

Appendix: Questions for Dr Roa in respect of her thesis, “Less than a Pig: the Alienation of Māori Land in the Northwest King Country”, (Wai 898, #03(d))

1. In his memorandum-directions of 18 November 2013, the Presiding Officer directed that you file your thesis with an accompanying bibliography.² The copy of the affidavit distributed to Crown Law does not have a bibliography.

1.1 Did you prepare a bibliography as part of your thesis?

1.2 If so, why have you not filed it with the Tribunal?

2. Do you agree that, other than in Chapter Seven, which deals with Crown purchasing in the Kopua 1 block, your thesis is based on a limited number of secondary sources and, with respect to the history of the Rohe Pōtae, does not go beyond the historical information put forward in a few reports prepared for the Waitangi Tribunal (notably by Cathy Marr and Dr Loveridge)?

3. You say at page 25 that:

Indeed, [Professor Bill] Oliver displayed an astonishing ignorance of the purpose and operation of the deeply discriminatory policies of the 1900s that instigated Māori Land Councils (later redesignated as Land Boards) writing:

This rapid and thorough extension of settlement caused both Maori and European to have second thoughts. A powerful feeling against further land alienation grew up. Parliament established Maori Land Councils to guard against the speedy dissipation of the proceeds of sale and to put the brake on further sales. (ibid 1960:257).

3.1 How do you reconcile your statement with the fact that the agreement between Māori and the Crown in 1899-1900, which led to the setting up of the Māori Land Councils, included a cessation of Crown purchasing and specified that lands vested in or administered by the Councils could only be leased?

3.2 On what grounds do you consider these policies to have been “deeply discriminatory”?

² Wai 898, #2.6.48, para 2.3.
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3.3 How can Professor Oliver's accurate description of them be considered evidence of "astonishing ignorance" on his part?

4. At page 39 you state that:

The Waikato stage of the Land Wars proved difficult for the imperial troops to win decisively as Māori practiced guerrilla [sic] warfare, rather than face pitched battles more suited to European weaponry and tactics. But despite this, imperial troops eventually occupied most of the Waikato region.

4.1 How do you reconcile that statement with the 'pitched battles' at Koheroa, Rangiriri and Orakau, and their effect on the war?

5. At page 41 you state that:

After the Land Wars of the 1860s, Te Rohe Pōtae continued as a self-determining nation for over twenty years, and successive New Zealand governments pretended it didn't exist. To Pākehā, the Aukati iwi were portrayed as gloomy remnants of a past era, easily and best ignored until they all died off.

5.1 How do you reconcile that statement with the long series of negotiations held between the Crown and the Kingitanga from the late 1860s through to the early 1880s?

6. You continue at page 41 by stating:

... New Zealand could not afford to mount an armed invasion of Te Rohe Pōtae without the military and financial backing of Britain. Britain's interests lay elsewhere at that time and no aid from the imperial motherland was forthcoming.

6.1 What evidence do you have that the New Zealand Government requested such assistance from Britain?

6.2 Similarly, what evidence is there that the New Zealand Government at any time after the land wars of the 1860s planned a military invasion of the Rohe Pōtae?

7. At page 44 you state (citing Professor Ward's *Show of Justice*, page 234) that:

Māori knew that Crown spokesmen were motivated by a desire to see the destruction of the Aukati at almost any cost barring outright military intervention.

- 7.1 Please indicate the specific comment by Professor Ward upon which you are relying here.
- 7.2 Do you agree that Professor Ward in fact said that McLean adhered firmly to a policy of “friendly communication with the Kingites” in support of the peace policy the Government adopted during this period?
8. At page 46 you quote Cathy Marr’s observation that by the late 1870s:

‘... there was increasing pressure within the King Movement to have land title settled and legally recognised so that the land could not only be protected, but used for economic gain.’ (Marr 1996:10).

You comment that:

This presumably means that some Kingites (including Maniapoto and Hikairo adherents) were now in favour of allowing the Native Land Court in, but apart from a faction within Ngāti Hikairo (as discussed later), there is no evidence that this was the case.

- 8.1 However, you have not quoted the whole of Ms. Marr’s argument. At pages 10 to 11 she says:

There was also increasing pressure within the King movement to have land title settled and legally recognised so that land could not only be protected but used for economic gain. There was clearly a strong desire not to sell. Nevertheless, settled, recognised title was also required for leasing land and there was strong pressure to engage in this It seems clear that even by 1880, the King movement had responded to some of the internal pressure to engage more directly with the settler community, especially in terms of economic opportunities. This was largely in the direction of leasing land. Ward cites examples where Tawhiao had given permission for settlers to occupy and lease land. Some settlers were allowed to occupy land around Maungatautari, and to return to Kawhia, for example. Some leasing to settlers was also permitted in the Taupo area. However, this was not enough, and by the late 1870s and early 1880s it seems clear that some applications were made to the Native Land Court from within the King Country, although these still seem to have been mainly concerned with land around the outer edges of the district.

8.1.1 Do you agree that you have not represented Ms. Marr’s argument accurately?

8.1.2 Do you have you any evidence that suggests that she is wrong?

9. At pages 47 to 48 you state that:

Loveridge suggests that the Maniapoto leader Wetere Te Rerenga was the first to apply for the Native Land Court hearing, which was rejected on the advice of the Native Minister because of the delicate negotiations being conducted with Maniapoto. But oddly, in what amounted to the same thing, Ngāti Tama's application for hearings into the Mohaka-Paraninihi and Mōkau-Mohakatino blocks was allowed. Bryce's rejection of Maniapoto's application can be seen as calculated tactic on behalf of the government to show Maniapoto that the government could manipulate the Court to supposedly protect Maniapoto interests by making a 'special case' for them.

- 9.1 Please provide a reference or references for this passage.

- 9.2 Please explain why you have not mentioned the evidence that Ngati Tama's application was accepted and acted upon by Chief Judge Fenton despite Bryce's opposition: see D Loveridge, "The Crown and the Opening of the King Country 1882-1885", Wai 898, #A41, p 28, footnote 56.

10. At page 48 you conclude with respect to the 1882 letter by Tawhiao and the response by Wetere that:

it is highly unlikely that the letters were genuine and the originals have not been sighted. It is simply not plausible that Tāwhiao and Wetere Te Rerenga would communicate with each other through the medium of the Pākehā press over any matter, let alone over an issue as important as the Mōkau-Mohakatino lands.

- 10.1 Do you have any evidence to support this conclusion, such as statements by either party denying their authorship?

- 10.2 You go on to say that "[i]t is more conceivable that the letters are fakes and were published by the [newspaper] editor to undermine Tāwhiao".

10.2.1 What evidence for that claim do you have?

- 10.3 Would you not agree that Wetere, in his letter (*New Zealand Herald*, 17 March 1882), expresses no doubts that Tawhiao was the author, even though he had not yet received the letter which had been published in translation in the *New Zealand Herald* of 28 February 1882?

11. At page 49 footnote 45 you quote Dr Parsonson's conclusion that "The Kawhia Township Sale Act 1883" was needed because "[t]he Kawhia case was so unusual".

11.1 Is it not more probable that this legislation was required because no Crown Lands Board had jurisdiction over the area so as to enable the sale of the Crown's township lands under the relevant Land Act?

12. At page 55, with reference to agreements between Ngati Maniapoto and the Crown, you state that, "Therefore these hui were conducted according to tikanga Māori. This meant that what was said and consented to at the hui was of vital importance and must be honoured, and formal written agreements were unnecessary", yet in reference to the 1883 petition you state at page 56 that Maniapoto leaders considered documentation to be "necessary in dialogue with Government". In addition, since your thesis was written it has been discovered that the chiefs participating in the key meeting with Bryce on 16 March 1883 provided the Native Minister with a written summary of their understanding of the outcomes, to which Bryce wrote a formal response: see Cathy Marr, "Te Rohe Pōtae Political Engagement 1864-1886", (Wai 898, #A78, pp 773-776).

12.1 Is it not clear that during this period that Rohe Pōtae Māori gave more weight to documentation in its dealings with the Government than you have claimed?

13. At page 59, you refer to the *Waikato Times* reporting that at the December 1883 meeting Bryce:

explained that the Land Court had been improved and simplified. Lawyers and agents had been excluded, and means for establishing native committees had been set up. The government had also agreed to pay money for surveys, and the law now stopped land being bought before adjudication.

You then state that at pages 59 to 60:

If this is what Bryce actually said to Māori, he was lying. No legislation had been passed (or would be passed) that 'improved and simplified' the Court's practices (the Native Committees Act ultimately proving to be useless except as a vehicle to expend Māori energy) ... and no laws were enacted to prevent individuals from applying to the Court for adjudication.

- 13.1 Do you have any reason to think that Bryce did not outline the terms of the Native Land Laws Amendment and Native Committees Acts of 1883, which included these provisions, at the meeting?

13.2 Are you suggesting that the extensive newspaper coverage of this meeting was fabricated?

14. You state at page 61 that:

In the absence of official Government and Māori documentation on the exact terms of the agreement [at the Dec. 1883 hui], it is not possible to gauge exactly what Māori agreed to or what Bryce's actual proposals were.

14.1 Are you suggesting here that Rohe Pōtae Māori did not sign an application to the Native Land Court at this time, or the documents relating to the survey of the external boundary?

14.2 Do these documents not indicate what the Māori signatories agreed to?

15. You state at page 62:

It can only be surmised that the Aukati iwi had agreed to this because Bryce's ministry was paying over ninety percent of the costs.

15.1 Although you cite AJHR, 1884, sess. 2, G-1, viii, that citation appears to be incorrect as AJHR 1884-II G.-1 has no page "viii". However, if the correct reference is to page 9 of that AJHR report, where it is stated that a survey by the Crown would cost about £1600 while a private one might cost more than £20,000, please explain how this can be interpreted as the Government "paying over ninety percent of the costs".

16. You state at page 72 that:

Since his involvement in negotiations for a railway and the opening of the Aukati, Bryce had persisted in trivialising the crucial role that Raukawa, Hikairo, Whanganui and Tūwharetoa played, and should play, in such important decisions.

16.1 Please identify the evidence you rely upon for that conclusion.

16.2 You suggest that Bryce somehow transformed the external boundary survey into a survey of Maniapoto's boundary alone?

16.2.1 Do you have any statements by either the Crown or Ngati Maniapoto leaders claiming that the Rohe Pōtae surveyed in 1884 was solely the property of that iwi?

17. At page 76 you state:

Loveridge observes that ‘from the time when the Atkinson government announced its plans to restore pre-emption, a change in position by Wahanui and his supporters can be readily detected.’ (ibid 2006:145-146). This is hardly surprising, but Loveridge also asserts that it was from this time that Wahanui ... began to insist that the Native Land Court would not be allowed to proceed with the process of title ascertainment within the Rohe Potae until, and unless the process was acceptable to the Four Tribes(ibid 2006:145- 146).

Loveridge’s assertion is nonsense as the Aukati iwi had always maintained this stance.

17.1 Do you accept that Wahanui anticipated that the Native Land Court might in future operate within the Rohe Potae: see for example:

17.1.1 Wahanui’s statement in his 26 September 1884 letter to Ballance that the Court not deal with any lands within the Rohe Potae “so that we may have time to frame a law satisfactory to both races, and to secure the repeal of the bad laws that are now in force” (Wai 898, A41, pp 149-150); and

17.1.2 Wahanui’s address to the Legislative Council of 6 November 1884 in which he stated, “And now I request that the Court may not have jurisdiction over the districts referred to for the present. I do not say always, but for the present, so that we may have time to make satisfactory arrangements; and, when the law is agreed to, then we can discuss the prospects for the future” (NZPD 6 Nov 1884, vol 50, p 427).

17.2 Do you agree, therefore, that you have misconstrued Dr Loveridge?

18. To clarify your discussion of the introduction of pre-emption in 1884 at pages 77 to 85, please:

18.1 Outline your understanding of the relationship between Bryce’s proposals for the restoration of national pre-emption early in 1884, the new Bill initially proposed by Ballance in October, and the much-revised Bill actually passed by Parliament later in the month.

18.2 Indicate which Māori statements relate to which of these Bills.

19. At page 79 you state that:

On his arrival [in Wellington], Wahanui made his feelings known to Governor Jervois who (astonishingly for the most senior representative of Her Majesty's Government) did not understand what Wahanui was talking about.

19.1 Is this the correct conclusion to be drawn from the Governor's reported statement that he didn't understand the point which Wahanui was making with his "metaphorical utterances"?

19.2 Did you examine the only available report of this exchange (*Wanganui Yeoman* 27 June 1884)?

20. You state at page 81 that:

On October 16th, Wahanui addressed Parliament and repeated all his previous concerns plus his disapproval of the Native Land Alienation Restriction Bill.

20.1 Was Wahanui was speaking about the Native Land Settlement Bill, not the Native Land Alienation Restriction Bill?

20.2 Was the Native Land Alienation Restriction Bill drawn up in direct response to Wahanui's criticisms of the Native Land Settlement Bill?

20.3 Do you agree that Wahanui's address to the House of Representatives was on 1 November 1884 (and his address to the Legislative Council was on 6 November 1884)?

21. You state at page 81 that:

This action [ie, the start of railway construction late in 1884] could have been deliberately orchestrated by the Government to inflame inter-Maniapoto tensions".

21.1 What evidence do you have that it actually was?

22. Your state at page 84 that:

Although the press proclaimed the Aukati lands open for settlement, even Loveridge (the Crown apologist) admits 'it might be argued that they [] did not actually agree this.' (ibid 2006:183).

22.1 Given the extensive evidence that Ballance was attacked by many newspapers for not opening these lands for settlement (see, eg, D Loveridge, “The Crown and the Opening of the King Country 1882-1885” Wai 898, #A41, pp 184-185), what evidence do you rely on for this statement?

22.2 Do you agree that Dr Loveridge actually said:

The real question which needs to be answered here is why, in March of 1885, these leaders agreed to bring their lands under the control of the Colony’s existing system for Native Lands?

It might be argued that they did *not* actually agree to do this in February of 1885 – that the only permission given by the Four Tribes was for a railway to be built and operated within a narrow strip of land running from Marton to Te Awamutu.

23. You state at page 85 that:

Notwithstanding his undertaking to Aukati iwi, no legislation would be enacted during the term of his Government to reform Native land laws in the direction advocated by Māori. Following Bryce’s lead, Ballance proposed the Native Land Disposition Bill to establish (Māori) committees to advise district land boards on the sale and lease of freehold Māori land. Loveridge argues that Ballance had discussed this issue at the Kihikihi meeting, and intimates that Māori had given their consent to railway construction partly in anticipation of Ballance’s promise to enact this kind of legislation. (ibid 2006:186). It is most unlikely that the Aukati leadership would have supported the proposal as it failed to address any of the central issues they had presented.

23.1 Dr Loveridge discusses his reasons for drawing this conclusion at pp 183-187 of his report, “The Crown and the Opening of the King Country 1882-1885” Wai 898, #A41). Given subsequent Ngati Maniapoto support for this policy, upon what evidence is your conclusion based?

24. You state at page 86 that:

The concept [of a land board system] was eventually enacted in legislation from 1900 onwards that led to an apartheid-like system of compulsory vesting.

24.1 The system introduced in 1900 did not involve compulsory vesting. Please explain your reference to it as “an apartheid-like system”.

25. You state at page 89 that:

This [Aotea] block was determined by the Native Land Court in 1886 when Tuwharetoa and Whanganui lands were cut out of the larger 1883 area. However, officials were apparently already using the term 'Aotea block' before this, to describe what were regarded as largely Ngati Maniapoto lands in the western part of the larger district. (Marr, 1996:ix).

- 25.1 However, 'Aotea' is used in the 1884 report referred to (AJHR 1884-II C1 p 27) as a title for the whole of the Rohe Pōtae block whose external boundary was being surveyed at the time, not as a title for the smaller block encompassing only Maniapoto lands. Do you accept, therefore, that Marr was mistaken on this point?
- 25.2 Did you examine AJHR 1884-II C1, p 27, yourself?
26. With respect to your discussion of the 1885 Tuwharetoa application for the Tauponuiatia block at pages 84 to 85, why do you make no reference to the fact that Te Heuheu Tukino made repeated protests against the Rohe Pōtae boundary from the time of its announcement in 1883 (see D Loveridge, "The Crown and the Opening of the King Country 1882-1885" Wai 898, #A41 pp. 89-90, and D Loveridge, "In Accordance with the Will of Parliament' The Crown, the Four Tribes and the Aotea Block, 1885-1899", Wai 898, #A68 pp. 63-64), and the fact that a significant portion of Tuwharetoa had not entered into the Rohe Pōtae coalition of tribes?
- 26.1 Do you not consider these matters to be relevant to the decision made by Tuwharetoa as a whole in 1885?
27. Your state at page 99 that:
- despite Government strategies and deceptions, Maniapoto unity held firm for four years until the first purchase of lands occurred in 1890.
- 27.1 Why have you not explained that one of the principal 'Government strategies' was to promise, in 1886 and 1887, that no land would be purchased by the Crown in the Rohe Pōtae "until the sub-divisions had been made" (see D Loveridge, "In Accordance with the Will of Parliament' The Crown, the Four Tribes and the Aotea Block, 1885-1899", Wai 898, #A68 pp 81-82)?

28. At page 104, footnote 135, when discussing later hearings where Waikato had more success in their raupatu arguments for the Kawhia area, you state:

The Court's change in attitude was undoubtedly a result of the political realisation that if territory were not awarded to Waikato, it would leave a large population of Maori landless and further aggrieved. This overrode any inclinations to continue the slights against Tāwhiao.

- 28.1 Please identify the specific evidence you rely on to conclude that the Court's judgment was based on these considerations.

29. At page 105, footnote 142, when discussing Hauāuru's response to the Native Minister's letter read aloud to the gathering at the Ōtorohanga Court, you state:

Hauauru speech was probably tinged with an irony not communicated to the Court by the translator.

- 29.1 Do you have any evidence to suggest Assessor Paratene Ngata or translator Henry Tacy Kemp were not capable of understanding and communicating the meaning of chiefly oratory?

- 29.2 Was there any reason for irony at this point?

30. At page 111 you state that:

Wilkinson's interpretations to Parliament of how Maniapoto were thinking and what their leadership requested from Government are contradictory. In the first section of his 1888 report, he clearly states that some Maniapoto leadership was 'strenuously' opposed to subdivision of the Maniapoto portion of Te Rohe Pōtae, yet gives details (several paragraphs later) of a meeting between Maniapoto leaders and the Native Minister (Ballance) purporting to show that Maniapoto rangatira are clearly in favour of subdivision and even individualisation of title (citing AJHR 1888 G-5).

- At page 3 of this report Wilkinson states that:

The Natives, who some months ago seemed averse to advancing any stage beyond getting an order for the whole of the land in favour of all the tribes who had proved their ownership to it, have now, thanks to the efforts of some of the more enterprising of them, realised the fact that such a large block as the Rohepotae is cannot remain in one block with about 4,500 owners, and that those owners are not any thing like the happy family as to the question of intertribal boundaries and after-policy as to what they shall do with their land that some of the leading chiefs hoped to see would be the case. So that, notwithstanding the advice and strenuous efforts of some of their leaders, the majority appear to have come to the conclusion that the sooner subdivision takes place the better for all parties; and, from, the

number of applications for subdivision sent in, there is work, I think, for the Court here for several months to come.

At page 4 of his report, Wilkinson describes the April 1888 meeting with Mitchelson (not Ballance) and Maniapoto leaders, and reports that the latter asked the Minister:

that the necessity of electing committees from amongst the owners of each block of land, and for that committee to decide what shall be done with the land, as required by "The Native Land Administration Act, 1886," be done away with, and that, instead of it, the individualisation of titles take place as soon as possible, so that each person can do what he likes with his own. It was also asked that "The Native Land Court Act, 1886," may be so altered that Natives may more easily bring their claims before the Court, and at less expense ; also, that no person be allowed to sell his interest either to a private purchaser or to Government.

30.1 Where is the contradiction in Wilkinson's statements?

31. At page 112, discussing the period from late 1888 to early 1891, you state:

During these years, a flood of memos, telegrams, and letters would pass between Wilkinson, Lewis, Mitchelson, Mair and the Survey department as they discussed and attempted strategies to undermine and destroy Maniapoto determination to control their own land and resources and preserve tribal economic independence.

31.1 Please identify the key correspondence you rely on to support this statement.

31.2 Specifically, please identify the content of Mair's correspondence that you say supports your contention.

32. At pages 113 to 114 you refer to a sketch plan provided by a draftsman of three blocks Puketarata, Ouruwhero and Maungarangi, and also the position of the Kakepuku, Tokanui and Takotokoraha blocks, which Wilkinson said were available for purchase at once should negotiations be successful. At page 124 you state:

Sometime in late 1889 or early 1890, the Government had '... elected to make the surveys for the Natives and pay for same.

32.1 Have you identified who the different groups of surveyors mentioned in Wilkinson's report quoted on page 113 were working for? What evidence do you rely on?

- 32.2 Have you identified who the draftsman you criticise was working for? What evidence do you rely on?
- 32.3 Are you aware that any surveyors conducting survey of Māori land had to have the permission of the Surveyor-General in writing to make the survey (s 80(b) of the Native Land Court Act 1886) and that the Surveyor-General or his delegate was required to approve any plan that was to be produced to the Court (ss 79 and 80(a) of the Native Land Court Act 1886)?
- 32.4 What information on the sketch of the several blocks could be construed to be confidential client information, particularly as the land was the subject of negotiations between Wilkinson and the owners?
33. At page 121, when discussing correspondence between Wilkinson and Lewis concerned the owners of the Ōtorohanga and Ōtorohanga A Blocks you state:

Wilkinson ... had examined the lists of owners and found that thirty-nine names had been included in error in the larger Ōtorohanga Block. Such was the complicity between the Government and judiciary that Sheridan telegraphed the Native Land Court Office in Auckland to have the matter corrected.

- 33.1 Is there a problem with asking the Court to correct an error on the record?
- 33.2 Is there anything to indicate that Wilkinson's identification of the information was incorrect?
34. At page 124, you state, in relation to the internal surveys of the Aotea block:

The undertaking by the Government to do the surveys had been done for the external boundary of Te Rohe Pōtae. However, the Government had completely disregarded Aukati iwi wishes and begun internal surveys of Maniapoto lands as well. As a result, when the Native Land Court began operating, Maniapoto had rejected further Government participation.

- 34.1 How do you reconcile that statement with the following extract from the report dated 19 May 1887 of Native Agent, George Wilkinson, where he refers to the meeting of Native Minister Ballance with Rohe Pōtae leaders in January 1887 and states:³

³ AJHR 1887 Sess II, G1, p 6.

In the course of his address he [ie, John Ormsby] assured the Native Minister that the Natives had fully made up their minds to make further use of the Native Land Court for the purpose of subdividing the large Rohe-country) Block, so that portions of it can be thrown open for settlement.