

DUPLICATE

R2 -- Wai 45

A1 Wai 544

A1 Wai 548

TAKAHUE

Investigation and Alienation

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Waitangi Tribunal

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LIST OF ABBREVIATIONS:

AJHR	Appendices to the Journal of the House of Representatives
ANA	Auckland National Archives
DNZB	Dictionary of New Zealand Biography
MLC	Maori Land Court
NMB	Northern Minute Book
NZG	New Zealand Gazette

INTRODUCTION

My name is Clementine Fraser and I am a Research Officer at the Waitangi Tribunal. I graduated from the University of Auckland in September 1998 with a first class honours MA degree in History. I have been employed at the Tribunal since July 1998. During that time I have worked as a research assistant to Professor Alan Ward on a report for the Wellington Tenth's Inquiry, and on this report for the Muriwhenua Inquiry.

This report focuses on the 1875 alienation of Takahue in Muriwhenua. In particular my commission requires me to examine the adequacy of the Native Land Court investigation into the ownership of the Takahue blocks, the propriety of the Crown Land Purchase Agent's negotiations and prepayments, and the Crown's purpose in establishing the Takahue School in 1888.

In 1995 the Tribunal registered two claims concerning Takahue, both referring to the Takahue School site. Wai 548 was lodged by Syd Murray on behalf of the Takahue Community Marae Trust. The Trust claims to represent the hapu of Tahawai, Te Rarawa, Te Paatu and Ngati Kahu. The claim, called the Takahue Block 1 Claim, also refers to the Takahue Domain and Cemetery and concerns a failure by the Crown to fulfil its Treaty responsibility of protection in the 1875 transaction.¹ Wai 544, lodged on behalf of Te Paatu Marae Trustees, is called the Takahue School Claim, and states that the land was 'misappropriated' by the Crown and the real owners ignored and deprived of their ancestral rights.² Te Paatu protesters occupied the school for several months in 1995, an occupation that ended in enforced eviction and the destruction by fires of the former school building and community hall.³ Although the Takahue School was the focus of both the occupation and the claims, it is the validity of the sale of the Takahue block on which the School is situated that is under debate.

In 1873 Thomas McDonnell, Land Purchase Agent for the Crown, visited Maori at Ahipara in regard to the potential sale of land in the Takahue area. Within two months of his visit Te Rarawa had agreed to sell Takahue to the Government. The land did not pass through the Native Land Court for another year, and when it did it was sold a week later. This 28,527-acre area, later divided into two blocks, was not sold casually by its Maori owners nor did they see the monetary compensation as constituting the total payment.

¹ Statement of Claim, Wai 548 1.1.

² Statement of Claim, Wai 544 1.1

³ See A. Gifford, 'Takahue: No Compromise', in the *Listener*, October 14 1995.

McDonnell (on behalf of the Crown) promised Maori collateral advantages if they sold to the Government. No such advantages eventuated however, and Takahue remained unsettled, undeveloped, and economically isolated for another fifteen years.

Claudia Geiringer's 1992 report and Stephen Robertson and Vincent O'Malley's 1997 report covered some aspects of the socio-economic history and the alienation of the Takahue area.⁴ In this report I provide a more specific investigation of the history and alienation of Takahue.

The first part of my report examines the rights of the various hapu to land in the Takahue area prior to McDonnell's visit and negotiations of 1873. The Takahue valley was the site of interwoven rights and ancestral claims. This section seeks to outline some of those claims. The second section examines the Crown investigation, negotiation and purchase of Takahue. My commission specifies that I should examine the adequacy of the Native Land Court investigation into the title of Takahue. Before doing so it is necessary to look at the activities of the Land Purchase Agents, as to a large extent the Native Land Court followed the decisions of the Land Purchase Agents regarding Maori ownership of land. This section outlines the process of the Land Purchase Agents' negotiations with Maori over Takahue, the progress of Takahue 1 and 2 through the Native Land Court, the Land Court title determination, and finally the sale of Takahue in two separate transactions on 4 May 1875. The final section is an outline of what happened to Takahue following the sale: whether the Crown fulfilled its promises of settlement and economic development, and its purpose in establishing the Takahue School.

This study is of necessity derived from documentary sources. These are limited in scope and skewed in their perspective (being written largely from a Crown and Pakeha viewpoint). It is virtually impossible to definitively establish from these documentary sources who was really living where, when, and what rights they possessed.⁵

The scanty nature of some of this documentary evidence added further obstacles. For instance, several official files containing letters that would have been valuable no longer exist, the only references to them being those in the Maori Affairs Register Books at National

⁴ C. Geiringer, 'Historical Background to the Muriwhenua Land Claim, 1865-1950', April 1992, (Wai-45 F10), and S. Robertson and V. O'Malley, 'Muriwhenua Land and Politics, 1862-1909', September 1997, (Wai-45 P8).

⁵ The claimants for Wai 544 have informed me that they have important traditional evidence regarding this area. It is possible that this evidence may add to or even contradict my findings. As they were reluctant to let me have this information until the political ramifications of the 1995 occupation have been dealt with, I have been unable in this report to address the issues which may rise from their information. I explained this to them and they expressed their understanding of the situation.

Archives. The nature of the Minute Book evidence from the Native Land Court hearings is often sparse as well, particularly in relation to the two Takahue hearings. For the hearing of Takahue 1 there are two pages of minutes and only one page was recorded for Takahue 2.

When detail is provided, it is important to regard it with some circumspection. The testimonies of Maori in the Native Land Court minute books are translated and summarised accounts and as such are influenced by the preconceptions of the interpreter and minute taker. Also, the translated summaries of original Maori testimony may not always reflect the same concepts or links intended by the witness. The reliability of Native Land Court evidence has been dealt with elsewhere. Suffice it to say that evidence was frequently tailored to prove that the person giving testimony possessed rights to the area in question. When using material from the Maori Land Court minute books it is necessary to keep these caveats in mind.⁶

The main source of my information has been the correspondence files of the Native Land Purchase department, in particular the correspondence of the land purchase agents, McDonnell, Brissenden, and later Preece. These provide the Government perspective on negotiations for Takahue, and McDonnell's recording of Maori reactions to his arguments (for instance) is precisely that – his record. But although it is difficult to ascertain with any great deal of accuracy Maori intentions as to the Takahue deal, McDonnell's correspondence does reveal his own intentions and those of the Government. The intentions and subsequent actions of the Government are vital to any discussion of the propriety and validity of the 1875 alienation of Takahue.

The records for the Takahue School posed the largest problem. National Archives holds very little material relating to the school, especially that relating to its everyday operation. I have been unable to track down the minute books of the Takahue School Committee and have relied on scattered pieces of information, the minute books of the Auckland Education Board, and two commemorative jubilee pamphlets relating to Takahue school. This has not been overly detrimental to the report, as the commission required me to discover the Crown's purpose in establishing the school and not to provide a detailed history of its progress.

⁶ See H.A. Ballara, 'The Origins of Ngati Kahungunu', PhD thesis, Victoria University of Wellington, 1991, Appendix I, 'The use of Native Land Court records as historical evidence', pp. 504-57.

CHAPTER ONE: MAORI CUSTOMARY INTERESTS IN THE TAKAHUE AREA

My commission requires me to address whether the Native Land Court recognised all groups with interests in Takahue, and whether the people awarded ownership of the two Takahue blocks were representatives of these groups. In order to ascertain whether all hapu with interests were recognised by the Native Land Court, it is necessary to first determine what hapu or iwi were living in or using the Takahue area and its surrounds. The relationship between the iwi is also important in determining whether the ‘owners’ of Takahue were indeed representative of the interested iwi.

Takahue is a large area southeast of Kaitaia. The two Takahue Crown purchases comprised 28257 acres and were part of an area used for cultivating and hunting by the local iwi, including Te Rarawa, Ngati Kahu, Te Paatu, and Te Tahawai.⁷ In this large area tribal rights intersected and overlapped. Maori from as far away as Whangape were consulted in the sale and may have been using the land for purposes of hunting, or their right to the land may have been solely through ancestry and mana and they may not have used it at all.

The owners for the Takahue blocks (as determined by the Native Land Court) were Timoti Puhipi, Wi Tana Papahia, and Hone Harimana (John Hardiman) for Takahue 1; and Himiona Te Waruora, Hori Karaka Tawhiti, and Te Tiahuia for Takahue 2. Puhipi and Papahia were identified in the ownership lists in the Northern Minute Book 1 as being from Te Uri-o-hina hapu of Te Rarawa and Hone Harimana was of Te Tahawai, also described as a hapu of Te Rarawa. Hori Karaka Tawhiti and Te Tiahuia were said to be of Ihutai, which is today affiliated to Te Rarawa but was described by the 1875 Land Court as a Nga Puhī hapu. Himiona Te Waruora was identified as Te Paatu – which the Native Land Court described as a hapu of Te Rarawa.

Te Rarawa:

In the 1875 Native Land Court hearing for Takahue 1, Timoti Puhipi stated that his people ‘have occupied this land from the time of Taranga [Te Ranga] until now. We are on it now. We had a permanent settlement there’.⁸ Patoropa Kukupa, in claiming for the Patiki⁹

⁷ According to Claudia Geiringer, the Takahue Valley was ‘an important birding and berry gathering area for the Ahipara people’. Geiringer, p. 43. And the Te Paatu claimants for Wai 544 claim that their tupuna used the area as a hunting and fishing resource since the time of Ngati Awa (see statement of claim Wai 544).

⁸ MLC Northern Minute Book 1, p. 59.

⁹ There were in fact two blocks called Patiki in the area surrounding Takahue, with a strong Te Paatu presence in both (see map p. 6). The one Kukupa claimed for in 1875 adjoined the north-eastern boundary of Okakewai, and the other block (which passed through the Land Court in 1870) adjoined the north-eastern boundary of Te

block, stated that he was of Te Rarawa and resided at Takahue [although this could have been anywhere in the wider Takahue area].¹⁰ The Te Rarawa right to Takahue does not appear to have been contested at any point during either the Crown purchase negotiations or the Native Land Court hearings. This may have been due in part to greater official recognition of Te Rarawa's mana in this area as opposed to that of other groups such as Te Paatu. According to official records, Te Rarawa appear to have been the dominant iwi in this area of Muriwhenua from the late 1860s. In 1861 Resident Magistrate White stated that Ahipara (the district from Pukepoto to Herekino) was the 'most populous district of the Rarawa tribe', and the home of Puhipi and Waka Rangaunu – the principal chiefs of the Rarawa. The remaining hapu of Te Rarawa, Te Ma Ngatitoki and Te Korohuri lived at Ororua and Parakaraka. Ngati Kuri were 'distributed amongst the tribes from the Bay of Islands and Hokianga to North Cape'.¹¹

In 1867 Te Rarawa and Te Paatu entered into a dispute over the ownership of the Kaitaia block. This is significant for this report as it demonstrates the increasing official recognition of Te Rarawa authority (including Te Rarawa from further south in Whangape) in the Victoria Valley area. In 1867 Te Rarawa from Whangape, under Tamaho Te Huhu, travelled to Kaitaia to assert their right to the land. Tamaho met with Te Paatu living at Kaitaia to discuss those rights, and it was agreed (but not by all) that he did possess a valid claim to the land. But when Tamaho attempted to have the land surveyed, members of Te Paatu disrupted the process. Insults were exchanged and threats were made. Tamaho returned to Whangape but later arrived at Pukepoto with around 250 Te Rarawa from Hokianga/Whangape and a further 100 Te Rarawa from Ahipara. Resident Magistrate White reported that Te Rarawa had a 'very general desire to humble [Te Paatu], and redress old grievances'.¹² Many Te Paatu felt that Tamaho's right was not as strong as theirs as 'they had been continually resident on the land, while Tamaho had been residing at Whangape for many years'.¹³ White and Timoti Puhipi acted as mediators between Te Paatu and Tamaho Te Huhu and established a boundary line to define the interests of each claimant group. The agreement was short-lived, and White had to return to re-establish the boundary. At this point Tamaho addressed Te Paatu and said that 'he cared less about the land, than the insult, that he gave up the land, but that if he heard that the Patu were boastful after he left, he should

Konoti. Unless specified otherwise, references to Patiki in this report refer to the 1875 Patiki block near Okakewai.

¹⁰ MLC Northern Minute Book 1, p. 62.

¹¹ Reports on the State of the Natives, AJHR 1862 E-7 p. 22.

¹² White to the Under-Secretary, Native Department, 12th January 1867, No. 63 in 'Mangonui Resident Magistrates Letter Book: 1860-1868', BAFO A760/11, ANA, p. 532. Cited in Robertson and O'Malley p. 190.

certainly punish them',¹⁴ indicating that Tamaho felt that his mana had been maligned and that Te Paatu had stepped out of line.

In a way the Native Land Court affirmed the apparent dominance of Te Rarawa when Judge Frederick Maning awarded title to 10,000 acres south of Kaitaia to members of Te Rarawa – Tamaho Te Huhu, Wiremu Tana Papahia, Herewini Te Toko, Te Waaka Rangaunu, Puhipi, Timoti Puhipi, Paraone Te Huhu, Taka Te Ngawe, Rikihana Toheroa, and Hekiera Tamaho. Several of these individuals were from the Hokianga/Whangape district, namely Te Toko, Papahia, and Tamaho Te Huhu. Rangaunu and Puhipi were closer in residence living at Ahipara and Pukepoto respectively. None of these people or their iwi were living near Kaitaia, while Te Paatu had been in residence there for many years. Te Rarawa in the Hokianga/Whangape area were recognised by the Native Land Court as possessing dominant interests in the Kaitaia area. It is not surprising then that the Native Land Court and other Crown officials had no difficulty seeing Te Rarawa as possessing dominant interests in Takahue, which was far closer to them than Kaitaia was.

Awarding the title for Kaitaia to people of Te Rarawa may have been a move of expediency by the Crown Agents advocating it before the Native Land Court. Te Rarawa not living on the block would be more amenable to selling than the Te Paatu people using it would be. This was one of the dangers of the investigation into ownership of land being undertaken by those who wished to purchase it. Land Purchase Agents were more inclined to deal with those people who wished to sell them land, and they could be 'tempted to ignore the claims of non-selling hapus [sic] or tribes to land offered for sale'.¹⁵

The Kaitaia determination also served to emphasise and acknowledge the mana and leadership of Te Rarawa in this area over that of Te Paatu, and may have identified for the Crown that Te Rarawa were the people to deal with when negotiating the subsequent Takahue purchase. Te Rarawa were certainly present in many areas surrounding Takahue. Patiki, Okakewai, Orowhana, Pukepoto, Ruaroa, Te Kauri, Awaroa, Mangonuiowae, and further out towards the West Coast to Epakauri, Tauroa, and Te Rawhitiroa: all were populated by Te Rarawa.¹⁶

¹³ White to the Under-Secretary, Native Department, 12th January 1867, No. 63 in 'Mangonui Resident Magistrates Letter Book: 1860-1868', BAFO A760/11, ANA, p. 531. Cited in Robertson and O'Malley p. 189.

¹⁴ White to the Under-Secretary, Native Department, 12th January 1867, No. 63 in 'Mangonui Resident Magistrates Letter Book: 1860-1868', BAFO A760/11, ANA, p. 535. Cited in Robertson and O'Malley p. 191

¹⁵ M.P.K. Sorrenson, 'The Purchase of Maori Lands, 1865-1892', MA Thesis, Auckland University, 1955, p. 89.

¹⁶ See 'Return Giving the Names, Etc., of the Tribes of the North Island', AJHR, 1870, A-11, pp. 3-4, and MLC Northern Minute Books 1, 2, and 3.

Te Paatu:

It is highly possible that Te Paatu from areas surrounding Takahue possessed use rights or interests in the Takahue area. In 1861 Resident Magistrate White described the rohe of Te Paatu as follows:

Kaitaia is occupied by Te Patu, a hapu of the Rarawa: Hohepa, Poutama and Rawini Tiro, are the Chiefs.

Mangatete by Te Patu: Chief, Karaka Te Kawau.

Parapara by Te Patu: Chiefs, Reihana Kiriwi Morenui and Wiremu Pikahu.

Kariponia by Kaiteti: Chiefs, Honi Te Taohu and Nopera.

Awanui and Hohora (Mount Camel) by Ngaitakoto: Chiefs, Haunui, Ngakuka and Hetaraka.

Oruru by Ngatiteao: Chief, Tipene Te Taha.

Pakongo by Ngatitarahape Chiefs, Matiu Tauhara and Pene te Pai.

The above all call themselves Te Paatu.¹⁷

According to the application files and minute books of the Northern Maori Land Court, there was a strong Te Paatu presence in several of the blocks surrounding Takahue. Although the Memorial of Ownership for Patiki contained only two people identifying as Te Paatu, the original application contained five Te Rarawa, five Te Paatu, and one person from Te Tahawai.¹⁸ In the hearing at the Land Court on 30 April 1875, Patoropa Kukupa of Te Rarawa stated that he had sent in the application and had the land surveyed. He said that the 'others' claimed with him and that they claimed from their ancestors Marei and Taranga. He then stated that the owners of the land were Wiremu Patene, Wiremu Hakitera, Karipa Hahakai (all Te Rarawa) and Reihana Matiu (Te Paatu). These were only some of the people originally included in the application.¹⁹ At this point Meri Ngawi and Aperehama Tarawanui of Te Rarawa, and Timoti Popata and Te Rata Paengarehu of Te Paatu withdrew their claims to Patiki. Matiu Te Riwi and Hori Kati, both of Te Paatu, asserted their claims and were both admitted.²⁰ All those mentioned had originally been included in the application.²¹ Following a meeting amongst the different claimants to settle who the owners were, another Te Paatu member, Marara Waka, was added to the list, and Reihana Matiu was removed.²² This seems to indicate that rights between coexisting iwi and hapu in the Takahue valley area were negotiated and subject to change, even once they reached the stage of hearing in the Land Court.

¹⁷ Reports on the State of the Natives, AJHR 1862 E-7 p. 23.

¹⁸ BAAI A131 149m Patiki Application File.

¹⁹ MLC, NMB 1, p. 62.

²⁰ MLC, NMB 1, p. 63.

²¹ BAAI A131 149m APPLN, Application for Native Land Court hearing for the Patiki block.

²² MLC, NMB 1, p. 67.

Te Konoti, situated between the Takahue 1 block and the other Patiki block, was a Te Paatu area and is where the present day Te Paatu Marae at Pamapurua is located. Most of the Te Paatu applicants for Patiki in 1875 gave Konoti as their residence and the title for Konoti was awarded to Te Paatu people, two of whom were on the 1875 Memorial of Ownership for Patiki. Himiona Te Waruora of the Takahue 2 block, identified as Te Paatu, was named as the guardian of the children of a Te Konoti owner in 1877.²³ Te Paatu in residence at Kareponia, near Rangaunu Harbour, also possessed recognised rights in Patiki and Pukekahikatoa. Today this group is known as Patukoraha.²⁴

The Patiki block adjoining Konoti passed through the Native Land Court in June 1870 under Judge Maning. He awarded title to members of Te Paatu, including Hori Kati, Reihana Matiu, Te Paki Karaka, and Himiona Uwauwa [Waruora?].²⁵ These men were acknowledged in Konoti and other surrounding areas – including the 1875 Patiki block. Another man awarded title for these blocks was Hare Reweti, originally from Te Rarawa but married to Emeri Ikaroa of Te Paatu.²⁶ Reweti was identified in the Northern Minute Book entries and Native Land Court applications as being from Te Paatu.

Angela Ballara states that ‘Te Patu, originally from Hokianga, had claims to territory at Kaitaia, Rangaunu, Takahue and Oruru, which they had gained in the time of Te Kaka from Te Aupouri and Ngati Kuri’. In 1832 Nopera Panakareao was resident at Rangaunu and his father, Te Kaka, was resident in Kaitaia.²⁷ Ballara calls Panakareao ‘an influential leader of Te Patu hapu of Te Rarawa’, but he signed the Treaty of Waitangi as Te Paatu, not Te Rarawa.

Panakareao was an important chief for both Te Rarawa and Te Paatu and both groups believed that his mana covered them. Panakareao and his wife, Ereanora, were buried in the Victoria Valley, and were exhumed in 1865 in order to remove the tapu on the Victoria Valley and free it up for sale. Panakareao was re-interred in Kaitaia and Ereanora was re-interred in Hokianga.²⁸ The Hokianga Maori, led by Papahia (Wi Tana’s father), had been asserting claims to land in the Victoria Valley and by moving Ereanora’s remains to

²³ MLC, NMB 1, p. 125.

²⁴ See Waitangi Tribunal, *Report of the Waitangi Tribunal on the Muriwhenua Fishing Claim*, 1988, Appendix 2, A2.5.

²⁵ MLC, M279 Sold File for Patiki.

²⁶ R. Glen (ed.), *Mission and Moko: Aspects of the work of the Church Missionary Society in New Zealand, 1814-1882*, Latimer Fellowship (NZ), 1992, p. 213. Reweti’s daughter, Marara, was the great grandmother of Sir Graham Latimer (personal communication, Sir Graham Latimer, 21 June 1999).**

²⁷ A. Ballara, ‘Nopera Panakareao’, in *Dictionary of New Zealand Biography*, Volume I, 1991, p327.

²⁸ E. Stokes, *A Review of the Evidence in the Muriwhenua Lands Claims*, Waitangi Tribunal Review Series 1997 No. 1, p. 583.

Hokianga, Resident Magistrate White and others involved in the removal (including Maori) acknowledged the interests of the Hokianga Maori in land further north.

Te Tahawai:

Te Tahawai (Hone Harimana or John Hardiman's hapu) also appear to have lived and worked on Takahue at some stage (at least in the wider area called Takahue). In the June 1875 Native Land Court hearing for Manganuiowae, John Hardiman stated that 'Te Tahawai lived some at Takahue some at Hokianga'. In cross examination of both Hardiman and Herewini Te Toko, Re Te Tai of Te Rarawa asked 'where were the Tahawai when my grandmother Rua worked on Manganuiowae?' Hardiman replied 'I don't know – I believe at Takahue' and Te Toko said 'at Takahue'. Te Tai asked Te Toko where Tahawai were when his father was cultivating on Manganuiowae and he again replied 'at Takahue'. In answer to a question, Pata of Tahawai replied 'I don't know that Re Te Tai and his people ever cultivated on this land [Manganuiowae]. They may have, I was living at Takahue'.

It appears from this that previously Te Rarawa had been resident in Manganuiowae while Tahawai were at Takahue. This seems to have changed or reversed so that in 1873 Te Rarawa were resident in Takahue and Tahawai in Manganuiowae. Both groups maintained their claims to the lands they had previously occupied with Re Te Tai and Te Rarawa being recognised in Manganuiowae and Tahawai through Harimana being recognised in Takahue. A possible reason for the inclusion of Tahawai in the ownership of Takahue (and Te Rarawa's accepted involvement in Manganuiowae) was the close relationship between the two groups. They were and are very closely related, which may have given strength to the claims of Tahawai to Takahue.

Negotiated Division of Land Rights?:

It is possible that ownership rights to the blocks in this area were negotiated between or discussed amongst the different iwi at hui and even at Native Land Court hearings. There are several instances documented where hui were held to discuss land, who should have it and whether it should be sold. For example, in discussing the negotiations for the Pakiri block on the East Coast of Northland, Brissenden referred to the 'usual "runangas"' being held where 'all parties' agreed to the division of the land.²⁹ Often meetings were held to come to an

²⁹ AJHR 1875 G-7 Brissenden to Under Secretary Native Office, 30 May 1874, No. 38, p. 11.

agreement over a disputed block. These meetings did not always result in unanimous or lasting agreements. The Pakiri transactions for example were all disputed up to the 1880s.

McDonnell stated that Takahue, Te Uhiroa, and Te Puhata 'were originally to have been surveyed as one block, but owing to disputes between the Herekino Natives and those at Ahipara it was divided into three',³⁰ and later four.³¹ I have been unable to find an application for Takahue 2, and the Minute Book records that Takahue 2 was 'a part of Takahue No. 1. Included in same application'.³² The Takahue application does not indicate this. The only reference to any other people than those specifically named on the application are the words 'me etahi atu' [and others]. A month before the Native Land Court hearing for Takahue McDonnell referred to only one Takahue block.³³ Takahue may have been divided just before the hearing, but unfortunately there are no records as to the reasons for this division, and no references in McDonnell's correspondence concerning those to whom the title for Takahue 2 was subsequently awarded.

Other blocks such as Patiki and Okakewai were also said to be part of Takahue but were separated for various reasons. According to Te Waka Rangaunu, the Takahue area was 'divided amongst the different owners'.³⁴ Wi Tana Papahia, giving evidence for the hearing of Manganuiowae, stated that he had 'no claim on the land. The portion which belonged to my ancestors as [sic] been included in Takahue and Otangaroa'.³⁵ Also mentioned in that hearing was a meeting called by Timoti Puhipi at Manganuiowae 'for the purpose of having all the Rarawa land surveyed. The whole of us attended it [Rarawa? Later under cross examination by Hardiman, Re Te Tai agreed that Tahawai had also attended the meeting]...after we had been there an hour Timoti Puhipi got up and proposed the Te Rarawa should survey all their land. Herewini came and asked me what I [Re Te Tai] thought and proposed that I should assent to what Puhipi suggested. Te Tai [witness's father] said he would not consent. The northern Rarawa land was separated from the others.'³⁶

The representative nature of the ownership of the three individuals on the Memorial for Takahue 1 appears more plausible in the light of such negotiated division of the land. If the land was divided up in this manner as a result of several hui then it is possible that rights to or over Takahue 1 were negotiated between Te Rarawa and Te Paatu people. It may have been

³⁰ McDonnell to J. W. Preece, 9 April 1875. AJHR 1875 G-7, no. 84, p. 31.

³¹ Brissenden to D. McLean, 24 June 1875. AJHR 1875 G-7, no. 87, p. 31.

³² MLC, NMB 1, p. 61.

³³ McDonnell to J. W. Preece, 9 April 1875. AJHR 1875 G-7, no. 84, p. 31.

³⁴ MLC, NMB 1 p. 69.

³⁵ MLC, NMB 1 p. 226.

³⁶ MLC, NMB 1 p. 235.

agreed upon that the interests of Te Paatu in that area would be maintained in Patiki and Konoti, and Te Rarawa would maintain a hold on Takahue. This, of course, is speculation as there are no extant records relating to these meetings.

Takahue was intended for sale and whoever owned it would benefit from that sale, as would the larger Maori community if the Government placed settlers on it.³⁷ Te Paatu had acknowledged interests in Patiki, Te Konoti, and Pukekahikatoa. All of these blocks remained as Maori land until the late 1880s and 1890s, and so the capital from these lands also remained in Maori hands. People living on Konoti would be less inclined to sell their land than people living in Pukepoto and Hokianga would be to sell Takahue, on which they had no major settlements.

Given the history of the Kaitaia dispute, if people had been living on Takahue and not involved with the negotiations through Timoti Puhipi, they may well have protested by disrupting the survey or the hearings. Nothing like that was reported, although in several of the hearings for blocks in this area, meetings amongst the claimants were mentioned as having been held to sort out disputes. In the case of Takahue, neither the dispute nor the resolution were made clear. The minutes simply recorded that the hearing was adjourned 'as they ['the natives'] wished to try and arrange certain disputes amongst themselves'.³⁸ No further mention was made of the 'certain disputes' or as to what arrangements had been reached. Any major issues had most likely already been discussed, but not necessarily resolved. It is possible that it was at this meeting that Takahue was divided into two blocks and Te Paatu received a cut through Te Waruora. It can only be speculated upon as no records were left as to what occurred at this meeting.

The minutes for other claims before the land court are more forthcoming as to the reasons and results of meetings between claimants. In the Native Land Court hearing for Patiki, the claimants told Judge Monro that they had 'held a meeting amongst themselves and had settled as to who the owners of Patiki were'.³⁹ Rewiri Manawa (of Tahawai) wished to be admitted into the ownership of Te Kauri (largely a Te Rarawa claim) and Te Waka Rangaunu would not allow it. The court was adjourned for several hours and at its resumption Te Waka 'acknowledged the claim of Rewiri Manawa'.⁴⁰ At the end of the Manganuiowae hearing, John Hardiman stated 'we have arranged the difficulty about the division of Puhirere's land – and we have arranged amongst ourselves who should be considered the

³⁷ See Chapter Two.

³⁸ MLC, NMB 1 p. 57.

³⁹ MLC, NMB 1 p. 67.

owners of this land'.⁴¹ Again for the Epakauri, Tauroa, and Orowhana blocks, over which a 'land dispute' occurred between Te Rarawa and Ngati Kuri, it was stated that 'the disputants had come to an arrangement amongst themselves as to the names that were to be in the Memorials of Ownership'.⁴²

Meetings were clearly held in which the division of rights over land in the area surrounding Takahue was discussed. Although it is not made explicit that the Takahue blocks were involved in these I think it is highly likely that they were. The men who were most involved in the meetings regarding ownership of land appear both in the Takahue negotiations and on the title. It seems likely that rights over Takahue were discussed in the same way as were rights over neighbouring blocks.

The designated owners of Takahue 1 were of high status; Wi Tana Papahia and Timoti Puhipi were principal chiefs of Te Rarawa and Harimana appears to have had mana in the Hokianga area. The three men came from different areas and, in the case of Harimana, different hapu. This appears to demonstrate that they fulfilled a representative function. Such representation is concordant with a negotiated division of land. Once it had been agreed upon who held the rights to what land it is highly possible that representative leading men were chosen to be placed on the title.

Puhipi's mana extended over Pukepoto and the Ahipara area, while Papahia was a Whangape/Hokianga Te Rarawa. Timoti Puhipi appears in many different hearings of the northern Maori Land Court in the 1860s and 1870s, frequently appearing only to affirm other people as the owners of particular blocks of land. For example, in the Okakewai hearing it was Puhipi who presented the list of those to be named in the Memorial of Ownership, even though he himself was not included in that list. More interesting, in Manganuiowae it was decided that the successful counter-claimants named in the Memorial were to pay £50 of their share of the payment to Timoti Puhipi – despite the fact that he had not appeared as a claimant or as a witness.⁴³ Timoti Puhipi was the son of Puhipi Te Ripi, a Treaty signatory, who had been described by Resident Magistrate White as 'head chief of district' and ranked as the third most influential chief during the life of Panakareao. Te Ripi was keen to work with the Pakeha and Timoti Puhipi was also keen on working with the Government and was eager to get the Government to send settlers.⁴⁴

⁴⁰ MLC, NMB 1 pp. 69-70.

⁴¹ MLC, NMB 2, p. 245.

⁴² MLC, NMB 1 p. 142.

⁴³ MLC NMB 2, p. 246.

⁴⁴ See chapters Two and Three.

Timoti Puhipi appears to have taken the lead in organising the division, negotiation and sale of the land. From a reading of McDonnell's correspondence, Puhipi seems to be the one most highly involved with McDonnell and the negotiations. According to McDonnell, Puhipi went to Auckland in May 1874. When there he received £100 on account of the Takahue block 'but on his return he paid the Herekino Natives out of this sum £45, keeping £55 for the Takahue',⁴⁵ demonstrating an association between the Te Rarawa in these different geographical locations.

John Hardiman/Hone Harimana was of Tahawai and was resident in Hokianga. His father was George Hardiman who, with his brother Robert, ran a Hokianga pub. His mother, Moeroa, was of Te Rarawa and was born at Pukepoto.⁴⁶ Harimana appears to have been a person of some importance in the Hokianga area and within the Tahawai hapu. He placed a counter claim to Takahue 1 in the Native Land Court, and although Herewini Te Toko (also a Hokianga Tahawai) was on the original application, he withdrew in favour of Harimana to 'avoid dispute'. Harimana and Te Toko were related,⁴⁷ and both appeared to give evidence for Manganuiowae and conduct that case. As Te Toko withdrew his claim to Takahue in support of Harimana's claim to ownership of Takahue, it may be that Harimana held more authority than did Te Toko. It is also possible that Harimana's Te Rarawa ancestry strengthened his claim to Takahue. As Puhipi did with Okakewai and other blocks in hearing, Hardiman presented the list of names of those to be put on the Memorial of Ownership for Manganuiowae, again indicating that he was a man of standing within Tahawai as that task is one that necessitates a degree of authority.

Wi Tana Papahia was also from Hokianga. In the ownership list for Takahue in the Northern Minute Book 1, Papahia was identified as being of Te Uri-o-hina hapu of Te Rarawa. He was also affiliated to Ngati Kuri and Ngati Kahu. In 1876 Hokianga Resident Magistrate Von Sturmer referred to Papahia as 'the principal chief of the Rarawa'. Papahia had been a Native Assessor and 'from his high rank was of great assistance to [Von Sturmer] in carrying out the law in this district'. He was also highly respected by the Pakeha in the Hokianga area.⁴⁸ In an 1871 'Return Giving the Names of the Tribes of the North Island', Wi Tana Papahia was described as a leading chief of Tahukai hapu of Te Rarawa in Kaitaia, and also of Te Horohuwhare hapu of Te Rarawa in Matamata and Hokianga.⁴⁹ This indicates that

⁴⁵ McDonnell to J. W. Preece, 9 April 1875. AJHR 1875 G-7, no. 84, p. 31.

⁴⁶ MLC, NMB 1 p. 238.

⁴⁷ See MLC NMB 3, Hearing for Epakauri 3 November 1876, p. 198.

⁴⁸ AJHR 1876 G-1, No. 23, p. 19.

⁴⁹ AJHR 1870 A-11, p. 3.

Papahia's mana as a chief of Te Rarawa spread over a vast area. There are indications that his authority may have stretched as far as Omahuta, near Mangamuka. Although the Court hearing on 3 June 1875 determined that Papahia was not an owner of Omahuta, he had been paid part of the deposit money, and the successful claimants 'shared the balance of the purchase money with him or rather gave him a portion of it'. Preece also commented that he had heard that 'the land would never have been allowed to have been surveyed if [Papahia] had not got the deposit which he did'.⁵⁰

Wi Tana Papahia had kinship links with several non-Te Rarawa hapu. A whakapapa in the Northern Minute Book 3 links Te Toko with Papahia,⁵¹ and Resident Magistrate Von Sturmer of Hokianga, in commenting upon Wi Tana Papahia's death, said 'His [Papahia's] mantle has, I am glad to say, descended upon his cousin Herewini Te Toko'.⁵² In the case for Manganuiowae (June 1875) Wi Tana Papahia, although not claiming for himself, introduced the case, declaring that the land belonged to Tahawai and Te Whanaupapa, and that Herewini Te Toko and Hardiman would be the spokesmen for the case.⁵³ Later in the case Hone Ware claimed that Herewini Te Toko and Hardiman 'are "Tuakana" to me so is Wi Tana Papahia. We are all descended from Te Ranga'.⁵⁴ Re Te Tai also asserted that he, Papahia and Te Toko were all from the same ancestor.⁵⁵ It is interesting to note however, that it was also asserted several times (and denied several times) that Papahia (Wi Tana's father) and Te Huhu sent Te Toko (Herewini's father) off land at Manganuiowae,⁵⁶ especially as Te Huhu also appears to have been related to Papahia and Te Toko.⁵⁷

Wi Tana Papahia was also related through ancestry to Tipene Te Taha of Ngati Kahu (who also identified as Te Paatu). In the hearing for Katri Putete, Wi Tana Papahia said that 'the "mana" of that land [Mangamuka] was given to the "matuas" of my "tuahine" Miriama Otene, mother of Hori Karaka Tawhiti'.⁵⁸ Tawhiti was from Ngati Ihutai and one of the three named owners of Takahue 2.

The inter-relation of most of the iwi and hapu in this area was a primary element in the occupation and division of the land. Most of the witnesses in the Native Land Court hearings for the blocks surrounding Takahue stressed that they were all related and that the tribes used

⁵⁰ MA MLP 1/4 75/278, Land Purchase report, Re signatures, 3 July 1875

⁵¹ MLC, NMB 3 p. 198.

⁵² AJHR 1876 G-1, No. 23, p. 19.

⁵³ MLC, NMB 2 p. 226.

⁵⁴ MLC, NMB 2 p. 232-233.

⁵⁵ MLC, NMB 2 p. 236.

⁵⁶ For instance MLC, NMB 2 pp. 236, 237, and 238.

⁵⁷ MLC NMB 3, p. 198.

⁵⁸ MLC, NMB 1, p. 78.

to be one. This was a thesis expressed largely by members of Te Rarawa or those hapu closely affiliated with them. As a large group Te Rarawa naturally had more tribal links and therefore more interests in a wider area of land. In comparison Te Paatu, as a hapu, had less tribal links to proclaim and therefore fewer broad interests in large areas of land.

Rewi Te Tai claimed that 'Wi Tana, Herewini and I are all from the same ancestor...there was no division formerly between Ngaitupato and Rarawa'.⁵⁹ John Hardiman denied that Te Rarawa invited Tahawai to work on Manganuiowae. He stated that it was the other way around, that 'those who cultivated there did so because they were related to us, it was not that they had any claim to the land'.⁶⁰ He later agreed that Te Rarawa used to cultivate on Manganuiowae and said that they 'had no disputes about ownership formerly'.⁶¹ Te Tahawai allowed Te Rarawa to cultivate on the land purely because of the relationship between them.⁶² Pata of Te Tahawai stated that just before the 1843 fight at Oruru, Papahia, Te Toko, and Te Tai proposed to cultivate the Manganuiowae. They did so and Tahawai provided them with seeds. Pata asserted that 'They had no dispute, they were all related'.⁶³

In the hearing for Epakauri, Hapakuku Ruia (of Ngati Kuri) explained that

'The Ngati Kuri and Te Rarawa are from the same source, the separation took place at Hokianga long ago – our ancestors went to Whangape-Herekino and on North...The Rarawa and Ngati Kuri after leaving Hokianga settled at Whangape – and after a time the tribes broke up again'.⁶⁴

The ancestors from which Ngati Kuri and Te Rarawa descended were the brothers Houpure (Te Rarawa and Aupouri) and Humeaiti (Ngati Kuri).⁶⁵ Te Huru (Ngaitumamao) related how the two brothers fought the original Ngati Awa occupants and drove them away. They then divided the land between them. 'Houpure got all the land north from Ahipara. Humeaiti got all the land from Ahipara to Hokianga'.⁶⁶ Although this would seem to imply that Te Rarawa would not have been living around Takahue, Manganuiowae and Epakauri, Te Huru went on to say that 'The Rarawa have always lived on the land as well as Ngati Kuri'.⁶⁷

In the hearing for Rawhitiroa, Pene Karako of Te Rarawa stated that formerly there had been no dispute over the ownership or occupation of the land. He added that he did not acknowledge that both Ngati Kuri and Te Rarawa owned the land as 'we were all living on

⁵⁹ MLC, NMB 2, p. 236.

⁶⁰ MLC, NMB 2, p. 237.

⁶¹ MLC, NMB 2, p. 238.

⁶² MLC, NMB 2, p. 239.

⁶³ MLC, NMB 2, p. 243.

⁶⁴ MLC, NMB 3, p. 191.

⁶⁵ MLC, NMB 3, p. 192.

⁶⁶ MLC, NMB 3, p. 197.

the land as one people. At the same time we considered that the land belonged to Te Rarawa only – we never told them that we thought so'.⁶⁸

The ancestors from whom Tahawai claimed on Takahue were Te Ranga ānd Marei, the same ancestors from whom Te Rarawa claimed to derive their title to Takahue and Patiki. Most of the iwi in this area would have possessed some ancestral claim to Takahue. The association between the northern iwi and hapu was not only of a historical or personal nature. In early 1873 three petitions were sent to Donald McLean concerning the construction of a bridge across the Taipa River. One was from the Pakeha residents and the other two were from Maori. Timoti Puhipi and eleven other chiefs of Ahipara, including Kingi Wiremu and Waka Rangaunu signed one petition, and the other was sent by Tipene Te Taha and 41 others of Ahipara/Peria, including Hemi Kahoe and Timoti Ngatote. Tipene Te Taha was of Ngati Kahu/Te Paatu. All three petitions were dated 25 February 1873, and the wording in the two Maori petitions is the same. Clearly this is one instance where they worked together for a common objective.⁶⁹

It does seem possible that the land was divided up amongst the iwi and hapu, however it is also possible that hapu with interests in Takahue were left out of the negotiations and sale. Te Rarawa held broad mana over this area and on several occasions Resident Magistrate White reported the support of Te Rarawa for the Crown and Pakeha. For example, in 1861 White stated that the Te Rarawa people were 'generally quiet and attached to Europeans', while Te Paatu were 'more warlike'.⁷⁰ A decade later White opined that the Te Rarawa's 'feeling for the Government has always been of the most friendly, and indeed, dependent character...and they appreciate the fact that the Government can and does afford the most trustworthy support.'⁷¹ These opinions, regardless of their accuracy, may well have prejudiced Land Purchase agents in favour of Te Rarawa. They may have viewed Te Rarawa as the dominant and most amenable sale partners over the perceived less accommodating Te Paatu.

It was this area covered by complex intersecting and fluctuating rights that the Government Land purchase Agents sought to obtain for the Crown. Whether the three owners of Takahue were truly representative of all hapu with rights in the area is open to debate. It is

⁶⁷ MLC, NMB 3, p. 199.

⁶⁸ MLC, NMB 2, pp. 214-215.

⁶⁹ AGG-A 1/8 73/219, Petitions of Timoti Puhipi and Others, Hemi Kahoe and others, and European Residents to Donald McLean, 25 February 1873.

⁷⁰ AJHR 1862 E-7, No. 9, p. 23.

⁷¹ AJHR 1872 F-3, No. 1, p. 3.

possibly of more importance to ask whether the Crown investigation into these interweaving rights was thorough and all encompassing. It is to this question that I now turn.

CHAPTER TWO: INVESTIGATIONS, NEGOTIATIONS, AND SALES

The Crown had a duty to establish first that the people who claimed to be the owners of the Takahue block did in fact have rights to the land, and secondly that no other people possessed interests in this area. The first people required to carry out such an investigation were the land purchase agents – Thomas McDonnell, Edward Brissenden, and later James Preece.

Land Purchase Agents in Takahue:

Lieutenant-Colonel Thomas McDonnell was the Land Purchase Agent in charge of the negotiations for the Takahue area. He spoke Maori and had lived at Horeke (at Hokianga) for twelve years, from the age of eight to twenty. He saw active service in the wars of the 1860s and had acted as a Land Purchase Agent in the Wanganui area in 1871.⁷² In 1873 he was posted to North Auckland. Sir Donald McLean issued instructions to McDonnell in 1871, and in October 1873 H. T. Clarke reissued these along with new instructions. McLean's 1871 instructions directed McDonnell to 'proceed to examine this block [in the Wanganui], and report fully upon its capabilities, whether for grass, or corn lands, for timber, water, and any other points which it is desirable to be fully aware of'.⁷³ If the land was considered a valuable acquisition McDonnell was to initiate negotiations. However, McLean informed McDonnell, 'the Government do not desire to acquire any land from the Natives, however valuable it may be, if the acquisition is attended with any risk of disturbance or revival of feuds among themselves'. McDonnell was instructed to be both careful and diligent in ascertaining the boundaries of each block so that 'no mistake can in future occur between the proposed sellers and the Government, but that a clear definition is given of the area with its limits'. He was also requested to provide 'a clear idea as to what reserves it will be necessary to make for the Natives – in the case of these, discriminating most carefully their acreage'.⁷⁴ In regard to the negotiations for Takahue in 1873, Clarke told McDonnell in addition to take 'the utmost care as to what natives you deal with and how you deal with them so as to make certain of securing to the Crown a safe title. ...I have also to recommend you to obtain information from every available source so as to obviate any future complications'.⁷⁵

⁷² J. Belich, 'Thomas McDonnell', *DNZB*, vol. I, pp. 248-49.

⁷³ McLean to McDonnell, 30 November 1871, *AJHR* 1873 G-8 No. 12, p. 17.

⁷⁴ McLean to McDonnell, enclosure in No. 22, Lieutenant-Colonel St John to Lieutenant-Colonel McDonnell, *AJHR*, 1875 G-7, p. 7.

⁷⁵ MA MLP 1/1 73/222, St John to McDonnell, Telegram and Draft Instructions, 30 October 1873.

Similar instructions were also issued to Edward J. Brissenden when he was assigned to North Auckland as a Land Purchase Agent in early 1875. Donald McLean informed Brissenden that he 'should consult the District Officer in the various stages of your negotiations as he will be able to inform you of any latent claims existing & which might cause difficulty hereafter'. He also noted that if there were any complications with Maori there was to be no purchase.⁷⁶

It is important to note here the duties required to be carried out by the District Officers in ascertaining the title to Native Land. Donald McLean wrote to William Webster, the northern District Officer, saying:

in all instances where Natives are about to bring their lands under investigation before the Native Land Court, or intend to dispose of them to the Government, you will be required to make a full preliminary inquiry, so as to be able to state whether the survey can be proceeded with without affecting the peace of the district.⁷⁷

It should be noted that the Act required the District Officer to make such an inquiry only when lands were to be brought before the Native Land Court. It was McLean's direction that Webster was also to take action in cases where Maori were intending to sell land to the Government. The duties of the District Officer were manifold and set out very clearly in the Native Lands Act 1873. Not only were they required to carry out the preliminary inquiry outlined above, but they were to 'prepare for record a general skeleton map of the district...distinguishing the different tracts of country in possession of the various tribes or hapus of the Natives at the date of the signing of the Treaty of Waitangi and the nature of the tenure thereof.' The District Officer was also to confer with chiefs to delineate tribal boundaries by Maori names and the acreage and description of the land. District Officers were also required to 'supplement the information by tracing the genealogy and names of the various families or hapus to which the different portions of the original tribal land shall have descended'.⁷⁸ Once the officer had compiled this information, he would have been available for consultation by such Government officials as Land Purchase agents. There is no explicit record of McDonnell consulting the Mangonui District Officer on the occupation rights in this area, and it is also impossible to tell whether the District Officer carried out an inquiry

⁷⁶ MA MLP 3/1 Outwards Letterbook, p. 542, Donald McLean to Brissenden, no date, between February and March 1875.

⁷⁷ Sir D. McLean to the District Officer, Bay of Islands, 20 January 1875, AJHR 1875 G-7, p. 29.

⁷⁸ The Native Land Act 1873, s. 21.

into ownership when notified of the application for Takahue to be heard in the Native Land Court.

McDonnell had most likely been informed of Resident Magistrate White's opinion as to the domination of Te Rarawa in the Takahue area.⁷⁹ McDonnell was probably also aware of White's 1871 letter to the Crown Agent's Office in which White stated that if 'the Government intend to purchase, immediate steps should be taken. The proprietors are I think some in number. Timoti Puhipi of Ahipara is the first and best man to deal with'.⁸⁰ This view may have reflected a political bias rather than an accurate description of the land situation as Puhipi and Te Rarawa were known to be well disposed towards the Government.⁸¹

Despite instructions to be rigorous in his investigations, McDonnell's standard course appears to have been somewhat perfunctory. From a reading of his correspondence it appears that McDonnell would visit a Maori settlement and ask them what land they had that they wished to sell, or ask about potential sales in particular areas, such as the Victoria Valley. Once his presence and purpose in the area was widely known Maori took the opportunity to offer land to McDonnell for purchase by the Government. For example, once the arrangements had been made to sell Takahue the Ahipara Maori were 'anxious' to sell the adjoining land at Te Uhiroa.⁸² Between the 24 November meeting at Ahipara in 1873 respecting Takahue and a meeting with the Herekino Maori, McDonnell 'assented to a request from the Aupouri Tribe to visit them at the North Cape, and purchase if desirable some land that they had there for sale.'⁸³ In 1874 Hapukuku Ruia wrote to the Chief Clerk of the Maori Land Court, Mr Dickey, putting in a claim to Orowhana and requesting that Dickey inform 'the persons who buy land...that is Colonel McDonnell' that it was for sale.⁸⁴ It seems that when Maori offered land for sale, McDonnell assumed that they were the only people possessing interests in that land, and does not appear to have investigated at length into ownership rights.

Potential vendors usually asserted their exclusive right to alienate a given area, however there may have been others with interests in the land. McDonnell mentioned that on his way to Mangonui he ran into 'a deputation of 3 chiefs', one of whom was called Himiona (and could be Himiona Te Waruora of the Takahue 2 block), and one was Reihana Matiu of Te

⁷⁹ See p.8.

⁸⁰ MA MLP 1/32 92/152, Resident Magistrate White to Auckland General Government Agent, 26 December 1871.

⁸¹ See p. 19.

⁸² MA MLP 1/1 73/222, McDonnell to Under Secretary, 27 September 1873.

⁸³ MA MLP 1/1 73/223, McDonnell to Colonel St. John 22 December 1873.

⁸⁴ BABG A52/81, Hapukuku Ruia and others to Mr Dickey, 12 September 1874.

Paatu. These chiefs enquired of McDonnell what he was doing and he informed them of the 'sale' of Takahue. They then offered him 'a country that Timoti [Puhipi] had said he had no authority to offer but that these men had', a block which stretched down to the Hokianga.⁸⁵ In this case Timoti Puhipi had informed McDonnell of the limit of his rights in the area. Other potential vendors were not as explicit and in such instances it was often pure chance that led McDonnell to meet with dissenters to the sale. McDonnell often relied on Maori informing him when they did not have rights to land rather than talking to all the surrounding communities before arranging a sale. His practice was to make arrangements with a particular group who asserted their ownership, as long as no-one else actively objected or came forward to indicate their interest in the land.

McDonnell seemed to place great reliance on his personal knowledge of the area and its people. He spoke Maori, had lived at Hokianga for 12 years, and had been tutored by a Popato tohunga, Toenga Pou.⁸⁶ This most likely provided him with a certain amount of 'insider' knowledge about the Hokianga area, but it is less certain how extensive was his knowledge of customary tenure/occupation in the more northern areas outside of Hokianga, such as Takahue.

McDonnell believed he had avoided problems in his negotiations, as he knew 'all the Native owners and the proper boundaries to be observed'.⁸⁷ He later wrote to McLean asking that he be allowed to finish the purchases he had negotiated as he was 'thoroughly acquainted with all the ins and outs of these blocks, about which Mr Brissenden knows nothing.'⁸⁸ He believed that he had conducted a thorough investigation, and stated in a letter to Lieutenant St. John that 'In all transactions I have been careful to avoid cause for dissatisfaction; and the system I have pursued has, in many instances, been the means of healing old disagreements'.⁸⁹

McDonnell may have thought he was being thorough, and he may have been, but his letters and reports do not show him to be actively investigating the ownership of the block. His dealings with Maori respecting Takahue (as he reports them) do not appear to have been dominated by attempts to establish ownership rights beyond all doubt. McDonnell seems to have been aware of the importance of discussing land issues with the larger community, and not restricting his negotiations to rangatira. He called or attended meetings in Ahipara and

⁸⁵ MA MLP 1/1 73/222, McDonnell to Under Secretary, 27 September 1873.

⁸⁶ J. Belich, 'Thomas McDonnell', *DNZB*, vol. I, p. 248.

⁸⁷ McDonnell to St John, February 1875, AJHR 1875 G-7, No. 80, p. 29.

⁸⁸ McDonnell to McLean, no date, AJHR 1875 G-7 No. 82 p. 30.

⁸⁹ McDonnell to St John, February 1875, AJHR 1875 G-7, No. 80, p. 29.

Herekino, at which much discussion ensued. However, these meetings usually revolved around his attempts to persuade Maori to sell their land rather than any attempts to establish whether he was dealing with the right owners or not.

Promises and Reasons:

McDonnell reached Ahipara on 18 July 1873 where he 'held a meeting with the principal chiefs of the place in reference to the land called the Victoria Valley'.⁹⁰ They told him that 'they were not at all anxious to sell this land, that [his] visit had rather taken them by surprise'. In order to persuade Te Rarawa at Ahipara to sell their land, McDonnell outlined the advantages that would accrue from such a sale, as well as the disadvantages of not selling. At his first meeting with them in July 1873, McDonnell

pointed out that they could never use all their good land, and the best plan was to dispose of a portion, so that emigrants could be placed upon it. They seemed to approve of this, only said that if they sold their lands cheaply for such a purpose, and no Pakeha's [sic] came to reside on it, they would have sold cheaply to no purpose. I then explained, that if *good* land was sold by them, Pakeha's [sic] would not only be glad to come, but would remain, and prove a lasting benefit to the natives.

When McDonnell left Ahipara the chiefs promised that they would hold a meeting and let him know what lands they would sell.⁹¹ Not long afterwards, McDonnell received a letter from Timoti Puhipi regarding 'land at Ahipara'. Puhipi wrote that they had agreed to let the Government have the land, and explained that 'the reason of giving you this land is, that we want Europeans to come (and reside on the land) not later than January 1874'. In passing on Puhipi's letter to the Under Secretary, McDonnell commented: 'The Ahipara Natives are evidently anxious to get Europeans located in their neighbourhood and wish, I fancy, to enter into a compact, that if they part with land, that settlers be placed on it within a certain time'.⁹²

H.T. Clarke then requested McDonnell (on direction of the Native Minister) to visit the Ahipara Maori again and 'furnish a detailed report upon the land they wish to dispose of, stating particularly, the probable area and price'.⁹³ On his return to Takahue in September 1873, McDonnell 'met Timoti Puhipi and Wiremu Kingi and I informed them I had been requested to ascertain [sic] what lands they had for sale with all particulars'.⁹⁴ Puhipi and the other chiefs 'referred to the land question in rather a luke warm manner', and McDonnell

⁹⁰ MA MLP 1/1 73/19, McDonnell to Under Secretary for Public Works, 7 August 1873.

⁹¹ MA MLP 1/1 73/19, McDonnell to Under Secretary for Public Works, 7 August 1873.

⁹² MA MLP 1/1 73/12, Puhipi to McDonnell, 7 August 1873.

⁹³ MA MLP 3/4 Outwards Letterbook, H.T. Clarke for the Under Secretary to McDonnell, 3 September 1873.

believed that they had been ‘strongly cautioned not to sell their land to the Government’.⁹⁵ McDonnell met with Timoti Puhipi and Wiremu Kingi who asked him ‘numerous questions relative to land and immigrants’. In a later meeting with all those living at the Maori settlement, McDonnell was asked to

explain the reason why the Government wanted land, and to point out the benefits, if any, that would accrue to themselves supposing they did agree to sell a portion, as they certainly had not from those lands they had hitherto sold.⁹⁶

The alienation of their land was clearly not viewed lightly and it can be seen that Te Rarawa felt that no genuine benefits had come to them from previous sales of their land.

McDonnell picked up their concerns and desire for settlers (with the concomitant economic upturn) and used them in his arguments for the sale of Maori land. He argued that the poverty of the Northern Maori was in part a result of their rejection of the Pakeha, which he compared to the close relationship the richer southern iwi had with the colonists:

Amongst other things I told the natives, that coming as I had lately from the Southern parts of the island, where the Natives dressed like Pakehas and lived in European houses and rode on good horses, that I could not but be struck with the great difference I perceived here amongst them. “You, I said, whom I am now addressing are finer men than those South, your women are better, more robust, and handsome than the dark skinned women of those tribes. Though your garments are certainly not so good or so expensive as those with which the Southern people clothe themselves, but then, they are rich men, your children are more numerous, more healthy and doubtless will grow up to be intelligent and useful men and women, if you, their parents, will but give them a chance. Now the principal cause of the great difference between you and the Southern tribes (excepting Waikato who have drank of the waters of foolishness) is this; you have no Europeans living amongst you to push you on, to purchase your produce, to give you new ideas, to praise you when you behave well, or to caution you when you behave ill, as other tribes have, and this is the reason they are well to do. A land cannot be great unless it is inhabited, but the inhabitants to be prosperous, must think wisely and work hard, they can never be wealthy or happy if they play [illegible] all day and stupefy themselves with liquor all night – you work hard to keep yourselves miserable. And do you right then, to wonder that you are, as you tell me a tribe of “Poor Fellows”? (“He iwi Powhera Matou”). Now or never is your chance. Your canoe is once more going to be floated on a tide that has been caused to rise again. It will be your own fault if you do not now row her into deep water, over the sand bar. You, the Rarawa were, with Ngapuhi the first to welcome the White man but you have let him, the substance, go from you, all that you have retained is the shadow and other tribes are now enjoying the benefits that might have been yours this day.”⁹⁷

⁹⁴ MA MLP 1/1 73/222, McDonnell to H.T. Clarke, Acting Native Secretary, 27 September 1873.

⁹⁵ MA MLP 1/1 73/222 Correspondence of McDonnell to H. T. Clarke, Under Secretary 27 September 1873.

⁹⁶ MA MLP 1/1 73/222 Correspondence of McDonnell to H. T. Clarke, Under Secretary 27 September 1873.

⁹⁷ MA MLP 1/1 73/222, McDonnell to Under Secretary, 27 September 1873.

McDonnell was referring to the famous words of Panakareao, 'The shadow of the land goes to the Queen but the substance remains with us'.⁹⁸ Unlike Panakareao, McDonnell was not talking about power or authority but about the benefits of European colonisation. He was implying that Pakeha settlers embodied the substance and that, without settlers, Maori retained only a shadow of the land and of economic development. McDonnell argued that the way for the Te Rarawa to become prosperous was to

sell at a reasonable price a large block of good land – land that you yourselves would cultivate – then the Pakeha will reside on it, population will come and you will become independent like many southern tribes who are now, with the exception of your riches and knowledge, every way your inferiors.

He promised that not only they but also their children would 'continue to reap a benefit from the White man who will occupy [the land] and kindle his fires upon it'.⁹⁹

McDonnell drew a very strong parallel between economic development and prosperity and Pakeha settlement. This was not a new or isolated technique of persuasion. Philippa Wyatt has discussed in some detail the promises of development that formed part of the Crown land purchase negotiation policy of the 1850s and 1860s.¹⁰⁰ This policy began with Governor Grey who promised Maori specific benefits as 'inducements for them to part with their lands'. According to Wyatt 'these "benefits" were of central importance in ensuring that the acquisition of land was achieved at nominal expense to the colony'.¹⁰¹ Such benefits generally revolved around Pakeha settlement and the institution of Government infrastructure and facilities. Donald McLean followed this policy, as did his agents. In reference to Takahue, Wyatt says 'with McLean once again heading the purchase programme, it is not surprising that his purchase agent had used exactly the same arguments to overcome the very clear reluctance and suspicions of the chiefs'.¹⁰²

McDonnell was aware of the desire of Puhipi and his people to have Pakeha settlers on their land. In reply to concerns voiced by some of those present at the meeting, McDonnell stated:

I hear that some of you doubt the intentions of the Government to send Europeans to settle on the land, is this right? or is it fair? But my reply is this, If I thought for one moment that their intention was to deceive you, I would not have come down here to say to you this day what I have, but it is that I truly

⁹⁸ Waitangi Tribunal, *Muriwhenua Land Report*, GP Publications 1997, p. 112.

⁹⁹ MA MLP 1/1 73/222, McDonnell to Under Secretary, 27 September 1873.

¹⁰⁰ P. Wyatt, 'Crown Purchases in Muriwhenua, 1850-1865', April 1993, Wai 45 H-9.

¹⁰¹ Wyatt, pp. 16-17.

¹⁰² Wyatt, p. 189.

believe all I have said to you and this it is that gives me strength to speak to you.

McDonnell pushed for Maori to sell him good land by saying that Pakeha would only come and stay on the land if it was of good quality. If Maori sold good land to the Crown 'the Government will then give you that, which will enable you to turn the remainder to advantage'.¹⁰³ It is unclear here whether McDonnell is talking of settlement or financial aid from the Government. Either would have proved invaluable for the economic health of Northern Maori. Keith Sorrenson has pointed out how government agents frequently 'laid great stress on the "advantages" of selling, including the uses of ready cash, and the long-term benefits from European settlement, such as the enhanced value of retained Maori land.'¹⁰⁴

Maori in Takahue wanted Pakeha settlers to come and live on the lands that they were selling. They believed that Pakeha settlement would bring status and economic development through trade. The improved infrastructure that would arise from settlement would involve the construction of roads, thus improving access and so increasing trading possibilities. McDonnell used this desire as a bargaining tool in negotiations for Takahue and other blocks. He was seeking not only to get the land, but also to get it for a very low price. McDonnell told Maori at Mangakahia that he could not pay the price they asked for their land. He then 'showed them the advantage that would be derived when these lands were occupied by Europeans using arguments of my own to that object'. This appears to be a tacit recognition that money was not necessarily seen as constituting the whole payment. McDonnell clearly used Pakeha settlement as an inducement for Maori to sell their land to the Government at a reduced cost.

One reason the Crown found it necessary to offer Maori collateral advantages was that the Government found itself in competition with private purchasers who could offer Maori more money and a quicker transaction. Brissenden wrote to Daniel Pollen, the General Government Agent for Auckland, that he faced certain difficulties in negotiating for land. One such difficulty was 'the number of private individuals throughout the north anxious to purchase Kauri forests as well as open country. These people having money in hand gives them a great advantage over me.' The problem was of great import as a large number of the northern blocks had already passed through the Native Land Court 'rendering private

¹⁰³ MA MLP 1/1 73/19, McDonnell to Under Secretary for Public Works, 7 August 1873.

¹⁰⁴ M.P.K. Sorrenson, 'Maori and Pakeha', in G.W. Rice (ed.), *The Oxford History of New Zealand*, Oxford University Press, 1992, pp. 141-166.

transactions quite safe.’¹⁰⁵ This is possibly one reason why the Government land purchase agents sought to negotiate for Maori land before it went through the court – they would have a better chance to secure title for the Government. Brissenden also commented in 1874 that as land was purchased by the acre the total price of the land and the payment to be received by the Maori vendors was not known until the survey was completed. In Government transactions the survey was often delayed, leaving Maori in

a state of suspense and anxiety about the payment of the balance. This causes discontent and grumbling. They contrast the Government dealings with those of individuals who purchase on private account, when the money is generally paid down at the time of sale. The Government suffers by such comparison. On several occasions I have found this circumstance has induced them to regard overtures for the sale of land to the Government with disfavour.¹⁰⁶

Yet Maori still sold to the Government. Apparently the collateral advantages they perceived as part of any deal with the Government outweighed immediate cash inducements.

The promise of Pakeha settlement as a means to economic prosperity assumes greater importance when it is remembered that in the 1870s Maori around Takahue (and Muriwhenua generally) suffered greatly from epidemics of typhoid and other diseases. Such epidemics helped to weaken the economic base of Maori.

Between 1874 and 1878, the Maori population of Monganui decreased by 348. George Kelly attributed this decline to ‘the ravages of typhoid fever of a very fatal character, which visited the northern parts of the district during the end of 1874 and the early part of 1875’. This typhoid epidemic was followed by measles. Kelly pointed out that Maori were ‘entirely without medical aid’, and so succumbed to such epidemics more quickly than did Pakeha.¹⁰⁷ White commented in 1872 that the only medical man in the district was Mr Trimnell at Pukepoto, and as Trimnell refused to attend a case ‘except he receives a very high fee’ Maori were effectively without any medical aid.¹⁰⁸

Maori were devoid of any natural immunity to Pakeha diseases. Resident Magistrate Von Sturmer reported that Hokianga had also been visited by epidemics – measles in 1875 and whooping cough in the later 1870s. He also reported that ‘diseases of the chest, scrofulous sores, and low fever are also very prevalent’ among Maori.¹⁰⁹ In an 1874 report, Brissenden commented on the typhoid fever referred to by Kelly:

¹⁰⁵ MA MLP 1/1 74/98 E. Brissenden to Daniel Pollen, 14 April 1874.

¹⁰⁶ MA MLP 1/4 74/289 E. Brissenden to Donald McLean, 3 August 1874.

¹⁰⁷ AJHR 1878 G-2, No. 2, p. 1.

¹⁰⁸ AJHR 1872 F-3, No. 1, p. 3.

¹⁰⁹ AJHR 1878 G-2, No. 3, p. 2.

While at Ahipara I had occasion to see Timoti Puhipi and his people, and found them in a most deplorable state. They were suffering from Typhoid Fever, 34 of their number had died within three weeks, Timoti Puhipi had lost his wife and was seriously ill, as were many others when I left them (7th July). They were dark and dissatisfied at the neglect of the Government Officer of their District, saying, he had not been near them, nor offered them the slightest assistance in the time of their great trouble. I took the liberty of providing them with a few necessary comforts and gave them £25- in cash on Govt account, which I hope will meet with your approval.¹¹⁰

High rates of disease had a detrimental effect on the Maori economy; ill people could not work to earn money or to cultivate food. Money was needed and the sale of land was one method of raising that money. The extra benefits offered by the Government in these land transactions often involved economic development, which was a strong incentive for Maori whose economic base had been weakened partly through epidemic disease and endemic ill health.¹¹¹ It is important to bear in mind the context of illness and economic hardship, in which Maori made the decision to sell Takahue.

The day after McDonnell's long speech on the collateral advantages that would accrue from sale of land to the Government, Te Rarawa 'made enquiries as to the price per acre for Takahue'.¹¹² The choice of Takahue as the land to sell may have been the idea of Te Rarawa, or McDonnell may have specifically mentioned his interest in that area. I think the latter is certainly possible. As McDonnell himself stated, the Government had been trying to 'obtain a footing' in the Takahue valley for over ten years,¹¹³ and he had previously mentioned that he met with chiefs in 'reference to the land called the Victoria Valley'.

It does not appear that there were any major settlements at Takahue, at least no settlements of those people intending to sell it, and this may have made it prime land for selling. A memo from H.T. Clarke to the Auckland superintendent suggested that the authorised maximum rate to be offered be 3/6 an acre.¹¹⁴ Although the superintendent agreed to this, McDonnell was informed by Clarke that the approved maximum rate was 3/ an acre and that the lower he could get it for, 'so much the better for the colony'.¹¹⁵ McDonnell reported that the Ahipara Maori had told him that 5/ an acre was what they wanted 'though the land was worth 10/', and that 'private persons were anxious to get the land, but that if the Government wished for it, *and would place Europeans upon it*, they should have the

¹¹⁰ MA MLP 1/4 74/1274 Brissenden to Native Minister, 27 July 1874.

¹¹¹ See Geiringer, pp. 20 and 37.

¹¹² MA MLP 1/1 73/222, McDonnell to H.T. Clarke, Acting Native Secretary, 27 September 1873.

¹¹³ MA MLP 1/1 73/222, McDonnell to Under Secretary, 27 September 1873.

¹¹⁴ MA MLP 1/1 73/222, attachment to McDonnell to Under secretary 27 September 1873.

¹¹⁵ MA MLP 1/1 73/222, Telegram and Draft Instructions, October 1873.

preference'.¹¹⁶ He then 'offered them 2/ an acre for every two acres out of three, and 1/6 for every third acre, explaining that at least one third of the land would be indifferent'. After some discussion the price was set of 2/4 an acre all round.¹¹⁷ Problems arose when Maori sought to be paid for the timber on the land. McDonnell refused, comparing the timber to buttons on a shirt – one is not separate from the other. He also explained that the Government would want the timber for the Pakeha settlers.¹¹⁸ By mentioning settlers, McDonnell recalled his earlier arguments about the benefits of Government-sponsored Pakeha settlement. This further highlighted the apparent advantages of selling to the Government, even for a reduced monetary return, over sales to individual private purchasers.

In situations like this the extras offered by the Government, such as Pakeha settlement and concurrent economic development, must have been prime factors in the decision to sell for so little, especially when McDonnell's remarks to his superiors about the quality of the land are taken into account. McDonnell said that it was 'better than any I have seen north of Auckland – a rich brown loam that will grow anything, and I believe that the principle [sic] part of all the country I had a birds eye view of, is well adapted for agriculture'. Brissenden referred to it as the 'best land north of Auckland'.¹¹⁹ In a later return of lands purchased, Brissenden described the land at Takahue as 'soil very good in places; broken; generally bush.'¹²⁰ These statements should, of course, be compared to McDonnell's assertion to the Maori vendors that a third of the land would be indifferent and thus worth far less.

Prepayments:

Once the price had been settled McDonnell paid a deposit to bind the agreement. This was a common practice amongst Crown Agents who often made prepayments to Maori vendors to ensure that the Government would get the land once it had gone through the Native Land Court. This process of prepayment bound Maori to sell their land. More specifically, to sell their land to the Crown. Preliminary negotiations began before the title had been determined in the Land Court and before the actual size of the block was officially determined by survey.

¹¹⁶ MA MLP 1/1 73/223, McDonnell to Col. St John, 22 December 1873. Emphasis Added.

¹¹⁷ MA MLP 1/1 73/223, McDonnell to Col. St John, 22 December 1873.

¹¹⁸ MA MLP 1/1 73/222, McDonnell to H. T. Clarke, Acting Native Secretary, 27 September 1873.

¹¹⁹ See MA MLP 1/1 73/222 McDonnell to H. T. Clarke, Acting Native Secretary, 27 September 1873, and MA MLP 1/4 74/289, Brissenden to McLean, 3 August 1874.

¹²⁰ Memorandum of Native Lands Purchased for the General Government by E. T. Brissenden. AJHR 1875 G-7, No. 77, p. 27.

These preliminary negotiations and payments appear to have often prejudiced the Native Land Court judges to favour those Maori who had received a deposit. Preece stated in a letter of 3 July 1875 that only one of the people to whom a deposit had been paid had not been recognised as having title by the Court. He further stated that the rest of the claimants in that case (who had also received part of the deposit) were awarded title and they gave the other man (Wi Tana Papahia) part of their money.¹²¹ The implications of this for the Court's investigation into Takahue is that the Court was prepared to assume that the purchase agents had carried out a thorough investigation themselves and if they had paid a deposit to certain persons then those persons must be the rightful owners of the land. As Geiringer stated: 'the ease with which the Crown purchase blocks usually passed through the Court is more indicative of the Court's reluctance to interfere with Crown purchase activities than of the fairness of prepayment'.¹²²

McDonnell and Brissenden referred to prepayment as the usual practice and reported that Maori both expected and requested it. For example, McDonnell reported on the difficulties he had with Ahipara Maori over a deposit for Takahue:

A request was now made for £100 to bind the agreement...I replied, that I had not brought down any money with me. Contempt was freely expressed for a Commissioner who, said the natives, 'had been sent to purchase land, who had had the assurance [could be assouciance] to beat them down in their price, but who had not brought down a copper to "whakatapu" or bind the bargain when concluded, I made the best excuses I could, but they had gone to some expense and had set their minds on getting the normal thing.'¹²³

In a different report McDonnell stated that 'After the natives agreed to my price they demanded a sum of money to clinch the bargain, £150'.¹²⁴ These payments continued and a month before the signing of the Takahue deeds Maori had received £390 on account.¹²⁵ At this point Takahue was still one block and the £390 deposit covered the whole Takahue area.

McDonnell experienced similar problems with Maori at Herekino: 'the natives asked for a deposit of £100 – without which, they said, they would not consider the agreement binding upon them.'¹²⁶ They too received several payments on account of Uhiroa, adding up to £195 in April 1875.¹²⁷

¹²¹ MA MLP 1/4 75/278, Preece to Native Department, Land Purchase report, 3 July 1875.

¹²² Geiringer, p. 51.

¹²³ MA MLP 1/1 73/223 Correspondence of McDonnell, 22 December 1873.

¹²⁴ AGG-A 1/9 73/828: Report of McDonnell to Land Purchase Department, 25 November 1873.

¹²⁵ McDonnell to Preece, 9 April 1875, AJHR 1875 G-7 No. 84, p. 30.

¹²⁶ MA MLP 1/2 74/370, McDonnell to St John, 22 December 1873.

¹²⁷ McDonnell to Preece, 9 April 1875, AJHR 1875 G-7 No. 84, p. 30.

Whether the deposits were seen as binding or not, it is clear that the money was desired, indeed needed by Northern Maori. McDonnell attributed this desire for deposits to their 'greed for money [which] is unbounded, leading the natives to all sorts of tricks and devices to obtain advances'.¹²⁸ McDonnell was casting the initiative for prepayment onto the shoulders of Maori but it is clear that he took advantage of their 'need for ready cash'¹²⁹ with his readiness to enter into negotiations and payments before the title had been determined in the Native Land Court.

Brissenden reported that Maori were wary of pre-payments, especially combined with the slowness of the Government transactions.

They do complain at the great delay that occurs on the part of the Govt in completing transactions for lands that their agents have negotiated with them for. They think the small deposit paid by the Govt agents, is a trick to tie up their lands.¹³⁰

Later Hare Pika Komene and Taurira Takiora, Ngati Kuri of Herekino, wrote to Chief Judge Fenton asking that prepayments for Te Uhiroa cease. They asserted that the time for money to change hands was when the land had gone through the Native Land Court, and not before. In their view there should be 'but one receiving (of money) by those who are to receive it.'¹³¹

It is possible that Maori and Crown agents viewed the deposits in a different light. For example, McDonnell reported on his negotiations with Maori at Herekino, saying

I have received two green stones from the Herekino natives as an [earnest?] of good faith of their desire to sell the land and have Europeans settled amongst them. I had but little cash with me but at their request I placed a small sum in their hands as a token of good faith on the part of the Government.¹³²

Here the money given could be seen merely as an exchange of good faith rather than a legal deposit on land. Whether as a deposit or a token of good faith, the prepayments were generally seen by both parties as binding each other to a deal. Hapakuku Ruia sent a letter offering land at Orowhana for sale in 1874. He requested that McDonnell 'send some money as a deposit – two hundred pounds. The reason that I ask for that amount to be sent is that there may be no difficulty.'¹³³

¹²⁸ MA MLP 1/2 74/442 McDonnell to H. T. Clarke, Under Secretary Native Office, 22 October 1874.

¹²⁹ Waitangi Tribunal, *Te Roroa Report*, GP Publications, 1992, p. 59.

¹³⁰ MA MLP 1/4 74/289, Brissenden to McLean, 3 August 1874. Memorandum to Donald McLean on matters connected with the Land Purchase Branch of the Native Department.

¹³¹ BABG A52/82, Letter from Hare Piaka Komene and Taurira Takiora to Chief Judge Fenton, 8 April 1874.

¹³² MA MLP 1/1 73/222 Correspondence of McDonnell, Under Sec., 27 September 1873.

¹³³ BABG A52/81 Hapakuku Ruia and others to Mr. Dickey, 12 September 1874.

The Crown may have seen prepayments as more binding than did Maori. Brissenden and the Government viewed land for which deposits had been paid as already purchased, even before the Native Land Court had determined legal title. In a letter to McLean in January of 1875, Brissenden commented on the need for Native Land Court sittings in the North to pass through 'lands purchased for the General Government', of which Takahue (not due to pass through the Native Land Court for another four months) was one.¹³⁴

The events surrounding the title determination and sale of the Purenunguhua and Matauotonga blocks, in the Poverty Bay area, serve as a useful example for illustrating contemporary attitudes towards prepayment. In the course of negotiations for these blocks the Government Land Purchase Agent, J.A. Wilson, made several monetary advances to Maori. Wilson was not present at the Native Land Court when Judge Rogan issued the Memorial of Ownership and so the Maori owners sold the land to a private purchaser. Clearly they did not believe that the money advanced by Wilson constituted legally binding deposits. Judge Rogan, through his lack of interference and endorsement of the sale, also demonstrated his belief that in this instance the 'deposits' paid by Wilson did not tie the Maori vendors to sell to the Government.

The commission of inquiry into this affair also reveals attitudes pertaining to investigation into ownership. Mr Locke, the Poverty Bay District Officer, stated that:

Mr Wilson's whole idea from the first appears to have been that the Native Land Court should be used as an instrument for acquiring lands for the Government; my opinion being that the prestige of the Court should be maintained as an unprejudiced tribunal. If Mr Wilson, as land-purchase officer, *neglected his duty by not taking proper care to investigate all questions relating to the ownership of Native lands before advancing public moneys*, thereby involving the Government, he should himself bear the responsibilities, and not attempt to make the Native Land Court a scapegoat for his wrongdoing.¹³⁵

In the view of the commissioners, prepayments and negotiations prior to title determination in the Native Land Court were not inappropriate unless the Land Purchase Agent had failed to investigate fully and had thus made payments to the wrong people. This incomplete investigation constituted neglect of duty. However, as Preece implied in regard to the North Auckland purchases, it was very rarely that the Native Land Court did not decide in favour of those people with whom the Crown agents had made arrangements. This sometimes meant

¹³⁴ MA MLP 1/4 75/279 Brissenden to McLean, January 1875.

¹³⁵ MA 11/1, Papers relative to Commission of Inquiry into charges against Judge Rogan, of the Native Land Court, and Wilson, a Land Purchase Officer. My Emphasis.

that people with little claim to the land could be officially recognised as its owners and would receive payment for it.

John Landon informed an 1875 Committee of Inquiry that he believed the process of prepayment was contrary to law as it involved paying a deposit to people 'before they know whether the land belongs to them or not.'¹³⁶ Maning was aware of the dangers of giving money to Maori who might not have any right to the land at all,¹³⁷ as was Commissioner Kemp, who called Brissenden's practice of prepayments 'reckless'.¹³⁸

Despite such contemporary expressions of concern regarding prepayment, the practice of prepayments prejudiced the investigation of the Native Land Court by committing certain individuals to sell their land and by presenting to Judge Monro a *fait accompli* concerning the identity of the owners. Monro often did little more than ratify those who had already received payment. While they may indeed have been the correct owners, an examination of the Northern Minute Book entries for Takahue (among other blocks) does not reveal a full investigation by Monro into ownership rights.

Negotiations undertaken prior to title determination in the Native Land Court were legally void for the private purchaser, but not for the Government. Under clause 42 of the 1871 Immigration and Public Works Act, Government officials could negotiate for the sale of land before the Land Court determined ownership. This clause allowed for the Government to enter into such negotiations only if the land was required for the purpose of railways, mining or special settlement. As Keith Sorrenson has stated, this legislation gave the Government an advantage over private purchasers.¹³⁹ The Takahue blocks were purchased under this legislation but were not utilised for these purposes until over a decade later. It does not seem appropriate to purchase land under public works legislation and then leave it as wasteland for twelve years.

The Native Land Court Investigation into Title:

It was under the auspices of the Native Land Court that the substantive part of the investigation into ownership should have taken place. The judges were supposed to investigate title fully – including going out of the courtroom to ensure that even people who

¹³⁶ 'Report of the Native Purchases Committee with Minutes of Evidence', *Votes and Proceeding of the Auckland Provincial Council*, 1875, cited in Robertson and O'Malley, p. 248.

¹³⁷ Maning to J. Webster, 21 July 1874, MS-Papers-625, cited in Robertson and O'Malley, p. 248.

¹³⁸ AJHR 1876 C-6, No. 13, p. 19.

¹³⁹ Sorrenson, 'The Purchase of Maori Lands', p. 93.

were not at the court did not have any interests in the land.¹⁴⁰ Most judges did not do this. Judge Maning wrote a letter to Chief Judge Fenton of the Native Land Court in April 1874. In this he stated that Fenton had told him that ‘Judges have no discretion allowed by the Legislature in the matter of the preliminary inquiry required by section 38 of the Act, and that it must be made notwithstanding that surveys of claims may have been already completed’. Under section 38 of the 1873 Act, the Judge was ‘to institute such preliminary inquiries as he may deem necessary in the manner he may think best with a view of ascertaining whether the application to bring the land under the Act is in accordance with the wishes of the ostensible owners thereof’.¹⁴¹ Maning expressed concern over finding people of whom to make the inquiry. There could be hundreds of claimants or interested parties to a block, making such an inquiry both lengthy and costly. In addition, if only the claimants were asked, Maning believed it would be difficult to obtain a disinterested and objective view on the ownership of the block.¹⁴²

In 1874 five judges of the Native Land Court presented to the Legislative Council a paper of remarks on “The Native Land Act, 1873”. The judges included Maning, Chief Judge Fenton, Judge Monro, Judge Rogan and Judge Smith. Their objections to the preliminary inquiry required by the Act revolved largely around the time that it would take to conduct such an inquiry and the difficulty of the inquiry itself. They asserted that the Judge, knowing only the applicants, could only inquire of them if any other claims existed, and they would have a vested interest in denying any other claims to the land.¹⁴³

When stating this, they seem to overlook the fact that the District Officer was required by the 1873 Native Lands Act to provide the Judge of the Land Court with information relating to the ownership of lands, information that he was to have obtained through discussion with Maori chiefs in the area. This information would have led the Judge of that court to other possible claimants.

The judges went on to object to section 44 of the act, which required the judge to examine witnesses and investigate title without intervention from counsel or other agents. They asserted that ‘it is difficult to conceive how any human mind can be capable of thus performing the duty of advocate for each side, alternatively examining and cross-examining

¹⁴⁰ See Native Lands Act 1873. Vict. 29, No. 71, section 38.

¹⁴¹ The Native Land Act, 1873, Vict. 29, No. 71, s. 38.

¹⁴² BABG A 52/81 Letter from Maning to Fenton 20 April 1874.

¹⁴³ Journals of the Legislative Council, 1874, Appendix I, ‘The Native Land Act 1873, Remarks upon by Native Land Court Judges’, p. 5.

witnesses, without an antecedent knowledge of the case'.¹⁴⁴ This gives unintentional support to the significance of the preliminary inquiry. The inquiry was important as it provided the judge with more information than he received inside the Courtroom. If other claimants, through intimidation or ignorance, were prevented from placing a counter claim, the Judge would be aware of that fact in conducting the case.

In the case of Takahue there exist just a little over two pages of minutes from the Land Court. I very much doubt that this constitutes a thorough investigation by Judge Monro, especially as he was unlikely to have conducted any thorough investigation outside of the courtroom. Brissenden commented on Judge Monro to McLean, saying: 'on behalf of the Government he has carefully and patiently investigated the numerous difficult and tedious cases brought before him.' As he added that 'None failed to pass unless those for which the surveys and maps were not completed',¹⁴⁵ and given the two pages extant for Takahue, I would query whether these 'difficult and tedious cases' really received the thorough and careful investigation Brissenden clearly thought they had. It is even more unlikely that Takahue 1 (24,122 acres) received an adequate Land Court investigation when its two pages are compared to the 24 pages extant for the April 1875 hearing for the 2706 acre Kauri Putete block, or the 26 pages devoted to the 1600 acre Epakauri block in November 1876. This very meagre investigation suggests that Monro regarded the title determination of Takahue as having already been completed by McDonnell, and that it was a foregone conclusion as to the people to whom ownership would be awarded.

The correspondence of the Land Purchase Agents reveals that some of them held convictions that Government purchases should not be subject to the stringent investigations to which private purchases or title hearings were liable. Brissenden wrote to McLean in 1874 saying:

The large nature of Govt transactions, the fact that the Govt is purchasing on public account and in the interest of the whole Colony, renders it a not unreasonable demand, that blocks handed over by them for investigation by the Native Land Court, should not be governed by the cast-iron rules, which are applied, and properly applied to private purchases. I would suggest that the Judges be requested to give the utmost facility to the passage of Govt blocks through the court, and to waive the enforcement of technical rule, in such cases, the Govt might agree to indemnify the Judges against any departure from the strict course of procedure required by the Act. Such an indemnification has I understand already been given in the case of certain blocks which are now in the course of investigation in the Land Court of the Province of Auckland.

¹⁴⁴ Journals of the Legislative Council, 1874, Appendix I, 'The Native Land Act 1873, Remarks upon by Native Land Court Judges', p. 7.

¹⁴⁵ Brissenden to McLean, 3 July 1875, AJHR 1875 G-7 No. 88, p. 36.

It may be worthy of consideration by the native minister whether it would not be desirable to introduce in the Native Lands Act Amendment Bill now before the House, a clause dispensing in the case of public purchases, with checks and restrictions which the act at presents imposes upon all transactions ether public or private.¹⁴⁶

Some Land Court judges also felt this way, and were content to accept the investigation of the land purchase agents as thorough, and to accept whom the agents said were the owners. Brissenden reported to McLean a conversation he had held with Judge Maning 'on the subject of passing the blocks of land for which I am in negotiation in the North through the Native Land Court'. According to Brissenden, Maning was 'in opposition to any action of the court under the New Act'. Maning further advised:

that the Govt Purchases should not be brought before the court, but that the Govt should trust to the result of my [Brissenden's] investigation. I told him I was not prepared for such a responsibility, then he suggested that a judge of the Native Land Court should conduct investigations of title previous to my completing purchase, and that on his being satisfied, that land should be bought, and declared Waste Lands.¹⁴⁷

In later conversation with Brissenden, Maning said much the same sort of thing:

he advised the Govt should avoid the Native Land Court for their special cases, and be satisfied to gazette the Lands and hold a court of enquiry as to ownership to grant certificates of title to the Natives, and then Gazette the Lands as Waste Lands of the Crown.¹⁴⁸

The Attorney General, J. Prendergast, effectively endorsed this belief with his 1873 opinion which was circulated to Land Purchase Agents:

It is not necessary [to pass land through the Native Land Court] unless the purchase be made under the 42nd clause of the Imm and P.W. Act 1871. It is not a question of law whether an investigation in the N. Lds Ct can be safely dispensed with in Govt purchases, but of policy and expediency. Such an investigation is not necessary as between the Crown & the native owners. If the Crown obtain a cession from the true owners they cannot as against the Crown set up the want of the Native Land Court adjudication.¹⁴⁹

Although this was not legally the case, it is clear that there was a certain consensus that with lands already negotiated for by Government Agents it was not necessary to deal strictly with them unless counter claims were placed.

¹⁴⁶ MA MLP 1/4 74/289, E. J. Brissenden to Donald McLean 3 August 1874.

¹⁴⁷ MA MLP 1/4 E. J. Brissenden to Native Minister, 28 September 1874.

¹⁴⁸ MA MLP 1/4, 75/67 Brissenden to McLean, 2 January 1875.

¹⁴⁹ MA MLP 1/1 73/223 St John to Clarke, 22 December 1873.

Takahue passed through the Native Land Court on 30 April 1875. Brissenden reported to McLean on the process of Takahue through the Court and informed him that he had 'arranged the whole programme with the native owners they only had to appear at court to pass'.¹⁵⁰

The Takahue blocks were scheduled to be heard on 29 April 1875, but the court was adjourned until the following day as the Maori involved 'wished to try and arrange certain disputes amongst themselves'.¹⁵¹ The next day Timoti Puhipi gave evidence stating that he had sent in the application and applied to have the surveys made. The Judges who remarked on the Native Land Act 1873 stated that if a survey was approved by a Judge (as was intended in the Act) then Maori would think it 'would in all probability be followed by an order of the Court in favour of the applicant at whose instance the survey had been made, and who was bound to pay the Government for it'.¹⁵² Maning commented to Fenton in 1874 that

the Natives here seem to me to have taken up the idea that under the new Act which ever party succeeds in making a survey, or causing it to be made, will be most likely to succeed in getting it awarded to them by the court irrespective of any other consideration.¹⁵³

Maori had some reason to believe that this was what would happen, as it so often turned out that way. Whoever the government agents dealt with were generally the people who applied to have the survey made and the hearing held, and as such they were often the same people who had their claims upheld by the Native Land Court judge.

In the Native Land Court hearing, Timoti Puhipi asserted that his claim to Takahue 1 derived from ancestry and that others claimed with him on the same grounds. He then gave his whakapapa showing his descent from Te Ranga. Te Ranga was a common ancestor of Te Rarawa who had settled in Takahue with his people earlier. In the Manganuiowae hearing, Herewini Te Toko mentioned that Te Ranga had taken his wives from Manganuiowae to live with him at Takahue.¹⁵⁴ Puhipi claimed that his people (Te Rarawa) had occupied the land since the time of Te Ranga until the present day (1875).¹⁵⁵ Te Mumu stated that 'the whole of the Rarawa were satisfied the names are right' (the names in the application and those to go on the title). Ngapipi Mumu of Ahipara was a chief of Te Rarawa who seemed to have a

¹⁵⁰ MA MLP, 1/3 75/274 McLean's instructions enclosing telegrams from Preece and Brissenden, May 1875.

¹⁵¹ MLC NMB 1, p. 57.

¹⁵² Journals of the Legislative Council, 1874, Appendix I, 'The Native Land Act 1873, Remarks upon by Native Land Court Judges', p. 5.

¹⁵³ BABG A52/82, Letter from Maning to Fenton: Workings of the Land Act.

¹⁵⁴ MLC NMB 1, p. 240.

¹⁵⁵ MLC NMB 1, p. 59.

role in these proceedings similar to the role undertaken by Puhipi (and Hardiman) in other hearings; namely the affirmation of the title of others.¹⁵⁶

The application file for Takahue includes two applications. The first application was sent in on 18 December 1873. The names on the list were Timoti Puhipi (Te Rarawa), Waaka (probably Te Waka Rangaunu of Te Rarawa) and Te Rata (listed as Te Rarawa). This was followed a year later by another application this time giving the names as Timoti Puhipi, Wi Tana Papahia, Herewini Te Toko; 'me etahi atu' [and others].¹⁵⁷ The question naturally arises as to why the names on the application were altered over the year. The second application brings in more Hokianga Te Rarawa, which may have been their intention and may have occurred after meetings between Maori to negotiate rights.

John Hardiman appeared in court and presented a counter-claim. He stated that he too was descended from Te Ranga (on his mother's side) and recited his whakapapa as proof.¹⁵⁸ Herewini Te Toko withdrew his claim in favour of Harimana 'to avoid dispute'.¹⁵⁹

Te Patara also appeared and asserted his rights to Takahue through ancestry but stated that he had 'no wish to make a claim'.¹⁶⁰ It is possible Patara's ancestors were from Ngati Whakaeke as one of his tipuna was Whakaeke.¹⁶¹ A man called Aporo also presented a counter-claim to which the original claimants objected, saying that his family had not been on the land for generations but had lived and died at Hokianga. Aporo admitted this and withdrew his claim.¹⁶² This is interesting as the others of Hokianga (Papahia and Harimana) were awarded title. This could be because they were of Te Rarawa and Aporo was not (his tribal affiliation was not recorded). If the issue was one of representation on the title simply to ease the sale, then the question may have been one of status. It is interesting that Puhipi and the Ahipara Te Rarawa involved Te Tahawai in the sale through Herewini Te Toko and Harimana. Papahia presumably already represented Te Rarawa in Hokianga/Whangape, so bringing Tahawai representation onto the memorial suggests that they were not acting as a hapu of Te Rarawa, but presenting a claim in their own right.

As no-one else objected or presented a claim, Monro issued the Memorial of Ownership to Timoti Puhipi, Wi Tana Papahia, and Hone Harimana on 30 April 1875. On 4 May the land was sold.

¹⁵⁶ MLC NMB 1, p. 59.

¹⁵⁷ BAAI A131 168m Okakewai Application File. There is no separate file for Takahue; the relevant applications were filed along with the Okakewai information.

¹⁵⁸ MLC NMB 1, p. 59.

¹⁵⁹ MLC NMB 1, p. 60.

¹⁶⁰ MLC NMB 1, p. 60.

¹⁶¹ MLC NMB 1, p. 60.

The hearing for Takahue 2 was even shorter. Hori Karaka Tawhiti appeared and stated that he was of Ihutai and claimed on 'this portion of Takahue' from his ancestor Te Taitainga. Te Tiahuia was the son of Te Taitainga and was now living on the land in 'undisturbed possession'. Tawhiti went on to say that he only claimed 'a small piece' on the south end of the block but 'Te Tiahuia and I have agreed not to subdivide the block but to join together'. The owners of the land were himself, Te Tiahuia and Himiona Te Waruora. Te Tiahuia was recorded as having corroborated Tawhiti's statement, no other claimants appeared, and no opposition was recorded. Consequently Monro ordered a Memorial of Ownership to be issued to the three men. The block was sold a week later, on the same day as Takahue 1.

Unrecognised Interests?

At no point during the Land Court proceedings did Te Paatu raise an objection to Te Rarawa's claims to Takahue – at least not that was recorded in the Court or elsewhere in Government documents. This was when at least six Te Paatu people were attending the court for various hearings.¹⁶³ Neither the hearing nor, more significantly, McDonnell's reports of his negotiations include references to Te Paatu people.

Judge Monro did not record any cross-examination, nor did he decide against any of those with whom McDonnell had negotiated. The inclusion of Hone Harimana rather than Herewini Te Toko in the Memorial of Ownership was not by the decision of Judge Monro but by Te Toko withdrawing his claim in favour of Harimana. A question to consider given the relative lack of objections and counterclaims at the court hearing for Takahue is whether all interested parties had both the opportunity and the information to object. The question arises of whether Te Paatu were represented in the negotiations or final transaction by Himiona Te Waruora. Very little is known about him or his standing. He appeared in the 1877 Native Land Court hearing for Merita on the North Cape, testifying that he had been present when Nopera Panakareao gifted the land to Hemi Kahoe in 1843.¹⁶⁴ This seems to indicate that he had interests or involvement in the far north and also that he attended some events of importance.

It was important that all Maori with possible interests in the area were notified of the intent to put the land through the Native Land Court. Hapakuku Ruia wrote to Chief Judge Fenton in July 1874 complaining that he was 'not informed of the doings of the world' –

¹⁶² MLC NMB 1, p. 60.

¹⁶³ See Chapter One.

¹⁶⁴ MLC NMB 1, p. 157.

namely the Crown's lands purchase activities in the Hokianga area. He further stated that 'the persons who are parting with land at Herekino they are doing so through my "mana", yet they are exalting themselves'.¹⁶⁵ He may have been referring to negotiations for Uwhiroa or Orowhana.

Petitioners to the Government in the 1880s claimed that although land at Takahue and Manganuiowae belonged to them through ancestry, misrepresentation by Preece meant that the land had been awarded to others.¹⁶⁶ Preece had not been involved in the pre-1875 negotiations for Takahue, but had been brought in by the Government in 1875 to complete the purchase. He was present at the sale, but all arrangements had been made previously by McDonnell and Brissenden. The iwi of the petitioners is not clear from the petitions, but Hone Paraone (who petitioned in 1886) may have been from Ngati Manu and Nga Puhi. Reihana Paraone (who may have been from Te Rarawa or Te Aupouri) had petitioned earlier in 1880 and 1881. The House Native Affairs committee reported that 'having learned that the petitioner was present in Court when the claims of the Natives were settled, and also present when the money was paid, and in neither case having made any claim, it has no recommendation to make'.¹⁶⁷ Matenga Paerata of Ngai Takoto and two others sent in a petition in 1882 claiming that the Government had purchased Takahue 2 and that 'owing to petitioners' ignorance of the law', they had not had time to apply for a rehearing. They further added that over 100 people were interested and requested that 200 acres of the block be returned to them.¹⁶⁸ The committee stated that the question was one 'entirely between the petitioners and their friends', and thus they had no recommendation to make.¹⁶⁹

McDonnell, Preece, and Brissenden believed that the Maori owners were satisfied with the proceedings of the land sales and that all parties with interests in the land had attended the meetings that the agents had set up or attended. Preece, reporting on the passage of Takahue through the Land Court, said that 'all the natives [were] present at court and no one disputed'.¹⁷⁰ Although Preece asserts that no-one at court disputed the rights of those awarded title, and that those three had previously been agreed upon, the hearing for Takahue was adjourned at the beginning to sort out a dispute and Hardiman and Aporo both presented counter claims in court. The fact that Judge Monro awarded title to those established by the

¹⁶⁵ BABG 452/81, Letter from Hapakuku Ruia and others to Fenton 14 July 1874.

¹⁶⁶ AJHR 1886 I-2, p. 39.

¹⁶⁷ AJHR 1880 I-2, p. 8.

¹⁶⁸ AJHR 1882 I-2, p. 18.

¹⁶⁹ AJHR 1882 I-2, p. 19.

¹⁷⁰ MA MLP, 1/3 75/274 McLean's instructions enclosing telegrams from Preece and Brissenden, May 1875.

Land Purchase Agents (with the exception of Hardiman) does not mean that their rights were not contested.

Judge Monro awarded title to three people for each Takahue block when under the 1873 Act he was required to place the individual names of all interested persons on the Memorial of Ownership. Section 47 stated that at the end of the Court inquiry a Memorial of Ownership was to be issued 'giving the name and description of the land adjudicated upon and declaring the names of all the persons who have been found to be the owners thereof'.¹⁷¹ Under this system if a block of land was tribally owned then all members of that tribe with an interests in the land were to be recognised on the title. Maori became owners of land not as iwi or hapu but as individuals.

There were exceptions to this. The 1873 Act allowed for 'any arrangements [as to ownership] voluntarily come to amongst themselves by the claimants and counter-claimants' to be recorded on the Memorial of Ownership. Such arrangements arose out of situations in which there were disputes over ownership in the Court. When presented with this type of arrangement, the Court was required to enter the 'names of the persons with whose consent and the names of the persons by whom any claim shall have been settled by any such arrangement'.¹⁷² An example of such a situation is the title determination for Epakauri, Orowhana, and Tauroa in March 1877. In this hearing, Hare Reweti stated that 'the disputants had come to an arrangement amongst themselves as to the names which were to be in the Memorials of Ownership'. The names of the individuals from the opposing claimant groups, Ngati Kuri and Te Rarawa, who were to be named as owners for each block were then read out and recorded. The court also recorded that this agreement was assented to by six named individuals and 'all the Ngati Kuri and Rarawa present'.¹⁷³

As no explicit statement or record of such a settlement exists in the Takahue minutes I have assumed that this form of voluntary arrangement did not transpire between the Takahue claimants. The voluntary arrangements that may have been agreed upon with regard to Takahue would have been conducted outside the court process. The division of Takahue into two blocks may have occurred just before the hearing in April 1875, and may be an example of this type of voluntary arrangement. As no records exist of the reasons for the division of the block, any speculation on the division can not be substantiated.

¹⁷¹ Native Land Act 1873, Vict. 29, No. 71, section 47.

¹⁷² Native Land Act 1873, Vict. 29, No. 71, section 46.

¹⁷³ NMB 1, p. 142. It is possible that Reweti was acting in an official role, as he does not appear to have been involved in the case up to this point. Reweti was a Native Assessor for the Resident Magistrate's Court at Mangonui (Glen, p. 213).

By law Monro was required to ascertain who had rights to the land at Takahue and put them all on the memorial. Why, then, did he award the title of such a large area to only three people per block? Ownership for the nearby 2219 acre Patiki block was awarded to 21 people. There are two possible reasons for this discrepancy. The owners of Patiki were of both Te Rarawa and Te Paatu. It is possible that the combination of the two iwi may have required more people to be put on the ownership list. A more likely explanation is that Patiki was not destined to be sold immediately (unlike Takahue) and so the number of people on the Patiki memorial could have been related to the retention of rights.

It seems clear from the reports of Brissenden and McDonnell that Puhipi, Papahia and Harimana acted as representatives in order to expedite the sale of the land. Puhipi implied as much when he referred to 'our people' when stating his claim in the Native Land Court.¹⁷⁴ There was, however, an inherent contradiction in the legislation that on the one hand accepted 'voluntary arrangements' between Maori as to who would own what block when titles overlapped, yet did not legislate for the possibility of legally recognised trustees or representatives.¹⁷⁵ There was no legal recognition of the representative role of Puhipi, Papahia, and Harimana, and as such Judge Monro was legally required to have ascertained all owners of Takahue and entered them on the title. Subsequent petitions certainly indicate that some people felt their rights had been ignored.¹⁷⁶

A lengthy debate ensued in late 1875/1876 between Maning and Preece over the desirability and legality of representation on title versus entering all owners on the certificate or Memorial of Ownership. Although this debate related to the adjoining Orowhana block, it has connotations for Takahue as the people involved were largely the same and it highlights important issues that arise in any examination of the Takahue transaction. For this reason I feel it is important to outline the major points of this debate. Preece reported to McLean in late 1875 that

The [Orowhana] owners had all come to the conclusion that as they had sold the land and were to be paid for it at once the best and fairest for all parties was for them to select representative men from the different hapus to be named as the owners in the Memorial of Ownership.¹⁷⁷

Maning commented:

¹⁷⁴ MLC NMB 1, p. 59.

¹⁷⁵ Native Land Act 1873, Vict. 29, No. 71, s. 46.

¹⁷⁶ See p. 42.

¹⁷⁷ Cited in letter from Maning to Fenton, 16 December 1875, BABG A52/83.

Apart from the question as to whether the court could accept, or adopt, such an arrangement, I have to state for your information that I could not find any proof or even the slightest appearance of any such arrangement having been made by the Natives amongst themselves, not one of the well-known numerous owners of the land said so, but I am satisfied that the so called representative men who were the eight men named in the application appointed themselves.

... even if it appeared that no injustice would be done by acceding [sic] to the wishes of the owners in any case where they had made the arrangement represented to have been made by Mr Preece in this case, the Court had no power to give that arrangement effect, by making no mention at all of the great majority of the owners in the Memorial of Ownership.

Earlier in the year, Maning had expressed to Brissenden his dislike of the 1873 Native Lands Act. Prior to that he had expressed his concern about the practicality of the preliminary inquiry required by the Act. Nonetheless, in this instance at least (for whatever reason) he seemed prepared to carry the Act out to the letter. Mr Preece, on the other hand, appears to have had a more flexible view of the Native Lands legislation. He was of the opinion that:

As regards the policy of the Natives being permitted to come to such arrangements, I fully believe that in cases of sale when the owners have been assembled, and the money is 'to be paid' there and then, it is far better that the owners should name representative men from the various hapus, to be named in the Memorial rather than encumber the same with the names of all the owners &c.

Maning stated that he thought that this course would bring in its train many problems. Firstly, the transfer of land to the Government would only be effected by some of the owners, not all of them. Secondly, the division of the payment for the land would be

almost to a certainty unfairly made by the so called representative men, the other owners from not being noticed in the award of the Court having no power to compel a fair division by refusing to sign the Conveyance till they had received their fair share of the purchase money.

And thirdly:

such supposed arrangements are often merely apparent, and may be made by one of the parties under compulsion; The Chiefs of Hapu, are able often to put on a moral pressure which the other members of the tribe do not like to resist, and the cases at Ahipara are in my opinion exactly of this nature, the majority of owners I am satisfied, are most unwilling to be ignored and left out of the Memorial of Ownership. They are ashamed, unwilling, or afraid, to oppose the wishes of the Chiefs, in Court and hope that the law will take their case in hand and recognise their rights, and by refusing to leave them out of the Memorial of Ownership secure their interests in such a way as that the Chiefs cannot blame them, or accuse them of having openly opposed them in Court....As for the

contrary course recommended by Mr Preece, even though the majority of owners were apparently willing to trust their interests in the hands of the Chiefs, and that it was made legal that they might do so, I am convinced that it would lead to future trouble and litigation, but as the case at present stands it is not legal.

Maning also commented:

I cannot at all agree in opinion with Mr Preece that to name a native as an owner in the Memorial of Ownership when he has been found to be really an owner, is to "encumber" that document.¹⁷⁸

If Puhipi and the others were acting as representatives, that means that Te Rarawa from Ahipara to Hokianga appear to have possessed rights to Takahue. If Judge Monro had entered every name of every owner, the Memorial of Ownership would certainly have been very long, but every owner would have had his or her rights legally recognised.

Maning believed that in the case of Orowhana, Timoti Puhipi was deliberately withholding the names of the other owners. Maning called Puhipi an 'unscrupulous' chief, and claimed that Puhipi had

admitted in court, when these claims were called formerly at Ahipara, that there was from fifty to a hundred owners of the land, besides himself, but refused to give their names, and said that he would not consent that they should be named in the Memorial of Ownership or recognised in any way by the court.¹⁷⁹

Maning believed that 'the other owners were under intimidation and would not come into Court for that reason to state their interests, which I believe are very considerable'. He thus adjourned the court until Puhipi signified that he would not oppose the ruling of the Court, which was 'that every person whomsoever having any interest in the lands should be named in the Memorial of Ownership, *any other course being illegal*'. Maning further believed that the cause of Puhipi's impatience, in so far as getting the lands through the Court was concerned, had to do with him 'having sold the lands to the Government and waiting to get the money'.¹⁸⁰

Puhipi was indeed impatient and wrote to Fenton asking firstly why there was a delay in hearing claims in the Northern District,¹⁸¹ and secondly requesting that another judge replace Maning. Puhipi stated that he and his people were 'utterly dissatisfied with Judge Manning's [sic] proceedings'. According to Puhipi, Te Rarawa felt that Judge Maning's

¹⁷⁸ BABG A 52/83 Letter from Maning to Fenton, 16 December 1875.

¹⁷⁹ BABG A52/84: Remarks of Maning on the letter from Puhipi 30th March 1872.

¹⁸⁰ BABG A52/84 Remarks of Maning on the Letter from Puhipi 30 March 1876. My italics.

¹⁸¹ BABG A52/84 Letter from Timoti Puhipi to Fenton, 18 February 1876.

conduct towards them was 'most unfair'. He had left without hearing the conclusion of Puhipi's evidence and without having heard the many other Te Rarawa witnesses.¹⁸²

Maning argued that other owners and perhaps counter claimants were too intimidated by Puhipi to come forward at the Native Land Court. However, Te Rarawa themselves may well have decided that it would be easier and would prove more beneficial or efficient if only a selected few were placed on the memorial. In the case of Takahue the land was to be sold as soon as it had gone through the court. It was more convenient for the Crown to have as few owners as possible, and it may well have been more convenient for Maori as well. It is possible that the iwi decided that it was a mere matter of form as to who was on the memorial (presuming they had all agreed to the sale in the first place). Two of the three 'owners' of Takahue 1 block were chiefs of Te Rarawa (Puhipi and Papahia) and Harimana was of Te Tahawai with strong links to Te Rarawa. He was also a man of standing in his community.

There are several implications of these letters and events for Takahue. First of all, Maning believed that every person with an interest in a block of land had to be entered on the Memorial, any other course being 'illegal'. Judge Monro awarded the title of the two Takahue blocks to only three people for each block when common sense (and later petitions) suggests that there would be many more owners in such a large area – a fact Monro would have discovered if he had fulfilled his obligations to inquire fully into title. This raises an interesting question as to the validity of the subsequent sale of Takahue. Certainly in Maning's (untrained) opinion the transaction was invalid. The title determination does appear to be contrary to the requirements of the 1873 Act which required that all people possessing interests in a block must be placed on the Memorial of Ownership – except for those instances where a dispute between claimants was resolved by the expedient of arranging who would be awarded title.¹⁸³

The three people awarded title were clearly representatives but that may not have been a legally recognised position under the 1873 act. Maning wrote to J. Webster in 1875 criticising Monro's actions and saying that he had 'warned Monro...of the consequences of what he was doing but he kept on'. He said that Monro had 'wittingly and deliberately ignored the rights of nine tenths of the owners of almost every case he had to do with and left them at the mercy of a few Rangatira sharks.' In consequence the Government 'have not got

¹⁸² BABG A52/83 Letter from Timoti Puhipi to Fenton 4 July 1876.

¹⁸³ See p. 43.

a single valid title in the north'. Maning added that 'it is fortunate the natives do not know it'.¹⁸⁴

Maning was also critical of the lack of investigation into ownership carried out by the Land Purchase Agents and by Monro. In an about face from his earlier statement to Brissenden,¹⁸⁵ Maning declared himself to be in 'open war with the Native Land Purchase Agents', saying that they wanted him 'to rob hundreds of owners of land and only recognise such persons as chose to sell it to them'. He further accused Monro of 'allowing himself to be led by the nose by the Government agents' simply to "make things easy".¹⁸⁶

Reserves:

Four blocks in and around Takahue were sold in early 1875 totalling 39098 acres,¹⁸⁷ out of which no reserves were made. Part of the deal McDonnell had brokered with Puhipi and his people was that 'the Government [would] survey the whole free of expense to the natives but the expense of the survey of any reserves, made afterwards, is to be defrayed out of the money the natives receive for their land'.¹⁸⁸ As Te Rarawa were to be responsible for the payment of any surveys of reserves, it is perhaps not surprising that they did not make any – given that their reason for selling in the first place was to obtain money and long term benefits. It seems clear that McDonnell was providing a disincentive to hold any land back from these sales as reserves. Claudia Geiringer asks whether Crown purchase agents went to 'adequate lengths' to ensure that enough land remained for the needs of the Maori vendors.¹⁸⁹ It does not appear that McDonnell sought the creation of reserves in the Takahue blocks, and it is unclear whether he took any action to ensure that reserves either existed or were created elsewhere that could sustain Takahue Maori.

A second question that arises is: why were Maori required to pay for the creation of reserves? They were required as claimants to the land to pay for the survey of the block when taking it through the land court, presumably the survey of reserves was also to be paid for by claimants. However, the onus of creating reserves was surely on the Government. Geiringer quotes the Ngai Tahu Report, which states that the second article of the Treaty of

¹⁸⁴ MS Papers 247/3 Letter from F.E. Maning to J. Webster, undated [1875], in Wai 38 A-6 (supporting documents to D. Colquhoun, 'The Waipoua-Maunganui Claim, A Preliminary Report', Wai 38 A-2).

¹⁸⁵ See p. 38.

¹⁸⁶ MS Papers 247/3 Letter from F.E. Maning to J. Webster, undated [1875], in Wai 38 A-6 (supporting documents to D. Colquhoun, 'The Waipoua-Maunganui Claim, A Preliminary Report', Wai 38 A-2).

¹⁸⁷ Takahue 1 (24122a) 4 May 1875, Takahue 2 (4405a) 4 May 1875, Te Puhata (3352a) 15 June 1875, and Te Uhiroa (7219a) 15 June 1875.

¹⁸⁸ MA MLP 1/1 73/223, McDonnell to Colonel St. John, 22 December 1873.

¹⁸⁹ Geiringer p. 61

Waitangi ‘imposed on the Crown a duty to ensure first that the Maori people wished to sell their land, and second that each tribe maintained “a sufficient endowment for its foreseeable needs”’.¹⁹⁰ It was in fact the statutory duty of the District Officer under the Native Lands Act 1873 to select and set apart, in consultation with Maori, a ‘sufficient quantity of land in as many blocks as he shall deem necessary for the benefit of the Natives’.¹⁹¹

It is possible that both Maori and the Government thought that the surrounding Maori land which was to remain unsold would be sufficient for Maori use. In an earlier hearing for Ruraroa in July 1868, Timoti Puhipi asked that the 48 acres that had previously been reserved out of the block be included in the whole (bringing it to a total of 688 acres), as ‘we have plenty of other land to cultivate for the people’.¹⁹² By 1871 the situation had changed. Charles Heaphy, the Commissioner for Native Reserves, reported that ‘it is possible...that there may be some tribes that have sold recklessly, and are in danger of becoming paupers’. He included the Te Rarawa among those tribes ‘that have the least extent of land left in proportion to what they have sold. The schedules show that there are about 24,296 acres reserved for the Rarawa. The population of that tribe is estimated at 1,275 souls, thus the average is 19 acres per head’.¹⁹³ Compare that figure to the 1873 Act requirement that there should be 50 acres reserved for every Maori man, woman and child (itself a conservative figure).¹⁹⁴ Heaphy went on to recommend that ‘none of the cultivations of the Rarawa or Ngatiwhatua tribes should be allowed to be sold’.¹⁹⁵ This was two years before McDonnell arrived to negotiate the sale of land in the Takahue area, and four before the two Takahue blocks and the adjoining Uhiroa and Te Puhata blocks were sold.

In 1876 Maning wrote to Chief Judge Fenton expressing concern over the severely reduced land base of Northern Maori. He referred to the preamble of the 1873 Act which

puts forward as an object of the highest importance the “assuring to the natives without any doubt whatever a sufficiency of their land for their support and maintainance [sic], as also for the purpose of establishing endowments for their permanent general benefit.”¹⁹⁶

Maning said that the 1876 census showed 2796 Te Rarawa people, who would require reserves to the amount of 139,800 acres. When that figure was added to the reserves required

¹⁹⁰ Geiringer p. 61.

¹⁹¹ The Native Land Act 1873, s. 24.

¹⁹² MLC NMB 1, 29 July 1868.

¹⁹³ AJHR 1871 F-4, Report from the Commissioner of Native Reserves, p. 5.

¹⁹⁴ Native Land Act 1873, section 24.

¹⁹⁵ AJHR 1871 F-4, Report from the Commissioner of Native Reserves, p. 5.

¹⁹⁶ BABG A52/84, Letter from Maning to Fenton, 5 July 1876.

for people of Nga Puhi, the total land base needed to be reserved for Northern Maori amounted to 443,150 acres. It was Maning's belief that

the natives of the Rarawa and Ngapuhi tribes have not now left in their possession unalienated any great quantity of land over that which is the least amount considered by law to be sufficient, and which does not indeed seem at all too much when it is considered how small a proportion must of necessity be of such a description as natives can make profitable use of.

Sir Donald McLean affirmed this view when he stated that

it has become a question for consideration, whether, after the present negotiations are completed [Epakauri, Orowhana, Te Tauroa et al], it would be right, regard being had to the wants of the Natives, for the Government to acquire any more land in that district.¹⁹⁷

If the Government and Maori were counting on the neighbouring land in Patiki, Okakewai, Konoti, and Pukekahikatoa being enough to sustain local Maori, they were overly optimistic. The area for these blocks totalled only 6814 acres of often hilly land. And as Geiringer has stated, 'land not explicitly reserved...did not fit the criteria [for reserves] stated by McLean himself: that such land should be inalienable'.¹⁹⁸

Deeds and Payment:

The signing of the Takahue deeds was held in the Native Land Court on 4 May 1875. The nature of the deed for Takahue 1 was explained to Puhipi, Papahia, Harimana, and 'others of Rarawa' by Judge Monro, and translated into Maori by G. Kelly (the Court interpreter). Once the deed had been signed, the payment of £2814.4.8 was made. The same process applied to the signing of the Takahue 2 deed, although in this case those Maori present consisted solely of the 'owners', Hori Karaka Tawhiti, Te Tiahuia and Himiona Te Waruora. In regard to the payment of balances for Takahue, Preece reported:

The money was then paid by Mr Brissenden in my presence and deeds signed all parties satisfied...

Re Takahue Mr Brissenden being there with the money I was able to complete it satisfactorily. I would like copies of vouchers sent by first mail re Takahue, Uwhiroa [sic], Puhata and Tawroa [Tauroa] as in the settlement of the Takahue I found the natives have divided the monies [sic] paid by Col McDonnell as deposits on these blocks among themselves in a different manner from that shown in the accounts.¹⁹⁹

¹⁹⁷ AJHR 1876 G-10, Statement Relative to Land Purchases, North Island, p. 1.

¹⁹⁸ Geiringer, p. 63.

¹⁹⁹ MA MLP 1/3 75/274 McLean's instructions enclosing telegrams from Preece and Brissenden, May 1875.

The only indication as to who received the money is given in Preece's statement that arrangements had been made by Mr Brissenden as to three individuals to receive title for the 'purpose of conveying all the natives present at court [sic]'.²⁰⁰ It is likely that Preece then paid Puhipi, Papahia and Harimana, and left them to decide on any further division of the money. It is unfortunate that no records are left of how that money was divided. It would be interesting to know whether the shares were equal, or if they were not, who received the larger share. In an early report to the Land Purchase Department, McDonnell wrote that although he had fixed the land for 2/4 an acre 'it will cost a trifle more than this, as certain chiefs have had to be considered'.²⁰¹ One of Maning's concerns with the Orowhana title determination was that the division of payment for the land would be unfair as the majority of owners had no legal recourse to demand their share, as they had not been acknowledged on the title.²⁰² The six people awarded title to the two Takahue blocks were in actuality representatives who should have divided the money among their people (and most likely did) but legally they were absolute owners entitled to the whole payment.

A Trust Commissioner under the Native Lands Frauds Prevention Act of 1870 carried out the final phase of the investigation of the title to Takahue. This Commissioner was required 'to ascertain as far as possible the circumstances attending every such alienation [of native lands]'. He was particularly to inquire whether the alienation was invalid by being 'contrary to equity and good conscience' or by being paid for with guns or liquor. The commissioner was also required to ascertain 'whether the parties to the transaction understand the effect thereof and also as to the nature of the consideration intended to be paid or given upon such alienation', including whether it had actually been paid. As well as this, the Trust Commissioner was required to ensure that 'sufficient land is left for the support of the Natives interested in such alienation'. Following the investigation, the Commissioner was to endorse the sale in a certificate form on the deed, or to withhold such endorsement.²⁰³

In the case of Takahue blocks 1 and 2, Mr H. T. Haultain (the Commissioner for the Auckland District) did endorse the deeds. Apart from this certification on the Crown purchase deeds that he had carried out his investigation and was satisfied with the result, I have seen no record of his investigation.²⁰⁴

²⁰⁰ MA MLP 1/3 75/274 McLean's instructions enclosing telegrams from Preece and Brissenden, May 1875.

²⁰¹ AGG-A 1/9 73/828, Report of McDonnell to Land Purchase Department, 25 November 1873.

²⁰² See p. 45.

²⁰³ Native Lands Frauds Prevention Act, 1870, Vict. 33 & 34, No. 75, sections 4 and 5.

²⁰⁴ Crown Purchase Deed 824 (Takahue 1) and Crown Purchase Deed 825 (Takahue 2).

CHAPTER THREE: SCHOOLS AND SETTLERS

This chapter examines two things. First, what happened to the promises of settlement made to Maori by Government agents, and second, the reasons for establishing the Takahue School.

Government Sponsored Settlement in Takahue:

After the sale of Takahue, Maori awaited action by the Government on those benefits promised to them by McDonnell during the negotiations for the land. McDonnell told Takahue Maori that the Government would 'send' settlers to the area and that this would be the means of increased Maori prosperity in the north. Inducements such as this, used by McDonnell to persuade Maori to sell their land, were inappropriate. It was over ten years before the Government actively undertook to place Pakeha settlers in this area. This is despite reports by Government officials, such as J. W. Preece, that there was

a very large extent of rich land, particularly in the Hokianga District and on towards Whangape and Victoria Valley, fit for settlement...they [the settlers] would get a ready market for the larger timber such as totara and kauri, and would be settled on extremely rich land, adjacent to or within easy reach of a magnificent harbour, abounding with all kinds of fish during every season of the year, The climate is genial, and at the same time capable of producing in the valleys most tropical fruits...The land I particularly refer to includes the Manganuiowae, Takahue, Uwhiroa, Puhata, Otangaroa and other blocks.²⁰⁵

The Inspector of Surveys, Theophilus Heale, also reported favourably on the prospects of the Takahue area for settlement. He stated that the volcanic hills which constituted a large part of the land in that area had 'in most parts, generated an excellent soil'. The hills themselves did not pose a serious obstacle, as there were 'extensive valleys, with a soil equal to the most favoured parts of the Province.' He also commented on the quality of the Kauri timber that grew in large areas. The soil was good for cultivation and the position of the blocks was such that it would be easy to open them up through the construction of roads. Heale stated: 'I am satisfied that at least one fourth part of the land purchased in the North, is everything that can be desired for settlement in respect of soil, levelness, and accessibility.'²⁰⁶

These descriptions were not entirely correct as far as Takahue was concerned. Although the lower part of the block did have access to the Hokianga harbour, a larger part of the block

²⁰⁵ J.W. Preece to Under Secretary for Native Office, 26 June 1877, AJHR 1877 G-7, No. 2, p. 3.

²⁰⁶ Report by Inspector of Surveys on Position and Quality of Lands North of Auckland, Recently Acquired by the Government. AJHR 1875 C-5, p. 1.

did not have easy access. The hilly sections of Takahue posed little obstacle to cultivation because of the fertile valleys, but they did pose a serious problem in terms of transport and access to the markets and harbour of Hokianga. The descriptions given by both Preece and Heale were general ones of a large area of which Takahue was only a part. It is interesting to compare these descriptions with the statement of the School Inspector in 1872 that the land here was 'poor to a degree which it is difficult to conceive'. In his view the only exceptions to this 'extreme sterility' were at Whangaroa and Kaitaia.²⁰⁷

The important thing, however, is not whether these descriptions were accurate or not, but that the Land Purchase Agents had promised Maori that the Government would send settlers to the area, and that the Native Affairs Department had also received glowing reports of the suitability of the land. The Government essentially ignored these reports, as they did the many requests for settlers made by Maori.

Following the purchase of Takahue conducted at the Land Court, Preece reported back to Auckland and said: 'the natives are very anxious that settlers should be located on these lands as soon as possible'.²⁰⁸ Maori had wanted settlers in this area for many years. As previously stated, this was one of the prime motivations for the sale of their lands. In April of 1873, Resident Magistrate Von Sturmer of Hokianga reported to the Government that a block at Whirinaki had been sold to the Government 'under the idea that it would be speedily laid out in farms and settled upon'. Sturmer commented on the 'desire of the whole of the Native people for the settlement of Europeans amongst them'.²⁰⁹ The next year he again commented on the 'anxiety' of Maori 'for the increase of settlers amongst them'. He said that they would 'do much to assist the Government in introducing Europeans into this district'.²¹⁰ In 1873, a few months before McDonnell embarked on the Takahue negotiations, he reported to the Auckland General Government Agent that Maori at Mangakahia were 'still willing to dispose of their land to His Honor Mr. Gillies, for the purpose of locating Europeans thereon'.²¹¹

In his 1876 'Statement Relative To Land Purchases, North Island', Sir Donald McLean stated: 'Appeals have on more than one occasion been made by the Natives to have these lands peopled by an English population, and they have readily disposed of some of the best of their lands to induce European settlement'.²¹² McLean and McDonnell were both aware of

²⁰⁷ Papers Relating to Native Schools, AJHR 1872 F-5, no. 7, p. 12.

²⁰⁸ MA MLP 1/3 75/274, McLean's tel. Instructions and replies thereto.

²⁰⁹ AJHR 1873 G-1, No. 3, p. 3.

²¹⁰ AJHR 1874 G-2, No. 3, p. 2.

²¹¹ AJHR 1873 G-8, p. 20, no. 21, Lieut.-Colonel McDonnell to the General Government Agent, Auckland, 7 April 1873.

²¹² AJHR 1876 G-10, p. 1 'Statement Relative to Land Purchases, North Island'.

the Maori desire for Pakeha settlement, the promises that had been made as to its attendant benefits, and the influence of these on their decision to sell land to the Government. They used this desire to push through the purchases of North Auckland lands, but no settlers were placed on the land for many years following. Also in 1876, R.M. Von Sturmer reported that the Hokianga Maori 'still continue to express great anxiety for the introduction of European settlers amongst them, and repeatedly ask me why, the Government having lately purchased such large blocks of land, settlers have not been placed upon them, stating that one of their motives for selling was to cause an increase of Europeans in the district, and so enhance the value of the lands still remaining in their possession'.²¹³

Northern Maori like Timoti Puhipi saw the Government as having both the ability and the duty to provide them with an infrastructure that would also provide economic opportunities. This did not happen in the Takahue area. Timoti Puhipi wrote to the Maori Affairs Department in May of 1876 stating that he and his people wanted telegraphs established in their district, money spent on their roads, and Europeans to be sent to settle amongst them.²¹⁴ This was a year after the Takahue block was sold. It is interesting to note the phrasing of the last demand in particular (although it is only as written in the register not the letter, which is no longer extant). Here, Puhipi states that they want the Pakeha to settle amongst them – not by them or in the area but amongst them. Te Rarawa viewed the influx of settlers and the ensuing prosperity as something to benefit both parties.

Despite these frequent requests for settlement and attendant development, it was not until the 1880s that the Government began to send settlers to the Takahue area. In 1883, 471 acres in the northern part of Takahue 1 were permanently reserved for an experimental farm. This was followed by a temporary reservation for another experimental farm near Pukepoto. But the major settlement programme eventuated in 1886 and 1887 with the Ballance Village Homestead Special Settlement Scheme. Under this scheme, 1287 acres were permanently reserved for a Village Settlement in 1886, and a further 1130 acres were reserved in 1887.²¹⁵

The Honourable John Ballance developed the Village Homestead Special Settlement scheme during his tenure as Minister for Lands (before he became Premier in 1891). This scheme was intended as a 'relief measure designed to disperse the unemployed into the country districts'.²¹⁶ Successful applicants received an advance of £20 for building a house,

²¹³ AJHR 1876 G-1, No. 23, p. 19.

²¹⁴ MA 1 76/2384 – this is only from the register as the actual letter was lost in a fire. The register has a brief description of what is in the letter.

²¹⁵ NZG, 1886, v. II, p. 1331, and NZG, 1887, v. I, p. 35.

²¹⁶ AJHR, 1891, sess. II, C-5, 'Village Homestead Special-Settlement System in New Zealand', p. 9.

and an advance of £1 5s per acre (up to 20 acres) for scrubbing land and felling bush, and a further £1 5s an acre for burning, fencing, grassing, and other improvements. If the allotment awarded to a settler did not require such clearing and improving, they were eligible only for the £20 advance for the house. No allotment was larger than 50 acres, and 41 sections were set aside in Takahue for the Village Settlers.²¹⁷

Of the 47 successful applicants for the settlement scheme in Takahue, only 23 actually took up the sections and a mere 21 actually occupied the land. By 1891 only 12 Village settlers were actually physically present on the land. The reasons for the failure of the scheme are multiple and interrelated. There were claims that the selection process of the settlers was inadequate and that many of those who finally settled on the land were ‘useless men’ who abandoned their sections and returned to the city once they had a bit more money.

The land itself was not conducive to being settled by people with little bush farming experience. In reference to the Takahue, Manganuiowae, and Otangaroa area, Preece commented that

being covered with bush, it would not suit the ordinary class of settlers, I am of opinion that these lands may be made a source of great prosperity to the Auckland District were they opened up by main trunk roads and settled on in a systematic manner by emigrants from either Canada or Nova Scotia...No doubt, for the first few years the settlers could not expect to make more than a bare living, but I feel confident that if the land I refer to were settled on by the right class of men, having a little means to begin with, and the land on fair terms, that in the course of five years they would be on a fair way to prosperity of no small degree.²¹⁸

The settlers in the Village Settlement scheme were neither people with experience of farming in rugged bush land, nor those who had ‘a little means to begin with’. In the Auckland district such village settlements were often isolated from other settlements and therefore from possible markets for their produce and from alternative means of employment.

In writing to the Lands and Survey Department in 1893, Joseph Muir, Chairman of the Takahue School Committee, gave another perspective when he stated: ‘the present community are mostly Village Settlers, and consequently most unsettled; having no permanent interest in the land, being debarred from ever obtaining their freeholds’.²¹⁹ In his view it was not so much that the settlers were interested only in working until they had some

²¹⁷ NZG, 1886, v. II, p. 1331, and NZG, 1887, v. I, p. 35, and AJHR, 1891, sess. II, C-5, ‘Village Homestead Special-Settlement System in New Zealand’, p. 9.

²¹⁸ J.W. Preece to Under Secretary for Native Office, 26 June 1877, AJHR 1877 G-7, No. 2, p. 3.

²¹⁹ LS 1 2/264, Letter from J. Muir to A. Barron Under-Secretary, 5 September 1893. Emphasis in original.

funds to return to the city, but that the impossibility of obtaining the freehold of the land was not conducive to developing a permanent interest in the area.

As well as the slow establishment of settlement, the economic prosperity promised as a result of European settlement remained unfulfilled. When Pakeha did settle on the land the only economic development generally occurred for Pakeha. Road development was restricted to areas useful for Pakeha settlements and trade, and work on the roads was generally given to the Pakeha settlers. Under the Village Homestead scheme the Government gave active financial assistance to Village settlers to survey and clear land, and to build houses, but assistance to Maori was negligible if indeed it occurred at all. The isolation of many of these areas from any centres of industry was a major factor in the economic problems faced by Maori as it was for the Pakeha settlers. As the settlers gave up and left the district, the chance of financial independence, let alone prosperity, for the settlement reduced markedly. This was unfortunate for Maori who had seen Pakeha settlement as a means of obtaining economic prosperity. In 1879 Mr G Kelly of Monganui reported that Maori in the Kaitaia area 'though possessing the best lands in our district, are very poor, having no roads fit for the transit of their produce to a market, and are obliged to live much from home on the gum fields, taking their children with them'.²²⁰

Road works were introduced in the late 1880s to provide work for the settlers as well as to improve access and communications between the village settlement and the surrounding areas. Road and public works also provided employment opportunities for Maori for whom gum digging was fast becoming a last resort. In 1873 Resident Magistrate White reported that Maori were much in debt to various traders.²²¹ This and the fact that the profits of gum digging were dependent largely on the market and the prices paid, meant that alternative means of economic support were needed.²²² In the early 1870s Maori in the Hokianga and Takahue districts were involved in farming, gum digging, 'squaring timber for the Australian markets',²²³ and 'road making under the various Road Boards'.²²⁴ As more Pakeha came into the district, competition for employment on road works increased. White reported in 1876 that 'Road-making is a work they appear to like, competing eagerly with the Europeans in obtaining it'.²²⁵ No doubt the importance of roads for ease of trade was one of the reasons for the eagerness shown for the implementation of road works. In 1874, White reported that

²²⁰ AJHR 1879 session 2, G-2, No. 2, p. 1.

²²¹ AJHR 1873, G-1, No. 2, p. 1.

²²² AJHR 1873 G-1, No. 3, p. 2.

²²³ AJHR 1873 G-1, No. 3, p. 2.

²²⁴ AJHR 1874 G-2.

work on a road to Victoria appeared to have been abandoned, to the surprise of both Pakeha and Maori, as it was a time when 'the Government are acquiring large tracts of country between Victoria and Hokianga'. The roads would have opened up the country and 'given employment to the Natives'.²²⁶

In the 1880s Takahue was still a 'remote district of fern and tea tree backed by heavy bush'. Travel was provided for only by an unmetalled track joining the Takahue settlement to the main Victoria Valley Road. The nearest place to obtain provisions from was Kaitaia – fifteen miles away.²²⁷ By the 1920s the Takahue settlement was still isolated. In 1923, R. J. Cornwell, secretary of the Takahue School Committee, wrote: 'we here are situated well back from through communication with outside districts, and are practically isolated.'²²⁸ He further described Takahue as a 'district with a considerable area of bush land just settled'.²²⁹

A School for Takahue:

With so much attention placed on the school in the claims and especially during the 1995 occupation, it is important to examine who established the school and for whom. The Takahue School site was gazetted in 1888, as part of the Village Settlement Scheme, for the children of the Village Settlers.²³⁰ In April 1886 Mr Richard Hobbs, Member of the House of Representatives for the Bay of Islands, attended a meeting of the Auckland Education Board and 'was heard in support of applications for school buildings at Herekino and other village settlements'.²³¹ The Board came to the resolution that as applications had been made for 'the immediate erection of school buildings at the Village Settlements', it would make a special application to the Government for financial assistance, its own funds being 'absolutely inadequate to meet such extraordinary demands upon them'.²³² A year later it was noted in the minutes that this request for special assistance had been declined by the Minister.²³³

²²⁵ AJHR 1876 G-1 No. 22, p. 18.

²²⁶ AJHR 1874 G-2, No. 2, p. 1.

²²⁷ YCBD A688 2113f 1/433/24, Schools History. Clipping from Northern Advocate 18 May 1963 reporting on Takahue School 75th Jubilee.

²²⁸ YCBD A688 454a 1/433/3, Takahue Residence Files 1923-1945. Letter from R. J. Cornwell, Secretary of Takahue School Committee to the Secretary of the Auckland Education Board, 9 July 1923.

²²⁹ YCBD A688 454a 1/433/3, Takahue Residence Files 1923-1945. Letter from R. J. Cornwell, Secretary of Takahue School Committee to the Secretary of the Auckland Education Board, 9 July 1923.

²³⁰ NZG 1888 No. 4, January 19, p. 14. There was an 11-acre site gazetted in 1879 (NZG 1879 No. 7, January 16, p. 72). What happened to this site I do not know. There were no references to it in the Minute Books of the Auckland Education Board.

²³¹ YCAF 5491/6a, Minutes of Auckland Education Board, 15 April 1886.

²³² YCAF 5491/6a, Minutes of Auckland Education Board, 15 April 1886.

²³³ YCAF 5491/6a, Minutes of Auckland Education Board, 6 May 1887.

On 9 September 1887 an application was received and read for a school to be established at Takahue. The Board deferred the issue for further inquiry. They decided to ask the applicants if they would accept a capitation grant and suggested that an application be made for the reservation of a site.²³⁴ A school site of just over 5 acres was temporarily reserved in October 1887 and permanently reserved in January 1888.²³⁵ Also in October 1887 the application for a school in Takahue was referred to Inspector Godwin for his report,²³⁶ and was then further deferred for information regarding the number and names of European children attending native schools at that time.²³⁷ It is not specified which school/s the children were attending. As there were no native schools in the Takahue block area at any time I am assuming that these children, like the Maori children in that area, attended a native school outside their district. Unfortunately the reports of the inspector and returns of the numbers of children are not available.

In mid-November of 1887 the Board noted that the Survey Department were to be consulted as to the prospects of the settlement.²³⁸ In January 1888 it was noted that tenders were to be invited for the 'erection of a school building to accommodate 60 children'.²³⁹

The first meeting of householders to elect a school committee in Takahue was held on 23 April 1888 at the house of Mr. Robert Bradley. The school committee played an important part in the political life of the Takahue settlement. For example, in May 1893 the Takahue settlers held a meeting and decided 'That the Crown Lands Board be requested to recommend the Government to appoint, and gazette the *Takahue School Committee*, (so long as they remain in office) *and their successors*, as Trustees (ex-officio) of the Takahue Cemetery Reserve.'²⁴⁰ The Chairman of the committee, Mr. Joseph Muir, considered that the school committee (being a permanent body) would be far more stable than individual village settlers, whom he described as 'most unsettled'.²⁴¹

It was noted in 1923 that 'there is not a home in the district where there are no children either of school age, or to attend shortly'.²⁴² In 1926 Mr Cornwell informed the Education

²³⁴ YCAF 5491/6a, Minutes of Auckland Education Board, 9 September 1887.

²³⁵ NZG 1887 No. 70, October 27, p. 1369, and NZG 1888, No. 4, January 19, p. 43.

²³⁶ YCAF 5491/6a, Minutes of Auckland Education Board, 21 October 1887.

²³⁷ YCAF 5491/6a, Minutes of Auckland Education Board, 27 October 1887.

²³⁸ YCAF 5491/6a, Minutes of Auckland Education Board, 18 November 1887.

²³⁹ YCAF 5491/6a, Minutes of Auckland Education Board, 20 January 1888.

²⁴⁰ LS 1 2/264, Takahue and Kaitaia Public Cemeteries, Letter from J. Muir to A. Barron Under Secretary, 5 September 1893.

²⁴¹ LS 1 2/264, Takahue and Kaitaia Public Cemeteries, Letter from J. Muir to A. Barron Under Secretary, 5 September 1893.

²⁴² YCBD A688 454a 1/433/3, Takahue Residence Files 1923-1945. Letter from R.J. Cornwell, Secretary of Takahue school committee to the Secretary of the Auckland Education Board, 9 July 1923.

Board that there were 35 children under five years in the district 'excluding Maoris [sic] and Diggers Valley, the inclusion of which would bring the total to approaching 50'.²⁴³ This seems to imply two things, first that the population of Takahue was growing. The school had originally been built to accommodate 60 children, and at this point 60 were in attendance and 35-50 more children were yet to reach school age. The second implication is that Maori children could attend but that their attendance may have been rare. Although under the 1877 Education Act Maori were free to attend public schools²⁴⁴ it is unlikely that many Maori attended the Takahue school given the presence of Native Schools in neighbouring areas. The first students at Takahue school appear to have all been Pakeha,²⁴⁵ and I do not know at what point Maori children began attending it.

Native Schools:

In 1873 Resident Magistrate White wrote to Colonel Russell (the Inspector of Native Schools) and put forward 'a scheme by which a plain English education would be placed within the reach of the whole Native youth of this district at a very moderate cost'. He proposed that the Kaitaia School should be established immediately and then eight other schools around Victoria Valley, Herekino, and Mangonui. He believed that around forty children would attend each school.²⁴⁶

The establishment of Native Schools was something in which many Maori were highly involved. Timoti Puhipi had been active in the education of his people since around 1871. In March 1872 the Inspector of Schools reported to the Native Minister on his inspection of the Pukepoto Native School. The schoolhouse at Pukepoto was one given on loan by Timoti Puhipi. Puhipi also paid Mr Masters (the schoolteacher) £20 annually on behalf of the rest of the Pukepoto Maori and supported many of the students whose parents were financially unable to contribute.²⁴⁷ When the old schoolhouse became inadequate for the needs of the school Puhipi gifted 12 acres of land near the old site for a new schoolhouse to be built. Given Puhipi's substantial contribution, Sir Donald McLean relieved him of the £20 contribution to the teacher's salary.²⁴⁸ Not long after this report, Puhipi was one of nine chiefs of Ahipara to write to Resident Magistrate White to request a school to be provided at

²⁴³ ²⁴³ YCBD A688 454a 1/433/3, Takahue Residence Files 1923-1945. Letter from R. J. Cornwell to Education Board Secretary 29 June 1926.

²⁴⁴ Education Act, 1877, Vict. 41, No. 21, s.10.

²⁴⁵ see *Takahue School 75th Jubilee*, pamphlet, and *Takahue School Centennial*, pamphlet.

²⁴⁶ AJHR 1873 G-4, Enclosure 2, p. 7.

²⁴⁷ AJHR 1872 F-5, Papers Relating to Native Schools, No. 9, pp. 12-13.

²⁴⁸ AJHR 1872 F-5, Papers Relating to Native Schools, No. 9, p. 13.

Ahipara.²⁴⁹ Likewise Wi Tana Papahia was involved in establishing schools in the Hokianga district. He and others in his district selected Waitapu as a good site for a school as it was 'suitable to the scattered population and local jealousies of the district'.²⁵⁰ The school committee was comprised of Spencer Von Sturmer, John Hardiman, Wi Tana Papahia, and Herewini Mangumangu,²⁵¹ demonstrating a working relationship between Harimana and Papahia several years before the Takahue purchase.

There were several native schools in the areas surrounding Takahue, including Ahipara, Awanui, Pukepoto, Pamapurua, Kaitaia, and others in the Hokianga area. But, although one of these schools was close enough for the Pakeha children of Takahue settlers to attend,²⁵² there were no Native Schools within the Takahue blocks. Although Takahue was no longer Maori land, there were still Maori resident in the area and they requested a native school. In 1884 it was noted by the Organising Inspector to the Inspector-General of Schools that petitions had been received by Maori in Takahue, Kenana, and Parapara for native schools to be set up in their areas. He noted that 'it was not considered advisable to grant a school in any one of these cases, but Takahue is to be provided for by the removal of the Kaitaia School to a position further up the valley'.²⁵³

The Takahue School was a centre of the Takahue community well into the twentieth century until a declining roll led to its closure in 1973; 100 years after negotiations for the land were first entered into. In 1977 the Ministry of Defence took over the school building for the use of the army. The land was declared surplus in 1993 and the Justice Department bought it 'at the request of Te Runanga o Muriwhenua' and placed it in a landbank of Crown properties to be used in settling the Muriwhenua claims.²⁵⁴ In 1995 the school was the focus of protest by Maori activists who occupied the schoolhouse and grounds until evicted by police six months later. Unfortunately during the eviction the school was destroyed by fire.

²⁴⁹ AJHR 1872 F-5, Papers Relating to Native Schools, Enclosure 2 in No. 33, p. 28.

²⁵⁰ AJHR 1872 F-5, Papers Relating to Native Schools, No. 2 p. 7.

²⁵¹ AJHR 1872 F-5, Papers Relating to Native Schools, No. 12, p. 15.

²⁵² See p. 58.

²⁵³ AJHR 1884 E-2 Education, Native Schools, p. 2.

²⁵⁴ A. Gifford, 'Takahue: No Compromise' in the *Listener*, October 14 1995, p. 22.

CONCLUSION

Takahue was, and still is, an area over which tribal rights and claims overlapped. Te Rarawa were a strong presence in the areas around Takahue and laid claim to Takahue through ancestry, as did Tahawai who claimed through the same ancestor as Te Rarawa. Te Paatu also had a strong presence in many of the blocks adjoining Takahue and Waruora of Te Paatu was recognised on the title for Takahue 2. These groups were all linked through ancestry and contemporary association.

From Native Land Court evidence it appears possible that ownership of these areas was discussed and negotiated between the hapu groups. The representative nature of the title awarded to those on the memorials for both Takahue blocks fits in with the concept of such negotiated division. The three men awarded ownership of Takahue 1 were, I believe, acting as representatives of Te Rarawa from Ahipara to Hokianga, as well as Tahawai in Hokianga. It is more difficult to know about the nature of ownership for the Takahue 2 owners as there is so little source material referring to them. Such negotiations, if carried out, would not necessarily have involved all those with interests in the area. For example, Te Paatu at Pamapurua may have been involved in negotiations over land at Takahue, but Te Paatu at Rangaunu (who may also have possessed interests in Takahue) would not necessarily have been consulted. The existence of several petitions dated throughout the 1880s underlines the fact that the title to these blocks was not uncontested and certainly not exclusive to the men named on the Memorial of Ownership.

On his arrival to begin negotiations for the purchase of lands in Muriwhenua, McDonnell was confronted with this area of interwoven ancestral and occupational claims. He had been instructed by the Native Affairs Department to take great care as to whom he dealt with for each block and to gather information from every available source so as to avoid complications. There are no records of McDonnell consulting the Mangonui District Officer (one of the 'available sources' from whom he could have obtained much information) and his own reports do not show him to have actively investigated the ownership of the blocks in any form. McDonnell had spent many years in the Hokianga and, I think, believed that his local knowledge was substantial and of great use to him in establishing who owned what areas. It is debatable however, how much knowledge he possessed in relation to areas north of the Hokianga (including Takahue) and the iwi they were used by.

When McDonnell approached the Te Rarawa at Ahipara in reference to land in the Victoria Valley, he presented to them many reasons to sell their land. Chief of these was a statement, a promise, that if Maori sold their land to the Government the Government would send settlers. Pakeha settlement was perceived as bringing in its train economic development and eventual prosperity. McDonnell was aware of the desire of Maori for such settlement and he utilised this in persuading them to alienate their land.

These promises of collateral advantages not only encouraged Maori to sell their land to the Government over private purchasers, but to sell it for a minimal price. When it is taken into account that both McDonnell and Brissenden described the land as the 'best' land north of Auckland, the means used to obtain such a small rate per acre seem unfair.

The practice of prepayments and deposits on the land took advantage of the need of Maori for ready cash and effectively bound Maori to sell their land before title had been determined according to law. This practice could also prejudice the decision of the Land Court Judge as to whom that title belonged.

Judge Monro did indeed award title to those already identified as the owners by McDonnell. Although they may have been the rightful and exclusive owners, his investigation was not so thorough as to enable him to make that judgement. Two and a half pages exist in the Native Land Court minutes for an area consisting of over 28,000 acres. This does not seem to constitute a thorough investigation. There are also no records of Monro's having conducted inquiries outside of the courtroom. Given the antipathy of many of the Native Land Court judges to such an inquiry (as seen in their paper presented to the Government) it does not seem likely that he did do so.' Later petitions, and the present day claim by Te Paatu, seem to indicate that there were unrecognised interests in the area.

Monro awarded title to three people for each Takahue block. In the case of Takahue 1, Puhipi, Papahia, and Harimana were granted complete, total, and personal ownership of 24,122 acres. It is inconceivable that they were the only people who had ownership rights to this block and yet under the 1873 Native Lands Act that was effectively Monro's judgement, as all persons with interests were to be recognised on the Memorial of Ownership.

The alienation of the Takahue block was unattended by any consideration by Crown officials as to the future well being of the Maori vendors. No reserves were created out of the two Takahue blocks, or indeed from any of the surrounding blocks. This is at a time when Te Rarawa (among others) had very little land left, and the Crown was beginning to recognise that there was a need to rein in purchases in that area.

Promises of settlement, so instrumental in the decision of Maori to sell their land, remained unfulfilled for over a decade. For years after the 1875 sale of Takahue, Maori expressed their anticipation of settlement and their disappointment at its non-fruit to both the Resident Magistrates in their district and the Government itself. The Crown had also received favourable reports from its own officials as to the suitability of the land for settlement purposes. Nothing was done, however, until the Ballance scheme of the 1880s. Unfortunately this was not an overly successful scheme and the long awaited (and promised) development Maori had looked for never really eventuated.

The new settlement required a school, and in 1888 the Takahue School was established on the request of the settlers for their children. Maori were at liberty to attend the school, but that was not its purpose nor would it have been usual. Maori most likely attended Native Schools in the areas around Takahue. Native Schools had been established in the wider Muriwhenua area since the early 1870s and many Maori leaders, such as Timoti Puhipi and Wi Tana Papahia, were very involved in their establishment and maintenance.

McDonnell had urged Maori at Ahipara to 'seize the chance that is now before you, and better your condition'. They did seize their chance, trusting that the Government would fulfil their part of the negotiated deal but their condition was not bettered. Instead they remained for many years, as they had put it, a 'tribe of poor fellows'.²⁵⁵

²⁵⁵ MA MLP 1/1 73/222 McDonnell to H.T. Clarke, Acting Native Secretary, 27 September 1873.

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