report I wouldn't modify my conclusions on that particular issue at all. | |
| | **DR AROHA HARRIS** | |
| | What's your preferred term to encapsulate the agreements, events, exchanges from the 1880s and through to the 1900s? You can start with the blank slate if you like and not use pact or compact. | |
| | **DR PAUL CHRISTOFFEL** | |
| | Well, it does seem to me that there were a series of discussions and agreements and negotiations that went on. What came out of them was often a little bit imprecise. I think as I note in the, I think it was chapter 2 of our report relating to the sale of lands, there seemed to be – the parties had quite different objectives as they've sort of felt their way forwards into the – they weren't aware of where they were gong to end up, so they were both pursuing different objectives around one hand building the railway and purchasing land on the other hand, retaining land and keeping control over various districts and various compromises had to be made along the way and it appears to me that most of those compromises were made on the Māori side rather than the Crown side, but – so I – yeah, I can't see that the word "Compact" would be so applicable to that although I did hear some of the legal discussion | |

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| | yesterday and clearly the whole issue is very complicated and maybe best left up to lawyers rather than the historians. | |
| | **DR AROHA HARRIS** | |
| | You're allowed to have an opinion though. So, if there were say two sets of objectives from the parties involved, do you think we could also, now in the twenty-first century, be dealing with two narratives about the events which I would probably describe as operating concurrently not necessarily well, I think, in opposition. | |
| | **DR PAUL CHRISTOFFEL** | |
| | Well, I think people's narratives do get influenced by – that stories change over time and I think the whole fairly public debates that went over times, over the liquor licensing issue I think have probably influenced the way everything that happened previously is perceived in later periods. Whoever is looking at those events, it's not like there was a two parallel independent narratives. I mean they're – both were drawing onto a large extent on the same materials and perhaps interpreting them in slightly different ways. | |
| | **DR AROHA HARRIS** | |
| 1120 | I guess I would consider that the Rohe Pōtae Māori have a narrative that occurs in the reo, occurs in tikanga, has an understanding of some of the performed aspects that we've heard about this week that might be different, so I'm sort of heading there. I'll give you a practical example. We heard from Paul Meredith who talked about Te Ōhākī Tapu as | |

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| | being used among Ngāti Maniapoto in the twentieth century, but really he seemed to me to be saying it was used by those later generations to refer to the agreements that earlier generations had made. Now, to me that can sit comfortably alongside what you're saying about the use of the sacred compact occurring from the 1900, but they're not – they don't, the two versions or the two narratives don't undermine each other but they also kind of don't connect as well, but I don't think I'm arguing that it's parallel either which I'm deliberately saying concurrent, so they're happening sometimes they're meeting and sometimes they're not. | |
| | **DR PAUL CHRISTOFFEL** | |
| | I mean, yeah, that sounds right. Well, I mean I don't have any problem with what was just said, just outlined, yeah. | |
| | **DR AROHA HARRIS** | |
| | Well, can we take that into your discussion, your chapter 8 discussion? I was wondering if you could tease out the Rohe Pōtae Māori goals, perhaps and the Prohibitionist Movement more generally. I wasn't – I can see how getting a liquor ban was something that they were in agreement on but I wasn't 100 percent sure that everybody had arrived at that broad goal by the same route and I was wondering, it seemed to me that the Rohe Pōtae Māori were getting folded into this broader Prohibitionist Movement and I'm not sure if I was fully satisfied by that. | |

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| | **DR PAUL CHRISTOFFEL** | |
| | So, is this in relation to the questions about the petition and the McLintock conclusion where there was a bit of discussion earlier, is that what you're referring to? | |
| | **DR AROHA HARRIS** | |
| | No, I think I – hang on, I'll try and find some page numbers. I think I'm being more general than that. I'm thinking about the petition. You've got some people signing and joining on some of the discussions, but they seem to be – to me they seemed to be to me they seem to be located within the Prohibitionist Movement and I was wondering if actually they're coming into the Prohibitionist Movement from a different point, I think, they've got some other objectives? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yes. | |
| | **DR AROHA HARRIS** | |
| | They've got clear objectives that they share with prohibitionists but they've also got some other things going on. | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yes, I would agree with that and the – in order to exercise control over alcohol in their district, they were encouraged by the Prohibitionist Movement understandably to use the | |

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| 1125 | legal mechanisms that were available and those legal mechanisms, this is in with a particular framework which was – had particular beliefs associated with it, for example that the possession of alcohol should never be outlawed, because – I think there's a saying, an Englishman's home is his castle and that seems to be quite a strong belief even among prohibitionists, that if someone wants to have alcohol in their own home that was their right, so it was really the sale of alcohol that they were very much focused on, whereas I don't think the Māori leaders at the time would've necessarily been particularly focused on that distinction, they would be more concerned to, in particular, control the sale and consumption and so on of alcohol aroundl, particular around areas where the Native Land Court was then sitting and, yeah, so I think the objectives there clearly verged, the ultimate in fact as – I mean the prohibitionists' aims obviously changed over time but they developed a strategy of trying to, bit by bit, turn the whole country dry and obviously what became the King Country licensing district was the first step there and then they, in 1893 they secured legislation that may well – European electorates to go dry and then that, once that strategy appeared to have got stuck there, then they then moved to a strategy of trying to impose prohibition on the whole country. So, it was a very national focus they had and in a sense I think the Māori of the Rohe Pōtae were sort of a tool in that strategy and you saw that when you saw protests coming in from prohibitionists all around New Zealand including the deep south of the South Island when for example Wahanui, Taonui and some others proposed a very minor variation to the prohibition proclamation in 1892, protests came in from all around the | |

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| | country and I think it was at that stage that the leaders realised that they probably felt that by their petition being recognised that they got some control over what happend in the district and suddenly realised, "No, we haven't got this control because there are people all over the country who have an interest in this issue," and the Government, there's a lot more of them than there are of us, and the Government ultimately is likely to listen more to the wider community, which at that stage was mainly Pākehā then Māori of the district. Yeah, I think particularly at that stage I think they would've realised that their different objectives had diverged quite significantly. | |
| | **DR AROHA HARRIS** | |
| | Okay, thank you, so it seems to me that it's difficult to tease out, especially in the earlier stages, who was using whose kaupapa, the prohibitionists joining with Maniapoto because they could, you know, see that there was an opportunity to make the district dry or Maniapoto joining the prohibitionists because they could find some support for their kaupapa. I mean it becomes clearer later on from what you're saying but in that early period it seems to me difficult to pull the two apart. | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yes. | |

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| | **DR AROHA HARRIS** | |
| | Thank you, I want to just go back to near the beginning again. Around about page 8 where there's discussion of the reconciliation or attempts of reconciliation between the Kīngitanga and the Crown, which it seems to me with the evidence we've had so far that I can't find the tipping point where you go from a discussion about peace to a discussion about a railway line, so where do you think peace is achieved and the discussion moves into opening up the King Country or is opening up the King Country part of the discussion about peace or have I missed something altogether and am I the only in the room that doesn't know? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Well, I haven't had access to the other discussions that have gone on in the last hearings of the Tribunal or on Monday, so I'm not quite sure where things had got to on that. | |
| | **DR AROHA HARRIS** | |
| | What's your view given the reading and research that you've done? | |
| 1130 | **DR PAUL CHRISTOFFEL** | |
| | I'm afraid I'm going to have to say I don't know on that one. I mean as – particularly this very early period was based very much on, on just reading and summarising what other people address and I'm afraid I just don't really feel well | |

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| | enough informed to be able to put a, put a view on that. | |
| | **DR AROHA HARRIS** | |
| | Okay, which might be reflection of what's in the sources as well, how the discussion goes and the – I mean that's how I'm reading some of the other evidence too, yeah. | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yeah possibly yes yeah. | |
| | **DR AROHA HARRIS** | |
| | Okay and then on page 10 you've got - | |
| | **JUDGE AMBLER** | |
| | Just before you move, it's time for our morning break. Do you want to pursue with that question or come back after the break? | |
| | **DR AROHA HARRIS** | |
| | If I, if I finish this one, I'll be finished with Dr Christoffel. | |
| | **JUDGE AMBLER** | |
| | Okay. | |

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| | **DR AROHA HARRIS** | |
| | Yeah. I think it's an easy one. You used the carrot and stick term on page 10 and you described - | |
| | **DR PAUL CHRISTOFFEL** | |
| | Oh yes. | |
| | **DR AROHA HARRIS** | |
| | . – and you described the Government opening up the Kāwhia Harbour as the stick and I was wondering if you could say something about the nature of the stick. Is it – you know because when someone uses the stick, they could use it to threaten or they can use it to cause bodily harm or - | |
| | **DR PAUL CHRISTOFFEL** | |
| | No I think, I think it's just more that it appeared from what I'd read to be a fairly heavy-handed action although from the little bit I heard yesterday, there seemed to be some, some debate about that, so that's the only sense in which I used it, and that it wasn't trying to offer something up and get agreement. It was – it seemed to be a fairly unilateral act on the part of the Crown and not a co-operative one I guess is the sense I got. | |
| | **DR AROHA HARRIS** | |
| | So heavy-handed to the point of being provocative? | |

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| | **DR PAUL CHRISTOFFEL** | |
| | I really couldn't comment on that I don't think. | |
| | **DR AROHA HARRIS** | |
| | You can choose any other synonym that you like. Just – are you happy to go with heavy-handed? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Well I'd really have to re-read what I actually wrote to see, to see if - | |
| | **DR AROHA HARRIS** | |
| | No I think that's okay thank you. | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yeah, no I mean I don't really say very much about it and I – at this distance from, I can't recall. | |
| | **DR AROHA HARRIS** | |
| | Kia ora. | |
| | **JUDGE AMBLER** | |
| | Kia ora, right we will take our break. | |

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| | **MAUI SOLOMON** | |
| | Sir just before breaking for morning tea, Maui Solomon here Sir. Just to formally report an appearance for today. Thank you. | |
| | **JUDGE AMBLER** | |
| | Thank you Mr Solomon. | |
| | **PIRIPI WARETINI** | |
| | He paku pānui tā Tama. Kia ora rā te tēpu. Tautokohia ake nei ngā kōrero o te wā. Hei te haurua o te tekau mā tahi, ko tēnei tonu te wā hākari. Te hauroa o te tahi, e rima tekau meneti i te toru, tekau meneti ki te whā, nē. Ā ki tua, ko tērā tonu te wāhi o ngā kaumātua kia kai ai nē. Koutou Te Amorangi ki mua rā anō o ngā taonga whakahirahira. Ki tērā taha. Kia tātau te iwi, kia haere whakawaho a moemoe atu nei ki tērā taha ki te whakaroto, ki te whakaroto. Anei tonu te wāhi hoki rā kia haere ai ki tua. Ka rere ahau ki tērā taha o te pūniu kia kōrerohia ai. Ko Kemureti tōku oko horoi. Kua kaha ana rā tōku haona kaha. Ko Ngāruawāhia tōku tūrangawaewae. Nō reira e te haona kaha o te pūkoro mutu kākā Wahanui a kia kākā huri ai manu tīoriori ai. E kāre, are kaha ana rā. Ka mihi nei. Ka mihi maitai, ka mihi autai ake nei. Te kōrero kia mau ki te kauwau kakī mārō whanake ake whanake ake. Mai i tēnei rūnanga ki tērā taha te whare o te ora, ka whakatakotoria nei tēnei o ngā kōrero. Nau mai ngā hua o te wao, te (inaudible 11:34:40) kino, te wai Māori, ngā Tāne, ngā Rongo ngā Tangaroa ngā Maru. Ko | I wish to give notice. I wish to support all that has been said. Now half past 11 is the time for a break and half past one. Now over there is the area for our kaumātua to have their replenishments and the rest of us, can we please go outside and then we'll have to walk outside and come through on the other side there.<br><br>Now at that side of the puniu...<br><br>Now Piripi is just giving reference to proverbs relating to this area. I will not translate. |

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| | Ranginui e tū nei ko Papatūānuku e takoto nei. Tūturu whakamaoa kia kina, haumie hui e, taiki e. | |
| | **JUDGE AMBLER** | |
| | Kia ora. We'll resume at five to. | |
| | **HEARING ADJOURNS: 11.35 AM** | |
| | **HEARING RESUMES: 11.56 AM** | |
| | **DR AROHA HARRIS** | |
| | ....yes, the rest of my questions are about the Kāwhia Committee and starting with the Native Committees Act so I'm starting around about page 106. | |
| | **DR HELEN ROBINSON** | |
| | Sorry, 106, did you say? | |
| | **DR AROHA HARRIS** | |
| | Let me double check that, sorry, it's page 100. | |
| | **DR HELEN ROBINSON** | |
| | Yep. | |

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| | **DR AROHA HARRIS** | |
| | So, you talked about the Bill not being debated in the house and suggest it indicated widespread support of possibly apathy. Have you got a view on one of those or the other? | |
| | **DR HELEN ROBINSON** | |
| | No, I couldn't find any evidence either way and I don't know enough about nineteenth century parliamentary procedure to know, what not having a debate tended to indicated. | |
| | **DR AROHA HARRIS** | |
| | Okay, just before that passage you've got the most important reason for the Native Committees Bill being passed was the delicate state of negotiations over the main trunk railway in opening up the Rohe Pōtae. How should we understand that? So, the Native Committees Act is an act intended for implementation across the country and here's this very specific issue being addressed, not just a specific issue but an issue specific to a particular area, so is this – that a sort of more generally applicable Act as being used to address something going on in Te Rohe Pōtae or is it that the specific issues of Te Rohe Pōtae are just incidentally or coincidentally able to be addressed by that Act, what's going on there? | |
| | **DR HELEN ROBINSON** | |
| | Well, first of all I should point out that where I say the most | |

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| | important reason for the Native Committees Bill being passed was negotiations over the railway in the Rohe Pōtae, I stated it so that sentence that for the purposes of this report it's the most important reason, so for the Government at the time I think that was one of the key reasons but possibly it wasn't the most important reason for them but it was obviously with this, in this inquiry it's very important for our purposes. | |
| | **DR AROHA HARRIS** | |
| | But for the Government at the time they're still drawing attention to Te Rohe Pōtae? | |
| | **DR HELEN ROBINSON** | |
| 1200 | Yeah, I think the situation in the Rohe Pōtae was one of the reasons why the Native Committees Act was passed. I suspect it may have been passed even if that hadn't been going on, but that was definitely an extra imputes and in O'Malley's book, *Agents of Autonomy* which is a national report, it's not focusing on Te Rohe Pōtae or any specific area. He mentions the opening up of the Rohe Pōtae as one of the key reasons. Yes, so I think that's a reasonable conclusion. | |
| | **DR AROHA HARRIS** | |
| | That doesn't answer the question about what the Government was doing there. If it was – was it using the Native Committees Act to sort out Te Rohe Pōtae or was it just coincidental that an Act that they wanted to have | |

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| | anyway could help them do that? | |
| | **DR HELEN ROBINSON** | |
| | I think it's always difficult to know, you know, where there are multiple reasons for a Government to pass a Bill to know exactly what the main factor behind it was, you know, it sort – well, not a chicken and egg situation, but I don't know whether they wanted to have some kind of native committee system anyway, because Māori from around the country had been asking for one and had been setting up their own unofficial committees and then, you know, they had this idea and then they went, "Ooh, actually, this would be really good with the King Country because then it will be easier for us to negotiation with them because we'll have this officially recognised body," or whether it was the Rohe Pōtae thing which came first and they thought, "Okay, we need to have something like this. We could recognise a native committee and well, Māori from other parts of the country have been wanting committees as well, so let's just pass a broader Bill, giving them committees everywhere," you know, I don't know, it could've been either and I, yeah I'm not convinced that it's – you know, I think the important thing is that the Rohe Pōtae was in the Government's mind when they were passing this and the Rohe Pōtae was the one area where the Committee was actually affected. | |
| | **DR AROHA HARRIS** | |
| | Okay, I'm going forward to page 104 – | |

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| | **JUDGE AMBLER** | |
| | 104? Can I just ask both of you again just to speak up a bit more because even here I find it difficult? | |
| | **DR AROHA HARRIS** | |
| | Okay. Page 104, that first paragraph where the Minister said he would propose more powers for the committees and you finish by saying that there's, you know, there's no evidence that Ballance actually made any real attempt and suggests that the parliamentary system at the time didn't – you know, Ministers couldn't really make promises because there was no guarantee that they could keep them. My question is in the sources that you used, was that ever conveyed to Te Rohe Pōtae Māori, were they ever told that, "All I can do is promise to lay it before Parliament, but I can't," – like was that spelt out in any of the sources you used? | |
| | **DR HELEN ROBINSON** | |
| | I suspect not, but I mean it's very difficult because all I have is this *Waikato Times* report which is in English and my assumption would be that he was either speaking to Te Rohe Pōtae Māori in te reo or he was speaking in English and someone was translating, so either way they would've heard it in te reo and so we've got no way of knowing exactly what he said to them and even in English it's a big ambiguous. Dr Christoffel and I had quite a long discussion about the meaning of the word "proposed" and | |

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| 1205 | whether if you say, "I propose to do this," whether that means, "I will do this" or "I would like to do this," because that's not real – and I'm inclined to think it's more in line of, "I would like to do this." And, you know, as I say with the parliamentary system, you know, a Minister could say that they wanted to do something and then they take it to Cabinet and, you know, if no one else agrees with them then they're not a – they're not in a position to force that through. And yeah, I suspect that wasn't conveyed to Rohe Pōtae Māori. It's entirely likely that they were given the impression that he would make it happen, but yeah, from the evidence that I've been able to look at, you know, there's no concrete evidence either way. | |
| | **DR AROHA HARRIS** | |
| | Okay, thank you. I've got a couple of questions about the Committee making decisions over resource management and you have some discussion about that on page 109 or starting on page 109. | |
| | **DR HELEN ROBINSON** | |
| | Sorry, was that 109? | |
| | **DR AROHA HARRIS** | |
| | Yes, 109. Did any Government official ever directly tell the Committee that they should stop dealing with resource management issues? | |

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| | **DR HELEN ROBINSON** | |
| | I didn't find any evidence of that. | |
| | **DR AROHA HARRIS** | |
| | So was there an ability to implement those decisions due to the sort of natural limits of their own resources and powers, so it's not because somebody is coming in and telling them they've got to stop doing that? | |
| | **DR HELEN ROBINSON** | |
| | Yeah, I think that's correct. | |
| | **DR AROHA HARRIS** | |
| | Did you find any information on how – no, actually. Is there any information on compliance among Rohe Pōtae communities with those kinds of decisions, resource management decisions? | |
| | **DR HELEN ROBINSON** | |
| | Only what's in the report. | |
| | **DR AROHA HARRIS** | |
| | So it's quite a mixed, mixed responses? | |

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| | **DR HELEN ROBINSON** | |
| | Yeah, it seems like where people are inclined to agree with their decision as they went along with them and then where they had significant objections and where they refused to co-operate and there wasn't a lot that the Kāwhia Committee could really do, but, yeah, the evidence on what the Kāwhia Committee was doing and how effective it was able to be, you know, it's so limited, it's very difficult to draw any strong conclusions about anything. | |
| | **DR AROHA HARRIS** | |
| | Did you notice any patterns in the kind of geographic distribution of the committee's activities or even opposition? Does it occur differently near closer to the boundary of their district compared to the interior, perhaps? | |
| | **DR HELEN ROBINSON** | |
| | They seem to have been most active in the sort of northern, yeah, the northern half of the district, so for example with the gold mining agreement that they managed to negotiate with the Government, that seems to have gone reasonably smoothly until the prospectors got to the Mōkau area and the chiefs there had no idea that there was even this agreement that had been reached and so they stopped the prospectors from going about their work until it all got explained to them.<br><br>So, it seems that the Committee was most powerful, yeah, in the probably in the northern half of the district, but it's | |

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| | difficult to tell exactly. | |
| | **DR AROHA HARRIS** | |
| | Have you got any explanation that you could offer as to why that seems to be the case? | |
| | **DR HELEN ROBINSON** | |
| 1210 | It may be that the Committee was, you know, it was physically based in the northern part of the district and you know, there weren't any roads through there so communication, you know, it does seems slightly strange that the Mōkau chiefs weren't even told about this agreement which involved – the gold prospecting agreement, even though it involved their land. So, communication might've been quite difficult and there may have also been issues with you know, maybe people who are more closely related to the committee members were more likely to go along with what the Committee was doing but I don't know enough about the whakapapa links between different groups to do more than speculate on that. | |
| | **DR AROHA HARRIS** | |
| | Do you think that level of analysis could be achieved? Are the sources kind enough to allow that kind of – | |
| | **DR HELEN ROBINSON** | |
| | Not the English language sources, no, there may be sources in te reo or traditional history, oral history sources which | |

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| | could cast some more light on that, but certainly in terms of English language sources, you know, there's not really enough to say. | |
| | **DR AROHA HARRIS** | |
| | Okay, that's it from me thanks, kia ora. | |
| | **SIR HIRINI MEAD** | |
| | Kia ora, kia ora kōrua. | |
| | **DR PAUL CHRISTOFFEL** | |
| | Kia ora. | |
| | **SIR HIRINI MEAD** | |
| | My question is about a statement you make on page 283. Got it? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yes, I have, thank you. | |
| | **SIR HIRINI MEAD** | |
| | Now there you say, "In both cases –" and this is to do with promises and undertakings that the Minister John Ballance had made – "In both cases the Government appears not to have breached the commitments it had made to Te Rohe Pōtae Māori..." So that's a judgement you've made | |

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| | about two particular issues or planks of all the promises that were made and you're saying to us that the Government did honour its commitments in two of these cases. Do you have a view of what your judgement might be when you consider all of the promises? | |
| | **DR HELEN ROBINSON** | |
| | I'm not sure that we addressed all of the promises that the Government made. In this report we've focused on specific topics such as liquor, rating, the number of Māori seats in Parliament in relation to the number of Pākehā seats, gold prospecting, the Kāwhia Committee and so forth. So, yeah, there may be other promises and commitments which were made which we don't really address in the report, you know, I don't know if there's any kind of definitive list. | |
| | **DR PAUL CHRISTOFFEL** | |
| | Possibly the reason why these two were singled out is because in some way they were an exception to the more general rule perhaps. | |
| | **SIR HIRINI MEAD** | |
| | You go on to say in that sentence, "...although it (the Government) did not keep them in the way Māori might have expected," and what did you mean by that? | |

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| | **DR HELEN ROBINSON** | |
| 1215 | In relation to representation in Parliament, Māori wanted to have a number of MPs which was proportionate to their numbers in the population and I think – well, the expectation as far as we can tell from sources is that they expected that the number of Māori MPs would increase and what instead happened was a number of Pākehā electorates was decreased and so proportionality was achieved but it wasn't through an increase in the number of Māori MPs it was through a decrease in number of Pākehā MPs and you know, it achieved proportionality but in a different way from what Rohe Pōtae Māori probably would've expected and in relation to rating, the Government had said while it's not 100 percent clear what the Government did promise, but Rohe Pōtae Māori probably had an expectation that the Government would go a bit easy on them in relation to rates and not rate land which wasn't being used, it wasn't able to be used and in fact the Government did impose rating on Rohe Pōtae Māori land but the system which was in place in terms of levying rates and collecting rates and working out exactly who was liable was so unworkable that as I discuss in the rating chapter, most of the time in practical terms, Māori landowners did not actually have to pay rates, even though legally their lands could be rateable.<br><br>So, that wasn't, you know, I think the expectation was that lands were not rateable but the outcome was that even though they were, they didn't actually have to pay rates in practical terms. | |

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| | **SIR HIRINI MEAD** | |
| | Okay. I think there's a bigger question waiting to be asked. In the case where a minister makes a promise and then his Government falls and another Government takes power and the promise that was made is no longer honoured, what's your view about that? | |
| | **DR HELEN ROBINSON** | |
| | I think that's political theory which is probably quite a long way beyond scope of our report. | |
| | **DR PAUL CHRISTOFFEL** | |
| | Can I just comment on the aspect of that to relate to the proportionate representation for Māori in Parliament? What John Ballance undertook to do was to continue to advocate for proportionate representation of Māori in Parliament. He didn't give an undertaking that that would actually happen and certainly the evidence is that at least for a time he did continue to do that, but I think as came out in cross-examination yesterday, once it became clear that in fact there was a significant move amongst some of the members of Parliament to actually reduce the size of Parliament overall, Ballance indicated at a meeting, at a hui near Hastings in early 1886 I believe it was that he felt that Parliament was unlikely to support any increase in a number of Māori seats and I think he was expressing his judgement on that. | |

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| | **SIR HIRINI MEAD** | |
| | Yes, but I accept that but going back to a question that when a promise is made by one Government, isn't the expectation on the part of Te Rohe Pōtae that that promise will be honoured regardless of who the successor of Government might be? | |
| | **DR HELEN ROBINSON** | |
| | I'm not sure that we have enough information to know how Rohe Pōtae Māori of this period understood that, because I think certainly now if John Key came in here today and said, you know, if he came in and especially if it was six months before an election or something and said, "I want to give you all a big tax cut," we would know that should National lose the next election, that tax cut would not be happening and it certainly wouldn't be binding on the next government which came in and whether Rohe Pōtae Māori of this period understood that that was sort of how Pākehā government worked, you had different governments and they often, when the government changed often the policies changed, quite dramatically, you know, they may have understood that or they may not have and what their understanding was would, you know, I think you know, if they believed that what any politician said would be binding on all future Governments and I think there's a bit more of an obligation to future governments to try and stick with that as much as is practical, whereas if they'd understood that when government changed – | |

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| | **SIR HIRINI MEAD** | |
| 1120 | Just hang on a minute, just hang on a minute. I think it might be helpful if I just add a bit more to what I'm saying. The sort of promise that I'm talking about are those where people sit down together and actually come to some agreement. In the case of the Rohe Pōtae they're meeting with Bryce or they're meeting with Ballance and they're meeting with other ministers and promises are made. That's the kind of promise I'm talking about. | |
| | **DR PAUL CHRISTOFFEL** | |
| | When Ballance met with the Rohe Pōtae leaders at Kihikihi in February 1885, one of the first things that he said was that it had been communicated to him that Mr Bryce, the previous native minister had given a particular undertaking in March 1883 that before any further progress is made with the railway that Government representatives would come back in and discuss that with Rohe Pōtae Māori and Ballance indicated that if that promise had indeed been made or he couldn't find anything in the written record that indicated that but he took people that there were, that that promise had been made and he felt it was his duty to abide by that promise, so there does seem to be some evidence that in some circumstances these promises were certainly seen as carrying across different ministries and there was still an attempt to uphold and that was being communicated by John Ballance at that meeting. | |

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| | **SIR HIRINI MEAD** | |
| | Okay, you can probably guess that I'm leading towards the idea of Compact and Ōhākī Tapu where promises are made and I think we've had sufficient discussion about that, so I won't pursue that any further. Thank you for your answers, kia ora. | |
| | **JOHN BAIRD** | |
| | Dr Christoffel, I've listened with interest to your various discussions about the Compact, about the compact or the agreement and the two sets of objectives and I guess the two understandings of what had been agreed and perhaps it stems from having one framework that's largely oral and the other one that's largely written, but just putting that aside, do you think that the Crown acted in good faith through this process and if so, why if not, why not? | |
| | **DR PAUL CHRISTOFFEL** | |
| | It's – I guess the problem I've got with your term through this process perhaps could you clarify what you mean by that, is that just with reference to the railway or to the purchase of lands or – | |
| | **JOHN BAIRD** | |
| | I guess I was referring to the external boundary in particular. | |

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| | **DR PAUL CHRISTOFFEL** | |
| 1225 | Oh, okay. There seemed to me to be a reasonably consistent message conveyed by the Crown that they didn't agree that the Native Land Court could be kept out of the district and it was repeated on several occasions to my recollection that in order to establish title to the land that the land would need to go through the Native Land Court and there was clearly a hope by the Rohe Pōtae leadership that some sort of arrangement would be able to be come to whereby at least part of that process they'd be able to maintain control over, perhaps through for example the Kāwhia Native Committee and but the Government never really supported them in that and I'm not sure that they ever really gave the impression that they were going to provide assistance in that way. It seemed to me the message was fairly consistent that the Native Land Court needs to come into the district and there wasn't any clear undertakings given that it would change the way it operated in this particular district in any really significant way although there were attempts to reform the way it operated a bit.<br><br>So, if you look at the outcome it seems – I mean I think the Tribunal has found that in general the way the Native Land Court operated was definitely not desirable and that's a slightly bigger, slightly different issue but in terms of what they actually intended to do, I think the Crown seemed to be reasonably consistent in that. | |

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| | **JOHN BAIRD** | |
| | Thank you, and Dr Robinson, you've had several discussions about the native committees and their powers. On page 101, I think it was, you set out two powers, one was the arbitration up to £20 and the other one was inquiring into ownership and reporting to the Native Land Court. What additional powers do you think that the committees needed in order to achieve what the tribes were looking for? | |
| | **DR HELEN ROBINSON** | |
| | First of all I think those two powers you'd mentioned needed to be broadened so that with the arbitration, potentially it could've applied to matters exceeding £20 in value, what the upper limit should've been, I don't know, whether there even should've been one, I don't know, but the key things that would've been, that the two parties didn't have to agree in advance to abide by the decision, because that's not how Courts work, you know, if someone takes you to someone suing you or you get arrested, you know, you don't have to agree before you go into Court that you'll abide by the Court's decision, you just have to. So, for the Committee to be effective in those matters they need to have been given that power. In relation to the land, I think it was essential that the Native Land Court had to listen to the – and you know, take proper account of what the Committee, what decision the Committee had come to.<br><br>Exactly how much, you know, whether it just had to automatically accept the Committee's decision, I don't know, because there were concerns at the time that the Committee | |

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| | might be dominated by one group or be partial to one group and so that might create injustice for other groups, but certainly having this thing where they could inquire into the ownership succession of boundaries of Māori land and report the position to the Native Land Court but the Court could then just completely ignore it, you know, that makes that power to – of inquiry, fairly useless. | |
| | **JOHN BAIRD** | |
| | Okay, thank you very much. | |
| | **JUDGE AMBLER** | |
| | Kia ora Dr Robinson, just to follow up on that last discussion, it would seem that the Urewera District Native Reserve Act, I'm not sure whether you're familiar with it - | |
| | **DR HELEN ROBINSON** | |
| | No, I'm not. | |
| | **JUDGE AMBLER** | |
| 1230 | – which created the Urewera Commission to determine title to land within the Urewera district which comprised a majority of local Māori. My recollection seems to be the high tide point of Māori being able to determine their own titles. This is a question probably to both of you, am I right in that respect or was there another instance in the history since 1840 and in particular since the mid-1880s where the Crown gave Māori a high level of authority to determine their own | |

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| | titles? | |
| | **DR PAUL CHRISTOFFEL** | |
| | All I can say in response to that is the Urewera District Native Reserve Act is the only instance I'm aware of that happening and because that process totally excluded the Native Land Court and it seemed to be a very – but in the end it appeared, from my recollection, to be a process that ended up approximating the Native Land Court process anyway in many respects, but I guess that's outside your question, but so that's really the only instance I'm really aware of, yeah. | |
| | **DR HELEN ROBINSON** | |
| | Just referring to the Māori Land Councils on page 129 I say that one of the councils were able to take over the Land Court's duties and certainly ownership partitions and succession to finding interests and appointing trustees which was, you know, a clear transfer of some power from the Land Court to the land councils, but as I go on to say, they could only do this if they were directed to by the Chief Judge of the Native Land Court and I don't know how often or if at all that happened. If it did happen, you know, I think that was considerable progress, but as I say, you know, they could only do that if directed to do so, it wasn't an automatic power that they had. | |

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| | **JUDGE AMBLER** | |
| | And we don't know whether that occurred in this district? | |
| | **DR HELEN ROBINSON** | |
| | No, I don't think I found any evidence of it occurring, you know, I'm sure I would've mentioned it if I had, but I didn't do a lot of research into the operation of the land councils, that may be covered by Terry Hearn's report on 20th century land issues although I'm not sure there is. | |
| | **JUDGE AMBLER** | |
| | All right and Dr Christoffel, in answer to a question from Dr Harris you talked about the series of discussions and agreements in the 1880s and that there were different objectives and you made the comment that most of the compromises were on the Māori side and I just wondered what did you see as a compromise by the Crown in terms of those discussions and agreements? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Mmm, I guess in the – certainly in the early period just thinking off the top of my head, the – when Hursthouse went to search out the possible rail routes through the district in 1883 certainly Native Minister Bryce appeared to be under the impression that he'd had permission for that to go ahead and it was – once Hursthouse was detained they brokered an agreement which was recognised in an exchange of | |

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| | letters and my recollection is one of the conditions on that or one of the conditions that was requested was that there be no surveys within the district and Bryce indicated that surveys would certainly be at least suspended for the time being, so that's perhaps an example of a compromise where something that Bryce probably intended to do, he was willing to sort of put it off for a while. | |
| | **JUDGE AMBLER** | |
| | Yes, I'm not sure that I see that as much of a compromise, I just wondered what you meant in – was there a compromise in substance of the Crown's position or role? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Well, yes, I mean thinking through what subsequently happened, probably not, because he also indicated that hill action surveys would – intended to continue with them because he said they had nothing to do with the title of the land and it may well have been that actually he got what he wanted out of the agreement which was passage through the district in order to search outer rail routes as long as they didn't do anything else at the same time and triangulation surveys were continued with so perhaps thinking it through perhaps there wasn't much of a practical compromise there. | |
| | **JUDGE AMBLER** | |
| | I'll just take you to a few points that arise out of your report, specific parts of the report, page 28, I think that's you | |

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| | Dr Christoffel? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yes. | |
| | **JUDGE AMBLER** | |
| | And if you go to the second full paragraph, a third of the way through, you refer to Leanne Bolton's report and Ballance's reference to the intention to buy land for settlement. Now, this question may be outside of your area of detailed research, but my impression of the evidence thus far is that the cost of the railway at least in substantial part, which was funded by a loan, would need to be repaid out of profits generated from the purchase and on-sale of land within the district. Is that your understanding? | |
| | **DR PAUL CHRISTOFFEL** | |
| | That's my understanding, yes. | |
| | **JUDGE AMBLER** | |
| | Now, what I want to know is do you know whether there is any evidence that Crown officials were explicit in explaining that to Te Rohe Pōtae Māori? | |
| | **DR PAUL CHRISTOFFEL** | |
| | I haven't seen any evidence to that effect, but I think - I'd need to defer to some of the people who have looked in | |

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| | more detail. | |
| | **JUDGE AMBLER** | |
| 230 | In more detail. Page 35, I think Dr Christoffel this is still you, again the second full paragraph part of the way through, at a meeting with Native Minister Mitchelson, that is he, John Ormsby, I think, said that during Ballance's time they wanted the land awarded to hapū but they now wished our land individualised and I just wanted to understand what you know of the context of that comment, the reasons for it. | |
| | **DR PAUL CHRISTOFFEL** | |
| | My recollection of this was that it was – I think this is from a, yes, it's from a Waikato Times article quoted by Bolton, my recollection was that it just was unclear from the context what had caused that change of mind and I think that's why I then go on to refer to Husbands and Mitchell report when hoping that they might cast some light on it because it was very unclear to me what exactly was behind that. | |
| | **JUDGE AMBLER** | |
| | So again we need to defer to Husbands and Mitchell on that? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Well, I'm hoping that if they can't find a reason, I'm not sure who else will. | |

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| | **JUDGE AMBLER** | |
| | Page 52, first of all paragraph – you've referred to the last sentence you referred to, the reasons for such low sales and by 1892 and I just wondered is one of the reasons that Rohe Pōtae Māori may have been involved, you refer it to labouring, but specifically labouring in relation to the railway construction. | |
| | **DR PAUL CHRISTOFFEL** | |
| | I can't remember. I'll just look at where this is discussed in more detail earlier in the report. I can't remember whether I actually outlined, what specific sorts of labouring was engaged in. Yeah, I'm sorry I can't find it at the moment. I, sorry, I can't remember what specific labouring was referred to, yeah. | |
| | **JUDGE AMBLER** | |
| | Page 109. | |
| | **DR HELEN ROBINSON** | |
| | Sorry, what page number was that? | |
| | **DR PAUL CHRISTOFFEL** | |
| | 109. | |

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| | **JUDGE AMBLER** | |
| | Top of the page, the first part, paragraph – last sentence. (inaudible 12:43:53 – 12:43:56) this episode suggests that the Committee was - sorry, I'll begin again. At the top of page 110, first paragraph, last sentence, "The Committee was advised by Grace that the payment would be determined by an official valuation, but this episode suggests that the Committee was willing to try for the highest possible prices even if they were out of step with standard prices."<br><br>Now, I don't quite understand what that means because I would've thought that the highest possible prices would reflect market or standard prices, so what do you mean by that? | |
| | **DR HELEN ROBINSON** | |
| 1245 | Well, the instance I'm referring to which I start off talking about on page 109, it says that the Kāwhia Committee had decided to charge 15 shillings a foot for land to be taken for the railway and I'm not completely sure what the market price for land in the Rohe Pōtae was at that time. I go on to say that in 1889 Wilkinson was instructed to pay no more than five shillings an acre for land in the same area and I think referring to Ms Bolton's report that that was below market rate, but I strongly suspect that that was closer to what the market rates would've been than 15 shillings a foot and I think the quote I've got from the Kāwhia Committee it says, "Alleging as a reason the railway brought in such a lot of money that the Pākehās would not stick at that price," that | |

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| | the Committee was aware that this was a fairly high price, but they were thinking, "Well, the Pākehā really want the railway in and they keep telling us how much money it's going to bring in. Let's just see, let's just try it." | |
| | **JUDGE AMBLER** | |
| | All right. Page 164. I'm just curious, the second paragraph, curious about the name that pops up in terms of the April 1910, coming onto the board, Walter Harry Bowler. In the Urewera inquiry there was a William Henry Bowler who had quite a significant role in the purchase of land from the early to mid-1910s and I just wondered whether you're absolutely clear that this was Walter Harry Bowler or whether it might be the same individual that crops up elsewhere? | |
| | **DR HELEN ROBINSON** | |
| | I would have to check. I see the reference I've got for this in the *New Zealand Gazette*. I would have to double check that to make sure it is Walter Harry Bolter rather than William Bolter. You know, it's possible that I somehow got the name wrong or, you know, perhaps it's possible that the *Gazette* got it wrong or you know, they may, they may be different people. | |
| | **JUDGE AMBLER** | |
| | They may be different people, all right, thank you both. I'll just – I can't recall who was lead counsel. Ms Rongo? | |

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| | **EVE RONGO** | |
| | Thank you Sir. | |
| | **JUDGE AMBLER** | |
| | Are there any matters arising? | |
| | **EVE RONGO** | |
| | Yes, there are a few questions I'd like to ask, the first being to Dr Christoffel. Now yesterday - oh sorry, can you see me? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yes, just. | |
| | **EVE RONGO** | |
| | I missed the coveted front seat this morning. Now yesterday in the cross-examination Crown counsel asked you a series of questions based on page 52 of your report where you conclude your chapter on the 19th century land alienation. Okay, you state that Rohe Pōtae Māori were heavily resistant to selling land for a variety of reasons including the low prices on offer, limited need for additional cash over that obtainable from labouring and trade and the development of pastoral farming. The Crown asked you that if Te Rohe Pōtae Māori wished to develop economically for more than just cash, then selling would produce capital and wealth | |

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| | for that investment. Do you remember that question? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Yes. | |
| | **EVE RONGO** | |
| 1250 | And just moments ago Judge Ambler asked you whether another reason was because Te Rohe Pōtae Māori were involved in labouring jobs with the railway, now can you share any other reasons why Te Rohe Pōtae Māori were heavily resistant to selling their lands? | |
| | **DR PAUL CHRISTOFFEL** | |
| | I did manage to locate this section of the report and it was this particular – I was really quite heavily reliant on the judgment of the Government Agent Wilkinson in the district and so it was really – I was really summarising what he had said about why he felt that Māori in the district were not interested in selling land and the work on the railway doesn't seem to have come up in his description, well, certainly I didn't mention it anyway, so I think I summarised all the reasons that he gave and I didn't speculate on any others. | |
| | **EVE RONGO** | |
| | Okay, and the Crown also touched on the economic development in Te Rohe Pōtae, now are you aware of other ways Te Rohe Pōtae Māori could access capital for | |

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| | investments beside selling their lands? | |
| | **DR PAUL CHRISTOFFEL** | |
| | Not - sorry, not off the top of my head. | |
| | **EVE RONGO** | |
| | Thank you, that's fine. Now, Dr Robinson, Dr Harris took us to page 104 of your report and questioned you earlier this morning on whether Te Rohe Pōtae Māori thought that the Minister Ballance could go and do the things that he would do. Do you remember that discussion? | |
| | **DR HELEN ROBINSON** | |
| | Yes, I do. | |
| | **EVE RONGO** | |
| | Okay, now on page 82 on the Crown bundle of documents, we actually have a note from a meeting between Ballance and Te Rohe Pōtae Māori from February 1885 and Ballance states himself that he was a representative of Parliament, that he was a representative of the Queen. He was a spokesman for the Crown. Could you comment on how Te Rohe Pōtae Māori could have interpreted Ballance's role after hearing Ballance's statement? | |
| | **JUDGE AMBLER** | |
| | Sorry, can I just have the page reference, please? | |

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| | **EVE RONGO** | |
| | Sure, that was page 82 of the Crown bundle of documents. | |
| | **DR HELEN ROBINSON** | |
| | And where on the page is that, roughly? | |
| | **EVE RONGO** | |
| | So you'll see there the section where Ballance replies to all, the welcoming at the hui. | |
| | **DR HELEN ROBINSON** | |
| | Yes. | |
| | **EVE RONGO** | |
| | And he states that he is a representative of the Government just below that. He's a representative of the Crown and my question to you is just after Te Rohe Pōtae Māori would've heard that, what would they have understood Ballance's role to be? | |
| | **DR HELEN ROBINSON** | |
| | Well he says that he is a representative of the Queen and in terms of what I was discussing to Dr Harris he does emphasise continuity here, he says, "It has been said that one man passes away and another comes, yes, that is so but the Government and the Parliament remain and will | |

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| | survive the likes of us all," and you know that really emphasises continuity and yeah, so I suspect that Rohe Pōtae Māori would've, in hearing that, would've got an idea of as to the continuity of Government. There certainly isn't any indication that Governments change and policies change with them. | |
| | **EVE RONGO** | |
| | Thank you. Sir, those are all the questions I have today. | |
| | **JUDGE AMBLER** | |
| | Kia ora, tēnā kōrua, thank you for your evidence. Now we move to the Crown opening on this issue. | |
| | **GEOFFREY MELVIN** | |
| | Shall I speak from the lectern, Sir? | |
| | **JUDGE AMBLER** | |
| 1255 | Yes, I think it is better if you do. I understand this is document 3.4.6. Bear with us a moment. Over to you Mr Melvin, thank you. | |
| | **GEOFFREY MELVIN** | |
| | Ngā hau e whā, ngā maata waka, te hau kāinga, rau rangatira mā, tēnei te mihi atu ki a koutou katoa. E tika ana ki a mihihia tātau tēnei mate, haere e te rangatira a Doug Bell, i tukuna ia ki te kōpū o te whenua i ngā rā kua | To all those present here from near and far, I acknowledge you all. It is only right that I acknowledge our dear departed in respect of Doug Bell who has since passed. Rest in peace. To our dearly departed and returning it back to us |

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| | pahure. Haere, haere, haere atu rā. Te hunga mate ki te hunga mate, te hunga ora ki te hunga ora, tēnā rā tātau katoa. | here, I acknowledge all present. |
| | Kia tuku mihi au ki ngā mema o Te Rōpū Whakamana i te Tiriti o Waitangi. Huri noa atu ki ngā kaitono, ngā rōia me ngā kaimahi o te Taraipiunara hoki. Tēnā koutou katoa. | May I acknowledge the Tribunal representing the Waitangi Tribunal, all legal counsels and colleagues, I acknowledge you all. |
| | The Crown acknowledges the significance of this inquiry to both Rohe Pōtae Māori and the Crown and it welcomes the opportunity to participate in the hearings that are now underway. In essence, the inquiry is about the Crown's compliance with the Treaty of Waitangi. The hearings are an opportunity for Rohe Pōtae Māori to air and explain their often long-held and deeply felt grievances in relation to Crown action or inaction in the principles of the Treaty of Waitangi.<br><br>There are matters that have been left unaddressed for too long. For the Crown the hearings are an opportunity to listen to and reflect on the evidence presented in support of those grievances, to engage with that evidence and to present its response to the Tribunal. The Crown is committed to considering its position and pleadings and amending them as necessary in light of evidence presented in the inquiry.<br><br>In the course of the hearings the Crown will test the understandings and conclusions of the witnesses and there are two principles reasons for this. First, the Tribunal has said in this inquiry that it is seeking to find out what is tika and what is true. By testing the evidence, the Crown seeks | |

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| 1300 | to assist the Tribunal with its tasks of drawing together the various accounts of history and of understanding different ways of thinking about the past.<br><br>The Crown's goal is not to be adversarial but to assist the Tribunal to perform its function in a context where different world views have been and in some instances may still be at play and where there are inherent difficulties in grappling with historical issues.<br><br>Second, the Crown itself seeks to develop the best possible understanding of the history of its relations with Rohe Pōtae Māori. When the evidence of Crown, claimant and Tribunal witnesses tested, the end result will be more robust. The Crown fully expects claimants and their counsel as well as the Tribunal to test the evidence the Crown has filed and to grapple with the interpretation of history that it ~~re~~presents.<br><br>Finally and importantly it is to be noted that the research and critical thinking that takes place in the Tribunal forum about the history and relationships of the Crown and Rohe Pōtae Māori, will stand the Crown and Rohe Pōtae Māori in good stead for progressing settlements of their Treaty claims.<br><br>In March 2012, the Crown signalled by way of the Crown's statement of position and concessions its initial position on the issues in this inquiry and made a number of concessions and I've set out the concessions there. It wasn't my intention Sir to read them out. They're exactly as they appear in the Crown's statement of position and concessions.<br><br>I will move then to paragraph 11 on page 5. The submissions now turn to the Ōhākī Tapu, the kaupapa of the | |

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| | 2012 hearing weeks. The submissions set out what the Crown considers the issues to be, it outlines the current position of the Crown and they provide an overview of the Crown's evidence. The Crown considers that there are three key issues to be considered in the 2012 hearings. First, if there is an Ōhākī Tapu, what is it? What is the nature of the Ōhākī Tapu? And thirdly, did the Crown fulfil its Treaty obligations to Rohe Pōtae Māori in light of the Ōhākī Tapu?<br><br>The Crown also considers that there is an additional issue that underpins the inquiry in the 2012 hearing weeks. Was the Crown's response to the assertions of Rohe Pōtae Māori mana motuhake consistent with Treaty principles? This question requires an examination of the evidence to be presented in the 2012 and subsequent hearing weeks.<br><br>I will now outline the Crown's case and address first, what is the Ōhākī Tapu?.<br><br>The Crown has observed that thus far in the 2012 hearing weeks, different witnesses who have presented different understandings as to what the Ōhākī Tapu is. They've described its contents in different ways. At this stage in the inquiry, based on the evidence it has reviewed and heard, the Crown understands and would agree that the Ōhākī Tapu describes a number of agreements between Rohe Pōtae Māori and the Crown that led to the opening of the Rohe Pōtae between 1883 and the mid-1880s.<br><br>The Crown understands and would agree that the key Ōhākī Tapu agreements said to comprise the Ōhākī Tapu, are the agreements of 16 March 1883 for an exploratory | |
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| | railway survey, the agreements of the 1st and 19th December 1883 relating to the external survey of and the investigation of title to the Rohe Pōtae and the agreements that arose out of Native Minister Ballance's discussions at Kihikihi from the 3rd to the 5th of February 1885. In the remainder of these submissions, these agreements are referred to as the Ōhākī Tapu agreements, although in using that term, the Crown acknowledges that opinions appear to differ as to what the Ōhākī Tapu comprises.<br><br>The agreements as the Crown understands them are explained in more detail as follows. The agreement of 16 March 1883 was for an exploratory survey to judge the suitability of land between Alexandra and Mōkau for a railway and possible routes. The Crown also agreed that it would hold further discussions with Rohe Pōtae Māori before any railway line were built and also to keep back minor surveys for a time.<br><br>The 1st of December 1883 agreement had several elements. An external boundary survey would take place. One application to investigation of title to the external boundary of the Rohe Pōtae would be made and heard before any subdivisions took place. An associated triangulation or trig survey would be allowed and the railway route explorations could continue.<br><br>Under the 19th of December 1883 agreement, Government surveyors would undertake the survey of the external boundary with the cost to the Rohe Pōtae Māori not to exceed £1600. It was stipulated further that the agreement on the cost of the survey would bind the present and future | |

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| | Governments.<br>On the 26th of February 1885, Rohe Pōtae leaders agreed to allow the construction of the North Island main trunk railway through their district. The rangatira Wahanui communicated the decision to Native Minister Ballance by letter on the 4th of March 1885 and stated that they would allow a chain wide to be taken and the consideration of the question of the land required for the railway, the land on either side of the railway and that required for stations would be deferred until the native minister's next visit. This agreement followed discussions at Kihikihi from the 3rd to the 5th of February 1883 at which Rohe Pōtae Māori and Native Minister Ballance canvassed a wide range of subjects including the native land system and title ascertainment process. The native minister set out a number of proposals that he intended to take to Parliament. He envisaged that future alienations would take place within a new structure, with block committees of owners, issuing instructions for sales - sorry, issuing instruction for sales and leases to District Native Land Boards on which Māori landowners would be represented. | |
| | **JUDGE AMBLER** | |
| | Can I just be clear, 16.5, you refer to 3 February 1883? | |
| | **GEOFFREY MELVIN** | |
| | Should be five, Sir. | |

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| | **JUDGE AMBLER** | |
| | 1885, thank you. | |
| | **GEOFFREY MELVIN** | |
| 1310 | Thank you for that. That's escaped many eyes. Thank you. He also envisaged that – and I'm at 16.5.2, the Native Land Boards would dispose of lands at public auctions, administer leases and pass revenue back to the block committees. The Crown's right of pre-emption would apply over the whole country in order to stop private dealings, other than those made through Native Land Boards and the Crown would retain the ability to make direct purchase but this power was expected to be used sparingly.<br><br>At the Kihikihi meeting of the 3rd February 1885, the minister also made statements that roads and railways through the land would increase its value, unused lands along the line of the railway or along the roads leading to the railway should not be liable to rates; however, rates should apply when the land was sold or leased. That he had received engineering advice that a corridor, one chain in width, was necessary in order to construct the railway, except where it runs along the side of hills where cuttings are made, where a little more will be required, perhaps two chains. As to stations, the engineering advice was that perhaps five acres or for some stations where there is likely to be a large settlement, 10 acres for each station were required. Landowners would get the value of timber cut down in construction of the railway. The railway required the best route possible through the district. The Crown would pay a fair price for the | |

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| | land it took, and the price ~~depended~~ would depend on the value of the land. There would be no distinction between Māori and Europeans in paying for the land. The Crown would pay for the land it had taken when the owners had been found and title determined. Bridges and culverts would be built to avoid interference with water course and the Government proposed to let contracts in such a way that Māori would be able to make them. That is to say a portion of the line would be let in small contracts so that the natives themselves may contract and make the line, allowing a large amount of the money for the construction of this line to go to Māori.<br><br>There are claims that the Ōhākī Tapu also includes an agreement between Rohe Pōtae Māori and the Crown regarding control of liquor within the Rohe Pōtae. In the Crown's submission, the evidence does not show that the Crown entered into an agreement with Rohe Pōtae Māori about alcohol restrictions. However, the Crown did respond to a petition from Rohe Pōtae Māori who prayed for a ban under section 25 of the Licensing Act 1881 on the issuing of publicans' licensing in their district.<br><br>The Crown responded by issuing a proclamation on the 3rd of December 1884 that no licence would be issued in the Kāwhia licensing area, which except for a small area of Aotea Harbour, encompassed the Rohe Pōtae inquiry district.<br><br>The Crown also understands that some witnesses regard the four tribes' petition of June 1883 to be an important component of the Ōhākī Tapu. The Crown recognises the significance of the petition as a clear, strong and articulate | |

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| 1315 | expression of the concerns and objections that Rohe Pōtae Māori held and it formed part of the context against which Rohe Pōtae Māori and the Crown, and Crown relations took place from mid-1883 onwards. However, the Crown's position is that it did not understand the petition to be an agreement or part of a Sacred Compact between it and Rohe Pōtae Māori and to which it was bound.<br><br>When told on the 16th of March 1883 that a petition was to be submitted, Native Minister Bryce undertook to give it careful consideration if it proposed an alteration in the law and that, the Crown understands, is what he did.<br><br>Turning to the nature of the Ōhākī Tapu agreements, the Crown submits that to reach an understanding of the nature of the Ōhākī Tapu agreements, the Tribunal must assess the evidence through both a Rohe Pōtae lens and a Crown lens. In other words, the motives, understandings and perspectives of the Crown are also vital to an accurate understanding of the nature of the Ōhākī Tapu agreements as are the motives, understandings and perspectives of Rohe Pōtae Māori.<br><br>To understand their nature, it is necessary to interrogate the particular circumstances surrounding the Ōhākī Tapu agreements and their making. This includes what was said and done at the time the agreements were made and how the parties subsequently described the agreements and acted upon them.<br><br>The Crown submits that broader contextual factors also have a bearing on the party's understandings of the nature of the Ōhākī Tapu agreements. The Crown does not seek | |

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| | here to set out an exhaustive list of those factors but submits that the following are relevant.<br><br>Rohe Pōtae Māoris' support of and association with the Kīngitanga and the developments that occurred over time in that relationship. The land wars in Taranaki and the Waikato during the 1860s. The consequential decision of Rohe Pōtae Māori to impose and enforce an aukati around their district. The history of post-law engagements between the Crown and the Kīngitanga and Rohe Pōtae leaders from the late 1860s to the early 1880s as the parties sought to establish an agreed basis for reconciliation and renewed peaceful engagement. The expression by Rohe Pōtae Māori of their wish to exercise rangatiratanga or mana motuhake in respect of their lands and affairs. The Crown's understanding that in 1840 it had acquired sovereignty over New Zealand and its inhabitants. The Crown's responsibility arising out of its acquisition of sovereignty and the Treaty of Waitangi to govern for all people of New Zealand and the Crown's policy to have all parts of the country open for settlement and development and involved in the national economy.<br><br>As matters currently stand, the Crown's assessment of the evidence is that it understood that each of the Ōhākī Tapu agreements was historically important. However, it did not understand that in all the circumstances that constituted either individually or in combination, a Sacred Compact with Rohe Pōtae Māori or that they were in the nature of a Treaty or Treaties with an independent polity.<br><br>When the evidence is viewed through a Crown lens, the Crown submits that it could not have seen the agreements | |

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| | as Treaties with an independent polity.<br><br>In the 1880s and still today the Crown's position was that from 1840 onwards it had legal sovereignty over all New Zealand including the Rohe Pōtae. Despite that, the Crown was not able immediately to govern over all New Zealand and its inhabitants in 1840. That state of affairs was inevitable. At 1840 the Crown had limited resources and minimal infrastructure existed to enable it to do so and it took time before it had that capacity and capability. Nevertheless, the Crown considered that Rohe Pōtae Māori like all other inhabitants of New Zealand were subjects of the Crown from 1840.<br><br>Parliament legislated for all New Zealand's inhabitants and insofar as it could, the Crown sought to apply Parliament's laws across all New Zealand for the benefit of the entire population.<br><br>The Crown submits that the evidence may ultimately demonstrate that the understanding it had of the nature of the Ōhākī Tapu agreements, differed from the understanding that Rohe Pōtae Māori had. If that is so, the reasons for its understanding and whether it was justified in terms of Treaty principles, need to be explored in the course of the inquiry. At this point, the Crown considers that there is some evidence that different cultural perspectives may have been a cause of different understandings.<br><br>The Crown's Treaty duty to act in good faith required it to honour the terms of the Ōhākī Tapu agreements, at least insofar as it understood the nature and content of those agreements and unless a sufficient Treaty compliant reason | |
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| | existed for it not to do so.<br><br>The Crown's position is that it kept largely to the core elements of the Ōhākī Tapu agreements it understood it had reached with Rohe Pōtae Māori. The Crown understands that in this inquiry significant matters of contention in relation to the fulfilment of the Ōhākī Tapu agreements relate to the following issues. The Crown's fulfilment of undertakings reached in 1885 regarding the construction of the railway and the benefits the railway would bring to Rohe Pōtae Māori and the Crown's involvement in the applications to the Native Land Court regarding the Taupō-nui-a-Tia and Waimarino Blocks in light of the agreement that it made with Rohe Pōtae Māori in December 1883 in relation to the survey of the Rohe Pōtae external boundary.<br><br>Addressing first the 1885 undertakings, the Crown submits that in February 1885, the Crown committed to pay compensation for the land it took for the railway, to limit takings to such land that was reasonably required for a safe and efficient railway, to discuss with Rohe Pōtae Māori the local details of lands taken for the railway corridor, to minimise harm the railway might cause to Rohe Pōtae resources and to ensure Rohe Pōtae Māori derived some economic benefit from the railway by obtaining contracts associated with the railway's construction.<br><br>The Crown accepts that it was under a Treaty obligation to honour those commitments, however it submits that the assessment of its conduct in respect of them, must be a realistic one and have regard to all the relevant circumstances including the reality that many factors would affect the construction and operation of the railway. Sorry, | |

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| | the reality that many factors that would affect the construction and operation of the railway were changeable or unknown in February 1885 and the evidence that in February 1885, Native Minister Ballance was articulating a vision for economic prosperity as opposed to guaranteeing economic outcomes.<br><br>The Crown has already acknowledged in this inquiry that the amount of land taken for the railway corridor may have at times exceeded one chain in width. However, with the exception of land that was definitely gifted, and subject to further inquiry with respect to the Rangitoto Tūhua block lands, the Crown understands that it paid compensation for land that it took an excess of one-chain width. Further, the Crown concedes that a number of owners in the Rangitoto Tūhua block never received compensation for the land the Crown took from this block for the construction of the North Island main trunk railway and that unless this land was gifted to the Crown, the failure to pay compensation was a breach of the Treaty of Waitangi and its principles.<br><br>In terms of the Taupō-nui-a-Tia and Waimarino applications and the December 1883 agreement, the Crown acknowledges that it supported both Ngāti Tūwharetoa's survey and title application in October 1885 regarding a Taupō-nui-a-Tia block and the survey and title application by upper Whanganui chiefs in December 1885 regarding the Waimarino block.<br><br>However, it submits that its actions must be assessed against the four tribes' decision in 1884, not to apply to the Native Land Court for an external boundary survey, contrary | |

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| | to the undertaking it made in December 1883. | |
| | **JUDGE AMBLER** | |
| | Sorry, can I just be clear on that? When you say contrary to the undertaking it made, the undertaking that Crown made or the four tribes made? | |
| | **GEOFFREY MELVIN** | |
| | Four tribes, Sir. | |
| | **JUDGE AMBLER** | |
| | Okay, thank you. | |
| | **GEOFFREY MELVIN** | |
| 1325 | As these submissions have noted, there is also an issue in this inquiry as to whether the Crown responded in a Treaty compliant way to Rohe Pōtae assertions of mana motuhake. There is a range of factors to consider in assessing the Crown's response, the evidence in relation to which will be addressed beyond the 2012 hearing weeks.<br><br>The Crown submits that factors that need to be weighed include by way of example, Crown policy legislation, particularly in relation to land administration, changes in Government administrations, Māori agency, pressures within Rohe Pōtae communities, pressures from the Crown on those communities, the obligation of the Crown to govern for all people of New Zealand and the international economic | |

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| | environment.<br><br>In summary, the Crown's position is that it entered into a number of important agreements with Rohe Pōtae Māori in the mid-1880s, the agreements while a benefit to the Crown also served the interest of Rohe Pōtae Māori who used the substantial leverage they had to obtain from the Crown significant concessions of benefit to them, to greater or lesser extents, those concessions recognised Rohe Pōtae Māori as the owners of the Rohe Pōtae with the rights and interests as such, but the Crown did not understand the agreements constituted a sacred pact, giving effect to or recognising Rohe Pōtae mana motuhake or self-government over Rohe Pōtae.<br><br>Despite that, the Crown accepts that it is proper for the Tribunal to test whether the Crown's response to the assertions of Rohe Pōtae Māori mana motuhake was in all the circumstances consistent with Treaty principles.<br><br>Sir, the remainder of the submissions I won't go through, they simply outline in brief the evidence of Dr Loveridge and he'll be taking the Tribunal through that in his summary. | |
| | **JUDGE AMBLER** | |
| | Well, in fact I would just like you to run through that just so we're all clear on the different reports – | |
| | **GEOFFREY MELVIN** | |
| | I'm happy to read it out, Sir. | |

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| | **JUDGE AMBLER** | |
| | Mainly because some reports or one report at least is from a separate inquiry, so perhaps if you do just take us through. | |
| | **GEOFFREY MELVIN** | |
| | Certainly, Sir.<br><br>The Crown has filed the following evidence of Dr Donald Loveridge in relation to the Ōhākī Tapu hearing weeks. The first is the report entitled, "The Crown in the opening of the King Country 1882 to 1885," and this was a report commissioned for the National Park district inquiry and it focuses on the engagement between the Crown and Rohe Pōtae leadership in the early to mid-1880s in the circumstances and detail of the agreements they reached. The second report is entitled in accordance with the will of Parliament, the Crown, the four tribes and the Aotea block 1885 to 1889, this report focuses on the Crown's right of pre-emption and the nature and consequences of its application to the King Country and Rohe Pōtae Māori from 1885 to 1899. In particular it looks at the developments leading up to the large acquisitions made by the Crown within the Aotea block from 1892 to 1893 onwards and provides an appraisal of the use of the Crown's right of pre-emption.<br><br>The third report is one entitled, "The Sacred Pact in the King Country, a critique of and commentary on the Smith and McLintock reports". It examines the historical evidence and historical analysis relating to a sacred compact | |

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| | concerning the sale of liquor that was allegedly made between the Crown and Rohe Pōtae Māori in the 1880s. In it Dr Loveridge evaluates a 1946 report undertaken by the Honourable Justice Smith and a 1953 report by the Parliamentary historian Dr McLintock and as well updated studies of that subject.<br><br>And the last report of Dr Loveridge is one with the exciting title of "Comments on Part 2 Marr Report, Document A78, Te Rohe Pōtae Political Engagement 1864 - 1886". It presents a critique of two main themes of Ms Marr's report, which is document A78, on the record of inquiry, and those two themes are the sacred compact of 16 March 1883 and Crown purchasing policy in the 1884 railway district. | |
| | **JUDGE AMBLER** | |
| | All right, thank you, we'll take the break. There were a couple of matters I just want to raise with you before Dr Loveridge gets underway after lunch, but we'll break for lunch and we return at 10 past two, kia ora. | |
| | **PIRIPI WARETINI – HOUSEKEEPING** | |
| | **HEARING ADJOURNS: 1.32 PM** | |
| | **HEARING RESUMES: 2.13 PM** | |
| | **PIRIPI WARETINI** | |
| | Te tekau mā rua o te tekau mā rua o te tekau mā rua. Nō tātau anō hoki rā e te whare nā Te Kooti e tuku mai, te tekau | Piripi is saying it's the 12th of the 12th of the 12th, all these dates have relevance to Te Kooti and of course I pass on to |

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| | mā rua, te tekau mā rua, te tekau mā rua, ana ki te tuarima rā anō, kei a koe rā anō e te Kaiwhakawā. | the panel here in front of me. |
| | **JUDGE AMBLER** | |
| | Now, whenever I turn my gadget on it wants to connect me to Jason's phone or Annette's phone or other phones. I don't know what the password is, but I'm okay. It's just funny how this announces your presence.<br><br>Tēnā koe Mr Duncan, nice to have you here.<br><br>Now, Mr Melvin, there is a couple of matters I just want to clarify with you and the first is this, at page 3 of your submission you refer to the concession in relation to the lack of provision for collective administration of land under the Native Land Laws until 1894 and what I want to understand is this in relation to a related topic and that is self-government. As to the requests by Rohe Pōtae Māori at different points of time for self-government or mana whakahaere, mana motuhake, however we express it, does the Crown have a position on that in this point of the inquiry? That is to what Rohe Pōtae Māori could reasonably require or request in terms of the Treaty? | |
| | **GEOFFREY MELVIN** | |
| | Sir, I think that that's a matter I'd need to take instructions on but it is one that I'm happy to follow up. | |

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| | **JUDGE AMBLER** | |
| | Yes, I think as we progress that would be of assistance to know where the Crown sits on that but perhaps we will just mark that as something to look at, at the end of the hearing week.<br><br>The second matter, just relates to Dr Loveridge's evidence and how he is going to present, but just before I go to the matters being presented in this week, as I understand it, there is one other document or item of research that Dr Loveridge has prepared for this inquiry, that's A93, the bane of the native race, the problem of unused Māori lands in the King Country during the first decade of the 20th century, so I'm assuming that we will expect Dr Loveridge back on some occasion to address that report? | |
| | **GEOFFREY MELVIN** | |
| | That's correct, Sir, and an appropriate hearing week. | |
| | **JUDGE AMBLER** | |
| | Excellent. As far as the four different reports that Dr Loveridge is presenting on this week, do you intend for him to read through all four summaries and be questioned on them globally? | |
| | **GEOFFREY MELVIN** | |
| | That's the intention Sir, yes. | |

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| | **JUDGE AMBLER** | |
| | Yes, that seems appropriate, all right. | |
| | **GEOFFREY MELVIN** | |
| | Sir, and he won't be reading all the four summaries verbatim. He's concentrating on elements to provide as complete an overview as he can but we would be here far too long if he was reading all those summaries out verbatim. | |
| | **JUDGE AMBLER** | |
| | Very good, and are we starting with A41(d)? | |
| | **GEOFFREY MELVIN** | |
| | Yes, I think we are. | |
| | **JUDGE AMBLER** | |
| | Thank you, kia ora. Just pause for a moment, thank you, Dr Loveridge, we'll just make sure we've got our documents in hand. | |
| 1420 | **DR DONALD LOVERIDGE** | |
| | Good Morning everyone. I'm going to be reading through the – raising through the summaries of the four reports that have been referred to by Mr Melvin. I thought I would do them in order of submission, which is a matter of – rather than picking and choosing, so I'll begin with the summary for | |

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| | A41, now that's – A41(d) is the document number and all I'm going to do here is read the conclusion on front page 8, starting on page 8. This is the report that I did for the National Park Inquiry I should mention, in 2006.<br><br>I'll begin on the top of page 8, chapter 9.1. These are my conclusions.<br><br>Closed to the Crown and Europeans since the wars of the 1860s, the King Country was brought under the control of the Government of New Zealand in 1885 after a process of negotiation which went through several distinct stages. To begin with, the Crown sought to achieve its goal through negotiations with Tāwhiao, who had signalled his willingness to come to terms with the Government and settlers. An effort was made to persuade the King to explicitly acknowledge the sovereignty of the Queen in return for certain pensions and appointments with a portion of the confiscated lands in the Waikato being returned to former 'rebels' as they were returned as well. Legislation was passed which would have allowed most or all of the King Country to be turned into reserves administered by the Public Trustee. I'm referring to the Native Reserves Act 1882 there. The offer made to the King by Native Minister Bryce was rejected in November of 1882.<br><br>The Crown then sought to ignore the King and deal directly with the tribal owners of the King Country. It may well be that Bryce and his colleagues expected to deal separately with Ngāti Maniapoto and the other tribes, but instead found themselves faced with a coalition of chiefs representing several tribes, are variously said to be four or five in number which had formerly supported the King, but now sought to | |

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| | work out a mutually agreeable settlement with the Government which would allow the construction of the main trunk railway and the development of the King Country. In march of 1883 the four tribes gave permission for the native minister to conduct explorations to find the best route for a railway, as a result of which Bryce stopped other surveys for the time being. He also promised the construction would not begin under further discussion had taken place. The four tribes proceeding to mark out a boundary for themselves encompassing all of the lands the Europeans had no claim, the Rohe Pōtae and sent a petition to Parliament asking for a major reforms to the Native Lands system including changes which would allow them to ascertain the ownership of the lands themselves and full hapū control over these lands thereafter. There were several petitions from other groups objecting to what they called Wahanui's boundary. The Government responded with several pieces of legislation which went part of the way towards meeting these demands. At the end of November 1883, Bryce met with the four tribes at Kihikihi, and on 1st of December 1883, they agreed to make an application to place their lands before the Native Land Court beginning with an external boundary survey and the ascertainment of tribal titles. Permission was also given for a trig survey of the King Country and for further railway explorations.<br><br>As far as it related to the Native Land Court, this agreement lasted only a few months. In May of 1884 with a general election looming, the Atkinson Ministry adopted a policy of restoring the Crown's right of pre-emption over Māori lands. This immediately generated protests by the four tribes against the proposed legislation and they abandoned plans | |

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| 1425 | to proceed through the Court until the Government produced a land system which they were prepared to accept. After a period of political turmoil, the Atkinson Government was replaced by one headed by Robert Stout, with John Ballance as his native minister. During the second parliamentary session of the year, a route for the main trunk railway running through the centre of the King Country was selected and construction of the line was officially authorised. Ballance immediately entered into discussions about the land and the railway with Wahanui, who was representing the four tribes in Wellington. He then introduced legislation which declared a large area including the Rohe Pōtae to be subject to Crown pre-emption and proposed that a system of administering the alienation, it should read, of Māori lands through special purposes land boards be introduced. Wahanui protested strongly against this scheme and it was abandoned, the land boards scheme. In February of 1885, as part of a series of meetings with Māori to discuss proposed changes to the Māori land system which included plans for a new national system of block committees and district land boards for administering the alienation of Māori lands, Ballance again met with the four tribes at Kihikihi. The Government's action to date and his plans for the future were discussed at length as were arrangements for the right of way for the railway. The four tribes asked for a delay while further discussions took place to which Ballance agreed and late in February they decided to give their permission for the construction of the railway. The official ground breaking ceremony took place at a site near Te Awamutu in April with the Premier and Wahanui doing the honours. | |

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| | By giving permission for the railway to proceed, the four tribes signalled their acceptance of the changes to the Native Lands system which John Ballance has sketched out for them at Kihikihi and had promised to put in place. As had been the case with Bryce's Native Land Laws Amendments Act of 1883, they evidently agreed that Ballance's plans which led to the Native Land Disposition Bill of 1885 and the Native Land Administration Act of 1886 were a step in the right direction, if not a complete fulfilment of their desires. Following extensive discussions, in April of 1885 the four tribes decided to place their lands before the Native Land Court for title ascertainment. By this point in time Te Heuheu Tukino had acted upon his long expressed aversion to the Rohe Pōtae boundary, which bisected Tūwharetoa's rohe and had placed the eastern side of the Rohe Pōtae before the Court was part of the Taupō-nui-a-Tia block. Not long afterwards the following extensive consultation with Māori, Native Minister Ballance succeeded in gaining parliamentary approval for his new system of Māori land alienation. It appeared that, that should actually be Māori land administration, excuse me. It appeared that after they had completed the process of taking their lands through the Court, the people of the King Country would be able to select which of them they wished to sell or lease and proceed to do so through their block committees by means of public auctions through their district commissioner. This was certainly the process envisaged by Ballance, who was under the impression, because many Māori said as much, that he had a great deal of support from Māori for this regime and solid parliamentary support as well.<br><br>All of this support proved to be illusory and melted away in | |

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| | very short order once the Native Land Administration Act had come into force of January of 1887. Simply put, Māori declined to put any of their land into the new system and it proved to be a spectacular failure. I found only one record of a transaction which took place under that Act, which was at least – this failure cannot but have contributed to the defeat of the Stout-Vogel Government in the September 1887 general election. Ballance's reforms barely outlived his term as Native Minister and the new Atkinson Government returned to the familiar stomping-grounds of free trade in Māori lands for most of the North Island and the Native Land Alienation Restriction block, which included the Rohe Pōtae being set aside for continued Crown pre-emption and large-scale Crown purchasing along the route of the new railway.<br><br>This was not the result which the Crown representatives who negotiated the opening of the King Country in 1882 to '85 had expected or desired. The Crown had three goals at the beginning of this process, to reassert the Queen's sovereignty and legal authority in this district, to link Wellington and Auckland and points between with a railway and to transform the King Country into a productive part of the colonial economy. There were no doubt settlers and politicians who desired to relieve King Country Māori of their lands at nominal prices along the way, but neither Bryce nor Ballance were their allies or accomplices. Both native ministers wanted to reform the Native Lands system to eliminate improprieties and ensure that Māori landowners got a fair deal, while at the same time promoting colonial development. They would not budge on the basic principle that a single, independent legal authority, the | |

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| | Native Land Court in some form, had to retain the final say in the process of title ascertainment, but beyond this were prepared to be flexible where persuaded that a better alternative existed. Ballance was perhaps more inclined than Bryce to pay serious attention when Māori made suggestions for different ways of doing things, but it would be most unfair to suggest that his predecessor in office was indifferent to Māori concerns.<br><br>In both 1882 and 1883 John Bryce was quick to bring in legislation in response to the requests of King Country chiefs and evidently persuaded those chiefs that his efforts to reach a compromise with them were sincere, if by no means ideal from their point of view. As far as Māori land legislation was concerned, in many ways Bryce was one of the pioneers of the system, eventually adopted in the form of the 1909 Act of assembled owners working through Māori Land Boards. A thorough reappraisal of his career as native minister is long overdue, and I wrote that seven years ago and we still don't have reappraisal of that kind. | |
| | **GEOFFREY MELVIN** | |
| | Sir, can I just interrupt? I've just had an indication from claimant counsel that Dr Loveridge is just – taking account of the acoustics in here, just speaking a little bit too fast for people to hear, so if you could just slow down a bit Dr Loveridge, that will probably assist, thank you. | |
| 1430 | **JUDGE AMBLER** | |
| | Yes, if you slow down and keep the volume up and if the | |

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| | rest of the room can just try and keep the noise down. Hei puta hua ki waho he koro, e Bob.<br>Keep going Dr Loveridge, thank you. | |
| | **DR DONALD LOVERIDGE** | |
| | I'm in the middle of that paragraph.<br>That John Ballance in this period sincerely believed that a land board type system for the disposition of Māori lands was the best answer for Māori and for the colony at large seems unquestionable, as is the fact that he made every reasonable effort to consult with Māori on the proposed legislation. Certainly he consulted more with Māori on this issue than any native minister before him. Whether his system collapsed because Māori had never really wanted it in the first place or because they changed their minds after its passage in September of 1886 is a question which historians have yet to seriously address, let alone~~g~~ provide a satisfactory answer for. It must be concluded, in either case, that the demise of Ballance's system in 1887 left the Māori of the King Country in something of a lurch. As far as their lands were concerned, they did not in the end get what they wanted or expected when they agreed to 'open up' their district in 1885. If nothing else, this study should make it obvious that there was no single 'pact' between Māori and the Crown which led to the opening up of the King Country. Rather, there was a series of agreements which led by stages to this result, with a few setbacks along the way | |

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| | **JUDGE AMBLER** | |
| | I'm just going to get you to slow down again, because you've got a natural pace that's probably quicker than most of us, so if you just – | |
| | **DR DONALD LOVERIDGE** | |
| | I will try and slow down. I'm watching the time. | |
| | **JUDGE AMBLER** | |
| | Kia ora. | |
| | **DR DONALD LOVERIDGE** | |
| | To some extent, the concrete results of each of these stages were less important overall than the incremental development of what Ballance described in 1885 as, "A feeling of confidence in the justice and integrity of our Government," among King Country Māori, or to put it in another way, the development of confidence that the Government would do what it said it would do. Setting aside the Atkinson Governments faux pas over pre-emption in 1884 and Ballance's failure to consult with the four tribes prior to the beginning of the railway construction until the last minute, the Crown consistently, in my opinion, consistently lived up to the promises and undertakings made by its representatives during the course of the King Country negotiations.<br>I am now going proceed on to A68(b) which is the summary | |

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| | of my most – my 2012 report on the – entitled "In accordance with the will of Parliament." | |
| | **JUDGE AMBLER** | |
| | Just bear with us a moment, can you give me the number again? | |
| | **DR DONALD LOVERIDGE** | |
| | The number of the summary is A68(b). | |
| | **JUDGE AMBLER** | |
| | Thank you. | |
| | **DR DONALD LOVERIDGE** | |
| | Now, I am going to – these are the summary and conclusions from the original report. I'm starting on page 9 but sorry, I'm starting on page 10, I should say, I'm going to skip the first four paragraphs because they're a summary, basically and starting with para 237 on page 10 and I'm talking here about February of 1885.<br><br>It is abundantly clear that at this point Ngāti Maniapoto and the four tribes had not agreed to any arrangements by which the Crown would in future be given land within the Rohe Pōtae block or be allowed to acquire it on a preferential basis at artificially low prices. They themselves certainly did not think that any such promises had been made as Wahanui's statements before a parliamentary | |

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| 1435 | committee in August of 1885 show and in 1885 Native Minister Ballance repeatedly stated that they had not even been asked to make such commitments. The Government was widely criticised for not securing lands for European settlement along the line, because beginning construction I mean there, which would require the expenditure of a great deal of public money, but Ministers argued in reply that any attempt by the Crown to acquire lands in such a manner would likely have led the four tribes to reject the railway altogether, to oppose the conversion of their customary rights into Crown recognised land titles and in general to put aside their plant~~t~~s to re-enter into the colonial mainstream. The price which the colony had to pay to open up the King Country, the native minister told the General Assembly in August of 1885 was to allow the Māori owners of the lands in the Rohe Pōtae~~–~~, not the state, to reap the benefit of the value which would be added to those lands by the construction of the railway using public funds, although Ballance did hope that the four tribes would see the wisdom of providing land for European settlement "at a reasonable rate" in order to expedite the economic development of their region. While many members of Parliament voiced strong objections to this idea, it nonetheless remained the South-Vogel Government's official position publicly stated without qualification and publicly defended.<br><br>Ballance and his colleagues were well aware that this represented a radical departure from past policies. So too did their policy respecting the future management of Māori lands by means of committees elected by the owners of blocks, whichо would decide what was to be done with their | |

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| | lands and then hand them over to an administration Land Board or a similar body or official to carry out the necessary actions. Its advocates believed that such a system would encourage Māori landowners to make their lands available to settlers by sale or lease at competitive rates, with the boards ensuring that the transactions involved were properly carried out and administered, offering a fair deal for all concerned. It was also thought by some that this would reduce or remove the necessity for large-scale Crown purchasing of unused Māori lands for settlement purposes. The native minister's assurance that he intended to make every effort to put such a system in place throughout the North Island was one of the incentives which he used to persuade the four tribes to accept the railway at the beginning of 1885 and to accept the idea that they would eventually need to have titles to their lands ascertained in order to make use of it. The mode of ascertainment being left open for discussion at this stage.<br><br>As was the case with the concession to Rohe Pōtae Māori, as to the provision of free or inexpensive lands to the Crown for settlement purposes, many members of Parliament, often the same ones who had opposed the new land administration legislation, were opposed to any such scheme. It took the Stout-Vogel Government more than a year to pass the necessary legislation and the Native Land Administration Act 1886 did not actually come into effect until the beginning of 1887. This Act also repealed the Native Land Alienation Restriction Act 1884 and so did away with the 1884 railway district, meaning that henceforth Māori lands in the Rohe Pōtae would be dealt with in the same way as those elsewhere. This was unlikely | |

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| | to mean a great deal in practical terms for several years, however, because Māori lands could not be alienated until they had been passed through the Native Land Court and were held under a title recognised by the Crown. Ngāti Maniapoto and the four tribes had been debating the merits of acquiring such titles for a good while, but it would appear that the existing state of the Native Land Court as they perceived it, at least, put many off the idea. At the beginning of 1886, however, several developments pushed them towards a decision to take the leap into the Court.<br><br>Governments had for several years been tweaking the Native Land Court system in hopes of making it more acceptable to Māori, notably in 1883 with John Bryce's Native Committees Act which created elected district committees empowered to inquire into titles and provide information to the Court and his Native Land Laws Amendment Act 1883, which imposed a prohibition on all negotiations by private parties for the alienation of Māori lands prior to the ascertainment of title and barred lawyers from the Native Land Court. Further reforms proposed in 1885 and '86 were incorporated in the Native Land Court Act 1886 which was passed as a companion piece to the Native Land Administration Act. How much influence these changes had on the four tribes' views is uncertainly, but this is not the case where the Kīngitanga's renewed efforts to block the advent of the Court are concerned. Their attempts during the latter part of 1885 to bring parts of the Rohe Pōtae block back under the mana of Tāwhiao and so exclude the Court and the Crown once again, played a major part in persuading Ngāti Tūwharetoa to make a single application to the Court for ascertainment encompassing the | |

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| 1440 | whole of their rohe, which included the eastern portion of the four tribes as Rohe Pōtae.<br><br>Now, I'm going to skip paras 241 and 242 which discuss those points and go on to 343 which is on page 14.<br><br>So far as the King Country was concerned by the beginning of 1887 the Stout-Vogel Ministry had accomplished all it had set out to do in 1884. A railway was being built between Te Awamutu and Marton to link Auckland and Wellington. All of the land within the Rohe Pōtae had been placed before the Native Land Court for the ascertainment of titles and an new system passed by Parliament for the management of Māori lands, quite similar in most respects to the one proposed by Ballance for the railway district alone in 1884 was about to go into operation. So far so good, but in the event this was as far as the Stout-Vogel Government was allowed to go. In September of 1887 it was defeated in a general election. In very short order the situation in which the four tribes found themselves underwent fundamental alterations.<br><br>The late 1880s saw New Zealand plunging into one of the most severe periods of economic depression in its history. Financial difficulty was no doubt the main reason why the work on the main trunk line was suspended by the new Atkinson Government, but their explanations for this decision included an ominous comment that construction would not be resumed until the Crown acquired “lands along the route of the railway” for settlement purposes. By the end of 1887 it had also become apparent that the system created by the Native Lands Administration Act 1886, Ballance’s pride and joy was a non-starter. Simply put, | |

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| | Māori landowners in a position to use it refused to do so. This meant that no new transactions involving Māori land could take place. As a replacement in 1888, the new Government returned the country to free trade in Māori lands. Those whose titles had been determined by the Court that is. But lands within the 1884 railway district were made a special case and were placed under Crown pre-emption for three years. The latter restrictions were reinforced in 1889 for the Waipā River valley section of the Aotea block by the imposition of another form of Crown pre-emption lasting until August of 1891.<br><br>The need for a change in land systems was discussed with Ngāti Maniapoto and the four tribes before it was carried out by Native Minister Mitchelson. They expressed a preference for Ballance's scheme but if the latter was to be abandoned, they wanted free trade in land once their titles had been properly ascertained. They also expressed satisfaction with the proceedings of the Land Court to date, notwithstanding the problems arising from the Aotea-Taupō-nui-a-Tia boundary decisions of the Taupō Court, which were not resolved until the Government agreed to a Royal Commission of Inquiry in 1889. The four tribes were not consulted at this meeting about the re-imposition of Crown pre-emption over their lands, but it would seem that their leaders later agreed to go along with it as a protective measure until the title determination process was sufficiently advanced. If there was consensus on this point in 1888 though which is not entirely certain, by the end of 1890 the four tribes had collectively decided that the time had come for some or all of these restrictions to be removed. This may in part have been due to the prices offered by the Crown | |

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| | when it sought to begin purchasing land in the Aotea block which were considered far too low. Certainly no one was prepared to sell at thoese rates.<br><br>The election held at the end of 1890 brought to power a liberal Government headed by former Native Minister John Ballance. Left to his own devices, the new premier, disillusioned by his experiences with the 1886 Act, would probably have opted for a Māori lands policy which required owners to make their unused lands available for alienation by perpetual leases, with the Crown acting as their agent. But there were deep divisions within the liberal camp over the best policy to adopt. On the one hand, the faction led by W.L. Rees wanted a repetition of the 1886 experiment with variations. It was proposed that leasing should be the only form of alienation for Māori lands with a Land Board negotiation with tribal committees to arrange for large areas of unused lands to be made available immediately for settlement under perpetual leases, similar to those being used for most Crown lands. On the other hand, the faction led by Alfred Cadman aimed for a refinement of the existing system in which Māori owners could sell or lease their lands to settlers within certain limits, while the Crown would continue to purchase Māori lands on a large scale for settlement purposes. As a concession to the first group, a Royal Commission was created to review the Native Land legislation. Rees headed this up with James Carroll and one other commissioner by his side. Cadman though secured the portfolio of native minister.<br><br>If the politicians were divided in 1891, the four tribes were not. At separate meetings with the native minister and with | |
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| | the Native Land Laws Commission in April of 1891, they requested an end to pre-emption, "and practical reversion to free trade in native land" for the Aotea block. In other words, they wanted owners recognised by the Native Land Court to have the same control over the use and alienation of their land that European landowners enjoyed. .In the case of the Commission, representatives of Maniapoto and the other tribes simply refused to discuss anything at all, "so long as that restriction remains over the land." The Commissioners, I note, for reasons best known to themselves, not only made no reference to this demand in their report, but actually misrepresented the views of the iwi involved in that report.<br><br>Now, I have a fairly long discussion here of the liberal land policy which follows but what I will do is skip ahead to para 254 on page 19. Now, I skipped ahead to 1894 with the – sorry, I skipped ahead to the Richard Seddon's period of premier after the death of Ballance.<br><br>With Seddon at the head of the Government, the possibility that some form of compulsory purchase would be applied to the problem of unused Māori lands was significantly increased. "The Land for Settlements Act 1892" which was designed to break up the great estates in the South Island, allowed the Crown to purchase European land for settlement purposes on a voluntary basis, using a valuation process to set prices. No sooner had he become premier than Seddon began to voice the possibility and this is 1893, began to voice the possibility that both European and Māori land would be acquired, should and would be acquired by compulsion. That is, the intention was that the Crown should be allowed to choose what lands it wanted to obtain, | |

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| | which lands it wanted to obtain, then required the owner or owners to sell them at a price fixed by arbitration. This of course was very like what the Government had wanted to do in the Aotea block in 1891-92 with the four tribes themselves imposing the requisite compulsion on owners to sell. In the 1893 session, Seddon's Government tried to introduce compulsory purchase for European lands under a revised Land for Settlements Act. This attempt was not successful. At the same time it introduced a Native Land Purchase and Acquisition Bill which–, as originally written, appeared to include a form of compulsory purchase for Māori lands. At least, almost everyone who read the Bill took this to be its meaning. The Government denied it and claimed that the system proposed was meant to be entirely voluntary, that in effect it was a form of the existing Land for Settlement system applied to Māori land including the determination of prices by arbitration. And indeed, the Native Land Purchase and Acquisition Act 1893 as eventually passed after extensive modification contained no element of compulsion.<br><br>It was made clear in the course of the debate of this Bill by both the Premier and the Minister of Lands, that if Māori did not make use of the Native Land Purchase and Acquisition Act system, a very different course would have to be taken. As Seddon put it at one point, "If they refuse to accept the advantages we are now offering them, no one will ultimately regret it more than the Natives, because the necessities of settlement in this island are such that legislation will have to be introduced of a different character." He and his ministers promoted the new Act in the general election which followed the session, which it won, and Seddon initially did the same in the course of his | |

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| 1450 | long tour through the North Island early in 1894, but he changed his tune after meetings with Ngāti Maniapoto and his four tribes in March of 1894.<br><br>The reports of these meetings available to us are incomplete and often quite unclear, but in my view they indicate that the leaders who met with the Native Minister told him that the four tribes were prepared to have a certain amount of land in the Aotea block placed voluntarily under the Native Lands Purchase and Acquisition Act regime but only for the purpose of sale to the Crown and not for public sale or lease and in return they wanted the pre-emption restrictions raised from the rest of their lands so they could sell and lease on an open market without Government intervention. This would have been consistent with the offer which they had made to Cadman in 1891-92 which they continued for some time thereafter to hope that the Crown would accept, modified to take the 1893 Act into account. I consider it highly probable that Seddon's response was that, unless they agreed to put all of the Aotea block under the 1893 Act for public sale and lease Crown purchasing without conditions, he intended to have it brought under the same compulsory version of the Land for Settlement legislation which was being planned for European lands.<br><br>The tenor of these meetings appears to have been quite acrimonious with Seddon being offended by the unwillingness of the chiefs to fall in with his plan and offending them in turn by his dictatorial attitude. Certainly from this point onwards the premier put the Native Lands Purchase and Acquisition Act on the back burner, preferring instead to focus on the alleged danger posed by speculators | |

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| | to the Government's purchasing plans and the need for drastic measures to overcome it. It appeared more likely than not to many observers until the Parliamentary session of 1894 got underway that these measures would include legislation enabling the compulsory purchase of selected European and Māori lands by the Crown.<br><br>What happened instead was that while the new Land for Settlements legislation did indeed provide for compulsory purchase, this was only to apply to European lands. Where Māori lands were concerned, the Crown's right of pre-emption was re-imposed over the whole of the country and unprecedented amounts of money were made available for Crown purchasing. It would appear that this particular formula was the outcome of a compromise within the Cabinet between the Premier and Mackenzie, the lands minister, on the one hand, who favoured compulsion but in any case wanted to accelerate Crown purchasing and James Carroll who opposed it. A few months earlier Carroll had surprised everyone by abandoning his long-held opposition to Crown pre-emption and launching an attack on free trade in Māori lands. He had now told the House that, "There cannot be any serious injury done to the Natives by the Government having the pre-emptive right."<br><br>Carroll himself in 1891 identified an injury which might be done to Māori landowners in the Aotea block when he observed that, "Evidence adduced before the Commission proved conclusively that where the Government interposed with its pre-emptive right as was the case in the King Country, the Natives could not obtain a fair price for their land." | |

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| | I note that the member Hōne Heke quoted this statement back to him during the 1894 debates.<br><br>If Carroll attempted to make the payment of fair prices by the Crown a condition for the revival of pre-emption however, no record of this has come to light. Given the use of valuation to set the prices for purchases, both voluntary and compulsory, under the Land for Settlements legislation, it is somewhat surprising that neither he nor any of the Māori members seem to have pushed for such a provision. But Carroll may have exhausted his bargaining power in the process of averting compulsory purchase and gaining Māori landowners the right to incorporate themselves, and the Māori members, together with many other Māori, put all their energy into their unsuccessful effort to stop the application of pre-emption on a national basis. The Premier evidently saw no political need to offer such a concession and did not do so. In any case, the Crown emerged from the 1894 session of Parliament with much larger amounts of money at its disposal for the purchase of Māori lands than ever before and a captive market in which to operate in which it could and did decide what prices would be paid. After the 1894 session landowners in the Aotea block were left with no avenue for the alienation of their lands save sale for the Crown and very little prospect that this would change in the near future.<br><br>Ngāti Maniapoto and the four tribes joined in the national protest by Māori which followed the passage of the Native Land Court Act 1894. Their boycott of the Native Land Court in 1895,[:] however, had no perceptible effect on the Government's views on pre-emption in general | |

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| | or its application to the Aotea block in particular. On the contrary, while revisions to the Act made in 1895 made it possible for many Māori to sell and lease small blocks of land, the 1884 railway district was specifically excluded from this alteration. The most notable development in the Aotea block during this period was the huge increase in the volume and pace of sales of land to the Crown. By the end of 1899 the purchase of some 687,769 acres of land and the 1,844,780 acre Aotea block had been completed of which approximately one-sixth represented undivided interests afterwards awarded to the Crown by the Native Land Court. The owners received for these lands on average approximately 4 shillings an acre. A figure which Commissioners Stout and Ngata in 1907 described as well below the prices which these lands would have commanded on an open market, and so constituting the best possible bargain for the State. In their opinion the vendors, "Had been reduced by the cost of litigation and surveys and by the lack of any other source of revenue, to accept any price at all for their lands," and this appears to have been the case.<br><br>How much land would the owners of the Aotea block have sold during the 1890s if they had enjoyed full control over their property, if no restrictions on alienation had been imposed by the Crown by a virtue of its right of pre-emption? It is probably safe to say that a good deal would initially have been offered under leases to private parties, rather than sold outright. Whether Māori landowners would actually have been able to lease large quantities of their lands would of course have been determined by their ability to match their own expectations and requirements with the demands of the | |

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| | market. If the rates and terms which they set had proven unattractive to prospective settlers, then a good deal of this acreage might have remained untenanted and unused. A certain amount of land would probably have been offered for sale form the beginning, particularly good agricultural land close to the railway which would have commanded premium prices and if leasing did not produce the expected results then much more might have been put up for sale as an alternative. The imposition of rates and taxation, an unavoidable consequence of enjoying the same rights and duties as all British subjects in the colony, would have increased the pressure for sales where returns were inadequate. There are too many variables to reach credible conclusions as to the volume of sales which might have taken place in a free market situation. We can be absolutely certain of one thing, however, that the Māori landowners of the Aotea block would not been allowed to leave their lands in an unused and unproductiveed state. Had the Liberal Government decided to permit free trade here in the 1890s, the situation would have been closely monitored and some kind of intervention would unquestionably have followed if the amount of unused land held by Māori was considered to be excessive.<br><br>But Ngāti Maniapoto and the four tribes were in any case very consistent from 1885 onwards, in demanding the same right to manage their lands as they saw fit, as their European fellow subjects enjoyed. Their only deviation from this position, if that can be so described, came in 1891-92 when they attempted to reach a compromise with the Crown which would have released most of their lands pre-emption restrictions in return for accepting a Crown monopoly on the | |

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| | acquisition of specified lands along the railway, for which prices were to be set by arbitration. The Ballance Ministry declined to accept such an arrangement and the Seddon Minister declined to accept what appears to have been a very similar offer made in 1894.<br><br>Not only did the Liberal Governments of the 1890s keep the Aotea block under Crown pre-emption, while offering low prices for land and holding off on the completion of the main trunk railway, all policies set in place by the Atkinson Government in 1887 through '90, but in addition they made increasing amounts of money available for Crown purchasing, while at the same time making little effort to develop the lands acquired by means of roads and other infrastructure and even less to open them up to European settlers. By the end of 1899, when Crown monopoly purchasing ceased, the development of the Aotea block was not much further advanced than had been the case in 1885. There was a railway now to be sure, but it did not yet connection with Wellington and as many observers noted, there was relatively little local traffic due to the absence of European settlers and the investment which they would have attracted or brought with them.<br><br>This was not the outcome which most of the people involved with the opening of the King Country in the mid-1888s would've expected, least of all the leaders of Maniapoto and the four tribes and the people who followed them. It was one which can largely, in my opinion, which can largely be attributed to the fixation of a series of Governments upon "furthering the interests of general settlement" as Stout and Ngata put it, by means of pre-emptive purchasing by the | |

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| 1500 | Crown, at the expect of other strategies and specifically at the expense of Māori landowners in the Aotea block. In the case of these landowners, in 1885 the Stout-Vogel Government made a decision that the interests of the colony as a whole were best served by not requiring its landowners to make a contribution to the cost of the main trunk railway in the form of cheap or inexpensive land for European settlement. Subsequent Governments, however, including one headed by John Ballance, clearly did not believe that they had any obligation to refrain from demanding such a contribution and a majority of the elected and appointed members of the House of Representatives and Legislative Council agreed with them, "In accordance with the will of Parliament," as Stout and Ngata put it, Crown pre-emption was used to extract a fairly large one.<br><br>Commissioners Stout and Ngata thought that these Governments, "rated too low the rights of the Māori owners and its responsibility in safeguarding their interests." This is rather vague. All we can really say with certainty is that in the political and economic context of the 1890s, the Crown's interpretation of its responsibilities put colonial Government at the top of the national agenda and the property rights of both European and especially Māori landowners, a good deal further down the list and Crown monopolies on the acquisition of certain lands were considered to be a legitimate way to proceed. The renewed application of the Crown's right of pre-emption to the Aotea block from 1888 onwards, and the manner in which it was applied, reflected these views, but were the decisions made by the Governments and Parliaments of this period likely in the circumstances to produce the desired results? Did large | |

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| | purchases of land along the railway at low prices actually expedite the development of the region, when a decade's delay in the completion of the main trunk railway and in the influx of the European capital and settlers was the unavoidable corollary? It may be that the benefits arising from the settlement of Crown lands after 1899 outweighed the costs of delay, or perhaps not. A thorough study of the settlement and development of the Aotea block after 1899 would help to cast light on this question and would in any case go a long way towards filling one of the larger gaps in the literature about Māori land in the nineteenth century, that relating to what was actually done with the lands acquired from Māori by the Crown.<br><br>The contemporary sources examined for this study to not record any allegations made during the period examined, 1885 to '99 by any of the people concerned that the Crown breached specific promises made in 1885. It is nonetheless obvious that Ngāti Maniapoto and their allies, did not think that the Crown acted properly in refusing to remove pre-emptive restrictions from their lands and in holding back on the development of the district in order to serve its own purchases, nor can there be much doubt in my opinion that ongoing dissatisfaction with the Crown pre-emption purchasing of the 1890s made a significant contribution to the development of the myth of the Sacred Pact.<br><br>I am going to proceed now to the summary of my report on the Sacred Pact in the King Country, the critique of the Smith and McLintock reports. That summary is A89(a). | |

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| | **JUDGE AMBLER** | |
| | Just bear with us a moment. Proceed. | |
| | **DR DONALD LOVERIDGE** | |
| | As I say, I'm reading from A89(a) on page 3. I'll read the first paragraph of the introduction just to give a background.<br><br>This study examines the historical evidence and historical analysis relating to the Sacred Pact, relating to the sale of liquor allegedly made between the Crown and Rohe Pōtae Māori in the early 1880s. It evaluates the report made by the Honourable Mr Justice David S Smith in 1846 on "the question of a Sacred Pact, Pledge or Treaty between the Government and the Māori Tribes," and that written by Parliamentary Historian Dr Alexander H McLintock in 1853 on "the facts concerning a Sacred or Solemn Pact, Covenant, Pledge or Treaty said to have been made between the Government of New Zealand and the Māori chiefs of the King Country. Also considered are P J L Skerman's thesis on "The Dry ~~Yeabsley~~ Era: A History of Prohibition in the King Country," and three reports on political engagement between the Crown and Rohe Pōtae Māori commissioned by the Waitangi Tribunal for this inquiry. | |
| | **JUDGE AMBLER** | |
| | Dr Loveridge, I'll just get you to slow down again. You're back at your fast pace. | |

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| | **DR DONALD LOVERIDGE** | |
| | Okay, I'll go into slow mode again.<br><br>These political engagement reports are Jonathan Sarich's – an overview of political engagement between a hapū and iwi of the Te Rohe Pōtae Inquiry District and the Crown 1914 to '39. Dr Helen Robinson and Dr Paul Christoffel's, "Aspects of Rohe Pōtae Political Engagement," which you heard about today and Ms Cathy Marr's Te Rohe Pōtae Political Engagement 1864 to 1886. The first two reports, the Sarich and the Robinson/Christoffel reports, devote specific separate sections to liquor issues and the Sacred Pact.<br><br>I'm going to skip on here to – I'll draw your attention to page 5, there's a fairly long section here on the background, trying to explain the context of the Smith and McLintock reports. I won't read that in detail. I'll go to para 15, which is on page 13. This is para 15 on page 13.<br><br>The historical reports prepared by the Honourable Mr Justice David Stanley Smith in 1846 and Dr McLintock in 1853 played a significant part in bringing the no-licence regime in the King Country to an end. It seems to me very probable that had Justice Smith considered in 1946 that "the weight of the evidence" supported the idea that a Sacred Pact had been entered into by the Crown to ban the sale of liquor ~~and~~ in perpetuity, his fellow Commissioners would not have seen their way clear to recommend that a referendum be held, and the Labour Government would not have adopted the policy it did in 1948-49 or at least that it would not have proceeded in the same way. It seems equally | |

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| | probable that had Dr McLintock decided that there was any substantial historical evidence for the existence of an inviolable Sacred Pact, the National Government might not in 1953 have been able to muster enough support to pass the legislation which led to the 1954 poll. The question before us now is, did these authors individually or in combination produce an answer to the Sacred Pact question which was and remains credible? To answer this, it is necessary first to appraise the research which they carried out and their analysis of the results and also to consider whether nay evidence discovered since 1953 affects the validity of their conclusions.<br><br>Now, on the next page, this is page 15, I'll read para 35 and 77, 78, which are my conclusions on the sections discussing the reports.<br><br>The Smith Report 1946.<br><br>Looking back on this report, it can readily be seen that Justice Smith did not in fact gather" all of the documents available" which bore upon the question of the Sacred Pact. His report was not the result of a comprehensive historical research exercise, for it covered only a limited range of material and some records which he no doubt would have found interesting and useful were overlooked or possibly not considered relevant. Justice Smith also confined his investigation to the question of what happened before 1900, and did not really give consideration to the history of the development of the idea of a Pact in the early 20th century, which might have imparted a broader perspective on the questions involved. On a whole, however, it is difficult to fault the conclusions which he drew from the material | |

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| | considered and particularly his conclusion that the weight of that evidence was “heavily against the view” that a Sacred Pact or a bargain had been made about liquor licensing in 1885 or at any other date which prevented the Crown from later introducing measures which were considered to be in the best interests of the Māori people affected. Justice Smith may not have been a professional historian and the research exercise which he carried out, may not have been comprehensive or perfect, but he was obviously an astute analyst who gave this evidence careful thought before reaching the conclusions which he did. Certainly his fellow commissioners seemed to think so. Following in his footsteps seven years later, Dr McLintock would find little in Justice Smith’s observations which he needed to correct or to disagree with or could disagree with.<br><br>Now, the McLintock Report of 1953.<br><br>Dr McLintock’s report supported all of the conclusions reached by Justice Smith, and~~ter~~ provided a good deal of new historical information along the way. He went beyond the Smith report in his examination of more of the new evidence relating to the Pact which appeared late in the 1890s and earlier in the 20th century, but his conclusions about the statements made by Premier Stout and John Ormsby, and these are at hearings during the ‘20s, are very similar to those reached by his predecessor. Neither of them was convinced by the claims which these two men made that some kind of a bargain or pact had been entered into by the Crown and the chiefs in relation to liquor which went beyond the arrangement embodied in the proclamation of the King Country as a no-licence area under | |

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| 1510 | the 1881 Act in December of 1884. Neither concerned themselves in their Reports with the claims made by Ormsby and Te Heuheu in 1900 about a Pact concerning future sales of land, for this was not within their briefs. They both concluded that the South and Ormsby statements were so greatly at odds with the contemporary evidence relating to the 1880s that they could not be accepted as reliable. McLintock accordingly dismissed out of hand as misguided any and all 20th century literature about the Pact, which relied on their statements, which, in effect, meant that he considered none of the writings of the prohibitionists to have any historical credibility. He was much harsher than Justice Smith in his treatment of Sir Robert Stout.<br><br>When Justice Smith read the McLintock report in November of 1953, i~~o~~n order to review it for the Minister of Justice, his reaction was that, "The author has reviewed a lot of material. Unfortunately the tone is rather polemical. In parts the author gives the impression, so I think that he is setting out to prove a preconceived conclusion. Nevertheless the facts speak for themselves."<br><br>Smith, however, did not dispute any of the historian's evidence or any of his conclusions. McLintock's report does undoubtedly contain a polemical element, in the strict sense of a strong verbal or written attack, as the New Oxford American Dictionary, on Stout for his misleading statements and on those who relied on his evidence to argue for the existence of a Sacred Pact in the face of a historical evidence positive and negative, which in his judgment clearly showed this to be a myth. Justice Smith obviously thought that the impression that McLintock was setting out to | |

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| | prove a preconceived conclusion was only that and no more. He himself, after all, had provided the conclusions which McLintock double checked, expanded upon and ended up agreeing with.<br><br>I'll go over the next page on page 17, paragraph 102. These are my conclusions from the report.<br><br>The historical research underlying Dr McLintock's 1953 report was in my opinion sufficient in quality and extent to constitute a reliable basis for the conclusions which the Parliamentary Historian drew about the alleged Sacred Pact. That underlying Justice Smith's 1946 report was flawed in some respects, but most of its deficiencies were remedied by the parliamentary Historian. Historians have, since 1953, brought to light a good deal of new material in relation to prohibition in the King Country, but in my opinion they have found nothing which suggests that McLintock was wrong in his analysis of the evidence available to him and in his conclusion that Rohe Pōtae Māori and the Government of the day did not make an agreement in the early 1880s which required that the sale of liquor be banned in the King Country for all time. Or, for that matter, that they made any kind of specific agreement relating to liquor sales after the Stout-Vogel Government made it's intentions known with the Proclamation of December 1884. Neither Skerman, Christoffel or Marr, or anyone else, has located new evidence which shows that a Sacred Pact relating to alcohol was entered into by the Crown and the Rohe Pōtae chiefs in the early 1880s, while Dr Christoffel's examination of the events of 1900 provides a very strong support for McLintock's conclusion, that the notion of a Sacred Pact was | |

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| | created by the prohibitionists for their own purposes after the turn of the century.<br><br>At the same time; however, neither Skerman, Sarich nor Marr accepts that such a Pact of this nature was not made. Skerman and Sarich argue that Justice Smith and McLintock did not give adequate weight to Māori oral evidence, both of them referring specifically to the testimony given to the 1946 Commission and evidently think that doing so might lead to a different conclusion, without actually showing us how. While Marr argues that a ban on liquor was part and parcel of a larger Sacred Pact between the Crown and Rohe Pōtae Māori which encompassed statements about land disposal and other matters of which the prohibitionist Pact was what she calls a "distorted version." As I understand it though, she also thinks that all of the elements of this particular Pact were open to future modification by mutual agreement between the Crown and the iwi concerned, so evidently she does not see it as an immutable one of the sort promoted by Māori and prohibitionist supporters of the Sacred Pact in the 1930s and '40s. Coming at the issue from a very different direction, Marr thus seems to agree with Justice Smith and McLintock that there was no unalterable Pact.<br><br>It is somewhat unfortunate in hindsight that a single specialist study of the Sacred Pact was relating to alcohol was not commissioned for this inquiry by any of the parties involved. A thorough review of the evidence available, unconstrained by artificial periodization [*sic*] would probably have given us a better understanding of where matters stand and would perhaps have filled a few of the gaps which still remain ~~open~~. Such a report could have provided a | |

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| 1515 | thorough examination of what John Ormsby said on different occasions about the agreements reached between the Crown and Rohe Pōtae Māori in the early 1880s and brought this together in a systematic fashion with the comments made by Wahanui and the others chiefs in 1892, the evidence given to the Taupō-nui-a-Tia Commission in 1889, the statements of Te Heuheu Tūkino in 1900, the Māori claims about rating in the interwar period and the evidence given by Rohe Pōtae Māori to the 1946 Commission about the Sacred Pact to get a clearer understanding of what was being claimed and when. A closer ~~examination~~ study of the prohibitionist literature on the Sacred Pact might also have been undertaken, if only to see whether McLintock should have paid more attention to the points raised therein and to appraise the Alliance's criticism of his own report. Whether any of this would take us very far beyond Dr McLintock's conclusions, however, is very much open to question. Some people are still saying, "I think there is a Pact," as Holland put it in 1953, just as they were before the Parliamentary Historian received his commission despite a very convincing demonstration that the weight of the evidence points firmly to the opposite conclusion.<br><br>The last paragraph there is just, I was asked to identify the earliest usage of the term 'Sacred Pact' that I could find and as far as I could tell it was in 1926.<br><br>I now proceed to the last summary. This is number A90(a) and it's a summary of my comments on the Marr report. | |
| | **JUDGE AMBLER** | |

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| | Yes, just pause, thank you. Sorry, can you give me the document number again? | |
| | **DR DONALD LOVERIDGE** | |
| | Yes, the document number is number A90(a). I'll begin on page 3 at paragraph 1. I should note that before I start that my number A68 report was filed, completed and filed before Cathy Marr's report was filed, so there was no possibility to consider matters in that report. Now, this report, I've dealt with two specific subjects and two specific topics within Ms Marr's report. The first is her comments about the Sacred Compact of 16 March 1883.<br><br>One of the main themes, if not the main theme of Cathy Marr's report on Te Rohe Pōtae political engagement, that's number A78 is that a Sacred Pact, to use her preferred label, was made on 16th of March 1883 between the native minister of the day, John Bryce and several Rohe Pōtae chiefs headed by Wahanui and Rewi Maniapoto at a meeting held at Whatiwhatihoe.<br><br>In her conclusion, she states in summary that, "The understanding made at this time was noted and the main points confirmed in an exchange of letters dated 16 March 1883, the same day as the meeting. There is considerable evidence that the chiefs regarded the meeting as involving solemn undertakings of agreed steps of future recognition of their territory and their authority in return for their co-operation over exploring a route for the railway. This was the chiefly understanding from the time of the meeting and it remains their understanding over negotiations | |

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| 1520 | that followed. The undertakings were made as a solemn agreement based on the honour and the good relationships established between the parties. This was in the nature of a good faith Compact as the term was used at the time. The chiefs understood that given that the important subject of this understanding was their external boundary and remaining pledged lands, this compact also had an important sacred aspect. These understandings of an important Compact were made public within a few weeks of the meeting by a Tūhua chief."<br><br>The two letters of the 16th of March 1883 which she mentions are located in a Māori Affairs file, held by Archives New Zealand, one of which was later submitted to the Royal Commission on the Taupō-nui-a-Tia Block in 1889 and the report of a Tūhua chief was published in the 12 May 1883 issue of the *Whanganui Herald*. The latter article entitled, "Mr Bryce in the King Country – Strange Revelations, A Curious Compact," purported to derive from a "communication from the mouth of a Native Chief by the name of Hataraka."<br><br>Marr notes that, "Bryce never publicly admitted the 16 March 1883 letters were anything other than a written permission for a railway exploration. He remained publicly silent on other issues mentioned in the letters. He did not make them public and he did not publicly admit to any kind of solemn ~~understanding~~ undertaking of Compact. He claimed a right to keep sensitive negotiations with Māori private. In the absence of any public disclosure, it was widely accepted by Pākehā and eventually by Governments, that the agreement was no more than a written permission | |

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| | for the railway exploration as was officially portrayed."<br><br>To put it another way, if Native Minister Bryce did in fact enter into a solemn understanding or Compact with these people on 16 March 1883 or at any other date, he never admitted having done so, and the Crown never accepted that any such solemn undertaking or Compact existed.<br><br>Allegations that the Crown made a Sacred Pact or a Sacred Compact with the King Country Māori in the 1880s are nothing new. Until now, however, they have almost always been made in the context of the prohibition of alcohol, it being claimed that the Crown, in the person of Premier Robert Stout in April of 1885, in exchange for Māori permission to build the railway, undertook never, ever, to allow alcohol to be sold in the King Country, regardless of the future wishes of the district's inhabitants. Ms Marr, however is proposing here that a Sacred Compact relating to the opening up of the King Country to railways and settlement was made on 16 March 1883 and that these three documents constitute conclusive proof of its existence. She herself is certainly convinced and it is fair to say that Ms Marr's interpretation of events after 16 March 1883, are largely founded on her assumption that a Sacred Compact was indeed made.<br><br>In the report I discuss at some length the context in which the meeting of 16th of March took place, paying particular attention to the meeting which took place between the Native Minister and Wahanui in Alexandra on 7 March 1883. It would appear that Bryce informed Wahanui about the Government's plans to examine the possible route for a railway to Taranaki. The chief told him in reply that this | |

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| | question had not yet been discussed by Ngāti Maniapoto but did not request or demand that the survey be stopped until this had taken place. I commented that, "There seems to be no evidence to suggest that prior to 13 March, Bryce or Hursthouse or Native Agent Wilkinson for that matter, expected that Rohe Pōtae Māori would offer anything more than token opposition to passage of the railway exploration and trig survey parties through their territory, something similar perhaps to the token opposition offered to the opening of Kāwhia three months earlier."<br><br>I also consider the subjects discussed at the hui of chiefs held on 15th of March. It is apparent from the one account available, which is Te Reti's report, that Wahanui supported the idea of letting the Government proceed with its railway exploration survey and wanted to follow that up with a petition to Parliament from Rohe Pōtae tribes as a means of gauging how the Government would respond to their requests for reforms. He also discussed the need to get Crown approval of their external boundary. I note that although Ms Marr concludes that, "At this time, according to the Te Reti notes, Ngāti Maniapoto made no final decision," none–theless Te Reti recorded no voices being raised in opposition to Wahanui's proposals and the program which he laid out was that implemented over the following months. Bryce and the surveyors were permitted to pass, a petition was drawn up and submitted to Parliament and an official survey of the external boundaries of the Rohe Pōtae was made.<br><br>The meeting between Native Minister Bryce and the chiefs held at Whatiwhatihoe on the 16th of March 1883 is | |

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| 1525 | considered at para 26 to 45 of my report. Newspaper reports made at the time and later comments on the meeting are reviewed, but particular attention is paid to the letter of 16 March sent to Bryce by the chiefs and the Native Minister's reply of the same date. Those are copied in the appendix at the end of this summary. Copies of both these letters were located by Ms Marr in MA 23/5 in Archives New Zealand. Their contents are discussed at length. I have discussed their contents at length. A report f the 16th March meeting published in the *Whanganui Herald* at 12 May is also examined and so I noted this was said to be based on a communication from the mouth of a Native Chief at present in Whanganui named Hataraka, who had been present at the interview between Bryce and Wahanui. Ms Marr places a good deal of weight on Hataraka's account of the 16th of March meeting, as demonstrating that a Compact had been made at Whatiwhatihoe, which went beyond, "A straight on way agreement to give permission for a trip." There are, however substantial discrepancies between Hataraka's account and what we know about the meeting from other sources available, including and especially, the letters written by the chiefs and Bryce at the time and many of the assertions made in it simply are not especially believable. I conclude that the most reliable evidence available to us shows that, at Whatiwhatihoe on 16th March, "The chiefs considered his, Bryce's request for an exploratory survey, and approved it on a condition that it be confined to exploration only, which was all that was intended in any case, and asked in return that Bryce restrict surveys until the tribes had decided what to do with their lands, coupled with a formal announcement that these | |

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| | decisions would be made soon and the tribes' desires passed on to the Crown in the form of a petition," ~~and~~ I conclude that, "The decisions made on both sides of this meeting are consistent with what happened before and afterwards."<br><br>Now this section of my report ends with an examination of one other matter relating to the letter which Wahanui and that should be five other chiefs, rather than eight, wrote to the Native Minister on 16 March 1883. Ms Marr claims that it was used by the Rohe Pōtae chiefs in 1889, "as evidence of the Compact as they understood it." I examined both the letter which Wahanui and the other chiefs wrote to the Native Minister on behalf of all the chiefs of Ngāti Maniapoto on 6 May 1889 and the evidence which Ngāti Maniapoto placed before the subsequent 1889 Royal Commission on the Taupō-nui-a-Tia Block later in the same year. I note that the 6 May 1889 letter made no mention or allusion to any kind of Compact, Sacred or otherwise, made with the Crown in March of 1883 but rather speaks of an agreement with "weight and authority" made with the Crown in December of 1883 and no other. Similarly the evidence given to the Royal Commission by Pepene Eketone, John Ormsby and Taonui, shows that they believed that a binding agreement with the Crown about the Rohe Pōtae boundary which allegedly was breached in 1886, had been made in December of 1883 and not at any earlier date. Contrary to Ms Marr's claim, none of the witnesses placed any emphasis on the events of 16 March 1883. I note John Ormsby made what might be a reference to the letter which was submitted or referred to the chiefs' letter of that | |

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| | date in the course of their evidence.<br><br>In my opinion there is little or no reliable evidence available to us which suggests that the agreement reached at the 16th March 1883 meeting between John Bryce and the chiefs involved anything more than the newspaper accounts of the day reported it to be and which the two letters written on the 16th of March 1883 show it to be. That is the Native Minister asked that a Government surveyor be allowed to examine the area between Te Awamutu and Mōkau in order to evaluate its potential as a railway route and the chiefs agreed to this, provided that Hursthouse confined himself to that task alone. Bryce accepted this condition. They also asked that no other surveying be undertaken for the time being and repeated this request a month later. Bryce had already imposed ~~restrictiosn~~ restrictions on surveying for Land Court purposes within the aukati and later decided to temporarily suspend the trig survey. The chiefs also told the Native Minister that a petition was to be submitted to Parliament and the Native Minister promised to carefully consider any alteration in the law, any alterations in the law which were proposed, this was all, and the Compact made, the word Wahanui was said to have used to describe it two years later, was fulfilled by both parties, “A search for the railway” was to be made and when a suitable line was found, Bryce’s successor returned to discuss with the chiefs what would come next even though no written record of such a promise could be found at the time.<br><br>Now, the last section here is about Ms Marr’s discussion of Crown purchasing policy in the 1884 Railway District. I'll just I think leave it for to you to look at that. I don’t agree with | |

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| | her conclusions about that. I think it's fairly clear that there was no change in the Government policy at the time which she has discussed and I'll complete my reading there. | |
| | **JUDGE AMBLER** | |
| | Well, I don't want to force you to read what you don't want to read, but can you perhaps just summarise the essence of this part of your summary? | |
| | **DONALD LOVERIDGE** | |
| | I was watching the time. | |
| | **JUDGE AMBLER** | |
| | Yes, I'll tell you when the time is a problem. | |
| | **DONALD LOVERIDGE** | |
| 1530 | Okay, thank you, This section of the report deals with Crown purchasing policy within the 1884 railway district. The larger area was set aside under the 1884 Act. In section 13.4 of her report entitled, "New Government Land Purchase Policies in the Railway Area," Ms Marr alleges that at some point after the end of 1884, the Stout-Vogel Government adopted a new policy involving extensive purchases of Māori land in the railway area. There is some evidence she states, "That this may have been in as early as even before the Kihikihi hui in February of 1885 where Ballance had made the assurances the chiefs found so compelling," including, "I am not anxious that the Government should purchase land," | |

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| | he said this when he was discussing the new land administration policy. This change, she claims, was concealed until August of 1885 when that Government, "Publicly acknowledged that it now intended purchasing Māori land extensively in the railway area." A few weeks before, after this she notes, "The proposed legislation for the new system of land management was allowed to lapse for the session," which meant that the Crown pre-emption over the railway district provided for in the 1884 Act would continue in force for another year.<br><br>As I noted further along, I don't think these allegations have any substance and that they are based on a misreading of the evidence available where the relevant evidence is considered at all. I note to begin with, there is one point that does need to be cleared up that the railway district created by the Native Land Alienation Restriction Act 1884 encompassed an area almost twice as large of the Rohe Pōtae alone, including a very large area to the south of it, that the titles to some of the lands within this portion outside the Rohe Pōtae had already been ascertained by the Native Land Court and that approximately 1 million acres of it had already been alienated in various ways or had been proclaimed under the 1887 Act as being under negotiation for Crown purchase, which is sort of a localised farmer Crown pre-emption.<br><br>I then go on to look at what Ballance said at the Kihikihi hui but also the hui at – with the Whanganui tribes slightly before that and also what he said at meetings with Europeans about the Government's various policies.<br><br>Now, the statements made by, I'm not sure, I'm on page 10, | |

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| | the second paragraph.<br><br>The statements made by the Native Minister on 28 August 1885 in the House of Representatives in the course of a Want of Confidence debate, which Ms Marr considers to be a public revelation that the Stout-Vogel Government now intended purchasing Māori land extensively in the railway area. This speech was made in response to one of a series of attacks made on the Government with respect to the King Country arrangements during this session which I referred to earlier.<br><br>Now I discussed the exchanges. I went through the speech at – in fairly close detail and basically what you have when you read the way through it is one sentence at the end of a four or five page speech which seems to – he's talking about large purchases. Now, I comment that here at the end of Ballance's land related comments and the Want of Confidence debate we have a single sentence which in any way resembles a proposal that the Crown buy a very amount of land in the railway district before the line itself is completed, expected at this time to require about four years. He described it as his own idea and it was based on the premise that Māori were prepared to sell large quantities of their land to the Crown in the near future, but I note that the last thing Ballance had to say was a warning that if Māori became suspicious of the Government's intentions, they will refuse to sell any land at all. There is no evidence that Ballance had given any thought to funding the money which would have been needed for large scale purchasing of this kind and I note that neither the colonial newspapers which watched this debate very closely since it looked ~~through~~ for | |

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| 1535 | a time as if the Government might be defeated, nor the Government opponents thought then or later that the Native Minister had announced or revealed a new Crown policy to bind more land in the railway district. It had already said very consistently from the beginning of its term in the office that it would buy land along the railway line if the opportunity arose. I also note that contrary to Ms Marr's claims, the Native Land Disposition Bill was not abandoned in 1858 to facilitate the purchasing under pre-emption of lands within the railway district. She does not mention the fierce opposition which this revolutionary measure encountered in the house and the fact that after taking extensive evidence, the Native Affairs Committee recommended that the Bill "should not be further preceded with this session."<br><br>Crown purchasing within the railway district during 1868 to '90 amounted to some 555,000 acres which was in line with the Governor's forecast in 1884 that "Extensive blocks of Māori land along the line of the railway would be purchased." Now, a portion of this land, of this half a million acres, 103,141 acres as near as I can make it, lay within the original Rohe Pōtae. All of it within the portion which Ngāti Tūwharetoa placed before the Native Land Court for title ascertainment in 1895. In the report itself, there's a table of the blocks that I've identified as being part of that.<br><br>It is in my opinion quiet clear that the remarks made by Native Minister John Ballance in August of 1885, about Crown purchasing, did not reveal that the Crown had previously adopted a new policy with respect to Crown purchasing in the railway district. The Stout-Vogel | |

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| | Government in August of 1885 was still pursuing the same basic policy which it had adopted after assuming office in 1884. Nor did his remarks demonstrate that Ballance had been "less than frank" in the statements which he made to the Rohe Pōtae chiefs in February of 1885 or that his remarks at that time amounted to a deception of any kind, deliberate or otherwise. | |
| | **JUDGE AMBLER** | |
| | Now, Mr Melvin, there's nothing more for you to raise at this point? | |
| | **GEOFFREY MELVIN** | |
| | Not at this point, Sir. No thank you. | |
| | **JUDGE AMBLER** | |
| | All right, have a stretch, Dr Loveridge. | |
| | **DR DONALD LOVERIDGE** | |
| | I will move, thank you. | |
| | **JUDGE AMBLER** | |
| | Just arrange yourself. We're taking a break at 10 to four and so you just make yourself comfortable. I want to just find out what the current batting order amongst counsel is and what the estimates are. | |

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| | **TOM BENNION** | |
| | Yes, Sir, Mr Duncan is going to have 10, 15 minutes? | |
| | **CAMPBELL DUNCAN** | |
| | Very brief, Your Honour. I'll just slip in and then you won't even notice that I've been here. | |
| | **TOM BENNION** | |
| | I understand he's going to be asking questions about sources and – | |
| | **JUDGE AMBLER** | |
| | About what, sorry? | |
| | **TOM BENNION** | |
| | He's going to be dealing with sources as a preliminary – | |
| | **JUDGE AMBLER** | |
| | **TOM BENNION** | |
| | And they will be insightful and thoughtful questions. Then, myself and I've cut my estimate down to two hours now. I think you'll be bored after that, so I'll keep it at and then Mr Tootill I think has the remaining line-up. | |

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| | **JUDGE AMBLER** | |
| | All right. | |
| | **GLENN TOOTILL** | |
| | Yes, Sir, so Mr Bennion will probably take us to the finishing. Are we expecting to finish at 5.30, Sir? | |
| | **JUDGE AMBLER** | |
| | We may go through to six. I'll confer with the panel over our break, but in part it depends on what the estimates are like. | |
| | **GLENN TOOTILL** | |
| | Yes, Sir, I suspect Sir that Mr Duncan and Mr Bennion will take us through to tonight and then there's a list forming behind them for tomorrow morning, Sir. | |
| | **JUDGE AMBLER** | |
| | Have you got a current list? | |
| | **GLENN TOOTILL** | |
| | I do, Sir. Did you want me to go through that? | |
| | **JUDGE AMBLER** | |
| | Yes, please. | |

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| | **GLENN TOOTILL** | |
| | All right, so, Sir, we've got Ms Rongo for 10 minutes, Mr Mahuika, current estimate 20 to 30 minutes. Then, Sir, we've got Mr Afeaki for 20 minutes, Ms Feint for 30, Mr Warren who may be making an appearance tomorrow for 20 and Mr Pou finishing up with 30, but that order may or may not change, Sir. | |
| | **JUDGE AMBLER** | |
| | So, it'll go down, if anything and Mr McGhie? | |
| | **MARK McGHIE** | |
| | Yes, Sir, if I could just have maybe 15 minutes just to clarify some of the answers to the written questions. | |
| | **GLENN TOOTILL** | |
| | And Sir, I understand Ms Sykes, also for 30 minutes.<br>**JUDGE AMBLER** | |
| | Let me do my maths. I think it's about five and a half hours. All right. | |
| | **GLENN TOOTILL** | |
| | Yes, Sir, it may shrink once Mr Bennion is finished, Sir. | |

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| | **JUDGE AMBLER** | |
| 1540 | Before we get underway I want to do a little bit of rearranging of furniture and I'll get told off, I'm sure, but I just wonder if perhaps at the break if we can shift the front row. It's just that some counsel are blocked from the witness and any movement in the front row is picked up by the mic and causes some disturbance, so I would still love to see your faces in the front row, but you just need to move back one. All right, so we'll do that. Now the second thing is this, we're dealing with a number of documents and counsel need to be very clear before htey begin, which documents they wish the witness to have in front of him and for the Tribunal to have regard to. So, Mr Duncan, can you see the witness? | |
| | **CAMPBELL DUNCAN** | |
| | Yes, can you see me Dr Loveridge?<br>I'm just referring to document A89 and A89(a), those are the only documents these questions will refer to, so it's just that report, Dr Loveridge. | |
| | **JUDGE AMBLER** | |
| | Just bear with us while we make sure we've got the right ones open. A89 and A89(a)? | |
| | **CAMPBELL DUNCAN** | |
| | Yes, Your Honour. | |

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| | **JUDGE AMBLER** | |
| | The other comment I just wanted to make to counsel is that as you will appreciate, we also have on the record of inquiry the cross-examination from, I believe, the National Park inquiry? | |
| | **CAMPBELL DUNCAN** | |
| | In the Whanganui inquiry too, Your Honour. | |
| | **JUDGE AMBLER** | |
| | In the Whanganui Inquiry, and they're quite extensive, so you will appreciate that we are reading that material at the same time. | |
| | **CAMPBELL DUNCAN** | |
| | Thank you Your Honour. Good Afternoon Dr Loveridge, you say at the outset of your report, A89 at page 5 that you've done a limited amount of new research for the study and instead you've analysed the Smith and McLintock reports, is that correct? | |
| | **JUDGE AMBLER** | |
| | Just press – it's gone off, start again. | |

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| | **DONALD LOVERIDGE** | |
| | Yes, this was —conceived of, it's just an appraisal of those two reports as to what credibility we could get to research an analysis from the present, if you like, so most of the new research I did was to- material about the background of the reports themselves, the writing of the reports and also a certain amount of newspaper and other research, but not a comprehensive exercise. | |
| | **CAMPBELL DUNCAN** | |
| | Okay, thank you, and one of the conclusions you've come to is that the McLintock report largely teases out and possibly corrects some of the deficiencies in the Smith report? | |
| | **DR DONALD LOVERIDGE** | |
| | Yes, he fills out, he fills out the same sort of discussion that Smith took but fills it out with new material, and adds in some new material and discusses certain issues further than Smith did. | |
| | **CAMPBELL DUNCAN** | |
| | So, if we focus on the McLintock report itself and putting it in it's history graphical context and this is probably a gross generalisation, but would you agree that his historical method is grounded in what would be called the empiricists tradition, by your reliance upon written resources? Your Honour, I'm not going to be too much longer. | |

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| | **JUDGE AMBLER** | |
| | Yes, we will at least finish this question. | |
| | **CAMPBELL DUNCAN** | |
| | Well, I have only got a couple more questions. | |
| | **JUDGE AMBLER** | |
| | All right, well, finish this one and carry on. | |
| | **DR DONALD LOVERIDGE** | |
| | I would say Dr McLintock is a very conventional historian. | |
| | **CAMPBELL DUNCAN** | |
| | And in that, did you say that you acknowledge that if a report was being done today you consider the Treaty of Waitangi, those sorts of issues, that new studies could also consider such things as oral traditions and te reo Māori sources in those sorts of things that weren't considered – | |
| | **DR DONALD LOVERIDGE** | |
| | Well, that wasn't my point, but if we were to do a comprehensive, something like a comprehensive study of these Sacred Pact issues today, there are a number of new things that we would look at, just in terms of evidential matters, but also different questions would be asked of the | |

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| | material. | |
| | **CAMPBELL DUNCAN** | |
| | Thank you, those are all the questions I have, Your Honour. | |
| | **JUDGE AMBLER** | |
| | Thank you Mr Duncan. All right, well, kua karanga te whare. We will resume at six minutes past four, kia ora. | |
| | **HEARING ADJOURNS: 3.45 PM** | |
| | **HEARING RESUMES: 4.06 PM** | |
| | **MATANUKU MAHUIKA** | |
| | I'd say more like 15 to 20 minutes. | |
| | **JUDGE AMBLER** | |
| | All right. | |
| | **MATANUKU MAHUIKA** | |
| | So you've already got 25 minutes in the bank I think, Sir. | |
| | **JUDGE AMBLER** | |
| | Yes. | |

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| | **UNIDENTIFIED SPEAKER** | |
| | Sir, (inaudible 16:06:04) is coming before me. | |
| | **JUDGE AMBLER** | |
| | Yes, speak through while you can. Just so everyone is aware, we will go through till 5.30 and from here we will then go up to the marae. Commencing at 9.00 in the morning, and if we need to, sitting late tomorrow. I am not sure whether if we in fact are ahead of schedule tomorrow. Is there a prospect of some of Friday morning's witnesses beginning tomorrow afternoon? | |
| | **ANNETTE SYKES** | |
| | Mr Jenkins' whānau doesn't arrive till late tomorrow afternoon Sir. | |
| | **GLENN TOOTILL** | |
| | Yes Sir, I know I have raised that with some of the counsel who have, well the counsel who had some witnesses for Friday morning, but Sir, based on the estimates, I don't know if we will in fact get to that point, but I can raise it again Sir. | |
| | **JUDGE AMBLER** | |
| | All right. Mr Mahuika if you proceed. Which documents do we need. | |

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| | **MATANUKU MAHUIKA** | |
| | Sir the documents I'm going to refer to are document A89, document A41(b) and document A61(c). | |
| | **DR DONALD LOVERIDGE** | |
| | (c)? | |
| | **MATANUKU MAHUIKA** | |
| | (c) yes. I – Sir I won't be going into the documents in a lot of detail. I'll be using them more as reference points for the questions, so I'm proposing to - | |
| | **DR DONALD LOVERIDGE** | |
| | I'm sorry I don't think I know what A68(d) is. | |
| | **MATANUKU MAHUIKA** | |
| | Sorry it's A68(c) which is your response to the questions. | |
| | **DR DONALD LOVERIDGE** | |
| | Oh yes okay. | |
| | **MATANUKU MAHUIKA** | |
| | But I'll start off Dr Loveridge with A89. | |

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| | **JUDGE AMBLER** | |
| | Just pause for a moment. A68(c). | |
| | **MATANUKU MAHUIKA** | |
| | Yeah. | |
| | **JUDGE AMBLER** | |
| | What did you say it was? It is a - | |
| | **MATANUKU MAHUIKA** | |
| | It's the – Dr Loveridge's response to the Tribunal Statement of Issues. I thought it would assist Dr Loveridge. The first document I'll be referring you to is A89, and, and it's really just to paragraph 104. | |
| | **JUDGE AMBLER** | |
| | Sorry can I have the paragraph number again? | |
| | **MATANUKU MAHUIKA** | |
| | 104 so on page 78 Sir, yeah. | |
| 1610 | **JUDGE AMBLER** | |
| | Proceed. | |

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| | **MATANUKU MAHUIKA** | |
| | Well Dr Loveridge, I assume you've got that paragraph in front of you? | |
| | **DR DONALD LOVERIDGE** | |
| | Yes I do, yes. | |
| | **MATANUKU MAHUIKA** | |
| | I was just wanting to carry on from the proposition that you have at the top of that paragraph and you say that one of the things that this inquiry is missing is like a specialist study of the alleged sacred pact. | |
| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **MATANUKU MAHUIKA** | |
| | And one of the things if I look at say Justice Smith's report or McLintock's report, is that first of all they focus very much on the sale of liquor don't they and, and they very much captured if you like by, you know the debate around the sale of liquor and as I read those reports and your commentaries on them, that if you like colours the conclusions in the sense that what Smith and McLintock are looking for is an agreement that says, "We will let in the railway in return for a ban on the sale of liquor." That's correct isn't it? | |

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| | **DR DONALD LOVERIDGE** | |
| | They're looking for, for such an agreement or for any sort of reflections or secondary references to such an agreement. | |
| | **MATANUKU MAHUIKA** | |
| | And one of the things that it did seem to me was absent from that analysis was, although they had looked at some testimony from Māori witnesses, was a particular Māori perspective of those events. That's correct isn't it? | |
| | **DR DONALD LOVERIDGE** | |
| | I would agree yes. | |
| | **MATANUKU MAHUIKA** | |
| | And when you say that this Tribunal would benefit from a specific analysis of the Sacred Pact, one of the things that you would necessarily look at would be the Māori perspective of what was happening at that time. That's true isn't it? | |
| | **DR DONALD LOVERIDGE** | |
| | Certainly as I said, I focussed here on the historical research documentary and the things that I would think that naturally that if you were to undertake such a study to try and bring everything together that is there, you would certainly want to, need to include a Māori perspective in that. | |

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| | **MATANUKU MAHUIKA** | |
| | So in terms of this inquiry, I mean we do have, if you like, a perspective available to us that wasn't available to those earlier historians and others that were looking at that issue, and that's true isn't it? | |
| | **DR DONALD LOVERIDGE** | |
| | I would think so, I mean Smith was on the commission, the licensing commission in 45 and 46, so he did sit down and hear what was said about the Sacred Pact by the, by the various people giving evidence, but they were, well I think, that they were representing a fairly narrow interest group if you like and specific prohibitionist Kīngitanga view on these things. It just seems to me that there is a good deal of room here to spread ourselves out with the necessary take a single, work our way through the evidence and bring different perspectives to, to bear on it. | |
| | **MATANUKU MAHUIKA** | |
| | The sort of perspectives we be looking at there are like for tangata whenua perspectives from this inquiry? Sorry. | |
| | **DR DONALD LOVERIDGE** | |
| | Oh yes, yes. | |

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| | **MATANUKU MAHUIKA** | |
| | And perhaps the perspectives that we got from Paul Meredith when he was giving evidence. | |
| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **MATANUKU MAHUIKA** | |
| | So that would be the sort of additional information that would assist in forming a view on whether or not there was a Pact. | |
| | **DR DONALD LOVERIDGE** | |
| | Well I think so. Again it's just a hole in evidence as it stands right now that we've, yeah we had – we got Smith. We got McLintock, we got the commentaries from the political engagement people. We got tangata whenua evidence about that issue. It just seems to me that there is a need to bring all that together. | |
| | **MATANUKU MAHUIKA** | |
| | Yes, but surely that's the task of this Tribunal. I mean given where we're at. | |
| | **DR DONALD LOVERIDGE** | |
| | Well that's why I made that comment - | |

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| | **MATANUKU MAHUIKA** | |
| | Yes. | |
| | **DR DONALD LOVERIDGE** | |
| | – specifically. I was asked by the Crown to make an appraisal of Smith and McLintock and the other material and that was where I ended up. | |
| | **MATANUKU MAHUIKA** | |
| | Right but where we are at now is we're in a better position than perhaps Smith and McLintock were when they were doing their work. | |
| | **DR DONALD LOVERIDGE** | |
| | Oh absolutely. I mean again, Smith and McLintock didn't have papers passed and nūpepa online. | |
| | **MATANUKU MAHUIKA** | |
| | And they didn't have the broader perspective either, did they? | |
| | **DR DONALD LOVERIDGE** | |
| | No. | |

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| | **MATANUKU MAHUIKA** | |
| | If I can then go and have a look at now what the parties maybe understood at the time that they were having these discussions. A little is made of the notion that we had two cultures talking past each other. There is a suggestion about that? | |
| | **DR DONALD LOVERIDGE** | |
| | It's been suggested yes. | |
| 1615 | **MATANUKU MAHUIKA** | |
| | But in that colonial context, most politicians, guys like Bryce and Ballance, they weren't unfamiliar with dealing with Māori over these issues were they? | |
| | **DR DONALD LOVERIDGE** | |
| | They certainly had a fair amount of experience. It would be just saying that a Minister texts you and a lot of different directions if you like. That it was – that was one of the principle r~~o~~ules of the colonial Government at the time, which was to provide the, the liaison with Māori if you like, and there's constant meetings, constant delegations to Wellington. I mean by the mid-1880s, literally every session, there is a counsel of chiefs in Wellington sort of keeping an eye on what's happening. | |

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| | **MATANUKU MAHUIKA** | |
| | And they also understood well what the aspirations of Māori and the Rohe Pōtae were? | |
| | **DR DONALD LOVERIDGE** | |
| | I think they did yeah mmm. | |
| | **MATANUKU MAHUIKA** | |
| | And so when they were having these discussions, they were having these discussions in circumstances where they knew what the chiefs on Ngāti Maniapoto and others were trying to achieve? | |
| | **DR DONALD LOVERIDGE** | |
| | Well again, even you know, they had the petition, 1883 petition, which is a very clear statement of what the, the chiefs wanted to achieve. | |
| | **MATANUKU MAHUIKA** | |
| | Yes, so when we make an assessment about whether there were misunderstandings or there were two cultures talking past each other, we need to bear these things in mind, don't we? | |

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| | **DR DONALD LOVERIDGE** | |
| | I really don't think there was all that much misunderstanding. There were two different agendas which were at cross-purposes at times. | |
| | **MATANUKU MAHUIKA** | |
| | Sure. | |
| | **DR DONALD LOVERIDGE** | |
| | And the Crown was going in one direction and Māori were going in another direction in some ways, is a good deal of meshing of the two views, but there are some very pronounced differences in the two views. | |
| | **MATANUKU MAHUIKA** | |
| | Well it's not so much the differences in their views is it Dr Loveridge. They just had different objectives? | |
| | **DR DONALD LOVERIDGE** | |
| | Another way of putting it, yes. | |
| | **MATANUKU MAHUIKA** | |
| | Yes, so the Crown's objective was to open up Te Rohe Pōtae and the objective of the iwi of Te Rohe Pōtae was to retain authority in respect of this region? Well I won't into another word, let's just use "authority" as, as a | |

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| | word. | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah, as I said, the Crown had three very clear objectives in the early '80s which was restoring the sovereignty of the Crown if you like, over, over the King Country. Building a railway between Auckland and Wellington, and opening up the King Country for economic development. | |
| | **MATANUKU MAHUIKA** | |
| | Yes. | |
| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **MATANUKU MAHUIKA** | |
| | What I'd like to do then Dr Loveridge is take you to document, can't remember the numbers that I gave you. This is document A41(d). | |
| | **DR DONALD LOVERIDGE** | |
| | The summary? | |
| | **MATANUKU MAHUIKA** | |
| | Yes. | |

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| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **MATANUKU MAHUIKA** | |
| | And I'd like to take you to paragraph, it's sort of Roman IX.8 which is on page 11. | |
| | **DR DONALD LOVERIDGE** | |
| | Yes, yes I have that. | |
| | **MATANUKU MAHUIKA** | |
| | So what you're saying in that paragraph, if I could just summarise, is that it's accepted that there was a series of agreements. I mean, do you agree with that thought? | |
| | **DR DONALD LOVERIDGE** | |
| | Yes I do yes. | |
| | **MATANUKU MAHUIKA** | |
| | And – but there wasn't what you would describe as a sacred pact? | |
| | **DR DONALD LOVERIDGE** | |
| | There wasn't a single statement of agreement on~~of~~ what was going to happen in the long-term at which both parties, | |

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| | which both parties accepted, and would adhere to. ~~that was adhered to.~~ | |
| | **MATANUKU MAHUIKA** | |
| | Yes, but there was nevertheless a series of agreements? | |
| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **MATANUKU MAHUIKA** | |
| | And those agreements were ultimately motivated on the part of both parties by the same end, weren't they? | |
| | **DR DONALD LOVERIDGE** | |
| | Which was? | |
| | **MATANUKU MAHUIKA** | |
| | Well on the part of the Crown, which was opening up Te Rohe Pōtae, so Bryce and Ballance were making the concessions that they felt they needed to make in order to progress to that end, that's correct | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |

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| | **MATANUKU MAHUIKA** | |
| | And the Māori chiefs for their part were similarly making the concessions entering into the agreements that they felt that they needed to in order to secure the outcome they were seeking. That's correct isn't it? | |
| | **DR DONALD LOVERIDGE** | |
| | Yes, yes. | |
| | **MATANUKU MAHUIKA** | |
| | So based on that, you ultimately have a series of agreements that have a single objective for both parties, don't you, once you get away from the detail of those agreements? | |
| | **DR DONALD LOVERIDGE** | |
| | Well in a very general sense. | |
| | **MATANUKU MAHUIKA** | |
| | Well - | |
| | **DR DONALD LOVERIDGE** | |
| | You have two parties coming together and working their way through, as you say, a series of agreements and concessions and compromises to reach a certain end, which | |

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| | they reach in 1885, '86? | |
| | **MATANUKU MAHUIKA** | |
| | Yes. There was never any deviation from that set of objectives though was there? | |
| | **DR DONALD LOVERIDGE** | |
| | Not by 1886. | |
| 1620 | **MATANUKU MAHUIKA** | |
| | No, I mean there wasn't a point in 1884 where Ballance had actually you know, we've changed our mind. We don't want to open up Te Rohe Pōtae. | |
| | **DR DONALD LOVERIDGE** | |
| | No but there was a change in 1884 when ~~and~~ Rohe Pōtae Māori decided they weren't going to go along with the December '83 agreement for whatever reason. | |
| | **MATANUKU MAHUIKA** | |
| | Yes but the ultimate objective didn't change. | |
| | **DR DONALD LOVERIDGE** | |
| | Their ultimate – the objective of the – | |

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| | **MATANUKU MAHUIKA** | |
| | Of retaining their authority in respect of Te Rohe Pōtae. That remained consistent throughout. In fact there's correspondence continuing to pursue that objective after the event? | |
| | **DR DONALD LOVERIDGE** | |
| | Yes, although that's certainly they're, they're still pursuing that goal, yes. | |
| | **MATANUKU MAHUIKA** | |
| | Yes. | |
| | **DR DONALD LOVERIDGE** | |
| | Which is not the single - the Crown is pursuing in terms of authority? | |
| | **MATANUKU MAHUIKA** | |
| | No that's true but both of them had throughout that period, a set of objectives that they were pursuing? | |
| | **DR DONALD LOVERIDGE** | |
| | Separately yeah absolutely, yeah. | |

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| | **MATANUKU MAHUIKA** | |
| | Well, necessarily together. | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |
| | **MATANUKU MAHUIKA** | |
| | Endeavouring to find a way that they could, if you like, both achieve - | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |
| | **MATANUKU MAHUIKA** | |
| | - the objective that they were seeking? Sorry I'm forgetting the time. | |
| | **JUDGE AMBLER** | |
| | I think the slight, if I can be pedantic, the slight difficulty with your question is you come back to use the singular objective, the objective they were pursuing and what I took Dr Loveridge to be saying was that they each had their objectives – | |

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| | **MATANUKU MAHUIKA** | |
| | Yes and I think, when I've said "objective" I'm talking about each parties' individual objective. | |
| | **JUDGE AMBLER** | |
| | Okay all right. | |
| | **MATANUKU MAHUIKA** | |
| | So throughout this period, they each had their own objective, which they were pursuing, and ultimately, each of these agreements was a step towards each party achieving that objective. So there was if you like, throughout this period, a single purpose that each one was pursuing. | |
| | **DR DONALD LOVERIDGE** | |
| | Sorry I, well yes. | |
| | **MATANUKU MAHUIKA** | |
| | Sorry, it went from a discussion to the Judge's question, I understand. | |
| | **JUDGE AMBLER** | |
| | Thank you. | |
| | **MATANUKU MAHUIKA** | |

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| | So in that respect, you could argue that there was, if you like, a compact. I mean you can debate whether or not it was entered into in March or whether it was finally effected with the, the gifting of the taiaha in 1885, but ultimately, you know, there was a point at which the parties reached the stage where they were prepared to move forward, and the iwi of Te Rohe Pōtae were prepared to lift the aukati. | |
| | **DR DONALD LOVERIDGE** | |
| | I would say there was a series of points where the parties decided they couldn't take another step forward if you like. | |
| | **MATANUKU MAHUIKA** | |
| | Yes but the event such as the turning of the sod and the gifting of the taiaha were significant milestones in that process, surely? | |
| | **DR DONALD LOVERIDGE** | |
| | Oh yes, yeah. | |
| | **MATANUKU MAHUIKA** | |
| | And there would've been understood to be significant by the politicians that were dealing with Te Rohe Pōtae at that time? | |
| | **DR DONALD LOVERIDGE** | |

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| | Yes, yes. They were seen as milestone, as they say. | |
| | **MATANUKU MAHUIKA** | |
| | Yes. | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |
| | **MATANUKU MAHUIKA** | |
| | But now I'd like to just take you to this – you made the comment and I refer to the third of your documents. This is document A68(c). | |
| | **DR DONALD LOVERIDGE** | |
| | And in - | |
| | **MATANUKU MAHUIKA** | |
| | And I'm just - | |
| | **DR DONALD LOVERIDGE** | |
| | Sorry what was that again? | |
| | **MATANUKU MAHUIKA** | |

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| | So this is, this is your response to the Tribunal Statement of Issues? | |
| | **DR DONALD LOVERIDGE** | |
| | Oh - | |
| | **MATANUKU MAHUIKA** | |
| | Might be easier if I just tell you what the document is probably. | |
| | **DR DONALD LOVERIDGE** | |
| | No I have a fair – yes sir, yes. | |
| | **MATANUKU MAHUIKA** | . |
| | And there's – I'd like to take you to your answer at 3.6 on page 2. And what you say there is – I'll just read it to make it quicker and that first sentence. "When Rohe Pōtae Māori did not recognise the Crown's authority and the Governments of the day were determined to reassert that authority." So you use there the comment "reassert authority". In effect, however, Dr Loveridge, the Crown in a practical sense had not ever exercised its authority in respect of Te Rohe Pōtae. | |
| | **DR DONALD LOVERIDGE** | |

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| | Well what I meant by that was in the sense that there had been an interlude when the Crown did not claim to be able to exercise its authority. It said it still had it but it couldn't exercise it. | |
| | **MATANUKU MAHUIKA** | |
| | Yes, but the fact of the matter is that the opening up of Te Rohe Pōtae was, now when that occurred in say 1885, that was the first time in a practical sense since the signing of the Treaty that the Crown had been able to effectively assert some authority with the region. | |
| 1625 | **DR DONALD LOVERIDGE** | |
| | Well I think that there is a certain element of the Crown acting in the district before 1860. I wouldn't want to make too much of it, though it certainly up to until that point, it would've, it would've said it was – did have authority. | |
| | **MATANUKU MAHUIKA** | |
| | Yes. I mean in theory, the Crown had authority since 1840. | |
| | **DR DONALD LOVERIDGE** | |
| | Well yes and I think it would've said that up until 18, well 1858 or 1860 whatever day you care to, you care to pick, the Crown would've said that it had some, some level of practical authority in the area. | |

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| | **MATANUKU MAHUIKA** | |
| | Yes, yes. | |
| | **DR DONALD LOVERIDGE** | |
| | And I'm sorry in using, but I'm saying reasserted in the sense of - | |
| | **MATANUKU MAHUIKA** | |
| | Right so what you don't mean there is you don't mean that prior to the opening of Te Rohe Pōtae so prior to 1885, the Crown was effectively exercising authority and it was just interrupted briefly by the aukati. | |
| | **DR DONALD LOVERIDGE** | |
| | About the Crown's view of it? | |
| | **MATANUKU MAHUIKA** | |
| | Yes. | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |
| | **MATANUKU MAHUIKA** | |

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| | But in effect, it's these agreements which enable the Crown to win a practical sense, exert its authority? | |
| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **MATANUKU MAHUIKA** | |
| | Yeah and if it doesn't actually happen in 1885, this is what leads to that point, doesn't it? | |
| | **DR DONALD LOVERIDGE** | |
| | Sorry? | |
| | **MATANUKU MAHUIKA** | |
| | Even if the Crown didn't do it immediately in 1885, this is the wedge through which the Crown goes, the set of agreements? | |
| | **DR DONALD LOVERIDGE** | |
| | Yes, yes. | |
| | **MATANUKU MAHUIKA** | |

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| | Thank you Dr Loveridge, those are the only questions I have, thank you. | |
| | **JUDGE AMBLER** | |
| | Mr Bennion? | |
| | **TOM BENNION** | |
| | Yes Sir, I've got – shall I tell you the documents that we might refer to in this examination. Dr Loveridge you'll need I think mainly your A41 report is where I – which I mostly reference. Cathy Marr's report A78. | |
| | **DR DONALD LOVERIDGE** | |
| | I don't have that. | |
| | **TOM BENNION** | |
| | You have that. | |
| | **DR DONALD LOVERIDGE** | |
| | I don't have a copy of that one. | |
| | **TOM BENNION** | |
| | All right I think you might need that. | |
| | **JUDGE AMBLER** | |

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| | If I could just – later it is available. What else? | |
| | **TOM BENNION** | |
| | Oh, I just going to – I was going to say the two – the Crown bundle of documents for week 1, which was H24 and then the bundle for this week which is I14. | |
| | **DR DONALD LOVERIDGE** | |
| | Yes I have those, yes. | |
| | **TOM BENNION** | |
| | If you got one, that'll be good. And then just lastly – oh, the bundle of claimant, a claimant bundle from last week which was A – last hearing week which was A78(f). Yes I'll be referring reasonably extensively to that one, A78(f). | |
| | **DR DONALD LOVERIDGE** | |
| | Well as I say, I don't have a copy. | |
| | **TOM BENNION** | |
| | Okay I'll just get through the list and then we'll come back to what we need to get and then just claimant bundle from this week which is I17 which is that small bundle which I think I provided the other day. | |
| | **DR DONALD LOVERIDGE** | |

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| | That one? | |
| | **TOM BENNION** | |
| | Yes and a small addendum to that which is addition which is I17(a). | |
| | **DR DONALD LOVERIDGE** | |
| | No I don't think I have that. | |
| | **TOM BENNION** | |
| | There's a spare copy here. That was that 20th December 1883 survey discussion. | |
| | **DR DONALD LOVERIDGE** | |
| | No, when - | |
| | **TOM BENNION** | |
| | All right. And then lastly I think you just - the map book, we're going to refer at one stage to the map book for (inaudible 16:28:58) map book, thank you. | |
| | **JUDGE AMBLER** | |
| | Well have you got a reference for the map book? | |
| | **TOM BENNION** | |

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| | Oh, it's A107, Sir, A107, A107. | |
| | **JUDGE AMBLER** | |
| | All right thank you, just bear with us. | |
| | **DR DONALD LOVERIDGE** | |
| 1630 | I got that, yeah. | |
| | **MATANUKU MAHUIKA** | |
| | Sir, given that I'm done, I – with your permission, I might just take my leave. | |
| | **JUDGE AMBLER** | |
| | Yes certainly. | |
| | **MATANUKU MAHUIKA** | |
| | Thank you very much, Merry Christmas. | |
| | **JUDGE AMBLER** | |
| | To you, tō koutou whānau hoki, kia ora. I'm ready. | |
| | **TOM BENNION** | |
| | I was going to say, I find it helpful to have a motel room with a double bed and couch and things and lay them all out to | |

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| | work this out. | |
| | **JUDGE AMBLER** | |
| | Just so you are aware of our limitations, this gadget allows us to have eight tabs at a time, which you would think was sufficient, but one of your eight documents is split into two, so I'm slightly in trouble, but you begin Mr Bennion. | |
| | **TOM BENNION** | |
| | Just as a preliminary follow-up from something Mr Mahuika asked, newspapers and the online newspapers are, I mean they're greatly changed I think the research that's done in this area in the last - | |
| | **DR DONALD LOVERIDGE** | |
| | Oh certainly yeah, yeah. | |
| | **TOM BENNION** | |
| | Yes, yes. | |
| | **DR DONALD LOVERIDGE** | |
| | I didn't have them. They weren't online when I wrote that first report. | |
| | **TOM BENNION** | |
| | Mmm. | |

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| | **DR DONALD LOVERIDGE** | |
| | I had to read, I to find and read all of the hard copy and so, I'm sorry I – | |
| | **TOM BENNION** | |
| | And just in general terms, is there any – there's been some comment about how to use them or not and limitations. Is there any particular – it's an open question here. Any particular comment you'd make about the, about the uses and dangers, how, how we should see them? | |
| | **DR DONALD LOVERIDGE** | |
| | I don't think, I don't think there are too many dangers. The one weakness of the paper's past system is the search. No it's excellent if you know exactly what you're looking for and all that, but it isn't hard to use. Often there's no substitute for just sitting down and reading your way through each issue and in fact I found out the best way to do it. For example, editorials aren't indexed. To find editorials, you'd have to read the editorials so you had to identify the time frame you want to read. I mean, my only sort of complaint would be not enough papers. They still don't have the *New Zealand Herald* for example, from 1884 onwards. That's a pretty important source, and they don't have chunks of the Waikato times and several major newspapers that aren't on there, and I' afraid my sort of impression is that people are relying too much on papers past and not realising that there | |

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| | are still substantial holdings of newspapers that aren't online. You have to go, use the microfilm, use the originals. | |
| | **TOM BENNION** | |
| | All right. | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |
| | **TOM BENNION** | |
| | Can I take you to the conclusion of your #A41 report, and I just want to sketch out exactly where we've got to? I'm looking at page 207, 208. I think this'll be the final paragraph. | |
| | **DR DONALD LOVERIDGE** | |
| | Paragraph 9.8? | |
| | **TOM BENNION** | |
| | And you say – just summarising that, you're saying that there was a series of agreements and you say in the last sentence, "Setting aside the Atkinson Government's faux pas over pre-emption in 1884 and Ballance's failing to consult prior to the beginning of railway construction, the Crown consistently lived up to promises and undertakings made by its representatives during the course of the King Country negotiations. | |

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| | **DR DONALD LOVERIDGE** | |
| | Mmm. | |
| | **TOM BENNION** | |
| 1635 | Now that must be up to a certain point because you're saying there's a breach of – well there's a problem with the pre-emption promise later on in the 1890s. So what period are we coming up to here? | |
| | **DR DONALD LOVERIDGE** | |
| | This report was written on very short notice for, for the National Park Tribunal. Specifically I was asked to deal with the question of the opening, what the opening of the King Country involved and ~~on the similar~~that sort of thing. I have stopped in 1885, so I just ran out of time, but I think having gone back to it and looked at this again from my 1868 report, my conclusion would be that up until the end of the, of the ~~Stoke~~ Stout- Vogel Government, of the Ballance Government in 1887, you have a very consistent – the Crown has pretty consistently meeting of – fulfilling it's what it - doing what it had agreed to do in the course of the negotiation. | |
| | **TOM BENNION** | |

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| | Okay, so just sort of clearing decks here so we know what we're dealing with, you're standing by that conclusion through till 1887. | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |
| | **TOM BENNION** | |
| | We've got a concession about pre-emption after that date, yes? | |
| | **DR DONALD LOVERIDGE** | |
| | Yes, yes. | |
| | **TOM BENNION** | |
| | So my questions are mainly going to be about this period through to 1887, and, and if I – can I characterise the differences between the historians as I understand it? Would you – is your general approach to say in this period the Crown is – in terms of Māori arrangement, is taking a wait and see approach in a number of situations such as what happened with the four tribes, it's been active on occasion but it's not been aggressive and it's not acting mislead, in a misleading way. Is that – I'm trying to characterise the difference between you saying, and Ms Marr. | |

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| | **DR DONALD LOVERIDGE** | |
| | I'm not quite sure I understand what you - | |
| | **TOM BENNION** | |
| | Well you wouldn't – you don't suggest that in the period through to 1887, the Crown is acting in an aggressive fashion towards Rohe Pōtae Māori. | |
| | **DR DONALD LOVERIDGE** | |
| | No. | |
| | **TOM BENNION** | |
| | Okay, and but whereas she's suggesting that? | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |
| | **TOM BENNION** | |
| | Yes, and you're not saying that they are being quite misleading on occasion? | |
| | **DR DONALD LOVERIDGE** | |
| | I'm not saying that no. | |
| | **TOM BENNION** | |

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| | That's right, but she is saying that isn't she? | |
| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **TOM BENNION** | |
| | Yes okay. So that – those are two key areas of difference, yes? All right. | |
| | **DR DONALD LOVERIDGE** | |
| | Yes that's some of the differences yes. | |
| | **TOM BENNION** | |
| | So my questions are going to be aimed at that precise area, just so you're clear about where we're heading. All right, so first of all, can I come to page 28 of A41, page 28, 29? | |
| | **DR DONALD LOVERIDGE** | |
| | Page 28? | |
| | **TOM BENNION** | |
| | Page 28. | |
| | **DR DONALD LOVERIDGE** | |
| | Okay. | |

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| | **TOM BENNION** | |
| | And at the bottom of that page, you set out some notes from a, a cabinet meeting about Crown policy? | |
| | **DR DONALD LOVERIDGE** | |
| | Oh yes, yeah. | |
| | **TOM BENNION** | |
| | Yes, and in the middle of that you've got, "The question is vigorous versus a temporising policy." The brief is that King Question not pressing or likely to arise now before Hall's retirement, possibly necessary to break up Tāwhiao's power in the future and assert rights of other Natives to deal with their lands. Question is one of vigorous versus temporising policy. So the vigorous policy there would be that they were contemplating well talking about, was they might need to break up Tāwhiao's power in a vigorous fashion, yes? | |
| | **DR DONALD LOVERIDGE** | |
| | This is a cabinet meeting – what appeared to be the notes from a cabinet meeting in 1882 which is seven months before the, the offer was made to Tāwhiao - | |
| | **TOM BENNION** | |
| | Yes. | |

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| | **DR DONALD LOVERIDGE** | |
| | —about settlement with the Crown, and was rejected by for whatever reason, so that this precedes the four tribe movement if you like, by a year. And there's debating as you say what kind of policy to, to pursue. | |
| | **TOM BENNION** | |
| | Yes, but one of the possible policy options is to act vigorously and break up Tāwhiao's power. That's a possible policy for them. | |
| | **DR DONALD LOVERIDGE** | |
| | Well that's what the note says yes, yes. | |
| | **TOM BENNION** | |
| | Yes, and a temporising policy. Now I look at it, I've looked a dictionary definition. Temporising is to avoid making a decision or committing one's self in order to gain time. Is that how you would understand them to mean temporising there? | |
| 1640 | **DR DONALD LOVERIDGE** | |
| | I guess so. I mean it's a very short note. It doesn't sort of give you much detail to work with, but I would take it that way what they're saying is you know that the alternative, very vigorous policy if you like, is to just bide our time and see what happens. At this point there's a very widespread | |

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| | view being expressed in the newspapers, particularly about the King Movement is about to collapse of its own weight and break up and obviously there's, well there seems to be an element in cabinet that thinks that we might as well wait and see what happens. | |
| | **TOM BENNION** | |
| | Right, so the, so the waiting would be associated with seeing whether or not there was some sort of collapse on the king, king's - | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah, or if some other opportunity arose yes. | |
| | **TOM BENNION** | |
| | Right. Now at just, at that point, it probably goes without saying, but needs to be asked, that sort of discussion at cabinet level doesn't – that sort of approach or those two possible approaches either get laid in front of Rohe Pōtae leaders or Tāwhiao? We're here to break your power. If you don't you know or we just going to wait till the whole thing falls apart. That's not actually laid out in front of them is it? | |
| | **DR DONALD LOVERIDGE** | |
| | Not in those terms. Again it wasn't even laid in front of the country. This is from, this note we have here is from private papers from one of the – presumably from Atkinson who | |

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| | was present at this cabinet meeting. Left his notes. I found it and I thought it was relevant, but nonetheless this is a private paper. There's a huge range of opinion amongst settlers as to how to deal with the king and his people. | |
| | **TOM BENNION** | |
| | Yes there's one thing for the newspapers to be talking about possibly things falling apart, and another thing for cabinet to think about whether it might adopt that as a policy though isn't there? | |
| | **DR DONALD LOVERIDGE** | |
| | Well - | |
| | **TOM BENNION** | |
| | Those are two quite different things aren't they? | |
| | **DR DONALD LOVERIDGE** | |
| | Well yes, I mean there is a distinction between what the newspapers say and what's happening at the upper levels of Government in terms of policy. | |
| | **TOM BENNION** | |
| | Mmm. | |
| | **DR DONALD LOVERIDGE** | |

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| | I'm not entire - I guess it's a policy not to do anything, which is the one option being discussed or to do something specific, which is the other option being discussed. | |
| | **TOM BENNION** | |
| | Yeah. | |
| | **DR DONALD LOVERIDGE** | |
| | Again, it would be nice if we had greater even more detailed notes in which actually happened in cabinet meetings. | |
| | **TOM BENNION** | |
| | Yeah we don't – but we don't need much more detailed notes to know that breaking Tāwhiao's power is, is on a vigorous basis, discussed at cabinet level. | |
| | **DR DONALD LOVERIDGE** | |
| | That was my point in quoting it, that – | |
| | **TOM BENNION** | |
| | Okay, okay. | |
| | **DR DONALD LOVERIDGE** | |
| | –options have been debated. | |

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| | **TOM BENNION** | |
| | Okay. | |
| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **TOM BENNION** | |
| | And that was an option. All right but coming, coming then to how events unfold, if we come to page 40 of A41, and one of the early events which is of interest, is this North Island Main Trunk Railway Loan Act of 1882 and you make the point in a footnote, well actually in the body of your report you make the point that the preamble says" "It is expedient that construction of the railway should be proceeded with as soon as circumstances permit" and "whereas the obstacles in the way of carrying on the extension from Awamutu may be shortly removed" Yeah from Awamutu may be shortly removed. What in particular do you think was on peoples' minds for that statement to go into the legislation? (missing audio 16:42:51 – 16:44:00) [Missing Audio inserted.] | |
| | **DR DONALD LOVERIDGE** | |
| | I think it's exactly the same, the same thoughts in the mind of that cabinet note that the King movement may suddenly fall apart which would open up the way for a railway. [Missing Audio inserted] | |

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| | **TOM BENNION** | |
| | Both parts of that cabinet thinking involved here? | |
| | **DR DONALD LOVERIDGE** | |
| | No the temporising policy of ~~Let's~~ let's wait and see what happens. As I pointed out, we have three, three separate pieces of legislation passed in the '82 session. There's the railway, there's the railway for one. There's the Amnesty Act, and there is the - and the Native Reserves Bill all of which are conditional. Nothing will happen with these until something – circumstances change so as to allow them to be implemented should Māori decide they want the reserves laid out in that Act or should they decide they want to let the railway through or they won't. Oh and should they decide they want to have the amnesty, the three conditional pieces of legislation being laid down with a, with an eye to the future as to what might happen. | |
| | **TOM BENNION** | |
| | And there's no particular moment or scheme that's been thought of at this stage. You're saying it's all a possibilities around that – those three Acts. | |
| 1645 | **DR DONALD LOVERIDGE** | |
| | Well two of those, well certainly Native Reserves Act, is in response to I'm pretty sure, everything points to it being a response to a point that Rewi raised with ~~race~~ Bryce in | |

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| | saying what we, what we want is to put all of our lands in the inside the aukati under permanent reserve. Now the measure that Bryce put, that the Government provided, had obvious lies that were obviously to the Rohe Pōtae people reading them, and you know again the Amnesty Act was again, amnesties were being discussed during this period. I think it was quite clear to people that something had to be done by way of an amnesty to sort of start, turn a new page and start afresh and they're making provision for that here. And again, the railway is, if and when we can go to railway, let's be ready to do it. | |
| | **TOM BENNION** | |
| | Just looking at footnote 94 on that page, you note part of the Hansard there and you say, "Fish and Stevens," those are parliamentary, Members of Parliament? | |
| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **TOM BENNION** | |
| | They express a concern that the Government tended to build a line through the King Country solely for the purpose of settling the native difficulty without sufficient consideration for other requirements such as obtaining land. So there were some thought among some parliamentary members that it was solely for the purpose or one of the aim or the aim of the railway was to settle the native difficulty. | |

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| | **DR DONALD LOVERIDGE** | |
| | Yes, whatever he meant, I'm not entirely sure. I was interested in that just that – at a very, at this very early stage, people are already saying to the Government, "There's no point in building that railway unless you persuade people to give you land as well, to sell you land at a low price or gift it to the Crown or whatever." | |
| | **TOM BENNION** | |
| | Mmm. | |
| | **DR DONALD LOVERIDGE** | |
| | This is raised right from the beginning of the debate on the railway. | |
| | **TOM BENNION** | |
| | Just while we're at that point then, there was a – there's an earlier report in 1876 and it's in the A20 report, the railways, the history of railways report, the Turanga report, which talked about a route going round the east of Lake Taupō. | |
| | **DR DONALD LOVERIDGE** | |
| | Oh this is – that's still being discussed at this point. One option considered that was being put forward was to go by way of Napier, sort of building up the existing railways and just bypassing the King Country altogether. | |

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| | **TOM BENNION** | |
| | Yeah so that's still in the mix, but why are these, why are these – if these Members of Parliament are talking about key to purpose seems to be for the settling the native difficulty, they're presumably thinking about a route through the King Country are they? | |
| | **DR DONALD LOVERIDGE** | |
| | I suppose they were. Again it's a bit – I mean the Bill and the Act refer specifically to the railway south from Te Awamutu. So presumably yes that's what they're referring to. | |
| | **TOM BENNION** | |
| | Well when they're talk about in the preamble of the Act, "Whereas the obstacles in the way of carrying on the extension from Awamutu may be shortly removed," they can't be talking about the eastern route around Lake Taupō can they? | |
| | **DR DONALD LOVERIDGE** | |
| | Well as I said, this – the preamble states, "It was expedient that the construction of the Main Trunk Railway be proceeded with as soon as circumstances permit, anticipating that the obstacles in the way of carrying on the extension south from Te Awamutu may be shortly received." So quite fairly there – this specific Bill that is aimed at a | |

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| | North Island Main Trunk as we know it if you like. | |
| | **TOM BENNION** | |
| | No but, but there aren't obstacles. | |
| | **DR DONALD LOVERIDGE** | |
| | Oh yeah but - | |
| | **TOM BENNION** | |
| | They take the eastern route around the eastern side of Lake Taupō, which has been investigated previously and bound to be quite possible. What are the, what obstacles would they be talking about? | |
| | **DR DONALD LOVERIDGE** | |
| | We'll they're talking about the Kking, the Kking exclusion of, of European development I think. | |
| | **TOM BENNION** | |
| | No but the eastern route is entirely out of the King Country. | |
| | **DR DONALD LOVERIDGE** | |
| | Yes but they wanted to build it. What they thought was the shortest and cheapest direct routeead between Auckland and Wellington. | |

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| | **TOM BENNION** | |
| | So my point is, isn't the preamble and isn't the Act actually aimed at the King Country? | |
| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **TOM BENNION** | |
| | So the eastern route around Lake Taupō is not on the cards here? | |
| | **DR DONALD LOVERIDGE** | |
| | Well the problem eastern route was that it, wasn't seen~~m~~ to ~~be~~ benefit Auckland businessmen or wellington businessmen as much as the direct route which would go close to Taranaki and open up other possibilities~~y~~. There's a, I mean from sort of 1870s through to the end of the century, there is an ongoing debate about which, which route~~ad~~ they should build on between, between the two centres. | |
| | **TOM BENNION** | |
| | I thought you just said it was – the Lake around the eastern side of Taupō, was still under consideration, but you're now saying it wasn't. | |

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| | **DR DONALD LOVERIDGE** | |
| | No I'm saying that it was being promoted by some people without much success. | |
| | **TOM BENNION** | |
| | Mmm. | |
| | **DR DONALD LOVERIDGE** | |
| | There is a lobby for that routead and there are lobbies for the other routesads. | |
| | **TOM BENNION** | |
| | And this Act seems to be talking about the King Country route? | |
| | **DR DONALD LOVERIDGE** | |
| | It definitely is yes. | |
| | **TOM BENNION** | |
| | Okay. | |
| | **DR DONALD LOVERIDGE** | |
| 1650 | I mean it's specifically the route from south from Te Awamutu. South from Te Awamutu doesn't take you the | |

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| | west or eastern around the lake. | |
| | **TOM BENNION** | |
| | Right. Now I guess it goes without saying, there's no engagement with King Country Māori about, about this Act, although perhaps there didn't need to be because it was just authorising people to raise loans? | |
| | **DR DONALD LOVERIDGE** | |
| | Well that's it. I mean it's, there are of course the Māori members are able to comment on it in the House. I don't think I, I don't know whether they did. I don't recall quoting it. But no it wasn't. Again, they weren't really talking. They were still talking with, with the King and through him to Maniapoto and the other tribes about whether there would even be any sort of a (inaudible 16:50:49) so that something might eventuate from that. They are not at that stage yet. They're hoping they will get to that stage very quickly. | |
| | **TOM BENNION** | |
| | Can I come through to page 46 of A41 and here we're talking about October 1882 offer of Bryce to Tāwhiao and that last offer if you like? | |
| | **DR DONALD LOVERIDGE** | |
| | In November, yeah. | |

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| | **TOM BENNION** | |
| | Yes October, yes? | |
| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **TOM BENNION** | |
| | 1882. I just want to be clear about what was on offer. There was a – Bryce was generally talking about the reserve proposal and then he had a list of the specific items listed on page 46, 1, 2, 3 there. So is that, that the package? | |
| | **DR DONALD LOVERIDGE** | |
| | Sorry what, where is he talking about, oh the reserve. Oh the reserve oh yeah sorry that's on the previous page. | |
| | **TOM BENNION** | |
| | Yes. There seems to have been a sort of public statement from him that is a reserve, I've got this idea for a reserve which I know you might be keen on, and that's what the Crown is preparing to support, and then he seems to have had this list of proposals on paper that he took to Tāwhiao as well and I don't know whether he – | |

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| | **DR DONALD LOVERIDGE** | |
| | Yeah, yeah. | |
| | **TOM BENNION** | |
| | Yes. | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |
| | **TOM BENNION** | |
| | I mean I'm a little unclear and this is just clarification. Do you - those proposals were genuinely known or were they publicly stated as well? | |
| | **DR DONALD LOVERIDGE** | |
| | Um, those were, the English version is published in the *New Zealand Herald*. If you look at footnote 109, and the same text has given him the time so, said they were widely known. | |
| | **TOM BENNION** | |
| | Yeah. Now, and this is just to try and understand what Bryce thought he was dealing with here in terms of Tāwhiao and the King Movement. He says in that first point number 1 on page 46, "We are going to return the bulk of the Crown confiscated land, less West of the Waipā and Waikato to Tāwhiao. We'll give him a section of land he | |

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| | wants at Kaipara and we'll press Maniapoto to give Tāwhiao and his people a piece of their territory." That's, that's obviously putting some pressure on Maniapoto isn't it? | |
| | **DR DONALD LOVERIDGE** | |
| | I'm at a loss to think what sort of – how they could've you know, what pressure they could've brought to bear on Maniapoto to do that. | |
| | **TOM BENNION** | |
| | But the fact of the offer is intriguing isn't it, that the fact of that being the Crown proposal. What does that suggest to you about how they thought about Maniapoto versus Tāwhiao and the relationship between them" | |
| | **DR DONALD LOVERIDGE** | |
| | There was as I said, a lot of speculation about, about divisions within the King Movement especially because the king was in, was living in Maniapoto's rohe at the time, and I get you know, it looks on the face of it that it's just trying to sort of push a little and see what happens. See if there is, if there is in fact a weakness there as reported. | |
| | **TOM BENNION** | |
| | And on page 48, you actually note that Tāwhiao says, "I accept your proposals, the return of the confiscated land, your Kaipara gift, and your promise to urge Maniapoto to give land to Waikato and then he sort of leaves at large the | |

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| | sovereignty question. | |
| | **DR DONALD LOVERIDGE** | |
| | I'm sorry, where are we? Page 48. | |
| | **TOM BENNION** | |
| | 48, first main paragraph here. Starts for two days, yes. | |
| | **DR DONALD LOVERIDGE** | |
| | Sorry yes I see it. | |
| | **TOM BENNION** | |
| 1655 | So at the end of this, it's Wahanui who turns, who replies officially for Tāwhiao and says, and says, "No," to these arrangements. | |
| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **TOM BENNION** | |
| | Or, or says we have concerns and then Bryce gives, says, "Well I need to hear from you," and then he, then he leaves. That's the sequence of events. | |

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| | **DR DONALD LOVERIDGE** | |
| | Yeah what does he say? He, um, let me see. Um, where are we? Yeah well Bryce's response is, "Well you can't pick and choose. You don't have to take the whole bundle or nothing." | |
| | **TOM BENNION** | |
| | So what significance do you attach to the fact or do you think Bryce would've attached to the fact that the spokesperson for Tāwhiao here is Wahanui who's the key Maniapoto leader, and he says, "On behalf of Tāwhiao this isn't happening." | |
| | **DR DONALD LOVERIDGE** | |
| | Well he, he wouldn't have been surprised that Wahanui spoke ft~~t~~or ~~-~~the king and then he done it on other occasions. He was seen as the king's right-hand man if you like. | |
| | **TOM BENNION** | |
| | Mmm. So, so coming out of that, Bryce would've been – he wouldn't have certainly from that discussion they've had, the impression that there was a breach between Maniapoto and the king? | |
| | **DR DONALD LOVERIDGE** | |
| | No he wouldn't have no. | |

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| | **TOM BENNION** | |
| | Right. Now come to page 56 of your report and you've talked there about a, in the bottom of the page, paragraph, the last paragraph beginning, "A cabinet meeting in November 1882," you talk about a, a Government policy and that's reported in the *Herald*, the *New Zealand Herald*. | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |
| | **TOM BENNION** | |
| | Yeah okay. | |
| | **JUDGE AMBLER** | |
| | Sorry Mr Bennion the page again? | |
| | **TOM BENNION** | |
| | Page 56, did I say 56? | |
| | **DR DONALD LOVERIDGE** | |
| | 56. | |
| | **TOM BENNION** | |
| | 56. | |

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| | **DR DONALD LOVERIDGE** | |
| | Over at 57. | |
| | **TOM BENNION** | |
| | And you got a quote there, the *Herald* has a story saying, "Mr Bryce has made his final offer, final offer to Tāwhiao and has recognised his quasi kingship for the last time that Tāwhiao has refused such a liberal offer in spite of distinct warnings that it would never be repeated will now be simply ignored," and then you set out on page 57 the, the policy, a four point Crown policy. | |
| | **DR DONALD LOVERIDGE** | |
| | This is what the *Herald* said, the Crown policy was ~~lies~~ yes. | |
| | **TOM BENNION** | |
| | And I think you're saying it's probably reasonably accurate. There's some – Bryce seems to have, possibly his inner thought sometimes appearing in the *Herald*. Is that, that's the way he's putting it? | |
| | **DR DONALD LOVERIDGE** | |
| | Well there's the, the context of that is the – we have the cabinet meeting and the *Herald* says, "We don't know what that policy decision was," and then proceeds to open it at great lengths. | |

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| | **TOM BENNION** | |
| | Yeah okay. | |
| | **DR DONALD LOVERIDGE** | |
| | So someone I think was probably giving them a summary of what had been said. | |
| | **TOM BENNION** | |
| | Now days there'd be some sort of an inquiry into the leak, but - | |
| | **DR DONALD LOVERIDGE** | |
| | The leaked email yes sir, yes. | |
| | **TOM BENNION** | |
| | All right. I'm just coming to bullet point 2 of that policy on 57. If the real owners of the land are willing to bring it into the market, no interference on the part of Tāwhiao or others will be tolerated. Now in that bullet point, Bryce must be including Wahanui mustn't he, Tāwhiao or others? | |
| | **DR DONALD LOVERIDGE** | |
| | Well if this is quoting ~~accord~~ Bryce and if by others he meant Wahanui, I think we're getting a little on ~~cheeky~~ shaky ground here, but again what he's saying is that if the people who have title to the land, customary title to the land decide | |

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| | to deal with, to deal with the Crown, then they won't tolerate anyone that they don't intend to tolerate anyone interfering. | |
| | **TOM BENNION** | |
| | But in terms of what's just happened in October and November 1882 with the offer and the response from Wahanui on behalf of Tāwhiao, he's got to be talking about Wahanui when he says, "Tāwhiao or others," doesn't it? Isn't that a reasonable assumption? | |
| | **DR DONALD LOVERIDGE** | |
| | Well again, possibly. | |
| | **TOM BENNION** | |
| | No I'm just intrigued because, of course Wahanui is ~~or~~ what we might call a real owner. | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah, yeah. | |
| | **TOM BENNION** | |
| | Isn't he? | |
| | **DR DONALD LOVERIDGE** | |
| | Yes, oh yes, yes. | |

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| | **TOM BENNION** | |
| | Yeah. Do you think Bryce understood the, understood that sort of distinction or not? | |
| | **DR DONALD LOVERIDGE** | |
| | I think he, I think he probably did. I mean - | |
| | **TOM BENNION** | |
| | Or does he? | |
| | **DR DONALD LOVERIDGE** | |
| 1700 | I think part of the problem in trying to decide exactly what, what this means is, getting into Bryce's head and to what he thought about where Wahanui actually stood on these things, because of course within, well almost at the same time he's writing to Wahanui the letter which is, we're getting into further along and is approaching Wahanui and saying, "Look you were the one who broke up that meeting with your, with your statement but, you know, the Crown would like to sort of, would like to talk with you, talk with you further. We object to your keeping the King Country closed for various reasons." He gives a list of reasons. So, you know, this article was written on the 14th of November and from memory Bryce's letter is written within a day or two of that. I can't remember exactly. | |

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| | **TOM BENNION** | |
| | 15th of November. | |
| | **DR DONALD LOVERIDGE** | |
| | 15th, 15th okay. | |
| | **TOM BENNION** | |
| | So let's go to the letter. It's on page 700 of Marr's report. That's the easiest – if you got at hand any other way, that's – | |
| | **DR DONALD LOVERIDGE** | |
| | Oh no sorry, it's right here. It's on page 58. I'm sorry my ~~,~~ ~~my~~ précis of it. Here we go. And on page 58, this is Grace's letter of 15th November.<br>"Writing to Wahanui, the King he said, had been willing to accept the Government's terms and had decided not to do so because of Wahanui's interference, Bryce thought."<br>Then he turns to the Amnesty Act. He openly, he explained why he thought the King Country should be open for Europeans and something else, where is it? | |
| | **TOM BENNION** | |
| | Well, well in context let's – it's the 14th of November. | |

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| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |
| | **TOM BENNION** | |
| | But the policy that's coming up in the *Herald* or is talking about is that if there's any interference on the part of Tāwhiao or others, that won't be tolerated. | |
| | **DR DONALD LOVERIDGE** | |
| | But in the contest of Bryce's letter, another way to read that is that if the King or his supporters interfere with Wahanui and his people, if they decide to, to deal with the Crown over their land, that will not be tolerated. | |
| | **TOM BENNION** | |
| | Mmm. | |
| | **DR DONALD LOVERIDGE** | |
| | I'm not–, I mean again it's a fairly big and unspecific thing, but as I said, we have at the very same time, Bryce writing to Wahanui and just recorded what happened in cabinet. | |
| | **TOM BENNION** | |
| | But, but the 15th November letter is really about the sovereignty issue and stopping, stopping what the Crown call real owners of land from bringing it into the market. | |

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| | That's the, that's what the letter of 15 November is aimed at saying to Wahanui. "Don't don't stop people who want to settle." | |
| | **DR DONALD LOVERIDGE** | |
| | Is that all, sorry what do you mean? | |
| | **TOM BENNION** | |
| | Don't you think it's talking about, not the sovereignty thing. You got to get over that. anyway Maniapoto might – they weren't confiscated but they're unlucky, they're lucky they weren't confiscated from – | |
| | **DR DONALD LOVERIDGE** | |
| | Right, he's talking about amnesty. He's talking about that. | |
| | **TOM BENNION** | |
| | Yeah. | |
| | **DR DONALD LOVERIDGE** | |
| | He's talking about routes and railways. He's talking about the land the Government claims down by Mōkau on the basis of the early purchase. I mean - | |
| | **TOM BENNION** | |

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| | He's writing back to Wahanui as spokesperson for Tāwhiao isn't he? | |
| | **DR DONALD LOVERIDGE** | |
| | Well let me see, he's talking about a lot of things. He's making propositions that are certainly not anything the king had ever so much inclination to support. His raisingeasons, a number of issues, as I say, a number of new issues, amnesty, lands, railways, all these things. | |
| | **TOM BENNION** | |
| | He's saying, "I had an offer for Tāwhiao. You were the person who held it up." | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |
| | **TOM BENNION** | |
| | So now I got to talk to you. | |
| | **DR DONALD LOVERIDGE** | |
| | And these are the things I'd like to talk to you about. | |
| | **TOM BENNION** | |
| | And the things are about the claim of sovereignty. That | |

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| | can't last. Yeah, that's the second paragraph. | |
| | **DR DONALD LOVERIDGE** | |
| | Well he's talking about amnesty there yes. How can we issue an amnesty proclamation when people do not recognise the authority of Crown and the Queen yeah? | |
| | **TOM BENNION** | |
| | And then in the third paragraph he's saying, "Remember Maniapoto was deep in this trouble as Waikato. Should not the same punishment have fallen upon them?" So that's, that's a bit of a discussion about you've escaped confiscation, you – but you're lucky, yeah. | |
| | **DR DONALD LOVERIDGE** | |
| | He's discussing a number of different things here, yes. | |
| | **TOM BENNION** | |
| | Okay. Would you agree that the, the letter in context, well let's just go to the fourth point of the Crown's policy. It says, so the third bullet point was if the real owners are willing to bring it to market, no interference on the part of Tāwhiao or others will be tolerated." And the fourth bullet point is, "If the natives interfere, they will simply be run in or carted off." | |
| | **DR DONALD LOVERIDGE** | |
| | That's what the *Herald* document says. | |

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| | **TOM BENNION** | |
| | Right. So this letter than follows the next day, in context of Government policy, it's got to be seen as threatening isn't it? | |
| | **DR DONALD LOVERIDGE** | |
| | Well if that in fact was the Government policy and as I say, it looks like - | |
| | **TOM BENNION** | |
| 1705 | Well I think - | |
| | **DR DONALD LOVERIDGE** | |
| | It looks like it reflects something was said at that Cabinet meeting, if you like. We don't have, we don't have the actual notes of the Cabinet meeting to sort of compare with the *Herald's* article. It looks as if that in the same general line, whether it was put in those terms at all, who knows. | |
| | **TOM BENNION** | |
| | Is the letter consistent with what the *Herald* was saying with Government policy? | |
| | **DR DONALD LOVERIDGE** | |
| | It's consistent with Bryce deciding he's going to approach | |

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| | Maniapoto and see what, and see what the result will be. | |
| | **TOM BENNION** | |
| | Is it consistent with, if the real owners of the land are willing to bring into market, no interference on the part of Tāwhiao or others will be tolerated? Is it consistent with, in its tone with that? | |
| | **DR DONALD LOVERIDGE** | |
| | It is, it is if he thinks Maniapoto will consider that. | |
| | **TOM BENNION** | |
| | Is it consistent with the, the tone of, if the natives interfere they will simply be run in or carted off? | |
| | **DR DONALD LOVERIDGE** | |
| | Weill again I'd be happier if I can see the original of this report. | |
| | **TOM BENNION** | |
| | Sorry I thought you had the letter in front of you. | |
| | **DR DONALD LOVERIDGE** | |
| | Well no we have the *Herald* article - | |
| | **TOM BENNION** | |

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| | The 15th of November - | |
| | **DR DONALD LOVERIDGE** | |
| | – saying that ~~we~~ people will be run in and carted off, not Bryce. | |
| | **TOM BENNION** | |
| | Oh, oh you want to, you want to refer to the original of the *New Zealand Herald*? | |
| | **DR DONALD LOVERIDGE** | |
| | No look I'm saying, the run in and carted off references in that *Herald* - | |
| | **TOM BENNION** | |
| | Yes. | |
| | **DR DONALD LOVERIDGE** | |
| | – Supposedly a summary of what was decided in Cabinet and Bryce doesn't say that to Wahanui does he in the letter? | |
| | **TOM BENNION** | |
| | No but is the, is the letter consistent in terms of tone with what the *Herald* was saying is the Government policy? | |

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| | **DR DONALD LOVERIDGE** | |
| | Not really no. He's making an approach to, to – he wanted to meet with, with Wahanui to discuss these things. | |
| | **TOM BENNION** | |
| | The last line of the letter of 15th November says, "I desire to make arrangements beneficial (inaudible 17:06:55) to all. It is my wish that the contents of this my letter should be communicated to people so they may know to whom the fault lies if troubles hereafter come upon us." | |
| | **DR DONALD LOVERIDGE** | |
| | Mmm. | |
| | **TOM BENNION** | |
| | What do you think Bryce is meaning there? "If troubles hereafter come upon us." What would those troubles be? | |
| | **DR DONALD LOVERIDGE** | |
| | Well I think he's saying that unless there is some reconciliation if you like. Unless the king is – was to accept that, that proposal, was to agree to, to open up the King Country or whatever, that there would be trouble. | |
| | **TOM BENNION** | |

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| | What would the trouble be? | |
| | **DR DONALD LOVERIDGE** | |
| | Well the Crown has said that they will in fact take a vigorous policy [~~bigger~~ (inaudible 17:07:35)] whatever that might mean. | |
| | **TOM BENNION** | |
| | Yes and it could include simply running in or carting people off? | |
| | **DR DONALD LOVERIDGE** | |
| | It could and did include opening up Kāwhia a short time later. | |
| | **TOM BENNION** | |
| | Now I want to come to the Kāwhia survey – | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |
| | **TOM BENNION** | |
| | – at page 60 of your report. Now on page 60, well on page 59 you say Bryce announced that he was going to | |

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| | Kāwhia, going to be, going – opened up, and the *Herald* reports on page 60, you've had a quote there, the question now to be put to the natives is, "How will you have it?" The Government are bound to go straight ahead taking care to do no wrongful act, in reality saving the natives from the consequences of their own folly. When the *Herald* says, "How will you have it," what do you think they are talking about there? I understand that's the newspapers view but what do you think is on their mind? | |
| | **DR DONALD LOVERIDGE** | |
| | Well they say themselves what they mean. The Government are about, in their view the Government are bound to go straight ahead taking care to do no wrongful act and so on and so forth. That the Government should – will they think, proceed and see, and see what happens, mmm. | |
| | **TOM BENNION** | |
| | They're suggesting aren't they that if the part of resistance is taken to this act, there will be consequences? | |
| | **DR DONALD LOVERIDGE** | |
| | There will be consequences yeah. | |
| | **TOM BENNION** | |
| 1710 | On page 61, at footnote 143, you say, "The *New Zealand Herald* also says old settlers were surprised at what seemed to be the reckless audacity of the | |

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| | Native Minister and thus penetrating to the limit of the King Country." So, on the part of some Pākehā settlers they regarded this action as reckless audacity and penetrating to the limit of the King Country. First of all, the Kāwhia Harbour was immensely symbolic in relation to the King Country wasn't it? | |
| | **DR DONALD LOVERIDGE** | |
| | Oh yes of course. | |
| | **TOM BENNION** | |
| | Right, and Native Minister Bryce is coming in, is turning up in a steamer? | |
| | **DR DONALD LOVERIDGE** | |
| | Mhm. | |
| | **TOM BENNION** | |
| | Which is a, which is a pretty fair, strong projection of imperial or Government power on its own isn't it? Steamers are fairly, fairly important object. | |
| | **DR DONALD LOVERIDGE** | |
| | Not uncommon in 1885 though. | |

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| | **TOM BENNION** | |
| | Yeah, yeah. | |
| | **DR DONALD LOVERIDGE** | |
| | Mmm. | |
| | **TOM BENNION** | |
| | But obviously something, people think it's recklessly audacious. So at least for sections of the Pākehā community, they regarded it as a, as a situation of asking the question of King Country Māori, "How will you have it," yes? | |
| | **DR DONALD LOVERIDGE** | |
| | Mmm yes. | |
| | **TOM BENNION** | |
| | Right. Now you say on page 60 that the *Herald* goes on to say, "Well maybe the Kingites won't, won't have any problems with this and they'll let it go to keep their dignity," and you say in the last paragraph on page 60, "As the new year dawned, this reading of the situation looked to be a sound one." So when you say, "This reading of the situation," aren't you saying that Bryce was also asking the question, "How will they habit," but had a view, you know, "I | |

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| | think they'll, they'll crumple of this one. They won't put up resistance." | |
| | **DR DONALD LOVERIDGE** | |
| | That, that is what the edit, the *Herald* thought his view was. | |
| | **TOM BENNION** | |
| | Yes, but you said, "This reading of the situation looked to be a sound one." | |
| | **DR DONALD LOVERIDGE** | |
| | The Herald's reading yeah. | |
| | **TOM BENNION** | |
| | Okay. Now Tāwhiao's away on a tour at this stage. | |
| | **DR DONALD LOVERIDGE** | |
| | I'm not sure when he actually left. It was around this time. | |
| | **TOM BENNION** | |
| | And, when the Minister announced that he wanted to go to Kāwhia or he intended to go to Kāwhia, Tāwhiao sent him a letter saying, "Don't." Isn't that right? | |

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| | **DR DONALD LOVERIDGE** | |
| | I think that it is, I think that's right. Where is that? | |
| | **TOM BENNION** | |
| | Well look at – have you got the Marr, Marr in front of you. | |
| | **DR DONALD LOVERIDGE** | |
| | Um. | |
| | **TOM BENNION** | |
| | See on page 686 on Marr? | |
| | **DR DONALD LOVERIDGE** | |
| | Sorry it takes a while to read through this. Um, yeah. | |
| | **TOM BENNION** | |
| | You see that on 686 she records a letter from Bryce to Tāwhiao on the 6th of December 1882 saying, "Dear Tāwhiao, I'm returning to my home Whanganui. Friend, it is the intention of the Government very shortly to layoff a township at Kāwhia." | |

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| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **TOM BENNION** | |
| | And the reply on 16th December from Tāwhiao to Bryce is, "Queens's friend, I am going to Taupō and to the south. Your letter informs me his intentions reached Kāwhia. Friend let me have the control over Kāwhia. Leave it to me to make arrangements concerning it." | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |
| | **TOM BENNION** | |
| | So Bryce went to Kāwhia against the express wishes of Tāwhiao and knowing that Tāwhiao was on circuit if you like? | |
| | **DR DONALD LOVERIDGE** | |
| | Well Tāwhiao says, "I am going to Kāwhia on the 16th of December." So it appears that he was there at the time. The letter is from Whatiwhatihoe on the 16th of December. So he apparently was in the area at the time. He says, "I am going." | |

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| | **TOM BENNION** | |
| 1715 | Yeah. No what I mean is, when – well, Cathy Marr records that certainly Tāwhiao was not, was on circuit if you like or making his visits around the motu during the period that Bryce goes to Kāwhia. Do you accept that? | |
| | **DR DONALD LOVERIDGE** | |
| | When did Bryce himself go to Kāwhia? | |
| | **TOM BENNION** | |
| | When does he go to Kāwhia? | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |
| | **TOM BENNION** | |
| | Well he's in Kāwhia on looks like February 1883. | |
| | **DR DONALD LOVERIDGE** | |
| | I think that's right yes. So Bryce said he was going to Kāwhia. Tāwhiao~~Kāwhia~~ said, "Please, please don't," and left. | |
| | **TOM BENNION** | |

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| | Isn't the sequence of events this, Bryce says, "I'm going to open the Harbour at Kāwhia." | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |
| | **TOM BENNION** | |
| | Tāwhiao writes back and says, "Don't do it." | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |
| | **TOM BENNION** | |
| | And he says, "I'm going to Taupō and the South." | |
| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **TOM BENNION** | |
| | Bryce – he – Tāwhiao is away from Alexandra, Whatiwhatihoe whatever, in February 1882? | |
| | **DR DONALD LOVERIDGE** | |

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| | Yes according to this, he left ~~few~~ for a few weeks she says, "In late December." | |
| | **TOM BENNION** | |
| | Okay and Bryce goes to Kāwhia. He presumes, presume he knew Tāwhiao was away, yeah? | |
| | **DR DONALD LOVERIDGE** | |
| | I don't know. | |
| | **TOM BENNION** | |
| | Okay fair enough. Now isn't – at page 60, at the bottom of page 60, it says, one observer put it, and this is in the *New Zealand Herald*, "The result was that one of the most important events in the history of the colony passed off some ceremony." There was nothing official about the whole thing. So that paper is saying – the paper that records that they think that Bryce is – some people think Bryce going there, some Pākehā think Bryce going there is recklessly audacious. We know he does it after being asked by Tāwhiao not to. The papers think it's one of the most important events in the history of the colony, and it's carried out and explicitly as a snub to Tāwhiao isn't it? | |
| | **DR DONALD LOVERIDGE** | |
| | It is yes. | |

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| | **TOM BENNION** | |
| | Well it is snubbing yes. | |
| | **DR DONALD LOVERIDGE** | |
| | I think so. | |
| | **TOM BENNION** | |
| | Yeah. So when you come then at page 64 of your report and you say, now the heading there, "The four tribes break away," and you talk about the chiefs meeting to decide what should happen, what they should do about, about the Government, the Government's action, the letter to Wahanui of 15 November 1882 is something that's on their minds, yes? | |
| | **DR DONALD LOVERIDGE** | |
| | When they meet. | |
| | **TOM BENNION** | |
| | In January 1882, yes? | |
| | **DR DONALD LOVERIDGE** | |
| | '83. | |
| | **TOM BENNION** | |

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| | Or is that ’80? Oh you’re right, (inaudible 17:18:17) ’83. | |
| | **DR DONALD LOVERIDGE** | |
| | Whether they need to discuss his letter yes apparently, yes among other things yeah. | |
| | **TOM BENNION** | |
| | Yeah, yeah. No, no let me go back a moment. When the chiefs, when the chiefs meet in ’83, they’ve had the letter with Wahanui and they’ve had the opening of Kāwhia occur, yes? | |
| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **TOM BENNION** | |
| | So they’ve got a pretty clear indication of what – that the Crown is prepared to be forward if not audacious, somewhat perhaps reckless in its approach. | |
| | **DR DONALD LOVERIDGE** | |
| | Forward... | |
| | **TOM BENNION** | |

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| | Yeah. | |
| | **DR DONALD LOVERIDGE** | |
| | Forward certainly yes. | |
| | **TOM BENNION** | |
| | So what's the word? | |
| | **DR DONALD LOVERIDGE** | |
| | Forward. | |
| | **TOM BENNION** | |
| | Forward. | |
| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **TOM BENNION** | |
| | It's more than that though isn't it? I mean the Government is operating under a policy of if necessary, to run in and cart them off. | |
| | **DR DONALD LOVERIDGE** | |
| | Well no they can't **(inaudible 17:19:10)** back. You're using the words from the *Herald* which I don't think particularly | |

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| | apply. Bryce is, is feeling his way. He wants to, he wants to force things along, yeah, mmm. | |
| | **TOM BENNION** | |
| | This is more than feeling the way and forcing things along though isn't it? This is the Government pushing, taking a steamer into the heart of the King Country. | |
| | **DR DONALD LOVERIDGE** | |
| | To, on - | |
| | **TOM BENNION** | |
| | Against the wishes of Tāwhiao. | |
| | **DR DONALD LOVERIDGE** | |
| | On the strength of the land – well it said it's not going to pay attention to Tāwhiao from here on. | |
| | **TOM BENNION** | |
| | But just a minute, coming up – just let's just before we leave this – | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |
| | **TOM BENNION** | |

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| | Before Kāwhia, we have Tāwhiao turning the proposal down. | |
| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **TOM BENNION** | |
| | –to, to point of agreement with the Crown. We have Bryce writing to Wahanui saying, "Gee you better think what you're doing here. There could be trouble." | |
| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **TOM BENNION** | |
| 1720 | And shortly thereafter, a steamer goes in to Kāwhia Harbour against the wishes of, of King Tāwhiao. | |
| | **DONALD LOVERIDGE** | |
| | Yes. | |
| | **TOM BENNION** | |
| | Explicitly. That's not just forward, that's aggressive, isn't it? | |

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| | **DR DONALD LOVERIDGE** | |
| | Um, the Crown is going in on – the Crown is proceeding, Bryce is proceeding on the basis that he's going to push this as far as it will go, I think. He has an objective in mind. | |
| | **TOM BENNION** | |
| | Right. | |
| | **DR DONALD LOVERIDGE** | |
| | And he's going until he meets resistance, I think, is his plan. He doesn't meet resistance at Kāwhia and the equation starts to change when he starts discussing the Amnesty Act with Wahanui and the others. That's one of the things they need to discuss. They need to discuss Bryce's letter, the Amnesty Act, the things Bryce raised in his letter and they also are discussing the marking of the boundary of the Rohe Pōtae. | |
| | **TOM BENNION** | |
| | There is resistance at Kāwhia after the boys go in though, some of them are interfered with aren't they, subsequently? | |
| | **DR DONALD LOVERIDGE** | |
| | Further on, yes, later on, yes. | |
| | **TOM BENNION** | |

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| | Yes. | |
| | **DR DONALD LOVERIDGE** | |
| | But the initial response is again complaint, not resistance. | |
| | **TOM BENNION** | |
| | Yes, but it's a Government steamer and troops, isn't it? | |
| | **DR DONALD LOVERIDGE** | |
| | Not in the first instance. | |
| | **TOM BENNION** | |
| | Not in the first instance, but troops follow, don't they? | |
| | **DR DONALD LOVERIDGE** | |
| | Well, constabulary for the – later on, yeah, but we're talking about December, January, February here. | |
| | **TOM BENNION** | |
| | Let's move to March 1883, the infamous March 1883 – | |
| | **JUDGE AMBLER** | |
| | Just before we do, can I just display my ignorance. The phrase "run in?" | |

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| | **DR DONALD LOVERIDGE** | |
| | Sorry? | |
| | **JUDGE AMBLER** | |
| | The phrase used “run in” does that mean to arrest in those times? | |
| | **DR DONALD LOVERIDGE** | |
| | The word that – the way the *Herald* said it? | |
| | **JUDGE AMBLER** | |
| | Yes. The the | |
| | **DR DONALD LOVERIDGE** | |
| | Sorry, where is it? I'm trying to remember. | |
| | **~~JUDGE AMBLER~~TOM BENNION** | |
| | Page 57. | |
| | **DR DONALD LOVERIDGE** | |
| | Thank you. Well, yeah, I would think so. I don’t – I'm not that up on ~~colloquiums~~ colloquialisms of 1882, but yeah, | |

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| | that would seem right – | |
| | **JUDGE AMBLER** | |
| | Well you're probably more up with it than I would be which is why I've asked. | |
| | **DR DONALD LOVERIDGE** | |
| | I think the implication is that anyone who gets in the way of things will be prosecuted ~~and the rest had been~~arrested and prosecuted I think, ~~the rest did~~arrested certainly. | |
| | **TOM BENNION** | |
| | Just following that, so if the phrase is "run in" or "carted off" wouldn't it be a tautology to say that "run in" was to arrest? Isn't it more likely that carting off would be an arrest and running ~~off~~ in would be involving direct violence, killing perhaps? | |
| | **DR DONALD LOVERIDGE** | |
| | Sorry, I missed that. | |
| | **TOM BENNION** | ` |
| | Well, the phrase is, "If the Natives interfere they will simply be run in or carted off. Wouldn't "carting off" be the arrest and the running in would be perhaps wounding or killing? | |
| | **DR DONALD LOVERIDGE** | |

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| | I don't think that's the sense, but, you know, they're going to take them in. Deal with them in some legal way would be my reading of that. I don't – to me run in is arrested, arrested and taken away perhaps, I don't know. | |
| | **TOM BENNION** | |
| | Right. | |
| | **JUDGE AMBLER** | |
| | It's expressed in inverted commas in the actual *Herald* article isn't it? | |
| | **DR DONALD LOVERIDGE** | |
| | Well if I – | |
| | **TOM BENNION** | |
| | I thought it was in one of the bundles and I was trying to – | |
| | **JUDGE AMBLER** | |
| | Well, as quoted by Dr Loveridge at page 57, it is. | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah, well, if I put it in inverted commas then it was – those are the words used, I think. | |

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| | **JUDGE AMBLER** | |
| | Yes, I just wasn't entirely clear on what that meant. | |
| | **DR DONALD LOVERIDGE** | |
| | Yeah, well, I'll see now. | |
| | **TOM BENNION** | |
| | I think we're agreed it's not a happy state of affairs. | |
| | **DR DONALD LOVERIDGE** | |
| | It is a quotation that if the Natives interfere they will simply be "run in" in quotes in the article or "carted off". That's a quote from the *Herald* article. So, "run in" has been put in brackets within that quote, subject to seeing the actual article, I'm pretty sure I've quoted it right. That was – | |
| | **JUDGE AMBLER** | |
| | Back to you Mr Bennion. | |
| | **TOM BENNION** | |
| | Yes, coming back to the 16th of – let's just talk about March 1883 in particular the 16th. | |

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| | **DR DONALD LOVERIDGE** | |
| | Yeah. | |
| | **TOM BENNION** | |
| | Just to frame this, your view is that Wahanui had some sort of preliminary meeting with Bryce, I think around the 7th of March. | |
| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **TOM BENNION** | |
| | I was looking for a newspaper reference for that. | |
| | **DR DONALD LOVERIDGE** | |
| | It's in my commentary notes – when I did this first report, the 841, this is the 2006 report, I again moved across that fairly quickly but with Cathy Marr's, I walked through her research and commented, I found this 7th of March on that, when I did that. So, what's in anything about the March meeting is probably priority should be given to whatever I wrote in my comments on Cathy Marr's report rather than what's in here. | |
| | **TOM BENNION** | |
| | Okay, so can I just understand the difference between you? That you're suggesting that Wahanui – could I put it this | |

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| | way, gave some sort of tacit approval Hursthouse coming into the district whereas her approach is to say there was no arrangement at all. He just turned up and things went pear shaped from there. | |
| | **DR DONALD LOVERIDGE** | |
| | Well, I think it's quite clear that Maniapoto knew he was coming. There's evidence, well, both the meeting itself, we have some pretty sparse comments on what was said there, the survey was apparently discussed from one report. Later on when Hursthouse went across the bridge he was confronted by people saying, "Are you the one that we heard was coming to survey the railway?" That tells you something. From my reading of it from what ~~Henry~~ Wahanui himself said later in his letter to Bryce on the 15th is that Bryce told him what he was planning to do, that he was going to, on his own authority, was going to send a surveyor, simply to survey, to examine the road to Mōkau. | |
| | **TOM BENNION** | |
| | Right, so – | |
| | **DR DONALD LOVERIDGE** | |
| | And that – I'm sorry, and that his reply was, "Give us time to discuss this." But again several newspapers reported from whatever source that Wahanui had been told and that Bryce and the others did not anticipate any problems as – | |

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| | **TOM BENNION** | |
| | So, I'm just trying to be really clear here. You're suggesting there was information that the surveyor was coming? | |
| | **DR DONALD LOVERIDGE** | |
| | Yes. | |
| | **TOM BENNION** | |
| | But you're not suggesting that there was any prior approval either explicit, implicit or anything of that nature given, are you? | |
| | **DR DONALD LOVERIDGE** | |
| | I think the most you can say is that Wahanui did not tell Bryce not to send Hursthouse. | |
| | **TOM BENNION** | |
| | I think you were meaning something more than that. | |
| | **DR DONALD LOVERIDGE** | |
| | Not really, no, no, I'm just saying. | |
| | **TOM BENNION** | |
| | You mean his silence, sort of silent is consent sort of | |

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| | approach? | |
| | **DR DONALD LOVERIDGE** | |
| | I'm just saying that Bryce clearly came away from that meeting with the impression that he could proceed and not cause problems, not raise ~~erase~~ problems. | |
| | **TOM BENNION** | |
| | So you are making that assertion that he had an impression that there wasn't going to be a problem? | |
| | **DR DONALD LOVERIDGE** | |
| | I would have to go and look at exactly what I said, but that's my summation of it, yeah. | |
| | **TOM BENNION** | |
| | Because there's certainly no direct evidence that Wahanui has said to proceed and Hursthouse's instructions, his letter to proceed don't say anything of the sort, do they? | |
| | **DR DONALD LOVERIDGE** | |
| | I'd rather discuss this with my report, with that report in front of me. | |
| | **TOM BENNION** | |
| | Okay, let's come to – well, do you want to – | |

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| | **JUDGE AMBLER** | |
| | Mr Bennion, if you're coming to, you're not coming to a new topic, but if you're coming to a new part of the report of the evidence, I'd just wonder if we pause for the evening now – | |
| | **TOM BENNION** | |
| | Yes, Sir, it might be good, because I think we'll be spending the next two minutes just getting reports out then – | |
| | **JUDGE AMBLER** | |
| | Yes, all right and you might then all benefit overnight just reviewing where you're at. | |
| | **TOM BENNION** | |
| | Yes. | |
| | **JUDGE AMBLER** | |
| | All right, thank you Dr Loveridge, we will now adjourn for the evening, and our ope will be heading up to the marae, I think, straight from here and we will resume at 9.00 am in the morning. | |
| | **PIRIPI WARETINI** | |

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| 1730 | Kia ora tātau te whānau, ana kei te mōhio tonu i pōwhiritia ki ētehi a koutou e te marae, e karanga tonu mai ko te kapua pouri. Tēnā rā ka mihi tonu nei te mihi tungane kia atu kia koe e te tuahine. Nāu anō hoki te karanga and that, ki te hunga o ngā roia rā anō. He whakaaro pai no Taonui te tamaiti, kia koe me te whānau whānui tonu nei. Katahi rā ka heke tonu mai arā ko Hoturoa, ko Hotuope, ko Hotuawhio, ko Te Matapumotai, Uetapu, Takamamao, Kakati, Tawhao, Tūrongo. Ko te wahine tuatahi ko Punia Te Kore. Ko Whatuhua Kahotea ka mihi rā. Te wahine tuarua, ko Marutehiakina ana ko Tūrongo, ana ko Mahinarangi ki Te Tairāwhiti. Nā raua tahi ko te Kakarareka, ana ko Raukawa, ko Tehingarangi, ko Rereahu, Tiniau Pounamu, ana kia Maniapoto e tū nei, kia Rora, kia Tū, Raimaromaro, Paruparu, Hokotahi, Te Rangituatea, Ngarue, Taonui, Hikaka ana ko Tawhana, Taonui te tuarua, Taonui te tuatoru, kia hutia. Tēnā ki ngā koroua, kia Hori Ngatai, Hone Taonui, Henare Matengaro, Te Mere, Rangi tuatahi, heke tonu mai ki to koroua, ko Wetere, ana ko Petina te tūpāpaku e takoto mai rā, ana haere atu rā anō ki te Taonui e mohiotia nei e tātau katoa. Ana hoki rā ko te kawa, kia mohiotia ai tū atu tū mai, tau utuutu rā anō. Nō reira i tēnei o ngā wā, ka mihi rangatira kia Ngāi tātau anō e karangatia ake nei. | Piripi is – now we all know that we have been welcomed onto the marae already, now because of this bereavement that we experience at this time and, of course, I do wish to acknowledge you Annette in representing our counsel here and of course, your connections with Taonui and your greater whānau here.<br><br>Piripi is now engaging in old genealogies specific to this area. I shall not translate this.<br><br>And of course Petina is the deceased which lies in state at the moment.<br><br>Now so that we are aware of the protocols, it is the kawa of once people stand, the other will reply accordingly. And again I do wish to acknowledge all people here. |
| | Hei kupu whakamutunga kia koe te tuahine, Ngāti Pikiaorangi, ko te take, ko te hunga wahine ka eke panuku whakamua ki te māhau i te tuatahi rā anō. Kei a koe hoki tērā. | I just want to end off at this particular to you Annette. Now of course if we can please observe the protocols that the women must congregate firstly in front of the marae and men follow. |
| | Ki tua atu rā anō, ka huri noa atu kia koe e te matua, e te matua Hari kia whakaaukati tonu mai i ngā kupu ki te hunga | I do wish to turn my hand to Harry who will close our |

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| | tonu nei. | proceedings today. |
| | **HARRY KEREOPA** | |
| | I'm afraid to speak in Māori. Why? You hear the whakapapa comes down to my tīpuna Maniapoto and Rōra. Now you see the front seat, you see all our kaumātua, they are not here. Why? I was having a beautiful kai out there and then one come along to me, and (cry) and I thought, what's going on? Hirini Mead, it's up to him to decide on this. However, what they were talking about is the mana of their tikanga and te reo was trampled on today, and I said, ba, ba, ba, ba, ba. So I got a little thing here they call a dictaphone, and I went back over it and my daughter here says, "Dad, listen to this." Hence, immediately I looked back at that gentleman back there, counsel, and he was told wo, wo, wo, these people don't understand that reo, and he was speaking it beautiful. Hirini, I married a girl and her genealogy is German, French, American Negro, Irish and that little sprinkling of Māori is in there, all right? And she was a beautiful girl at the age of 18. She was a Christian. She married me, and now she is one of the top kuias in our marae throughout Te Rohe Pōtae. And she went to school, stood up there, a white-looking girl, and spoke in Māori. She was brought up by those old people. She got the cane and the strap for speaking it at school. However, I come back today and here it is still here. And I said to them, "Who said that?" And well I think, um, we hear that thing about power. He's got the power and he's allowed to do what he wants to do. We're not, and aroha for you. However, however our kaumātuas went away and we use that. They gone to the | |

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| | tangi. These kaumātuas are still here. I'm staying, paying them for being - they're obligated to be here till the end of this karakia, okay, thank you. | |
| | **KARAKIA (NĀ HARRY KEREOPA)** | |
| | Now, Heavenly Father, we your servants come before you this beautiful evening to give thanks for guiding us safely to this beautiful hui. We ask that you guide us back to our homes, our maraes or wherever we're going, in the name of the Father, and of the Son, the Holy Spirit, Amen. E tū. | |
| | **WAIATA** | |
| | Whakarongo ki te reo Māori e karanga nei.<br>Whakarongo ki ngā akoranga rangatira.<br>Nā te Atua i tukuiho kia tātau e.<br>Pupuritia, kōrerotia mō ake tonu.<br>Tirohia ngā tikanga tapu ā ngā tipunga.<br>Kapohia hei oranga ngākau auē.<br>Whiua ki te ao.<br>Whiua ki te rangi.<br>Whiua ki ngā iwi katoa.<br>Kaua rawatia e tukua e kīa memeha e.<br>Tirohia ngā tikanga tāku ā ngā tīpuna.<br>Kapohia hei oranga ngākau, auē. | |

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| | Tēnā, kia purea te hauora e.<br>He kupu tukuiho mō tēnei rēanga.<br>Whakarongo. | |
| | **KARAKIA (NĀ HARRY KEREOPA)** | |
| | May the grace of our Lord Jesus Christ, the love of God, the fellowship of the Holy Spirit ever, ever be with us forever and ever, Amen. | |
| | **HEARING ADJOURNS: 5.40 PM** | |