The Wellington Tenths 1873-1896

A report commissioned by the Waitangi Tribunal

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Contents

Introduction

This report covers the history of the Wellington tenths between 1873 and 1896. In 1873 the tenths were defined by legislation. Whatever the status of these lands before 1873, from 1873 they were lands 'set apart' for the benefit of Maori. In 1896 legislation confirmed that the remaining tenths were under the administration of the Public Trustee, and provided the Public Trustee with the legal authority to distribute part of the accumulated funds to the beneficial owners.

The sections defined in 1873 had an existence before 1873. In some cases it has been necessary to briefly outline this earlier history. As far as the administration of these sections is concerned, several other dates are as important as 1873. The first of these dates is 1856, the year in which the New Zealand Native Reserves Act was passed. This legislation formed the basis for reserve administration until 1882. The next date is 1867, when George Swainson retired from the post of Native Reserves Commissioner for the Wellington district. There was no resident commissioner again until 1872. Another important date is 1870, the date from which Charles Heaphy became Commissioner of Native Reserves for the North island. The final date is 1872, when Heaphy moved to Wellington, and became directly involved in the administration of the Wellington tenths.

The tenths have a history after 1896 as well. This is particularly true of the rural sections, which do not appear to have been studied previously in any detail. These sections have been followed past 1896, to the point at which they ceased to be lands vested in the Public Trustee and in some cases to the date at which they ceased to be Maori land.

The report covers the legislation affecting the reserves, details of any alienations and appropriations, the administration of the McCleverty awards by the Commissioner and the Public Trustee, and the 1888 hearing of the Native Land Court which determined the

beneficial ownership of the Wellington town tenths. All of these matters have been dealt with or touched upon in other reports presented to the Tribunal as well.

The report also deals with Maori attitudes to, and involvement with, the administration of the reserves, the nature of the benefits that accrued, matters of succession, and the grounds on which Maori were admitted, or excluded, from the beneficial ownership of the reserves.

1 Origins of the 1873 Reserves

The New Zealand Company set aside one tenth of the sections in its Wellington settlement for the 'future benefit of the ...Chiefs, their families and heirs for ever'.[1] These sections were to be 'far more important to the natives than [the] .... money' paid for the land by the Company.[2]

Few of these sections, known as tenths, remained by the early 1850s. McCleverty had transferred some to Maori.[3] Grey had used others as hospital, school or church endowments.[4] The Crown had taken two for military purposes.[5]

In 1869 Maori challenged the legality of the Crown's grant of Thorndon tenths as a hospital endowment. The Court found for the Crown: the tenths were demesne land. They could be granted away if the Crown wished to do so.[6] Not withstanding this decision, the Court had, in Commissioner Heaphy's view, suggested that the Crown might have a moral obligation to treat tenths as lands set aside for the benefit of the vendors of Wellington.[7]

Section 53 of the Native Reserves Act 1873 declared that the 'lands originally set apart by the New Zealand Company ... and generally known as the New Zealand Company's reserved "tenths" ... shall be deemed to have been from the date of the marking out of such land ... lands set apart for the benefit of the Aboriginal Natives'.[8]

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[1] Deed of Purchase Port Nicholson Block, 27 September 1839, H Hanson Turton, Epitome of Official Documents Relative to Native Affairs and Land Purchases in the North Island of New Zealand, Wellington, 1883, vol 2, p 95 (A-27)
[2] Instructions to Wakefield, May 1839, Twelve Report of the New Zealand Company, London, 1844, appendix F, p 9 (A-29, p 373)
[3] AJHR, 1929, G-1, pp 24-27, 44 -45 (A-24, pp 292-295,312-313)
[4] AJHR, 1929, G-1, p 34 (A-24, p 302)
[5] AJHR, 1867, a-17, P 3 (A-24, p 37)
[6] AJHR, 1873, G-2C, p 4 (A-39, p 243)
[7] AJHR, 1873, G-2C, p 4 (A-39, p 243)
[8] Section 53, Native Reserves Act 1873 (A-21, p 23)

The sections set apart were listed in schedule D of the Act. With the possible exception of the Pukuratahi lands, these sections were all originally New Zealand Company tenths.[9] But only the town and rural sections remaining in 1873 were listed.[10] No mention was made of the town acres granted away before 1873. These were evidently gone for good. However, some compensatory payment was later made for these town sections.[11]

[9] AJHR, 1929, G-1, p 47 (A-24, p 315)
[10] Section 53, Native Reserves Act 1873 (A-21, p 23)
[11] Armstrong and Stirling, C1, pp 419-421
AJLC, 1877, no 22

2 Legislative Framework 1873-1896

Six pieces of legislation formed the basis for reserve administration between 1873 and 1896. With the exception of the 1896 Act, none of this legislation was intended to apply specifically or only to the Wellington reserves.

- The New Zealand Native Reserves Act 1856 and its 1858 and 1862 amendments.[12] The reserves were administered under these acts until 1882.

- The Public Revenues Act 1877. This provided that all moneys paid to the Government in trust for private persons was to be paid to the Public Trustee. This made the Public Trustee responsible for the administration and distribution of the reserve income.

- The Native Reserves Act 1882.[13] This vested the reserves in the Public Trustee.

- Public Trust Office Consolidation Act 1894. This removed Maori representatives from the Public Trust Board.

- The Native Reserves Act Amendment Act 1895.[14] This provided for the granting of leases with perpetual rights of renewal.

- The Native Reserves Act Amendment Act 1896.[15] This confirmed that the Wellington reserves were under the control of the Public Trustee, with effect from 1882. This Act also provided authority for the Public Trustee to distribute the proceeds of the Wellington town tenths.

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[12] Statutes of New Zealand (A-7a, pp 1-4)
[13] Statutes of New Zealand (A-7a, pp 22-28)
[14] Statutes of New Zealand (A-7a, pp 29-31)
[15] Statutes of New Zealand (A-7a, pp 32-37)

One other piece of legislation needs to be noted. The Native Reserves Act 1873 was passed, but never brought into operation. The 1873 Act was important, however, because it identified the remaining Wellington tenths, and gave them reserve status. It was also of occasional importance during the period before 1882 simply because it had not been implemented.

2.1 The New Zealand Native Reserves Act 1856

The New Zealand Native Reserves Act 1856 provided for Commissioners of Native Reserves to be appointed, to administer, exchange, sell or lease reserves over which customary title had been extinguished. But unless the matter was a lease for a term of less than 21 years, these 'full powers of management' were to be exercised only after the Governor's consent had been obtained.[16]

Rental income was to be applied to the benefit of the Maori for whom the land had been set aside, 'in such manner as the Governor ... may from time to time direct'.[17] If some special purpose had been determined for the income from a reserve, then the money was to be applied to this purpose.[18] In either case, the costs of reserves management were first to be deducted.[19]

Section 14 provided for reserves over which Maori title had not been extinguished to come, with the assent of the owners, under the Act. Title to these lands passed to the Crown. Section 7 of the 1862 Act extended this provision still further, by allowed the Governor to extinguish Maori titles without first obtaining the assent of the owners.

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[16] Sections 1, 7, Native Reserves Act 1856 (A-21, pp 6-7)
[17] Sections 9, Native Reserves Act 1856 (A-21, p 7)
[18] Sections 10, Native Reserves Act 1856 (A-21, p 7)
[19] Sections 9, 13, Native Reserves Act 1856 (A-21, pp 6-7)

Section 15 provided for 'the conveyance or lease in severalty of any lands ... to any of the aboriginal inhabitants for [whom the land] may have been reserved.'[20] This appeared to be a step in the direction of individualization of titles.

Section 8 allowed the commissioners, with the consent of the Governor, to set aside reserves as endowments for school, church, hospital or other kinds of institutions 'for the benefit of the .. aboriginal inhabitants.' With the Governor's consent, the management of these endowments could be entrusted to 'any person or persons', including corporations.[21] Section 16 seemed to be a validation of any such arrangements that had been made in the past.[22]

Under this legislation the administration of reserves was a Crown monopoly - there was no provision for Maori to be involved or consulted about any aspect of the management of these lands, or to have any influence over the allocation of benefits. Any funds derived from the reserves were to be distributed 'in such manner as the Governor ... may from time to time direct'.[23]

Maori were to be consulted only when it was proposed to bring lands held under customary title under the Commissioners' wings. The Act was vague on how this consultation was to take place. But it was clear on one point. No appeals were to be allowed. Once the Governor had decided that assent had been obtained, this was to be a 'final and conclusive' determination of the matter.[24] The reserve in question would pass to the commissioners. All Maori control would cease.

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[20] Section 15, Native Reserves Act 1856 (A-21, p 7)
[21] Section 8, Native Reserves Act 1856 (A-21, p 7)
[22] Section 16, Native Reserves Act 1856 (A-21, p 8)
[23] Section 9, Native Reserves Act 1856 (A-21, p 7)
[24] Section 17, Native Reserves Act 1856 (A-21, p 8)

The Crown not only had all the power of management, but also of final disposition: with the consent of the Governor, reserved land could be alienated. It could even be returned to the control of its beneficial owners, but only in individualized portions.

The Reserves Act 1856 was amended in 1858, giving the commissioners legal powers to recover unpaid rents.[25] In 1862 a more drastic step was taken; existing commissions were canceled, and all powers of management re-vested in the Governor.[26] In a number of districts, however, some or all of the existing commissioners were retained, under a clause in the Act that allowed the Governor to delegate his powers of management.[27]

Heaphy was appointed a Commissioner of Native Reserves in 1870 on this authority.[28] In the mid 1870s he would occasionally sign himself as Governor's Delegate.[29] The commissioners were not ministerial appointees, and Grey thought in 1879 that this meant that the commissioners did not take instructions from Ministers. Heaphy said at the time, however, that whatever the constitutional position, it had 'been the practice ... both of myself and my predecessor, Mr. Swainson, to take direction from the ministerial head of the [Native] Department, in all matters of importance, relating to letting, exchanging or selling Native Reserves'.[30]

When Charles Heaphy was appointed Commissioner of Native Reserves in 1870, he was 47 years of age. He had arrived in New Zealand in 1839, in the employment of the New Zealand Company, and been in turn a draughtsman, surveyor, explorer, artist, public official and soldier. He was a member of the House of Representatives in 1869. He left politics, at McLean's invitation, to take up the post he occupied till his death in 1881.

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[25] Native Reserves Amendment Act 1858 (E-21, pp 8-9)
[26] Native Reserves Amendment Act 1862 (E-21, pp 10-11)
[27] Section 8, Native Reserves Amendment Act 1862 (E-21, p 11)
[28] New Zealand Government Gazette, 20 April 1870, p 183
[29] Conditions of Sale of Adelaide Road Leases, 11 August 1880, MA 17/6, (A-35, p 51)
[30] Heaphy minute, 21 July 1879, MA 17/6, (A-35, p 183)

Authorized under the 1862 Act, Heaphy's appointment was apparently made in anticipation of the passage of a bill (Fenton's 1869 Native Reserves bill) that provided for a single national Commissioner of Native Reserves. This bill did not survive in the House, but Heaphy's jurisdiction as commissioner eventually covered all or most of the North Island reserves.

By the end of the 1860s it was generally conceded in political circles that reserve administration had been in an unsatisfactory state for far too long.[31] Several attempts were made - in 1869, 1876, 1877, 1879, 1880 and 1881 - to pass new reserve legislation, but without success. One piece of reserve legislation did, however, find its way onto the statute books during the 1870s.

2.2 Native Reserves Act 1873[32]

Section 5 of the Native Reserves Act 1873 provided for the creation of administrative districts; section 6 for the appointment of Native Reserve Commissioners in each of these districts. Each district was to have, according to section 7, a 'Board of Direction', comprised of the Commissioner and three Assistant Commissioners. The Assistant Commissioners were to be 'elected by the Natives resident in the district'.[33] In 1874, Heaphy gave consideration to the way in which the 1873 Act might be implemented. He suggested that the Maori Commissioners be selected on the basis of a meeting, some discussion, and a show of hands.[34] Formal voting procedures, as for parliamentary elections, would be unnecessary.

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[31] NZPD, Gisborne, 30 July 1869, vol 6, p 167
Interim Report of the Select Committee upon the Native Reserves Bill, AJLC, 1870, p 8 (A-25, p 20)

[32] Native Reserves Act 1873 (A-21, pp 12-28)

[33] Section 7, Native Reserves Act 1873 (A-21, p 14)

[34] Heaphy memorandum, 26 March 1874, MA-MT 1/1A/15

The district commissioner was the Board chairman, and could call meetings 'from time to time, as he may deem desirable'.[35] The board would, by majority vote, 'decide on all matters connected with Native reserves in the district'.[36]

Reserves could be leased for up to 60 years for building purposes and for 21 years otherwise. They could also be sold or exchanged. All leases, exchanges and sales required, however, both the approval of the Board of Direction and the prior assent of the Governor.[37]

Money obtained from the sale or exchange of reserves was to be lent out at interest, or used for the purchase of other land (to be held as reserves) or of Government securities. [38] This last provision indicated a desire to retain the reserves as an undiminished source of benefit for Maori. Section 19 provided also that no lease could contain 'any covenant or engagement for renewal'.[39] This opened up the possibility that reserves might eventually be vested in the beneficial owners. If so, it was a provision protective of the owners' fundamental rights of ownership. Other provisions protected the interests of owners while the land was being held under lease. Rents had to be 'adequate'.[40] Leases could not contain anything limiting the liability of tenants for any damage done to the land.[41]

Various sections of the Act dealt with the power of the Governor to regulate the administration of the reserves, and the obligations of the Commissioners to report at regular intervals.[42] Sections 32-34 spelt out in detail how reserve income was to be used. Management/administrative charges were deducted. If a particular purpose had been defined for a trust, then the income was to be devoted to that purpose. The income was also employed to keep the trust properties in good condition and repair. Then, finally, the

[35] Section 7, Native Reserves Act 1873 (A-21, p 14)
[36] Section 7, Native Reserves Act 1873 (A-21, p 14)
[37] Section 19, Native Reserves Act 1873 (A-21, p 16)
[38] Section 20, Native Reserves Act 1873 (A-21, p 17)
[39] Section 19, Native Reserves Act 1873 (A-21, p 16)
[40] Section 25a, Native Reserves Act 1873 (A-21, p 17)
[41] Section 25b, Native Reserves Act 1873 (A-21, p 17)
[42] Sections 24-31, Native Reserves Act 1873 (A-21, pp 17-18)

income was devoted to a set of enumerated purposes, 'in such proportions and in such manner as shall be approved by the Governor in Council'.[43] This list of purposes included the payment of survey and Native Land Court costs, the erection and maintenance of schools, the salaries of schoolmasters, the purchase of books and writing materials, the supply of food and medical assistance, the payment of local rates, and the cost of fencing or draining land. The only purpose that was defined in anything like a general way was a provision that payments might be made for 'other educational purposes'.[44] All of these payments would be made by the Commissioners on behalf of the beneficiaries: there was no provision for payments to be made to beneficiaries, and used for their own purposes.

The Native Reserves Act 1873 balanced local management and central control; it contained a number of provisions designed to safeguard the interests of the Maori beneficiaries; it gave Maori a large voice in the management of the reserves, amounting to veto rights; the powers and responsibilities of the commissioners were set out clearly; accounting procedures were refined, and the ways in which rental income could be expended carefully defined. In many respects, it was an admirable piece of legislation.

But the 1873 Act was never implemented: no districts were created, no commissioners appointed and no boards of direction established. Alexander Mackay commented in 1876 that the 1873 legislation was 'altogether too cumbersome' to work effectively. He also said that the provisions relating to the involvement of Maori in the administration of the reserves would have been, 'had the Act ... been brought into effective operation', a source of conflict and discord among Maori. [45]

Alexander Mackay arrived at Nelson in 1845. He spent nearly 20 years as a farmer in that district. In 1859 and 1860, he explored the West Coast of the South Island as far as the

[43] Section 34, Native Reserves Act 1873 (A-21, p19)
[44] Section 34(10) Native Reserves Act 1873 (A-21, p19)
[45] AJHR, 1876, G-3A, p 1 (A-24, p 101)

headwaters of the Grey River. In 1864 Mackay was appointed to the post of Commissioner of Native Reserves in the South Island. He was, by that date, familiar with Maori language and culture, and seems to have developed a good relationship with the beneficial owners of the reserves under his care. It is quite possible that Mackay knew what he was talking about when he said that there was some Maori opposition to the provisions in the 1873 Act that provided for the appointment of Maori Commissioners. These arrangements, while they did allow for Maori participation in the management of the reserves, did not necessarily mean that the Maori involved would be the owners of the lands in question.

These particular provisions were not in the bill as it was introduced into the Legislative Council. Originally, it was intended to appoint Maori chiefs as advisors only to the District Commissioners.[46] Sheehan though this a 'transparent sham'.[47] With the exception of Parata,[48] who supported the proposal, the Maori members who spoke on the bill did not comment on this particular clause. The objections of the Maori members were not to the details of the bill, but to its fundamental premise, that Maori reserve lands needed to be managed by appointed government officials.[49] The handful of petitions presented with respect to the bill also seem to object to it in principle, rather than in part, seeking either its permanent or temporary abandonment.[50]

In any event, the bill was referred to a select committee for consideration. When it re-emerged, section 7 - calling for the election of Maori Assistant Commissioners, and the setting up of Boards of Direction - had been added to the bill. Waterhouse, Bonar, Fraser, Ngatata, Taylor, Hart and Pollen comprised the committee in question.[51]

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[46] Section 24, Native Reserves bill 1873 (A-22, p 27)
[47] NZPD, 18 August 1873, vol 14, p 495 (A-20, p 35)
[48] NZPD, 8 August 1873, vol 14, p 352 (A-20, p 34)
[49] NZPD, 18 August 1873, vol 14 p 494 (A-20, p 46)
[50] JALC, 1873, p viii
[51] JALC, 1873, p x

Waterhouse later recalled that the Native Minister (Donald McLean) had also attended on the committee, and been a 'concurring party' to the changes made.[52]

It was these late amendments that appear to have scuttled the Act's chances of implementation. According to Daniel Pollen, speaking in the Legislative Council in 1876, there had been objections from Pakeha to the section in question, particularly among Pakeha at Greymouth, where a large part of the town lay on Maori reserves. Kennedy agreed: opposition from the Pakeha leaseholders in Greymouth had been the 'principal reason' for the failure to implement the Act.[53]

Remarks made by Pollen in 1876 and 1877 suggest strongly that Mackay made representations to McLean on the matter. These seem to have persuaded the Government not to bring section 7 of the 1873 Act, the section relating to Maori participation in reserve management, into effect.[54] Waterhouse said in 1876 that the Native Department had also opposed bring the Act into operation, because of fears that the Maori Assistant Commissioners and the Pakeha Commissioners would find themselves at loggerheads.[55] No doubts these fears related to the Greymouth situation as well.

2.3 Public Revenues Act 1877

The only effective change in the legislative framework for reserve administration during the 1870s was the Public Revenues Act 1877. This transferred administration of the reserves income to the Public Trustee. This legislation slipped through Parliament almost without debate. No one referred to any impact it might have on the beneficial owners of the Wellington tenths.

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[52] NZPD, 24 October 1876, vol 23, p 576 (A-20, p 57)
[53] NZPD, 28 October 1876, vol 23, p 712 (A-20, p 62)
[54] NZPD, 24 October 1876, vol 23, p 575 (A-20, p 56)
NZPD, 1877, vol. 25, p 257 (A-20, p 64)
[55] NZPD, 24 October 1876, vol 23, p 576 (A-20, p 57)

2.4 The Native Reserves Act 1882

It was 1882 before a new reserve management regime was put in place, and the 1856 Act and its amendments repealed.

The Native Reserves Act 1882 vested all reserves previously under the control of the Governor or the Native Reserve Commissioners in the Public Trustee.[56] Section 14 declared that where reserves had been made for the benefit of Maori, benefit was to be defined as 'physical, social, moral or pecuniary' benefit, including the 'provision of medical assistance and medicines'.[57]

The Public Trust Office Act, 1872, provided for a board, to oversee various aspects of the Public Trustee's work. The board was comprised of the Colonial Treasurer, the Government Annuities Commissioner, the Attorney-General, the Commissioner of Audits and the Public Trustee. Section 2 of the Native Reserves Act, 1882, provided for the appointment of two Maori to this board, to hold office at the governor's pleasure. This was the extent of Maori involvement in management.

The bill originally introduced into the House contained no provision of any kind for Maori participation in the management of the reserves. Several members, including all of the Maori members, pointed this out and asked that it be remedied during the committee stage. John Bryce, then Minister of Native Affairs, was happy to accommodate these sentiments if it meant support for his bill. But Bryce did not envisage the Maori members doing more than venturing opinions on the matters that might come before the Board; they could not 'very well do official work'.[58]

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[56] Section 8, Native Reserves Act, 1882
[57] Section 14, Native Reserves Act, 1882
[58] NZPD, 28 July 1882, vol. 42, p 651

Section 15 provided for the leasing of reserves for agricultural and mining purposes. subject to the approval of the Board, for a period not exceeding 30 years. For building purposes the period was not to exceed 63 years, in terms of 21 years, with a new assessment of rent at the beginning of the second and third terms. Leases were to be made by public auction or tender, and the reserved rent, taken to mean the minimum rent, was to be 'the best improved rent obtainable at the time'.[59]

Section 22 allowed the Public Trustee (or Maori owners) to apply to the Native Land Count to have restrictions on reserve land varied or removed. This provision seems to relate to fears expressed during the debates that land might be 'locked' up, to the detriment of both Maori and Pakeha. But while the Government was willing to make provision for land to be unlocked, Maori were not to be left completely bereft.[60] Before the Court decided to alter or remove any restrictions, it was to be 'satisfied that a final reservation has been made, or is about to be made, amply sufficient for the future wants and maintenance of the tribe, hapu or person to whom the reserves wholly or in part belongs'.[61]

Section 27 provided for the appointment of a Native Reserve Commissioner. This officer, who was to report to the Public Trustee, would conduct the routine business related to the administration of the vested reserves. During the debates, a number of members had questioned whether the Public Trustee had the necessary experience and skills to deal with Maori. The appointment of a Native Reserve Commissioner was another compromise made to ensure passage of the legislation.

In June 1881 it had been announced that Alexander Mackay was assuming the duties of Commissioner of Native Reserves for the whole of New Zealand.[62] This was because of Heaphy's failing health. In September 1882 Mackay was appointed to the new position

[59] Section 15, Native Reserves Act, 1882
[60] NZPD, 28 July 1882, vol. 42, p 651
[61] Section 22, Native Reserves Act, 1882
[62] New Zealand Government Gazette, 23 June 1881, pp 803-804

created by section 27 of the 1882 Act.[63] He was subsequently (1884) appointed a judge of the Maori Land Court.[64] Presumably he ceased to be an officer of the Public Trust from this date. But no one else was appointed to the position of Native Reserve Commissioner vacated by Mackay, and he continued to provide advice and assistance to the Public Trustee on matters to do with the Wellington reserves until his retirement in 1902.

Section 9 provide for management costs to be deducted, on a fixed scale, from reserve income. The salaries of those who would administer the reserves, however, were to be met from funds appropriated by Parliament. Section 6 provided that the Native Land Court would have the same jurisdiction over reserves as it had over land held under customary title. Under section 16, the Public Trustee was empowered to make application to the Court, in order to determine who was beneficially interested in any reserve. Section 33 listed the Acts to be repealed. These included the 1856 Act and its amendments and the 1873 Act.

According to Taiaroa, speaking during the debate, many petitions came in from Maori objecting to the 1882 bill.[65] 'Natives in a body throughout the colony object to this measure'.[66] The main objection was that Maori would have no say in the management of the reserves. Another was the cost and expenses of dealing with the Public Trustee. The commissions to be charged were a particular grievance: 'the bill provides not for the benefit of the Native Race, but for the benefit of the Government Officers. It will be the means of feeding the Government Officers'.[67]

Te Wheoro, Tomoana and Tawhai also objected to the bill. None of these objections referred to the tenths specifically: the focus was on Maori reserves in general, and the

[63] New Zealand Government Gazette, 28 September 1882, p 1347
[64] New Zealand Government Gazette, 22 May 1884, p 844
[65] NZPD, 22 August 1882, vol 43 , p 504
[66] NZPD, 22 August 1882, vol 43, p 504
[67] NZPD, 22 August 1882, vol 43, p 504

lack of any Maori say in reserve management. During the committee stage Taiaroa moved an amendment requiring the consent of owners to be obtained before their land was made subject to the Act. This motion was defeated 37 to 23. Tawhai, for some reason, voted in opposition to his three Maori colleagues.[68]

2.5 Public Trust Office Consolidation Act 1894

Section 9 of this Act re-constituted the Public Trust Board, excluding Maori representatives. This legislation slipped through the House without debate. The Legislative Council gave the bill only slight attention. No one commented on the effect of section 9.[69]

2.6 Native Reserves Act Amendment Act 1895

Section 5 of the Native Reserves Act Amendment Act 1895 restricted the jurisdiction of the Native Land Court over land vested in the Public Trustee. The Court could determine who the beneficial owners of the land were, and what their respective rights and interests might be. Such a determination would not, however, confer upon owners any right to dispose of their rights or interests, nor divest the Public Trustee of the land.[70] A provision of this kind - that prevented Maori owners from dealing with their land, and affirmed the rights of the Public Trustee to control vested lands - was essential if leases were to contain a right of perpetual renewal.

Section 7 (5) of the Native Reserves Act Amendment Act 1895 provided for the granting of leases 'renewable in the same manner, and subject as far as practicable to the same conditions, as provided by 'The West Coast Settlement Reserves Act, 1892'.[71] Section 6

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[68] NZPD, 23 August 1882, vol 43, p 532
[69] NZPD, 18 October 1894, vol 86, p 892
NZPD, 20 October 1894, vol 86, p 975
[70] Section 5, Natives Reserves Act Amendment Act 1895 (A-21, p 96)
[71] Section 7(5), Natives Reserves Act Amendment Act 1895 (A-21, pp 97-98)

of the West Coast Settlement Reserves Act 1892 had provided for the granting of leases with 'rights of perpetual renewal'.[72] During the committee stage, an amendment by Stout, providing that new leases would require the consent of owners, was lost 28 to 29.[73] No Maori members spoke during the debate, but all of them voted in support of Stout's amendment.

Only those who had a valid lease, on 1 September 1895, for a term of more than 14 years from the date of commencement of the lease, could qualify for a lease with a right of perpetual renewal.[74] This provision seemed to debar those who held agricultural leases. These kinds of leases were for 10 years, with two rights of renewal for further periods of 10 years, 30 years in all. However, when the issue arose, the Public Trustee obtained legal advice as to the intention of Parliament, and an interpretation of the section in question. On that basis, he decided that agricultural leases were actually 30 year leases, and that they could be replaced with the new perpetually renewable leases.[75]

The rent for reserved land was to be 'five per centum per annum on the value of the land, including the improvements thereon'.[76] The inclusion of the improvements in the calculation of the rent ensured a better deal for the beneficial owners; basing the rent on 5 per cent of the unimproved land value plus improvements was more or less the regime that applied to the leasing of Crown land in general.

2.7 Native Reserves Act Amendment Act 1896

This legislation was necessary, according to the preamble, because of doubts that had arisen concerning certain Maori reserves generally known as the 'New Zealand

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[72] Section 6, West Coast Settlement Reserves Act 1892 (A-21, p 75)
[73] NZPD, 24 October 1895, vol 91, 1895, p 608
[74] Section 6, Natives Reserves Act Amendment Act 1895 (A-21, p 97)
[75] Memorandum to Deputy Public Trustee re application of Wm and Joseph Luggett, 14 May 1906, AAMK 869, 184d
[76] Section 7(3), Natives Reserves Act Amendment Act 1895 (A-21, p 97)

Company's reserved "tenths"'.[77] The powers and duties of the Public Trustee with respect to these particular reserves were also doubtful.

Section 2 clarified the position. The tenths were under the control of the Public Trustee. Moreover, they were deemed to have been under the control of the Public Trustee since the coming into operation of the Native Reserves Act 1882. This meant that the Native Reserves Act Amendment Act 1895 applied to these lands as well - new leases of tenths reserves could be granted with perpetual right of renewal; old leases could (generally) be converted into leases with perpetual right of renewal. From 1896 the Wellington tenths were under the same leasing regime that applied to Maori reserves elsewhere, and to Crown land generally. However, new leases issued after 1895/96 did not always contain a right of perpetual renewal. The lease issued to Monk at Ohariu in 1903, for example, was for the standard term of 21 years, without right of renewal.[78]

Sections 3 and 4 provided the Public Trustee with both the legal authority to distribute the pecuniary benefits of the Wellington tenths, and statutory guidelines as to how this was to be done. During the debates, Carroll said 'that all of the Natives interested in these reserves were in prefect agreement with the provisions of the bill'.[79] An amendment moved by Heke, that three quarters of the annual income be distributed, was lost 16 to 33, all of the Maori members present in the House voting for the amendment.[80]

By the final reading, the arrangements were that three quarters of the accumulated funds- the rents collected in the past, but never paid out - and one half of all future income be distributed. The balance of the fund was to be applied, at the discretion of Public Trustee, to 'the physical, social, moral and pecuniary benefit of the Natives individually

[77] Preamble, Natives Reserves Act Amendment Act 1896 (A-21, p 99)
[78] Public Trustee to Native Department, 1 November 1916, AAMK 869, 183a
[79] NZPD, 5 October 1896, vol 96, p 437
[80] NZPD, 8 October 1896, vol 96, p 598

or collectively interested therein, and the relief of such of them as are poor and distressed'.[81]

[81] Section 4 (2) Natives Reserves Act Amendment Act 1896 (A-21, p 101)

3 The Rural Sections

Schedule D of the Native Reserves Act 1873 contained a list of Wellington tenths, both town and rural. There were 10 rural sections, containing some 976 acres.[82] These 10 sections lay to the south of Wellington at Ohiro, to the west at Makara and Ohariu, and in the Hutt Valley at Mangaroa (some three miles north east of Upper Hutt) and Pakuratahi (8 miles north of Upper Hutt, near Kaitoke).

3.1 Ohiro 19 and 21[83]

These two sections, originally New Zealand Company tenths, were located towards the south end of the present Ohiro Valley road. In Heaphy's 1871 report the Ohiro sections (said to contain 175 acres) were described as part let. The tenants, J & W Smith, had the land on a 14 year term (from 18 April 1864), at £30 a year.[84] The rent was paid to Hemi Parai, under an arrangement made by Walter Mantell, apparently during one of Mantell's brief periods as Native Minister.[85] Maori occupied an area of about 25 acres.[86] In 1867 George Swainson, Commissioner of Native Reserves, identified these occupants as 'Te Aro natives'.[87]

In April 1873 Heaphy recorded details of a meeting between himself and some Te Aro Maori. At this meeting Wi Tako, Henare Pumipi and others complained that Hemi Parai had drawn the Ohiro rent for seven years, and shared it with no-one. In Wi Tako's opinion, it was now proper for 'other natives who are descendants of those to whom McCleverty awarded the land' to receive the rent.[88] Hemi claimed that a letter from a previous commissioner had assigned the rent to him. This letter, however, could not be

[82] Schedule D, Native Reserve Act 1873 (A-21, p 26)
[83] Alternatively referred to as Kaipakapaka in Heaphy's notebook MA-MT 6/14, p 163 (E-36, p 163)
[84] AJHR, 1871, F-4, p 53
[85] AJHR, 1867, A-17, p 4
[86] AJHR, 1871, F-4, p 53
[87] MA-MT 6/14, p 13 (A-36, p 8)
[88] MA-MT 6/14, p 163 (A-36, p 36)

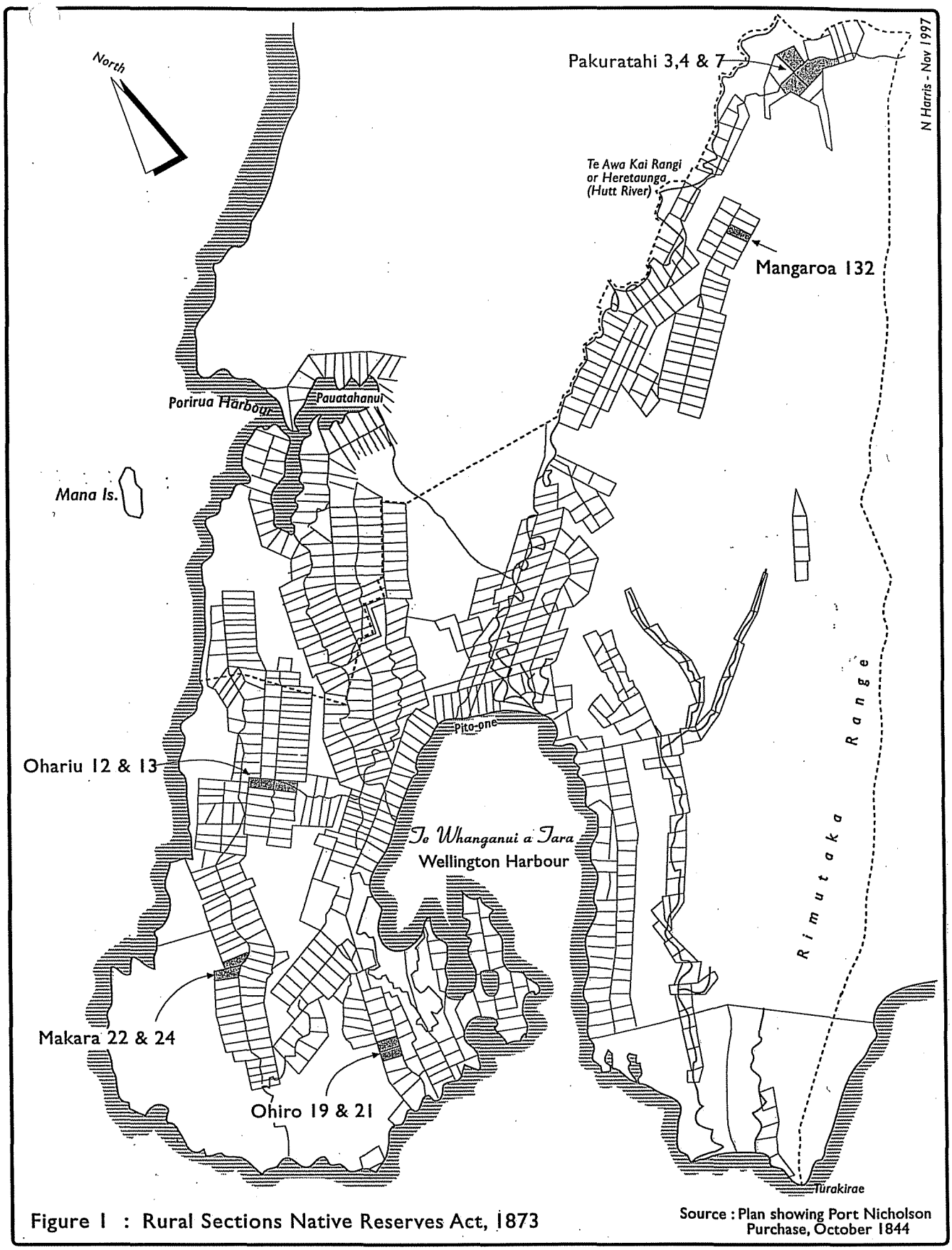

Figure 1 : Rural Sections Native Reserves Act, 1873

Source : Plan showing Port Nicholson Purchase, October 1844

found. The upshot was that a list of 15 names was prepared. Everyone on this list would receive an equal share of the Ohiro rent.[89]

A list of the beneficial owners of the nearby (McCleverty) Polhill Gully reserves had been drawn up a few days earlier. This list of 17 names included all of those included in the Ohiro list. [90] The only Polhill Gully owners not listed in the Ohiro list were Rapana Ohiro and Teaki Wera. Both lists appear to have been drawn up by the Maori owners.

Heaphy noted in his minutebook that the Ohiro rent was formally put into his hands for distribution.[91] He added: 'not that the Com[missioner] admitted the right of the natives to have any potential voice in the affair but it settled the dispute between Hemi Parai and Henare Pumipi'.[92]

Heaphy was probably alluding to the fact that the Ohiro sections were tenths, and as such vested in him as the Governor's delegate. If so, he was simply reminding himself that the authority lay with him. At the same time, the original meeting seems to have been called by Maori. Maori had determined how the rent from Ohiro 19 and 21 was to be distributed, and to whom. Heaphy had verified that no authority seemed to exist for the rent to be paid to Hemi Parai. He had undertaken to distribute the rent, seemingly at the request of Maori, in order to calm tensions among the beneficiaries. These things to one side, he seems to have played a passive role, recording decisions made by Maori, acting only at their request.

In 1874 the beneficial owners of Ohiro renewed Smith's lease without referring the matter to Heaphy. When the commissioner heard about this, he wrote to R S Chessman, the lawyer who had drafted the document. Heaphy told Chessman that 'the land is not the property of the natives, nor are they in any way entitled to let it, or receive rent from Mr

[89] MA-MT 6/14, p 163 (A-36, p 36)
[90] MA-MT 6/14, p 164 (A-36, p 37)
[91] MA-MT 6/14, p 168 (A-36, p 41)
[92] MA-MT 6/14, p 163 (A-36, p 36)

William Smith'.[93] According to Heaphy, only the Governor, or his delegate, had the power to let the land, and he warned that no rent should be paid to the Maori. Heaphy signed this letter as Commissioner of Native Reserves, Delegate of the Governor. His normal title was Commissioner of Native Reserves.

Some months later, Chessman submitted a draft of a new lease to Heaphy for his consideration. Heaphy replied that a lease of 21 years might be granted if a suitable rent could be agreed upon 'between Mr Smith and myself, acting for his Excellency the Governor'. But any terms agreed would require 'the assent of the Governor in Council'.[94] Whatever the situation had been with respect to the Ohiro sections before 1874, after 1874 they were under Heaphy's control and management, as Commissioner of Native Reserves.

In May 1873, shortly before the settlement of the Ohiro rent, the owners of the Polhill Gully reserves gave Heaphy a limited degree of management responsibility for these reserves. The Polhill Gully reserves were McCleverty awards. Like all other reserves of this kind, they were under the control of the hapu or pa - in this instance Te Aro - to whom they had been assigned in 1847. Heaphy's main job was to collect and distribute the rents.[95] In the same year, Heaphy was also authorized to collect and distribute the rents for Ohiro 18 and one of the town belt reserves owned by the same Maori.[96]

In July 1874 Heaphy recorded in his minutebook that Hemi Parai had agreed that the Ohiro rent should go into the common Polhill Gully rent pool. The list of Polhill Gully beneficiaries was revised at the same time. Wi Tako was placed on the list in the number one slot, and Hera Mohe removed. Retimana Pukahu was also dropped, in favour of Ihikiera Te Waikapoarike.[97] This new list was prepared at a meeting of about 20 Te Aro

[93] Heaphy to Chessman, 4 May 1874, MA-MT 4/1, p 290
[94] Heaphy to Chessman, 20 November 1874, MA-MT 4/1, p 332
[95] MA-MT 6/14, p 164 (A-36, p 37)
[96] MA-MT 6/14, p 165 (A-36, p 38)
[97] MA-MT 6/14, p 168 (A-36, p 42)

Maori. According to a note pinned into Heaphy's minutebook, the new list was agreed to by all present.[98]

Since the Ohiro and Polhill Gully rents went to the same people, it became the practice to pay them out at the same time. Initially, the Polhill Gully rents were much larger than the Ohiro rents and, possibly for convenience sake, the smaller sums were paid into the larger account. There was never a separate Ohiro account. Proximity, common ownership and an accounting system that identified Ohiro rent as Polhill Gully rent produced, in the late 19th century, a belief that the Ohiro sections were McCleverty awards. This impression survived into the 20th century, and was still current as late as 1912.[99]

From 1882 both of the Ohiro sections were leased by Mrs A Smith, the wife of one of the men who had leased the sections in the 1860s. Her lease was for 21 years from 18 April 1882, the rent being £40 per year for the first 14 years and £50 a year for the last 7 years.[100] In 1890 a portion of this lease, said to contain 120 acres, was assigned to Edwin James Beavis; in 1895 the balance of the leasehold was assigned to Thomas Bradshaw.[101] The Ohiro sections were separated by an east west line: the new assignments divided the land into unequal portions along a roughly north south axis. The creek or stream running across the two sections formed a natural boundary between the two leaseholds.

In March 1888 the Native Land Court determined who the beneficial owners of Ohiro 19 and 21 were and made 17 sub-divisions.[102] These divisions were declared inalienable. If evidence was taken, it was not recorded. It seems likely that in 1888 the Court simply confirmed the ownership accepted by Heaphy in 1873. A survey followed the hearing. One of the owners objected to the way the partitions were laid out, and the partition

[98] MA-MT 6/14, p 168 (A-36, p 42)
[99] Wilson to Welch, 18 October 1912, MA W2218, Box 19, 6/60/1/1
[100] MA-MT 6/1, p 105
[101] Memorandum to Public Trustee, 13 November 1900, MA W2218, Box 19, 6/60/1/1
[102] New Zealand Government Gazette, 9 February 1888, p 243
Wellington Native Land Court, mb 2, 21 March 1888, pp 88,92

orders were never signed.[103] This was still the situation in 1895, when a change in the law occurred. After 1895 the Native Land Court could not partition, or issue titles, to lands vested in the Public Trustee. This meant that the partitioning of Ohiro began in 1888 could not be completed.

In 1901, possibly in response to action by one or more of the beneficial owners, the Public Trustee wrote to the Native Land Court. He had heard that the Ohiro sections had been partitioned, and that it was intended to issue individual titles. The purpose of his letter was 'to prevent the issue of these titles', on the grounds that the Native Reserves Act Amendment Act 1896 had vested the land in the Public Trustee, effectively since 1882.

Alexander Mackay, regarded as the authority on all matters to do with the Wellington reserves, commented that the Ohiro sections had been included in the 1896 Act by mistake. He recommended that the orders made in 1888 'should be withdrawn for the present, not canceled'.[104] The inference was that it had been intended to vest the land in the owners in 1888, and that this should still be the objective.

The Public Trust appeared to accepted that this was desirable.[105] But what was to be done about the leases? They would terminate within a year or so. The Public Trustee wrote to the beneficial owners. Did they wish the leases to be renewed? The alternative was that the owners take possession of their own partitions.[106] One of the owners (Mrs Agnes Simeon/Akanihihi Himiona) expressed a wish to occupy.[107] There was said to be no objection to this idea in principle from the other owners. Some of them were also willing

[103] Mackay to Registrar, Native Land Court, 16 June 1902, MA W2218, Box 19, 6/60/1/1
[104] Mackay minute, 4 March 1901, MA W2218, Box 19, 6/60/1/1
[105] Public Trustee to Reserve Agent New Plymouth, 17 May 1902, MA W2218, Box 19, 6/60/1/1
Public Trustee to Joseph, 19 May 1902, MA W2218, Box 19, 6/60/1/1
[106] Public Trustee to beneficial owners, May 1902, MA W2218, Box 19, 6/60/1/1
Public Trustee to Reserve Agent New Plymouth, 17 May 1902, MA W2218, Box 19, 6/60/1/1
[107] Mackay to Public Trustee, 27 June 1902, MA W2218, Box 19, 6/60/1/1

to swap portions, so that Agnes could build in a good position.[108] As for the rest of the land, the general consensus, according to the Public Trustee, was that it be retained undivided, and leased out.[109]

Having consulted the owners, the Public Trustee made two decisions. First, the leases would be renewed. Second, an arrangement would be made for Mrs Simeon. He would either grant her an occupation licence, or a lease to part of the reserve.[110] Mrs Simeon may have wanted a Crown title initially, but she accepted an occupancy when it was offered.

Since the 1888 partition orders had never been signed, it was decided to make a fresh application to the Native Land Court to determine who the beneficiaries were and what their relative interests might be. This was done. An amended list of owners was prepared by the Court.[111] The Wellington Native Land Court minutebook for 1902 contains only the list of owners, and a note indicating that the 1888 investigation was the basis for the 1902 list.[112]

The Public Trustee granted new leases in 1903, on the expiring of the 1882 Smith lease.[113] The larger western portion of around 150 acres, with an eastern extension as far as the road, was taken up by Beavis, at an annual rental of £37. The smaller eastern portion, of close to 59 acres, and fronting the road, was taken up by Mrs Mary Bradshaw, at £24-7s-6d per annum. When Mrs Bradshaw was offered her new lease, it was explained to her that it was not for the same area as before: a sub-division, on the extreme northern boundary, was being reserved for one of the native owners.[114] Once the leases

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[108] Tare Warahi and Mohi Parai to Public Trustee, 13 October 1902, MA W2218, Box 19, 6/60/1/1
[109] Mackay to Public Trustee, 25 June 1902 MA W2218, Box 19, 6/60/1/1
Public Trustee to Registrar, Native Land Court, 24 June 1902, MA W2218, Box 19, 6/60/1/1
[110] Public Trustee to Mackay, 25 June 1902, MA W2218, Box 19, 6/60/1/1
[111] Public Trustee to Henri Pumipi, 2 February 1905, MA W2218, Box 19, 6/60/1/1
[112] Wellington Native Land Court, mb 10, 28 July 1902, pp 317-318
[113] Public Trustee to Bradshaw, 13 November 1902, MA W2218, Box 19, 6/60/1/1
Public Trustee to Beavis, 13 November 1902, MA W2218, Box 19, 6/60/1/1
[114] Public Trustee to Bradshaw, 13 December 1902, MA W2218, Box 19, 6/60/1/1

had been settled, Mrs Simeon was granted a licence to occupy an area equivalent to the size of her interest, around 9 acres, for a fee of £3.15s a year.[115] In the 1880s Ohiro had produced £40 a year, and £50 during the 1890s. From 1903/04 the Ohiro reserves fetched £65.2.6.[116]

Having granted leases, the Public Trustee thereafter opposed any suggestions that the land be partitioned, or titles issued to the Maori owners. This would be contrary to the interests of the leaseholders.[117] It was also legally impossible. The 1895 Act had restricted the powers of the Native Land Court with respect to land vested in the Public Trustee. The Court could only determine who the owners were, and what their respective interests might be: it had no authority to partition the land, or issue titles to it. This was still the situation in 1911, when some of the owners asked for titles to be issued.[118]

The Ohiro owners were consulted about the new leases in 1902. Less than a year later the Public Trustee was approached by a lawyer representing a Levin interest. Would the Public Trustee exchange the Ohiro sections for lands of equal value at Levin?[119] The lawyer, P E Baldwin, believed he could obtain from a 'majority of the Native owners' written authority for the Public Trustee to seek whatever power was needed to make the exchange.

The Public Trustee replied within a few days. He had considered the proposal but he could not accept it.

> On the termination of the present leases there will probably be an electric tram giving access to these sections and by letting them for long terms on building leases a much greater income will be derived than if your proposal were entertained.

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[115] Memorandum, 11 November 1902, MA W2218, Box 19, 6/60/1/1
Occupation License Akenihi Himiona/Agnes Simeon, MA W2218, Box 19, 6/60/1/1
[116] MA-MT 6/1, p 105
[117] Public Trustee to Registrar, Native Land Court, 11 March 1906, MA W2218, Box 19, 6/60/1/1
Public Trustee to Registrar, Native Land Court, 25 October 1911, MA W2218, Box 19, 6/60/1/1
[118] Registrar, Native Land Court, to Public Trustee, 20 October 1911, MA W2218, Box 19, 6/60/1/1
[119] Baldwin to Public Trustee, 27 July 1903, MA W2218, Box 19, 6/60/1/1

> I have no doubt that the present benefits to the owners would be increased by the proposed exchanges but as trustee of these reserves I must look to the future.[120]

Two observations can be made about this reply. First, the owners, recently consulted about the leases, were not consulted about the proposed exchange. Second, although new leases had been granted, the Public Trustee seemed to regard these as fixed term, not perpetually renewable, leases.

The 1903 leases had contained an error of some kind. They were recalled and new leases issued in 1904.[121] In both cases, the applications for new leases had been made under the 1895 Act, which provided for leases with rights of perpetual renewal. New leases were offered, and accepted, under the same Act. But when the 1903 and 1904 leases were drawn up, an obsolete form was used. On the face of it, these leases were issued under the 1882 Act, before leases with rights of perpetual renewal were available. The clear intention in 1903/04 had been, however, to issue leases with rights of perpetual renewal. When the matter came under the notice of the office solicitor in 1907, he had no doubts that the Ohiro leaseholders had 'a perpetual pre-emptive right of renewal subject to a re-assessment of ... rent'.[122]

Did the Public Trustee know, when he polled the owners in 1902, that any new leases would be perpetually renewable? If he did, his later response to the Levin proposal made no sense at all. The leases prepared in 1903/1904 were examined by various people in the Public Trust offices, and by the tenants. Possibly lawyers for the tenants examined them as well. No one seems to have noticed that they were being issued under the 1882 Act. One or two of the owners did ask about the terms that would be offered, but seem not to have received any reply from the Public Trustee.[123]

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[120] Public Trustee to Baldwin, 4 August 1903, MA W2218, Box 19, 6/60/1/1

[121] Public Trustee to Bradshaw, 10 February 1904, MA W2218, Box 19, 6/60/1/1
Public Trustee to Beavis, 1 March 1904, MA W2218, Box 19, 6/60/1/1

[122] Public Trustee to Lingard, 12 December 1907, MA W2218, Box 19, 6/60/1/1
Wilson memorandum, 11 December 1907, MA W2218, Box 19, 6/60/1/1

[123] Henare Pumipi to Public Trustee, 9 May 1902, MA W2218, Box 19, 6/60/1/1

The Public Trustee may not have understood that new leases would be perpetually renewable. It is possible too that even if the owners had been told that new leases would be perpetually renewable this would not have changed their decision to lease the land. It was, by all accounts, difficult land, unsuitable for occupation. The rent was being paid regularly, at least by the tenant leasing the larger portion, and this tenant, Beavis, seems to have been on good terms with the owners. Leasing it out might well have seemed the best option to the owners.

The consultation made with the owners in 1902 was probably genuine enough, but in a fundamental sense quite futile. The old leases were of the kind described in the 1895 Act. This legislation carried a presumption that leases of this kind could be converted into leases with rights of perpetual renewal. If the owners had objected to perpetual renewal in 1902, it would probably have made little difference. The Public Trustee would, in all probability, have upheld the rights of the tenants, and reminded everyone that the land was vested in him.

Heaphy had been quite certain in 1874 that the Ohiro sections were not the property of the Maori beneficially interested. In 1902 the Public Trustee knew that the sections were vested in him by the 1896 Act. He seems, however, to have accepted Mackay's view that this was the result of a mistake made when the 1896 Act was being drafted. He believed he had some obligation to consult the owners. Both men may have been led astray by the fact of common beneficial ownership and long association between the Ohiro sections and the nearby Polhill Gully (McCleverty) sections.

By the second decade of the 20th century it appears that the Ohiro sections were either held on a single lease, or that one individual had gained control of the two leases issued in 1904. Mrs Simeon retained her occupation licence until her death in 1909. The licence

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Mare Te Rangikauharara to Public Trustee, 20 May 1902, MA W2218, Box 19, 6/60/1/1

was meant to terminate at that point but one of her daughters, a Mrs Henrietta Rowland, took over the occupancy and paid the rent. When the nature of her tenure was discovered, it was decided that since the rent had been accepted, the daughter had established a right, and she was left undisturbed.[124]

On the daughter's death, the farmer who held the lease for the bulk of Ohiro 19 and 21 sought a lease of the 9 acre occupation section as well. When this proposal was examined it was discovered that he was paying 2s a week (over £5 on an annual basis) for the use of the land in question. It was not clear how long this arrangement had been in place. Moreover, when the 9 acre section was inspected, it was judged unsuitable for housing and of a generally undesirable nature.[125] The lease requested was granted in October 1947.[126]

From that time on Ohiro 19 and 21 were held on two leases.[127] One was for part of section 19, containing to 9 acres 1 rood 11 perches, the other for part sections 19 and 21, containing 207 acres 3 roods 11 perches. The total area was 217 acres 22 perches. This was 42 acres more than the acreage (175 acres) given for Ohiro 19 and 21 in the 1873 Act.

In 1976 around 93 acres (37.6584 hectares) of Ohiro 19 and 21 were taken under the Public Works Act for a rubbish dump. In 1980 part of an adjoining road was closed, and added to the block. A few years later (1986) a small area was taken for new roading.[128] After these additions and deductions had been made, there seems to have been about 124 acres of Maori reserved land left at Ohiro. This land, and the 181 acres at Pakuratahi, was all that was left, more than 100 years later, of the 976 acres of rural reserves described in schedule D of the 1873 Act.

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[124] Registrar to Head Office, 23 July 1943, AAMK 869, 186a
[125] Cooper to Registrar, 28 September 1947, AAMK 869, 186a
[126] Registrar to George, 3 September 1954, AAMK 869, 186a
[127] Schedule of Maori Reserved Land in the Wellington District, 1974, AAMK 869, 139a
[128] Crown Title 401/279 (E-8, pp 523-524)

In February 1978 the Maori Trustee made an application to the Maori Land Court, to have what remained of Ohiro 19 and 21 revested in the beneficial owners. The Maori Trustee's argument was that there was no longer any need for the land to be vested in him. It would be more advantageous for the beneficial owners if they were able to negotiate leases on their own terms.[129] The 'owners should themselves determine the future of the land'.[130]

The case was stood down until 18 May 1978. On that day the Court seemed dissatisfied with the information it had before it, and the case was stood down again.[131] On 19 May 1978 some evidence was taken concerning the Public Works taking in 1976. The Court obtained an assurance from the Maori Trustee's office that there would be no dealing with the leases or the land until the application had been determined.[132]

In August 1978 there was another hearing, and the Maori Trustee's counsel expanded on the reasons for the application to revest the land. The Maori Reserved Land Act 1955 prevented the Maori Trustee from issuing a lease for land to be used for industrial purposes. He could issue a lease for the land to used as urban land, but the rent would be 4 percent of the unimproved value, which was 'hardly reflective' of the land's market value.[133] Leases could only be issued for periods of 21 years at a time: rents could only be reviewed at the end of each term of 21 years. All leases had rights of perpetual renewal.

One of the beneficial owners attended the hearing. Counsel for the Maori Trustee suggested that the presence of only one of the owners 'indicates the response of the owners to anything that the Maori Trustee has attempted to do in this particular case ... in the past the response of the owners has been likewise as it is today'.[134] Counsel later

[129] Wellington Maori Land Court, mb 48, 7 February 1978, p 214
[130] Wellington Maori Land Court, mb 48, 18 May 1978, p 238
[131] Wellington Maori Land Court, mb 48, 19 May 1978, p 244
[132] Wellington Maori Land Court, mb 48, 18 May 1978, p 238
[133] Wellington Maori Land Court, mb 48, 17 August 1978, pp 267- 268
[134] Wellington Maori Land Court, mb 48, 17 August 1978, p 267

conceded, however, that the Maori Trustee had not explored the possibility of calling a meeting of the beneficial owners, and seeking the appointment of trustees who could act on behalf of the owners.[135]

The owner present supported the application to revest, because changing the status of the land from Maori reserved land to Maori freehold land would get the owners out from under one Act and under another. This would give them more room to move. 'At least we would have a better chance of participating in the future administration of it'.[136]

The Court recommended that the Maori Trustee call a meeting of owners, and if necessary open discussions with the leaseholder. If some satisfactory proposals concerning the future of the land could be worked out, the Maori Trustee would be divested of the land, which would then be revested in owner-nominated trustees. The case was then adjourned.

The Court sat again in November 1978. A meeting of the owners had been held in September. A committee of three owners had been appointed. This committee and the Maori Trustee had approached the Ohiro leaseholder. By this stage the lease had been transferred, and the new leaseholder wanted to both farm the land and retain perpetual right of renewal.[137] The case was adjourned till February 1979, on the request of the Maori Trustee. In February 1979 the Maori Trustee's counsel confirmed to the Court that the land was being prepared for farming, the purpose under the lease. He asked that the application be dismissed. The Court accepted this submission.[138]

The Maori Trustee wanted to revest the land because the legislation governing reserved land restricted the uses to which it could be put and the rents that could be charged. In the hands of the owners, and provided the leaseholder agreed, far more could be done with

[135] Wellington Maori Land Court, mb 48, 17 August 1978, p 268
[136] Wellington Maori Land Court, mb 48, 17 August 1978, p 270
[137] Wellington Maori Land Court, mb 48, 6 November 1978, p 282
[138] Wellington Maori Land Court, mb 49, 8 February 1978, p 11

the land, for a better return. The Court wanted to be sure about the owners' views, and whether or not a change of land use was possible. If the owners wanted the land back, and a feasible plan for its use could be devised, then the Court was prepared to revest, but not to the owners directly. The land would be vested in trustees for the owners.

The leaseholders in February 1978 may or may not have wanted to change the use of the land from agriculture to industrial purposes. If they did, this may have been the underlying reason for the Maori Trustee's application to have the land revested. The two men who took over the lease by November 1978 did not want to change land use. Nor did they want to give up their right of perpetual renewal. The owners may or may not have lost interest in the revesting proposal at this point. The Maori Trustee could see no point in proceeding with the application, and asked that it be dismissed. There was no objection from the owners. The Court had treated the application cautiously from the beginning, deciding that if the land were revested, it would be into the hands of trustees for the owners. In the end, it opted to preserve the status quo.

3.2 Makara 22 and 24

The two Makara sections, originally New Zealand Company tenths, lay to the south west of Wellington city, inland from the west coast. In 1872 the 200 acres in Makara 22 and 23 were leased by Peter Trotter on a 21 year term. Trotter had obtained his lease from Wi Pakata and Parata Te Kiore, of Ngati Tama, in 1862.[139]

According to Swainson (in 1867) and Heaphy (in 1873 and in 1879) there was no evidence that these sections had ever been allocated to the Maori in question.[140] Swainson mentioned that the claim was based on 'an alleged verbal promise of Sir George Grey'.[141]

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[139] AJHR, 1873, G-2, p 1 (A-24, p 58)
[140] AJHR, 1867, A-17, p 4
AJHR, 1873, G-2, p 1
Heaphy to Under Secretary, Native Department, 3 March 1879, MA-MT 1/41/61
[141] MA-MT, 6/14, p 15

In any event, by 1872 Wi Pakata was dead, Parata Te Kiore had disappeared from the scene and Trotter was objecting to paying his £30 rent.[142]

At a meeting on 18 July 1872, Paiura Rangikatahu claimed all of the Makara rent, on the grounds that Wi Pakata's widow, Harata, had married again and 'lost her right' and that Parata Te Kiore was with the King, and had forfeited his right also. The outcome of this meeting was the decision to call everyone together in August 1872.[143]

The August 1872 meeting was 'of all the Natives interested in the land', described as 'Ngatitama'.[144] Heaphy wrote down the names of these who attended: Paratene and Neta Te Wheoro, Rei Te Wharau and Harata. Heremaia, Paratene's son, was also present. Heremaia was a minor, and seems to have taken no part in the discussions. Neither did any of the other four Maori present, one of whom was Wi Tako.[145] Wi Tako seems to have been present as an observer, to assist Heaphy.

Paratene claimed the rent on the grounds that he was the head of his hapu, belonged to the elder branch of the claimant group, and had been on the land '3 or 4 years before any one else', since the time when the natives had gone to the Chathams. His name was not on the lease to Trotter because he had been away at Whanganui when the document was drawn up. When Paratene asked Wi Pakata about this, Pakata agreed that Paratene had a right to the land 'nevertheless'. Pakata then promised that Paratene would be given one of the section.[146]

Neta supported her husband Paratene. She said Taringa Kuri had conquered Makara. Paratene was one of those who took over the occupation at that time. Harata agreed that Paratene and Rei Te Wharau had arrived at Makara before her people, but they had only

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[142] AJHR, 1873, G-2, p 1 (A-24, p 58)
[143] Heaphy jottings, 18 July 1872, MA-MT 1/41/61
[144] AJHR, 1873, G-2, p 1 (A-24, p 58)
[145] The other three were Koro Henere, Heuere Haeretutirangi and Te Manihira. Te Manihira's name was linked to Wi Tako's. MA-MT, 6/14, p 148 (A-36, p 21)
[146] Heaphy notes, 7 August 1872, MA-MT 1/41/61

caught birds on the land. They did not cultivate or build on it. Parata Te Kiore and one of his brothers, her uncles, came after Taringa Kuri had driven off the Ngati Kahungunu. These relatives settled at Ohariu, and were living there when Wakefield purchased the land. By the mid 1840s they were cultivating at Makara. Wi Pakata had arrived with her uncles, and she had married him in the early 1850s. They lived at Ohariu and the Hutt. According to Harata, no one was living at Makara at this time.

Harata said that Grey had given Wi Pakata the land at Makara on condition that he remain 'peaceable'.[147] She did agree that Paratene and Rei Te Wharau had received some of the first rent payments, and that some other payments from the rents had been made to them as well. Heaphy had already heard the story concerning Grey's promise. Trotter had come to see him in July 1872, and told him that at the time of Rangihaeata's war 'Sir George Grey gave Parata Te Kiore those two sections to induce him to remain on the ground and not join the rebels'.[148] Harata said the sections had been given to Pakata: Trotter's recollection was that they had been given to Parata Te Kiore. Heaphy searched for documentary proof of these claims, but never found any.

There is nothing inherently implausible in the notion that in the late 1840s Grey may have regarded unassigned tenths as Crown assets, to be granted away in furtherance of Crown policies and objectives. There are some grounds for believing that he may have given out land at either Makara or Ohariu in this way. The main evidence is a memorandum written by Lewis in August 1888. Lewis wrote to Mackay with some information concerning Ohariu 24 and 25. According to Lewis, Harata Te Kiore and Sir George Grey had called upon him, and Grey had stated that these two sections had been intended for Wi Pakata (24) and Parata Te Kiore (25). No other person was to have any right of ownership.[149] In the early 1870s, Harata Te Kiore and Peter Trotter both said that Grey had promised two sections at Makara. This promise was made at the time of the troubles with Te

[147] Heaphy notes, 7 August 1872, MA-MT 1/41/61
[148] Heaphy jottings, 18 July 1872, MA-MT 1/41/61
[149] Lewis to Mackay, 1 August 1888, MA W1369 Box 40 191

Rangihaeata in the Hutt and Horokiwi valleys in 1846. In the late 1880s, when he was in his mid-70s, in failing health, and recalling events that had happened 40 years before, Grey's recollection was that the sections promised had been at Ohariu.

The main outcome of the August 1872 meeting was an agreement covering the division of the Makara rent. On Heaphy's suggestion the rent was apportioned as follows: half to Harata, one third to Neta, one sixth to Rei Te Wharau.[150] Paratene and Rei were brothers, the sons of Aperahama Te Haehaeora.[151] Harata was Pakata's widow, but she was also Parata Te Kiore's niece.[152] None of the arguments made against the Te Kiore family at the earlier meeting seem to have been made at this meeting, and Paiura Rangikatahu received no share of the Makara rent. Paiura does not seem to have been related to either Wi Pakata or Parata Te Kiore: the basis of his claim to Makara is unknown.

The rent money was to be paid to Harata in the first instance, who would divide it up. According to Heaphy, Paratene and other Maori present at the meeting consented to these arrangements.[153] This suggests that Harata was seen as the principal person at Makara. In return for prompt payments, Harata announced that she had agreed to reduce Trotter's rent from £30 to £20. No protest about this seems to have been made by any of the other interested parties. This also suggested that Harata's right to manage the lease was not disputed. She also had physical possession of, and was able to produce at the meeting, the lease between Peter Trotter and her deceased husband Wi Pakata.[154]

When Heaphy reported the results of this meeting in his published report, the proportions, and the beneficiaries, were given differently. Harata still received half of the rent, but the other half was divided equally between Paratene and his brother Rei Te Wharau. While Heaphy's minutebook indicated that Neta would receive the Te Wheoro

[150] MA-MT, 6/14, p 148 (A-36, p 21)
[151] Wellington Native Land Court, mb 3, 15 June 1889, p 52
[152] Wellington Native Land Court, mb 3, 15 June 1889, p 53
[153] MA-MT 6/14 p 148 (A-36, p 21)
[154] MA-MT 6/14 p 148 (A-36, p 21)

share, the published report said it was being paid to Paratene.[155] The 1/2, 2/6, 1/6 division seems however, to have been the one employed after 1872.[156]

The dispute over the Makara rent settled in 1872 was one of several similar disagreements that Heaphy resolved around this time. In the case of Makara, what seems interesting is that while Heaphy seemed to regard the claim of Wi Pakata and Parata Te Kiore to the Makara tenths as not 'clearly established', he nevertheless agreed that half the benefits should go to their successor.[157] The other half went to Paratene and Rei Te Wharau, seemingly on the basis that they had customary rights dating from the 1830s. The thing to be noted is that the Makara tenths were being treated almost as if they were McCleverty awards, the benefits being assigned to particular families and individuals rather than retained and used for the benefits of Wellington Maori generally.

According to Heaphy, the Makara tenths belonged to three or perhaps four Ngati Tama individuals, members of at least two but no more than three families. When part of the McCleverty reserve, Ohariu 98, was sold in 1855, there were six names on the deed of sale. The remaining part of this reserve was sold in 1859, along with a number of other Ohariu and Makara reserves, all having at least nine owners. In 1860, some 1500 acres of Ohariu land was leased by William Rhodes. The rent was paid to 11 men, including Parata Te Kiore. When the Opau block at Ohariu was partitioned in 1867, it had 24 owners, including Wi Pakata, Paratene Te Wheoro and Parata Te Kiore.[158] It does appear that the ownership of the Makara tenths (and the Ohariu tenths as well) was more narrowly defined than the ownership of other Ngati Tama (McCleverty) reserves in the Ohariu and Makara districts.

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[155] AJHR, 1873, G-2, p 1 (A-24, p 58)
[156] MA-MT 6/14 p 179 (A-36, p 53)
AJHR, 1885, G-5, p 10 (A-24, p 204)
[157] AJHR, 1873, G-2, p 1 (A-24, p 58)
[158] S Quinn, Report on the McCleverty Arrangements and McCleverty Reserves, November 1997, pp 165-173

In March 1874 Heaphy noted details of a meeting between himself, a returned Parata Te Kiore, Harata and Wi Tako. At this meeting Harata renounced the 1872 Makara rent agreement. This led to a second meeting in March 1874, attended by Parata Te Kiore, Harata, Paratene and Neta Te Wheoro. Parata said he was absent when the 1872 agreement was made: Harata denied that she had ever consent to it. After discussion, a meeting called to determine Parata's right to a share of the Makara rent concluded by re-affirming the ownership decided in 1872: Harata, Paratene and Te Rei. On the surface of things, it appeared that Parata Te Kiore was not recognized as someone entitled to a share of the Makara tenths. During the meeting, Te Kiore had denied that he had been 'with the King'. Possibly there was some suspicion attached to him, that persuaded Heaphy not to seek a new allocation of the Makara rent.

Some months later, in August 1874, Heaphy was approached by a 'Toko of Ngatihaua', who made a claim to Makara 22 and 24. He said he had been absent at Taupo when Parata and Pakata got their land, and that he formerly cultivated at Makara before Parata and Pakata lived there. Heaphy referred him to Harata and Paratene, saying he would make arrangements for Toko with their consent.[159] Heaphy scribbled in his minutebook a statement by Te Mamaku, to the effect that while Parata and Pakata belonged at Makara, Toko had never been seen there.[160] By referring Toko to Harata and Paratene, Heaphy was leaving this new claim to a share of Makara to be decided by the Maori he had already acknowledged as the beneficial owners of Makara 22 and 24.

Parata Te Kiore, evidently one of the principal men at Makara in the 1830s and 1840s, was not given a share of the rent in March 1874. Nor did Heaphy include him in the list of those to be consulted about the Toko claim. Yet in October 1874 Heaphy noted (in his published report) that he had approved a lease by Parata Te Kiore, the 'native beneficially interested', of 5 acres of Makara 22, for 21 years at £1 a year, for the purpose of building

[159] MA-MT 6/14 p 148 (A-36, p 21)
[160] MA-MT 6/14 p 148 (A-36, p 21)

a church.[161] In his minutebook Heaphy makes the even stronger statement that Te Kiore 'had let' the 5 acre site. Heaphy then noted that the land was 'really an original tenths', of which Te Kiore 'only has the usufruct with Harata, Wi Pakata's widow'.[162]

One of Heaphy's letterbooks for the mid 1870s has survived, and this shows that Father Jean-Petit had written to Heaphy in late 1873, seeking to purchase land for the erection of a chapel at Makara. Heaphy had replied that it would not be possible to purchase the 5 acres required, but that it might be possible to secure a long lease. He had written, he said, to 'the natives who have been in the habit of receiving Mr Trotter's rent'.[163] An undated letter, but clearly within a day of two of the letter to Father Jean-Petit, was addressed to Harata. In this letter Heaphy asked for 'your opinion on this request'.[164]

In March 1874 Father Jean-Petit wrote again to Heaphy. Heaphy replied that he was happy to assist, but he was 'not able to doing anything in the matter until the consent of the Natives is obtained'.[165] By October 1874 that consent had been gained, but now Heaphy wanted to be assured that Trotter's leaseholding would not be compromised. He asked for a written statement from Trotter that he (Trotter) did not regard the 5 acres in question as being part of the area he was leasing. Provided a guarantee of that kind was forthcoming, a 21 year lease, the maximum period allowed, would be granted,

In the meantime, Heaphy advised Jean-Petit to give no money to the Makara Maori, 'until I have had an opportunity of speaking to you on the subject'.[166] Later in the month Heaphy wrote to Jean-Petit again. The lease had been drawn up, and he should get the Maori signatures required. The space for the rent amount had been left blank 'as I do not

[161] AJHR, 1875, G-5, p 3 (A-24, p 91)
[162] MA-MT 6/14, p 183 (A-36, p 57)
[163] Heaphy to Jean-Petit, 9 February 1874, MA-MT 4/1, p 4
[164] Heaphy to Harata, February 1874, MA-MT 4/1, p 3
[165] Heaphy to Jean-Petit, 17 March 1874, MA-MT 4/1, p 29
[166] Heaphy to Jean-Petit, 9 October 1874, MA-MT 4/1, pp 256-257

know what arrangement you may have made with the natives. I think £1 a year quite sufficient'.[167]

This was the rent agreed for the term of the lease. Leased originally for the purpose of building a chapel, and then earmarked as a school site, it was later found that the land had been used for neither. Instead, Father Jean-Petit had, sometime during the late 1870s, let the land out at an annual rental of £7. The individual paying this rent thought £7 was far too much: at most the rent should have been £2.10s.[168] He had been paying it nonetheless.[169] The lease was renewed from 1 January 1896, at an annual rental of £5, a sum equivalent to 5 percent of the valuation.[170]

This lease created a small problem in the late 1890s, when the land containing the 5 acre leased section - Makara 22B - was sold to Trotter, without any exclusion of the 5 acres in question. The result was that a valid lease, with rights of perpetual renewal, existed over part of a parcel of land that was how held, in its entirety, under a freehold title. When the problem was discovered it was solved easily enough: the lease granted by the Public Trustee was cancelled and Trotter, the new owner, granted a lease to Archbishop Redwood of the area in question. This lease was executed in 1900, and the history of this small part of one of the New Zealand Company tenths has not been followed beyond that date.

While Heaphy seemed to say, in 1874, that the Makara Maori only had the use of the land, he nonetheless considered it essential that they consent to the lease of the land for the chapel. Once this consent had been obtained, it was Heaphy who fixed the term of the lease, and suggested what the rent should be. In 1874, the rent arrangements had not been adjusted, as far as we can see, to accommodate the re-appearance of Parata Te Kiore. Yet in referring to the lease of the chapel grounds, Heaphy referred to Te Kiore as the 'native

[167] Heaphy to Jean-Petit, 27 October 1874, MA-MT 4/1, p 286
[168] Mackay to Public Trustee, 2 November 1895, MA-MT 1/41/61
[169] Mackay to Public Trustee, 2 November 1895, MA-MT 1/41/61
[170] MA-MT 6/1, p 106

beneficially interested'. He also said that the 5 acres had been let by Te Kiore 'with the approval of the Commissioner of Native Reserves'.[171]

In 1880 Trotter renewed his lease of the two Makara sections (excluding the small area leased to Father Jean-Petit) for a further period of 21 years, at £60 a year.[172] Heaphy's minutebook book contains an undated reference about this time, to the effect that Harata and Parata Te Kiore consented to a new lease being granted.[173] A memorandum to the Native Department shows how the new rent was determined. 'By agreement between Mr Trotter and the Commissioner Mr Howard Wallace was deputed to name a fair rental ... He has named £60, which I believe to be a fair rent'.[174]

The owners consented to a new lease. They were not consulted about the rent to be paid: this was a matter for Heaphy and the leaseholder. The rent, however, was based on an independent valuation, and was double the amount paid in the past. Trotter paid his arrears after the 1872 meeting, and thereafter paid his rent regularly, only occasionally having to be reminded that a payment was overdue. Father Jean-Petit also paid his rent regularly.

In 1889, as part of what seems to have been a general decision to have ownership of all of the 1873 reserves determined by the Native Land Court, Makara 22 and 24 were investigated. Harata appeared and claimed that the land belonged to her relative Wi Parata Te Kiore. She and Te Kiore had let these sections in former years. She said that she was not aware of a meeting in 1872 to determine ownership of the sections, or that it had been decided at that meeting that Rei Te Wharau and Paratene Te Wheoro were entitled to a share of the land. It was her belief that Rei Te Wharau and Paratene Te

[171] AJHR, 1875, G-5, p 3 (A-24, p 91)
[172] MA-MT 6/14 p 217
MA-MT 6/1, p 107
[173] MA-MT 6/14 p 217
[174] Heaphy to Under Secretary, Native Department, 3 March 1979, MA-MT 1/41/61

Wheoro were included in other lands at Makara, but not in sections 22 and 24. These sections, she said, very McCleverty awards.[175]

Mackay informed her that the sections were tenths, allocated to Ohariu Ngati Tama 'under a verbal arrangement made by Governor Grey'.[176] In 1867 Swainson had regarded talk of a verbal arrangement with Grey with some skepticism. Heaphy had been unable to find any documents that supported this claim in 1872. Yet by 1889 the Native Land Court, or at least Mackay, had decided that this was indeed the proper basis for the claim made to the Makara tenths by the beneficial owners identified by Heaphy in 1872.

Mackay had been advised in 1888 that Grey had made a statement to the Native Department, to the effect that sections at Ohariu had been promised to Parata Te Kiore and Wi Pakata. Did Mackay get his districts mixed up 1889? He seems to have been a man prone to error and mistakes. In 1895 he did not seem to know that the Makara section containing the 5 acre chapel was about to be sold, and he advised the Public Trustee to renew the lease. In 1902, he described the Makara sections as McCleverty awards, apparently forgetting that he had vested them in the owners in 1889.[177] He appears to have believed that the Ohiro sections were also McCleverty awards. In 1896 he advised the Public Trustee that Ohariu 12 and 13 were McCleverty awards as well.[178]

The Court proceeded to partition the sections, awarding Makara 24 (105 acres 2 roods) to Wi Parata Te Kiore in June 1889 and then to Harata Te Kiore as his successor, in August 1889.[179] Wi Parata had left a will (dated 4 February 1879) leaving all of his real and personal property to his niece Harata, and it was on that basis that the succession order was made. In April 1890 Harata made an application for removal of restriction and then sold to Trotter, who had leased the land since the 1860s. Trotter paid £500.[180]

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[175] Wellington Native Land Court, mb 3, 15 June 1889, pp 50-51
[176] Wellington Native Land Court, mb 3, 15 June 1889, p 51
[177] Mackay to Public Trustee, 14 August 1902, MA-MT 1/41/61
[178] Public Trustee to Newman, 6 July 1896, MA W2218, Box 5
[179] Wellington Native Land Court, mb 3, 30 August 1889, p 139
[180] MA-MT 6/1, p 107

Makara 22 (area given as 108 acres) was awarded to Rei Te Wharau and Paratene Te Wheoro in equal shares.[181] Rei Te Wharau was dead, without heirs, and a successful application was made by a brother, Mokena Te Haehaeora, hitherto without any interest in the Makara tenths, to Rei Te Wharau's share.[182] Paratene Te Wheoro was also dead.[183] He left, however, a wife (Neta) and two children, Heremaia and Karoraina.

Applications by Wiari Te Puho to succeed to Makara 24 and 22 were dismissed.[184] No reason was given. An addition to a whakapapa in the Native Land Court minutebook appears to indicate that Te Puho was, or claimed to be, a brother of Rei Te Wharau. Evidently this claim was not accepted.

In March 1895 Heremaia Te Wheoro, Paratene Te Wheoro's son, made an application to partition Makara 22. Peter Trotter, who had leased the land for many years, described the land as mostly hilly, with about 14 acres of flat land close to the river. Heremaia asked for three divisions to be made: Te Mokena's next to section 21, his (Heremaia's) next to section 87, his sister's (Karoraina Te Wheoro) between the two. The Court ordered accordingly and Makara 22 (containing 105 acres 37 perches) was partitioned into three sub-divisions: A (Mokena Te Haehaeora, 52a 2r 18p), B (Karoraina Te Wheoro, 26a 1r 9p) and C (Heremaia Te Wheoro, 26a 1r 9p).[185]

On the same day an application was made for the removal of restrictions. The Court decided that the two Te Wheoro had sufficient land, and lifted restrictions. In the case of Mokena Haehaeora, however, the Court decided to allow him only the right to lease his land.[186] Heremaia Te Wheoro sold Makara 22C in 1895. Makara 22B was sold around

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New Zealand Government Gazette, 29 May 1890, p 605

[181] Wellington Native Land Court, mb 3, 15 June 1889, p 51

[182] Wellington Native Land Court, mb 3, 15 June 1889, p 51

[183] Neta Te Wheoro to Heaphy, 1 January 1875, MA-MT 1/149/4/61

[184] Wellington Native Land Court, mb 3, 15 June 1889, p 52

[185] Wellington Native Land Court, mb 5, 19 March 1895, p 6

[186] Wellington Native Land Court, mb 5, 19 March 1895, p 6

1897. By 1900, the only part of Makara 22 that remained unsold was the nearly 53 acre portion (Makara 22A) that had been vested in Mokena Te Haehaeora in 1895.[187] This area was leased out to Mrs. Trotter, on a lease terminating in 1901, for £15 per annum. When Mrs. Trotter made an application for a new lease, she was told that the Public Trustee no longer had any jurisdiction - the Makara section was vested in its native owner, and she must make arrangements with him.[188] The history of Makara 22A has not been followed beyond this point.

3.3 Ohariu 12 and 13

These two sections were located in the Ohariu Valley, about 5 miles to the west of Johnsonville. In Heaphy's 1871 report these sections were referred to as Makara 12 and 13, and said to contain 200 acres. They were partly occupied: Paiura Rangikatahu had 25 acres and Teira Te Whetu 27 acres. These men were both Ngati Tama; their allocations were on the eastern part (Ohariu 13). The western part, (Ohariu 12), an area amounting to 108 acres, was let by the commissioner on a 21 year term to William France. France's rent (£14.14s) was going into the Native Reserve Fund.[189]

In 1872, Heaphy recorded details of a meeting, attended by Neta Te Wheoro, Paratene Te Wheoro, Paiura and a boy, Heremaia, called to discuss the division of the rent paid by France.[190] Neta claimed a right at Ohariu from an ancestor common to both herself and Mete Kingi. The common ancestor was Te Ekaia: Mete Kingi was a grandson, Neta Te Wheoro a grand-daughter.[191] Paiura was Neta Te Wheoro's brother. Paratene Te Wheoro was her husband. Mete Kingi was a cousin. According to a petition presented to Parliament in 1906, Te Ekaia's son Te Rangikatahu was the original owner of Ohariu. Neta, Paiura and Ihaia were Te Rangikatahu's children.

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[187] Public Trustee to Mackay, 10 July 1900, MA-MT 1/41/61
[188] Public Trustee to Trotter, 16 July 1900, MA-MT 1/41/61
[189] AJHR, 1871, F-4, p 53 (A-24, p 53)
MA-MT 6/1, p 108
[190] MA-MT 6/14, p 151 (A-36, p 22)
[191] Ohariu Section 12, AAMK 869, 183a, p 1

Heaphy concluded that Neta, Paratene and Paiura had equal rights to Ohariu 12, and that a male minor (Waiari) living in the Hutt Valley, the son of Neta's deceased brother Ihaia, had some right as well.[192] It was decide to divide the rent then in hand (£7.7s): as followed: Neta £2.10s; Paratene £2.10s; Paiura £2 and Heremaia 7s. Heremaia was Heremaia Te Wheoro, a son of Neta and Paratene Te Wheoro. At the next division of rent, it was agreed that some provision would be made for the Waiari. Waiari was a great-grandson of Te Ekaia. He would receive £1, while Paiura's share would be reduced by £1.

While Paiura identified himself as Ngati Tama, Te Wheoro seemed to have belonged to Whanganui.[193] That does not mean they were unrelated families: Neta was Paiura's sister and Paratene's wife. Mete Kingi, of Whanganui, seemed to have as good a right as his cousins Paiura and Neta Te Wheoro. During the meeting the Te Wheoro family had, in fact, conceded that Mete Kingi had an interest.[194] Yet Mete Kingi received no share of the rent money paid out by Heaphy at the conclusion of the meeting, and no provision was to be made for him at the next distribution of rent either.

At a meeting held in September 1872 the Ohariu rent shares were revised. Heaphy recorded in his minutebook that he had called together a komiti of Paiura, Paratene and Mete Kingi. Heaphy wanted to hear their views as to who were the 'proper persons' to receive the rent from France and in what proportions.[195] While this may have been the stated purpose of the meeting, other matters were transacted as well. Paiura is reported to have said that it was (or would be) proper for Mete Kingi to have land in the reserves since he was Paiura's 'elder brother'.[196] Paratene is said to have 'consented' to this, but

[192] Ohariu Section 12, AAMK 869, 183a, p 1
[193] Neta was identified by Heaphy as Whanganui in his notes on the August 1872 meeting. At the same meeting Paratene talked of being absent at Whanganui. MA-MT 1/41/61 In another record of the 1872 meeting Neta, Paratene and Mete Kingi are all identified as Whanganui. ABOG W4299 6/50 Part 1
[194] Heaphy notes, 20 August 1872, ABOG W4299 6/50 part 1
[195] MA-MT 6/14, p 149 (A-36, p 22)
[196] MA-MT 6/14, p 150 (A-36, p 23)

he went on to deny Teira Te Whetu's right to land at Ohariu: 'he is of a different hapu; he never cleared or cultivated here, or lived on the land'.[197] Paratene seemed to bear some ill will towards Te Whetu. Evidence from Heaphy may explain the basis for this.[198] After occupying part of Ohariu with about 10 of his followers in 1868, Te Whetu was given an occupation right by the Government. Te Whetu leased out this land. Then, according to Heaphy, Te Whetu squatted on Paratene's Ohariu 13 section. It is known that Te Whetu returned to Taranaki about 1872, so this encroachment - if that is what it was - may have only ended a short time before the August 1872 meeting.

When the right of children to a share of the rent was raised by Heaphy, 'all' agreed that it was not proper for children to have a separate share. They would be included with their parents. On the questions of who was to receive a share of the rent and in what proportion, it was decided to distribute the rent as follows. Mete Kingi (and child) were to have one share; Neta and Paratene (and children) were to have one share. The remaining share was to go to Paiura.[199] In his published 1873 report, Heaphy recorded that the rent paid by France (for Ohariu 12) was to be divided equally between Paiura, Mete Kingi Paetahi and Paratene.[200] Paratene was, presumably, to receive his wife's share rather a share in his own right.

The beneficial owners of the Ohiro sections were Ati Awa. The owners of the Makara and Ohariu sections were Ngati Tama and Whanganui, and Heaphy noted the latter connection at the time. As it happens, there is another entry in Heaphy's minutebook which indicates a connection between people of Whanganui descent and the Ohariu district. This was a claim by Te Mamaku, the great Ngati Haua-Te-Rangi chief, to lands in an area that included both Makara and Ohariu.[201]

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[197] MA-MT 6/14, p 150 (A-36, p 23)
[198] Heaphy minute, 14 October 1872, ABOG W4299 6/50 part 1
[199] MA-MT 6/14, p 150 (A-36, p 23)
[200] AJHR, 1873, G-2, p 1 (A-24, p 58)
[201] MA-MT 6/14, p 183 (A-36, pp 56)

Te Mamaku had links with the Ohariu Ngati Tama from the 1830s, and with the Ngati Toa chief Te Rangihaeata in the mid 1840s.[202] These connections give some credence to his claim, which he said was based in part on his own right, in part that the land had been gifted to him by Te Rangihaeata.[203] Heaphy reported that McLean admitted the claim to 'some' land at Ohariu via Te Rangihaeata. It appears that this claim was extinguished - at least in the eyes of the Government - by a payment of £200 and by Te Mamaku's departure from the Wellington district.[204]

Before he left, Te Mamaku passed on to Heaphy a warning that Paiura and Paratene intended to sell Ohariu as soon as he was gone, and that they did not have a good claim to the land. This entry is dated 26 August 1874. Heaphy noted that Te Mamaku was a good authority, but it is not clear if this refers to Paiura and Paratene claim to the land, or the intention to sell.

Shortly after the September 1872 meeting Heaphy recorded in his minutebook that approval had been obtained to give Mete Kingi Paetahi a piece of land in Ohariu 13, lying between Paratene's 25 acres and the road which was the boundary between Ohariu 12 and 13. Paratene's grant seems to have been made about the same time as Mete Kingi's, although there is no mention of the former in Heaphy's minutebook. On the other hand, Heaphy's published 1873 report states that 'Paratene is to have 25 1/2 acres for subsistence land, and Mete Kingi to have 11 acres', the text implying that both grants were made at the same time.[205] Heaphy wrote to Mete Kingi to inform him that approval had been obtained, specifying that 'this land is for the cultivation of food for you and your children and must not be alienated'.[206] At this stage Mete Kingi was about to leave, or had already left, for Whanganui, his normal place of residence.

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[202] The People of Many Peaks, Wellington 1991, vol 1, pp 207-209
[203] MA-MT 6/14, p 183 (A-36, p 57)
[204] MA-MT 6/14, p 183 (A-36, p 57)
[205] AJHR, 1873, G-2, p 2 (A-24, p 58)
[206] Heaphy to Mete Kingi, 17 September 1873, ABOG W4299 6/50 part 1

A small sketch map in Heaphy's minutebook shows the location of the four allocations of land made or proposed by September 1872 in Ohariu 13. This sketch map is followed by mention of the warning Heaphy had given about these allocations: they were for subsistence, and not to be leased or alienated.[207]

France was paying his rent in quarterly installments of £3.13.6 and Heaphy's accounts for the mid-1870s show distributions of this amount, without deductions before 1877, to the three Ohariu principals.[208] There are some gaps in the published accounts for the Wellington reserves about the beginning of the 1880s, probably due to Heaphy's death in 1881 and the transfer of administration to the Public Trustee in 1882. By 1884 Te Whetu's children were listed among the Ohariu beneficiaries.[209] In that year two Ohariu accounts were being maintained. One was called Ohariu Part 12. The beneficiaries of this account were the three principals identified in 1872 and Teira Te Whetu's heirs. The second account was called Ohariu Parts 12 and 13. The beneficiaries of this account were the three principals identified in 1872: Neta, Paiura and Mete Kingi.[210] Te Whetu successors, his two children, were receiving a share of the Ohariu rent in 1884. It is not known when they were first added to the list of Ohariu beneficiaries. They received a benefit between 1884 and 1889. There are no records for the early 1890s. When they begin again, from 1894, the Ohariu Part 12 account had disappeared. From that date the only Ohariu account was the Parts 12 and 13 account: the only beneficiaries Neta, Paiura and Mete Kingi.

These account names are puzzling. The rent being paid into the parts 12 and 13 account amounted to £14.14s. This was the annual amount France was recorded as paying for the lease of Ohariu 12 in 1871, then said to contain 108 acres. Rosina Louisa Majendie was

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[207] MA-MT 6/14, pp 150-151 (A-36, pp 23 -24)
[208] AJHR, 1874, G-5, pp 4-5
AJHR, 1875, G-5, pp 5-6
AJHR, 1878, G-6A, p 5 (A-24, p 121)
[209] AJHR, 1883, G-5, p 9
[210] AJHR, 1871, F-4, p 53 (A-24, p 53)
MA-MT 6/1, p 108

given a lease for this same area, in 1893. Mrs Majendie's rent was £65, and the area leased was described as Ohariu parts 12 and 13. How the 108 acres in Ohariu 12 in 1871 had become Ohariu parts 12 and 13 by 1885 is a mystery.

The rent going into the part Ohariu 12 account in 1885 amounted to £20. This was the rent James Williamson agreed to pay in 1874 for the Paiura/Mete Kingi Ohariu 13 allocations. Yet this account was said to be for part Ohariu 12. Teira Te Whetu's children were paid a share from this account during the latter part of the 1880s. The only land at Ohariu that Teira Te Whetu's successors could make a claim to was the 25 acres of Ohariu 13 set aside as a subsistence allocation for Te Whetu in 1868. If that was the land in question why was rent being paid for part of Ohariu 13 being received into, and distributed from, an account called Part Ohariu 12?

3.3.1 Ohariu 12

Mrs Majendie got into difficulties with her rent in the late 1890s. She made an application to the Native Reserve Board in November 1899, seeking a rent reduction. This application was declined: there was no power under the 1882 Act to reduce rents.[211] In 1902, after complaints over a number of years about delayed rent payments, the Public Trustee re-entered the property.[212] There seems to have been a general opinion in 1902 that the rent offered and accepted in 1893 had been too high.[213] The sections were offered for lease again, but there were no takers.[214] The lease was advertised again, at a lower minimum rent, and taken up George Monk, at £31 a year. The Public Trustee office made inquiries about Monk before accepting his offer.[215] People had a good opinion of him, but in later years continual reminders had to be made to Monk to pay the

[211] Majendie application, 29 November 1899, ABOG W4299 6/50 part 1
[212] for example, Hoani Mete Kingi to Public Trustee, 5 August 1896, ABOG W4299 6/50 part 1
Henare to Public Trustee, 22 April 1902, ABOG W4299 6/50 part
[213] Jack to Public Trustee, 18 August 1902, ABOG W4299 6/50 part 1
Public Trustee to Henare, 4 September 1902, ABOG W4299 6/50 part 1
[214] Public Trustee to Bryant, 24 January 1903, ABOG W4299 6/50 part 1
[215] Deputy Public Trustee to Constable, Johnsonville, 12 June 1903, ABOG W4299 6/50 part 2
Deputy Public Trustee to McGrath, 15 June 1903, ABOG W4299 6/50 part 2

rent. In 1924 he offered £60 to renew his lease. J and L King tendered £75, and Ohariu 12 passed into their hands.

3.3.2 Ohariu 13

Paiura had been given the right to occupy 25 acres at Ohariu 13 in the late 1860s, on the understanding that if he resided on the land he would, after a period of years, receive a Crown grant.[216] In July 1873, Paiura applied for permission to lease his Ohariu 13 allotment, save for a small area of 2.5 acres.[217] Paiura was in poor health and Heaphy recommended approval. He thought, however, that the rent money should go to the commissioner, since Paiura 'had the land only conditionally'.[218] Paiura seems to have been permitted to lease not only most of his own allocation, but the 11 acres granted to Mete Kingi as well. Kingi was consulted about this, and said that the rent proposed was too low.[219] Kingi thought £20 was a suitable rent, and this was the amount finally agreed.

The Paiura/Mete land (about 37 acres) was taken up by John James Williamson in 1874, on a 14 year term, at an annual rental of £20. This lease (not mentioned in Heaphy's reports, but recorded in a register of leases in the Wellington district) was assigned to the Bryant Brothers in November 1875. The Bryant Brothers also took over William France's lease on Ohariu 12.[220] The rents in both cases were collected and distributed by Heaphy.

In December 1875 a proclamation was issued declaring section 13 to be a native reserve, the area being given as 'about 103 acres'.[221] This was done to facilitate the granting of a Crown title to Paiura Te Rangikatahu for his allocation. The grant was made in May

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[216] MA-MT 4/1, p 293
Heaphy memorandum, 31 November 1875, MA-MT 4/1, p 712
[217] Paiura to Heaphy, 26 July 1873, ABOG W4299 6/50 part 1
[218] Heaphy minute, 26 July 1873, ABOG W4299 6/50 part 1
[219] Mete Kingi to Heaphy 23 March 1783, ABOG W4299 6/50 part 1
Mete Kingi to Paiura 23 March 1783, ABOG W4299 6/50 part 1
[220] MA-MT 6/1, p 127
[221] New Zealand Gazette, 6 January 1876, p 1

1877. This land was subsequently sold to a H B Duncan.[222] The land was later sold again. By 1886 the land was owned by Carl Anderson. The rent being paid for the 25 acres, by the Bryant Brothers, was paid to Duncan after the sale. It seems that Heaphy was collecting the rent from the Bryant Brothers, who were Pakeha, and passing it on to the land owner, also a Pakeha. Around the time Anderson acquired the land, this system broke down. Instead of the Bryant rent going to Anderson, it was being paid to Paiura again, the former Maori owner. Paiura was by this stage living at New Plymouth. Anderson complained, and MacKay had to sort out the problem.[223]

In 1878 a further 25 and 1/4 acres of section 13 were granted to Neta Te Wheoro, the widow of Paratene Te Wheoro.[224] This was the land given to Paratene in 1873 for subsistence, probably on the same condition made with respect to the land set aside for Paiura. At the end of 1879, Heaphy received an authority from Neta and Mete Kingi to collect and distribute the rents from their allocations in Ohariu 13.[225] Mete Kingi had, in all probability, never lived at Ohariu and by 1879 Neta was living at Whanganui as well. Heaphy was simply being asked to manage these two blocks of land on behalf of the absent owners. One of these blocks was held under a Crown title - it was no longer land under the jurisdiction of the commissioner. The other was a subsistence block, given to Mete Kingi for his cultivation. It was not supposed to be leased out.

Arrangements made by Heaphy to collect and distribute rent from lands that were not Maori reserves, or not reserves vested under the 1856 or 1873 acts, and in at least one case not even Maori land, caused confusion for the Public Trustee after 1882. Commenting on the situation at Ohariu in 1898, the Public Trustee wrote:

> This reserve is not vested in me. Originally it was managed by Major Heaphy (by what authority I do not know) and the management was subsequently transferred to the Public

[222] Jellicoe to Native Trustee, 8 July 1927, AAMK 869, 183a, p 2
[223] Lizard and Bell to Public Trustee, 29 August 1885, ABOG W4299 6/50 part 1
Mackay memorandum on Part Ohariu, 18 January 1886, ABOG W4299 6/50 part 1
[224] MA-MT 6/1, p 127. Jellicoe give 1882 as the date of this grant. See Jellicoe to Native Trustee, 8 July 1927, AAMK 869, 183a, p 2
[225] Woon to Heaphy, 20 December 1879, ABOG W4299 6/50 part 1

> Trustee - why I do not know. It was one of those matters that, like many others, was done probably as the best expedient devisable, and the regularity of it ignored.[226]

Ohariu 12 and part of Ohariu 13 had been vested in the Public Trustee in 1896, effectively from 1882. The only part not vested in him in 1896 was the 25 or so acres Crown- granted to Neta Te Wheoro in 1878, which Heaphy had managed from 1879. In July 1898 Neta's daughter, Karoraina Henare, made an application to have restrictions removed from the land granted to her mother in 1878. This application was granted on 30 August 1900.[227] The history of this portion of Ohariu 13 has not been followed beyond this point.

Teira Te Whetu and Mete Kingi had land set aside for their use in Ohariu 13 in 1868 and 1872 respectively, but neither had lived or cultivated there for any length of time. Their rights to these allocations seemed to have lapsed, or been revoked, although Teira Te Whetu's children were on the Ohariu rent roll in 1885. The Mete Kingi and Te Whetu allocations formed the bulk of what became known as the ungranted portions of Ohariu 13, an area of about 48 acres. The ungranted portion of Ohariu 13 - two small blocks separated by European land - was vested in the Public Trustee in 1896.

In 1906 the Native Land Court determined that the beneficial owners of the ungranted portion of section 13 were Pirihira Tarewa, Harata Te Kiore, Ani Retimana, Ruta Retimana, Ritihia Eru Te Toe and Kaua Wi Tamihana.[228] Pirihira explained that Rangikatahu was her great grandfather: his first wife was her great grandmother. According to Pirihira, Rangikatahu had married again, this time to Whakamohu, a daughter of Te Ekaia. The offspring of this marriage were said to be Neta and Ihaia. Pirihira objected to the Whakamohu line of descent receiving any of the ungranted land in Ohariu 13 since they had already received land. This was explicitly a reference to the grant made to Neta in 1883. Whether it also included the grant made to Neta's brother

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[226] Public Trustee to Agent Wanganui, 9 March 1898, ABOG W4299 6/50 part 1
[227] AJHR, 1905, G-4, p 4
[228] Jellicoe to Native Trustee, 8 July 1927, AAMK 869, 183a
Wellington Native Land Court, mb 15, 2 May 1906, p 116

Paiura in 1877 is unclear. When the Whakamohu line of descent was described to the Court, no mention was made of Paiura, who seems to have died without issue. The Court accepted that provision had been already made for Whakamohu's descendants, and proceeded to award the ungranted sections to other claimants. One quarter share was given to Pirihira Tarewa, a great grand-daughter of Rangikatahu and his first wife.

During the hearing, a number of others had been mentioned as having an interest, the only living representative of this group being Harata Te Kiore. It was not explained how this interest had come about, but no objection was made, and the Court awarded a quarter share to Harata Te Kiore. A third quarter went to two females - Ani Retimana and her sister Ruta Retimana - said to be descendants of a sister of Rangikatahu. Again, no objections were made. The final quarter share was awarded equally to Ritihia Eru Te Toe and her sister Kara Wi Tamihana. They were said to have derived their interest from Wi Tamihana. Wi Tamihana was not identified during the proceedings, but again no objection was made. What the Court seems to have done was to recognise customary rights overlooked in the past.

Due to a misunderstanding by the Court, Pirihira Tarewa and the others were given a fee simple title to the land, that is to say, they were considered absolute owners, and not just beneficiaries. When they took steps to sell the land, the Public Trustee objected: the 1896 Act had vested the land in him. It could not be alienated. The Court amended the original order. Pirihira and the others were re-defined as the beneficial owners only of the ungranted portion of Ohariu 13. Pirihira took her case to Parliament. Her petition, presented in August 1906, summed up everything that had gone awry since Ohariu 13 had been set aside as a reserve.

The section had originally contained about 100 acres. About half had been granted away to owners during the 19th century. These owners had disposed of their grants at 'their

free will and pleasure'.[229] The Court had recently determined the ownership of the remaining (ungranted) portion. These owners, unlike the owners of the granted parts, had been prevented from dealing in any way with this 48 acres. In Pirihira's view, this difference in treatment was unreasonable.

Pirihira claimed that the land had been lying idle, producing no income. This may be the case. The 48 acres was not a single block, but in two sections, separated by European land. The sections may not have been viable separately; since they were not adjacent, they could not easily be managed as a single holding. The only people who could use these sections were the European farmers on adjoining land, and one of them had agreed to buy the land. Then the Public Trustee stepped in and prevented the sale.

It was only then that Pirihira and her co-owners discovered that Ohariu 13 was reserve land, vested in the Public Trustee. This sounds plausible. Pirihira had the petition read to her in Maori before she signed it, and she signed with a mark. It is reasonable to assume that she did not have a good knowledge of English, and no knowledge at all of the Pakeha law that defined Ohariu 13 as Maori reserve land. Even the Court did not know, in 1906, that Ohariu 13 was a Maori reserve.

Taking the land through the Native Land Court had been expensive. More expenses had been incurred trying to find a remedy for the situation created by the mistake the Court had made, and the subsequent aborted sale. No Maori lived at Ohariu; it was not likely that any ever would. Pirihira lived at Upper Hutt. Her relatives and co-owners lived at Waikanae, Bulls, Taranaki and Taihape. They could not be expected to occupy the land, so the only benefit they could expect would be a share of the rent 'which will be trifling when divided amongst [us]'.[230] The best solution, from the owners' point of view, was to sell the land. The proceedings would be used to pay their expenses, and for the improvement of the land on which they did live.

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[229] Pirhira Tarewa petition , 21 August 1906, ABOG, W4299 6/50 part 2
[230] Pirhira Tarewa petition , 21 August 1906, ABOG, W4299 6/50 part 2

The Public Trustee supported the petition. Ohariu 13 was an isolated reserve of small value. It had only a few owners. There was no reason why it could not be removed from the control of the Public Trustee.[231] As for the proposed sale, the sum offered had been fair, and the transaction bona fide.

Pirihira and her co-owners wanted legislation introduced that would over-ride the Native Reserves Act Amendment Act 1896, vest the ungranted portion of Ohariu 13 in them, and allow them to deal with the land as they wished. They got most of their wish. Section 43 of the Maori Land Claims Adjustment and Laws Amendment Act 1907 directed the Public Trustee to transfer the ungranted portion of section 13 to its beneficial owner. This was done in December 1907.[232] Shortly afterwards the sale to Mrs A G Bryant was completed. Mrs Bryant paid £644 for the 47.5 acres involved.[233] Mrs Bryant was the wife of one of the Bryant brothers, who had leased land at Ohariu in the mid 1870s. The Bryant brothers had competed with Mrs Majendie, when she obtained her lease in 1893, and one of the Bryants also competed with Monk in 1903, when Monk took over the Majendie acreage.

The originally agreed price for the 47.5 acres was £444. This was the figure accepted by Pirihira and her co-owners in 1906, before the Public Trustee had prevented the sale. The Maori Land Claims Adjustment and Laws Amendment Act 1907 had directed the Public Trustee to transfer the land to Pirihira and her relatives, but not absolutely. The legislation specified that the Public Trustee must consent before the land could be alienated. The Public Trustee withheld his consent, pending a new valuation. He then placed a value of £668.10s on the land, which Mrs Bryant was obliged to accept. Subsequently, it was found that the area being sold was smaller by about 2 acres than originally believed. The price was revised downwards to £644. It does not appear that the

[231] Public Trustee to Native Affairs Committee, 5 August 1907, ABOG, W4299 6/50 part 2
[232] Jellicoe to Native Trustee, 8 July 1927, AAMK 869, 183a
[233] Field, Luckie and Toogood to Public Trustee, 26 May 1908, ABOG, W4299 6/50 part 2
Field, Luckie and Toogood to Public Trustee, 30 September 1908, ABOG, W4299 6/50 part 2

Maori owners played any part in these negotiations. They received, however, about £200 more than they had agreed to accept in 1906.

The missing 2 acres seems to have been land taken for a new road 'some years' before. It appears that no compensation was paid for this land at the time. In 1908 it was said that the question of compensation, 'if any', would be decided at a later date.[234]

George Monk leased 108 acres of Ohariu 12 in 1903. Around 1909 it was discovered that a part of this lease was actually part of the land (Ohariu 13 ungranted portion) revested in the owners in 1907. An area of around 9 acres, identified as the area lying between the old and new roads, and depicted on the map attached to R L Jellicoe's 1927 report, was involved. Since the Maori owners had sold their interests to Mrs Bryant, the Public Trustee, probably after some consultations with Government, decided that the land belonged to her. She reached an agreement with Monk over his lease of it.[235]

3.3.3 Ohariu 12

In the mid 1920s some difficulty to do with the beneficial ownership of section 12 developed. Jellicoe examined the files, and reported that no original investigation of title had occurred. Nor could he find any Native Land Court orders concerning succession. Heaphy had determined how rent was to be allocated in 1872, and thereafter succession had proceeded in either an informal or an unrecorded way.

Jellicoe recommended that what Heaphy had done in 1872 be accepted as a binding original investigation of ownership, and that the succession accepted in the past be accepted in the future as well.[236] The office solicitor considered this recommendation, and decided that there was no legal authority to take such a course. He recommended that the

[234] Under Secretary Native Department to Public Trustee, 12 August 1908, ABOG, W4299 6/50 part 2
[235] Jellicoe to Native Trustee, 8 July 1927, AAMK 869, 183a, p 3
[236] Jellicoe to Native Trustee, 8 July 1927, AAMK 869, 183a, p 6

matter be referred to the Native Land Court, and that the application be supported by the evidence from the Public Trust files (as summarized by Jellicoe).[237] The Native Trustee accepted this line of action, and in due course the case was heard.

The evidence laid before the Court was drawn in the main from the same files that Jellicoe had used. On that basis the Court simply confirmed the list of owners drawn up by Heaphy in 1872. The original owners of Ohariu 12 were Paiura, Mete Kingi and Neta Te Wheoro. Neta's heirs were her children: Heremaia Te Wheoro and Karoraina Henare. Paiura had no heirs, and his rights passed to the children of his brother Ihaia (Tiopira Poiha and Wauari Poiha) and his sister Neta (Heremaia Te Wheoro and Karoraina Henare). Mete Kingi's heirs were his children: Hoani Mete Kingi, Takarangi Mete Kingi and Mere Mete Kingi.[238] Thereafter, the line of succession was documented, the beneficiaries being, in 1927, Henare Pumipi, Hoani Mete Kingi, Miriama Matewai, Tane Hupurona and Tihema Henare.[239]

By the early 1960s Ohariu 12 had 26 beneficial owners, with unequal shares. The largest shareholder received about £7 ($14) annually - the smallest £1.8s. ($2.80).[240] The land was rented out, on a 21-year lease, with perpetual rights of renewal, for £32.5s. or around $65.50c. The section had last been leased in 1960: this lease would run until 1981.[241]

The land, an area of approximately 99 acres, located 5 miles west of Johnsonville, with southerly and easterly aspects, was not regarded as suitable for anything other than sheep. However, the only flat portion, 18 acres on the Ohariu Road side, had most recently been a pig farm. The pigs had laid bare more than half of this flat land; the balance (about 7 acres) was described as poor pasture.[242] Excluding the 18 acres just described, the rest of the property was steep or rolling country. Around 50 acres of this area was gorse covered

[237] Ohariu Section 12, AAMK 869, 183a, p 3
[238] Ohariu Section 12, AAMK 869, 183a, p 2
[239] Ohariu Section 12, AAMK 869, 183a, p 2
[240] Secretary of Maori Affairs to Thomas, 13 February 1980, AAMK 869, 183b
[241] Deputy Maori Trustee to Minister of Maori Affairs, 24 July 1964, AAMK 869, 183b
[242] Deputy Maori Trustee to Minister of Maori Affairs, 24 July 1964, AAMK 869, 183b

and there were around 30 acres of poor pasture as well, mainly native grasses. The Government valuation was (in 1962) £2025; the unimproved value was £645 ($1290).

Following inspection in 1962, the Maori Trustee attempted to get the leaseholder to do something about the run-down condition of the land. But for various reasons - illness, lack of resources - the leaseholder could do nothing and the Maori Trustee could see little benefit in taking him to Court. A neighbouring farmer offered to take over the lease. The Maori Trustee consented to this on condition that the new leaseholder see to the sowing of new pasture, the eradication of gorse, topdressing and fencing - work estimated to cost around £1505 ($3010).[243]

The new leaseholder then found, apparently, that he could not carry out the required work, and sought the Maori Trustee's consent to transfer the lease on again. The District Officer seemed to have had some concerns about this development. Was the prospective leaseholder a 'man of substance and capable of farming the land?' The District Officer also commented that leases on this land were being transferred with profit, which suggested that the land 'may be rising in value.'[244]

Shortly afterwards the individual negotiating the new lease offered to buy the freehold for £900 ($1800). The Maori Trustee considered this offer, and asked the Minister to agree to the sale under section 9(2) of the Maori Reserved Land Act 1955.

> The Maori Trustee cannot see any benefit to the owners in retaining an isolated, uneconomic and difficult area such as this is. From the nature of the country it is hard to see that there can be any great increase in the unimproved value, at all event for a long time. The offer of £900 for the freehold is a good one, so the recommendation is that you approve [its acceptance].[245]

The Minister approved, and the land was sold.

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[243] Deputy Maori Trustee to Minister of Maori Affairs, 24 July 1964, AAMK 869, 183b
[244] Palmerston North District Officer to Head Office, 1 July 1964, AAMK 869, 183b
[245] Deputy Maori Trustee to Minister of Maori Affairs, 24 July 1964, AAMK 869, 183b

In 1980 the Secretary of Maori Affairs received a letter concerning this sale. According to the writer, the Maori owners had never been consulted, and had simply been sent 'an arbitrary notice informing them that their land had been sold'. Now they understood that land sold for £900 ($1800) in 1964 had been resold in 1973 for $61,000(£30500).[246]

The Secretary replied that the owners' interest had been the unimproved value, which on the 1962 valuation had been £645 ($1290): the £900 ($1800) obtained had been a 'very fair price ... substantially above the Government valuation of the owner's interest.'[247] The former owners, or at least some of them, had another complaint. Their letters inquiring about the block, sent during the years prior to its sale, and before there was any suggestion that the land might be sold, had been ignored. To this the Secretary replied that a search of the files concerned had been made, and no letters from owners had been found.

The Secretary had also been asked why the owners had not been consulted about the sale; his reply was that while alienation of land 'normally' required the active participation of owners, the Maori Trustee did have the power to proceed independently.

> I can assure you, however, that owners of significant interests are consulted if their addresses are available and the wishes of beneficial owners are taken into account.[248]

3.4 Mangaroa[249]

The Mangaroa tenth lay on the eastern side of the Hutt Valley, three miles north of Upper Hutt. In 1871 this section was described as inaccessible, and valueless as a native reserve.[250] It appears that it was land not occupied by either Maori or Pakeha before 1874, when Heaphy leased it to James Cruickshank. Cruickshank was given a 21 year

[246] Thomas to Secretary of Maori Affairs, 30 January 1980, AAMK 869, 183b
[247] Secretary of Maori Affairs to Thomas, 13 February 1980, AAMK 869, 183b
[248] Secretary of Maori Affairs to Thomas, 13 February 1980, AAMK 869, 183b
[249] Mangaroa in the 1873 Act, but sometimes Mungaroa
[250] AJHR, 1871, F-4, p 53

lease, from 1 January 1875, at £10 annually for the first seven years, £12.10s for the next seven and £15 for the final seven years.[251] The lease was not a success: Cruickshank went bankrupt. From 1 October 1883 the land was leased out again to John Howarth for a 30 year term, under section 15 of the Native Reserves Act 1882. The rent was to be £20 annually for the first 10 years, £25 for the second 10 years and £30 for the last 10 years.[252] Howarth assigned his lease to Thomas Edwards in 1889.

Cruickshank's rent was paid (in 1877) into the general purpose account.[253] By 1885, however, the Mangaroa rent was being paid to Ereni Turoa and Hemi Kuti.[254] There is nothing in Heaphy's notebook, or anything on the files, to indicate why the rent from Mangaroa had been assigned. Mangaroa was one of the reserves set down for investigation in 1888, but the minute book shows only a succession, from Ereni Turoa to her husband, Wiari Turoa, and her brother, Amapiri Te Arahori. No light is shed on the reason for the original assignment of the rent.

Section 43 of the Maori Land Claims Adjustment and Laws Amendment Act 1907 directed that Mangaroa 132 be transferred to Maori owners. This was done in 1908.[255] Mangaroa 132 had not been followed beyond this date.

3.5 Pakuratahi 3, 4 and 7

These sections are located near Kaitoke, 8 miles north of Upper Hutt. They are bisected by the Wellington to Wairarapa section of State Highway 2. Section 3 is on the northern side of the road, 4 and 7 on the southern side. According to Heaphy and other contemporaries, the Pakuratahi sections were originally selected as Native Reserves by

[251] Heaphy to Cruickshank, 26 November 1874, MA-MT 4/1, p 343
MA-MT 6/1, p 112
[252] MA-MT 6/1, p 112
[253] AJHR, 1877, G-7, p 7
[254] AJHR, 1885, G-5, p 9
[255] Memorandum of Transfer 67226, 13 April 1908, (E-8, p 520)

the New Zealand Company.[256] Swainson later (1867) described them as having been reserved for Maori by order of the Governor.[257]

When R L Jellicoe investigated these lands in the late 1920s he could find nothing to show that they were New Zealand Company tenths.[258] Jellicoe believed they were either set aside as reserves in some informal arrangement, or that, after being occupied by Maori, it was simply accepted that they were reserves.[259] In the files Jellicoe would have used in his investigations there are several more or less anonymous references, dating from the mid 1870s, to these reserves as having been set aside by Grey, but without any supporting detail.[260] When they first came to the attention of the Government, however, in the 1860s, it was assumed that they were tenths.

Some time during the late 1840s or early 1850s Ngati Tama under the leadership of Teira Te Whetu occupied, or at least cultivated, some parts of the sections. Teira later claimed that Grey had promised to give Pakuratahi to him. Swainson investigated this claim in 1865, and concluded that Grey had promised only a right of occupation. Grey later said that what he had intended was an investigation of Teira's claims to the land.[261]

Swainson recommended that 50 acres be granted. Teira was seeking all of the 300 Pakuratahi acres, but in Swainson's opinion Te Whetu and his followers were newcomers. It would be unfair to the Maori vendors of Port Nicholson to grant away tenth reserves entirely to them.[262] Halse agreed with both the recommendation and the reasoning behind it: a grant of 50 acres would be a 'fair and liberal' solution. It 'would be manifestly unjust to give Teira a grant for the whole of the land, to the exclusion of other

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[256] Swainson, 12 September 1865, AAMK 869, 179b
Heaphy, 25 November 1873, AAMK 869, 179b
[257] MA-MT, 6/14, p 10
[258] Jellicoe was, in 1929, Assistant Accountant in the Native Trust Department. AJHR, 1929, G-1, p 2
[259] AJHR, 1929, G-1, p 47.
[260] AAMK 869, 179b
[261] Swainson, 1 November 1865, AAMK 869, 179b
[262] Swainson, 12 September 1865, AAMK 869, 179b

natives who formerly sold Port Nicholson and the adjacent country (of which Pakuratahi is a part)'.[263]

Teira took his case to the Native Land Court in July 1865, claiming a portion of the block in fulfillment of what he said was a promise by Grey that he would be given a grant. The Court decided, on evidence given by Swainson, that Pakuratahi was not native land, and as such fell outside its jurisdiction. The case was dismissed.[264] Swainson later reported that during the hearing Teira admitted 'that having ascertained they [the Pakuratahi sections] were N. Reserves and unoccupied they took possession'.[265] Swainson also claimed that Teira's title to Pakuratahi was 'not even acknowledged by many of his tribe'.[266] Swainson's position remained as before: allow Teira to use 50 acres; administer the rest as native reserves under the 1856 Native Reserves Act.

Around August 1867, after several letters from Teira had been received, and the size of his band had doubled from around 18 to just over 40, Richmond approved the laying off of 100 acres.[267] This was done towards the end of 1867. This area, said to be the best land within sections 4 and 7, and containing all of the Ngati Tama cultivations, was not to be granted immediately: rather, a right of occupation was being granted. If the occupation eventually took on a permanent character, then the land would be granted.[268] When it was, restrictions would be placed on the title.[269] The land was not intended for Teira's exclusive use: when Edwards reported to the Native Minister, he enclosed a list of 21 interested Maori.[270]

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[263] Halse to Rolleston, 18 September 1865, AAMK 869, 179b
[264] Wairarapa Native Land Court, mb 1, pp 12-13
[265] Swainson to Native Minister, 12 July 1886, AAMK 869, 179b
[266] Swainson minute, January 1865, AAMK 869, 179b
[267] Edwards to Native Minister, 2 November 1867, AAMK 869, 179b
[268] Edwards to Native Minister, 2 November 1867, AAMK 869, 179b
[269] Swainson? to Taylor, undated, 1867? AAMK 869, 179b
[270] Edwards to Native Minister, 2 November 1867, AAMK 869, 179b

At about the same time Hemi Wirihana was given 25 acres at Pakuratahi, on the same basis as the grant made to Te Whetu.[271] Hemi was one of the men included in the 100 acres laid out, but because his cultivations were on the other side of the road, an additional allocation was made for him. The Government, said Richmond, would not turn Hemi of this land 'as long as you continue to cultivate it'. But the land would still belong to the Government: Hemi would be a tenant, not a proprietor, and he would not be allowed to lease the land. Nor would it be sufficient for him to cultivate once, and then let the land lie idle. He 'must live upon it, and cultivate it like a European'.[272] The Crown's objective in making grants of this kind during the 1860s was, seemingly, to discourage movement back to Taranaki, or involvement in the troubles besetting Taranaki and the central North Island.

In April 1868, less than 6 months after the setting aside of the 100 acres at Pakuratahi, Teira informed Richmond that he was handing over the land at Pakuratahi for a European settlement.[273] When clarification was sought, Teira said he was only giving up 'Pakuratahi for himself'. He also produced at this time leases he had made of the Pakuratahi sections, and details of the cutting rights he had sold.[274]

This 'giving up' in April 1868 of 'Pakuratahi for himself' may relate very closely to a request Teira made a few days before for a grant of land at Ohariu, adjacent to the land set aside for Paiura.[275] This request had been followed, a few days later, by an announcement (from Teira) that he had occupied Ohariu.[276] The 'giving up' of Pakuratahi followed a week later, and no doubt influenced the decision to set aside land for Teira at Ohariu.

[271] Puckey memorandum, 30 July 1868, AAMK 869, 179b
[272] Richmond to Wirihana, ? November 1867, AAMK 869, 179b
[273] Teira to Richmond, 6 April 1868, AAMK 869, 179B
[274] Rolleston minute, 1 April 1868, AAMK 869, 179b
[275] Teira to Richmond, 23 March 1868, AAMK 869, 179b
[276] Rolleston minute, 1 April 1868, AAMK 869, 179b

Teira began selling cutting rights and leasing out Pakuratahi land in 1868.[277] He and his Ngati Tama followers returned to Taranaki in the early 1870s, probably in 1872, by which time they seem to have leased out all the 300 acres in the reserves.[278] When the leases came up for renewal in January 1875, Teira was in Taranaki. Harris, the leaseholder, approached Heaphy. Would Heaphy renew his lease?[279]

When Heaphy reported on these sections in 1871, he had described them as unlet, and 'occupied by Ngatetama Natives, to whom 50 acres are to be allocated'.[280] Harris's request, understandably, took him by surprise. When Heaphy looked in his files, he could find no evidence that Teira had anything other than a right of occupation, and no authority to grant leases or manage the land in any way.[281] The leaseholder's occupation of the land was therefore 'entirely illegal'.[282] Teira and his followers 'were Natives not belonging to the Port Nicholson District and without a Crown grant'.[283] The fact that Harris had a lease was unimportant, except in as far as it might show the 'authority under which the natives arrogated to themselves the right to deal with the reserves'.[284] The real issue was 'the right of the natives to let an original 'tenth' to anyone'.[285] In 1871, wrote Heaphy, 'I was commissioner, and the land vested in me, as gov[enor's] delegate'.[286] Heaphy decided that Harris would not have his lease renewed; the Pakuratahi sections would be advertised, and administered by him in exactly the same way as the other vested reserves.[287]

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[277] Rolleston minute, 30 March 1868, AAMK 869, 179b
[278] Copy of Pakuratahi lease, 23 December 1873, MA-MT 4/1, p 379
Carey to Heaphy, 25 March 1875, AAMK 869, 179b
[279] Harris to Heaphy, 27 January 1875, AAMK 869, 179b
Memorandum for Heaphy, 15 February 1875, MA-MT 4/1, p 378
[280] AJHR, 1871, F-4, p 53
[281] Heaphy to Harris, 3 February 1875, MA-MT 4/1, p 375
[282] Heaphy to Harris, 3 February 1875, MA-MT 4/1, p 375
[283] Heaphy to Harris, 3 February 1875, MA-MT 4/1, p 375
[284] Heaphy to Carey, 27 March 1875, AAMK 869, 179b
[285] Heaphy to Carey, 27 March 1875, AAMK 869, 179b
[286] Heaphy to Carey, 27 March 1875, AAMK 869, 179b
[287] Heaphy memorandum, 26 March 1875, MA-MT 4/1, p 416
Heaphy to Harris, 13 May 1875, MA-MT 4/1, p 472

Teira and others wrote to Heaphy from Parihaka in August 1876 to inquire about the land. Heaphy replied that the land 'given' to him amounted to 104 acres, and that Hemi Wirihana had been 'allowed' another area of 25 acres.[288] Both areas were let, but the cost of advertising the land, and clearing boundaries, was being deducted from the rent being paid. Once these charges had been cleared, Teira and Hemi Wirihana would be sent the rent. In the letter, Heaphy noted that the rent would have been more if Harris had not cut down all the 'good timber'. The names of both men were entered into the register as the proper persons to receive the rent for Pakuratahi.

In 1878 Heaphy did some calculations, assigning 104 acres to Teira and 25 to Hemi Wirihana. The balance of the 3 sections - 211 acres - was allocated to the Government. By this Heaphy meant the general native reserve fund. He took the rent in hand, £60, and divided it proportionally. He then deducted expenses using the same proportions, and the 2.5 percent administration fee. When this exercise was finished, the amount owing on the Te Whetu assignment was £9.1s.5d. Hemi Wirihana was owed £2.3s.[289] Te Whetu's share of the rent was paid by Treasury voucher, made out to Teira Te Whetu and others. Hemi was sent a separate cheque from Heaphy's 'private account'.

In due course word was received that payment had been made to Te Whetu (£4), Hori Paengahunu (£3) and Taihuha (£2.1s.5d).[290] These were 3 of the 7 names on the letter sent to Heaphy in August 1876, and 3 of the 21 names on the list of grantees prepared by Edwards in November 1867.[291]

In the mid-1920s the Native Trust Department decided to prepare a new book of beneficiaries. It was then discovered that no title had ever been issued for any of the Pakuratahi sections, and that the Native Land Court file consisted only of succession

[288] Heaphy to Teira, August 1876, AAMK 869, 179b
[289] Heaphy calculations, 2 January 1878, AAMK 869, 179b
[290] Rennell to Heaphy, 29 December 1878, AAMK 869, 179b
[291] Te Whetu to Heaphy, 9 August 1876
Edwards to Native Minister, 2 November 1867, AAMK 869, 179b

orders. But according to an undated Native Land Court application discovered on the court file, the original owners of Pakuratahi 3 were Teira Te Whetu and Hemi Wirihana. Teira's successors were his children, Wera and Kawainga Te Whetu.

This information agreed with entries in the list of beneficiaries the Native Trust was trying to update. Jellicoe also discovered the calculations Heaphy had made in 1878, and these also indicated that Teira Te Whetu and Hemi Wirihana were the original owners of Pakuratahi 3. Jellicoe recommended that for the purpose of preparing a new list of beneficiaries, Hemi Wirihana and Teira Te Whetu's two successors be treated 'as the original owners'.[292] The Native Trustee discussed the matter with the Chief Judge of the Native Land Court. It was decided to make an application under section 16 of the Native Reserves Act, 1882, to ascertain the beneficial owners of Pakuratahi 3, 4 and 7.[293]

When the matter came before the Court, no claim was made to Pakuratahi 3 by anyone other than the descendants of those mentioned in the Public Trustee's list of original beneficiaries. Accordingly, the three individuals in question were declared the beneficial owners of the block: Wera Te Whetu, Kawhainga Te Whetu and Hemi Wirihana.[294] Sections 4 and 7, on the other hand, were declared to be original North Island tenths, and as such the owners had already been ascertained.[295]

The first leases granted by Heaphy dated from 1875. Pakuratahi 3 was let to H Whighman and J Sennex for 21 years, at £30 per year, a condition of the lease being that 50 acres of bush had to be cleared.[296] Section 4 was let to Sennex for 21 years, at £50 per year for the first 10 years, then £20 per year for the remaining 11 years. In the case of section 4, 80 acres of bush had to be cleared. Section 7 was let to Whighman for 21 years: £50 per year

[292] Jellicoe to Native Trustee, 19 June 1925, AAMK 869, 179b
[293] Wellington minute book 24, 6 November 1925, p 317
[294] Wellington minute book 24, 6 November 1925, p 318
[295] Wellington minute book 24, 6 November 1925, p 318
[296] AJHR, 1875, G-5, p 3

for the first 10 years, £80 per year for the remaining 11 years, with 80 acres of bush to be cleared.

Sennex and Whighman failed to pay rent, or fulfill the other obligations of their lease, and the sections, said to contain about 335 acres, were advertised again in 1876.[297] They were let to Gladman Smith for 21 years, from 1 March 1876. The rent, to be paid 6 months in advance, was £60 per year for first 7 years, £70 per year for the second 7 years, and £80 per year for the final 7 years.[298] At this time the sections were 'all forest covered', the survey lines overgrown and in need of re-cutting.[299] There were also some Pakeha in occupation, tenants of Whighman and Sennex. Heaphy warned them off.[300]

The lease to Gladman Smith was less than successful. Pakuratahi 4 and 7 were leased again, this time to W T L Travers from 1 June 1881, but Travers did not occupy and apparently refused to pay rent. Eventually Travers surrendered his lease, and a new one was granted to George John Squires from 1 April 1884 for 10 years with two rights of renewal for two additional terms of 10 years - in effect, a 30 year term.[301] This lease was issued under section 15 of the Native Reserves Act 1882. Unlike the lease given to John Howarth, at Mangaroa, which determined in advance the rents that would be paid over the entire 30 year period of the lease, Squires' rent was to be reassessed at the end of each 10 year period. Initially it was £40.10s. This was 10 percent of the capital value (£400 in 1884) of the two sections, and according to Mackay, 'an exceptional sum under the circumstance'.[302]

Squires assigned his lease to James Martin in 1885. Squires went bankrupt in 1887. The lease was then assigned to Paul Steen. Martin however continued to reside on the property. Steen eventually vanished, but Martin continued to pay rent, and eventually

[297] Carey to Editor New Zealand Times, 8 June 1876, AAMK 869, 179B
[298] AJHR, 1876, G-3, p 2
[299] Heaphy to Under Secretary, Native Department, 2 May 1876, AAMK 869, 179B
[300] Heaphy to Okenden and others, 22 June 1876, AAMK 869, 179B
[301] MA-MT 6/1 p 114
[302] Mackay to Hamerton, 17 March 1884, AAMK 869, 179b

managed to get up to date. In the early 1890s, Martin assigned the lease to William Walker. Martin had no right to do this, and he did so without first obtaining the consent of the Public Trustee. Eventually, to tidy up a messy situation, the Public Trustee granted Walker a lease in 1894, for 10 years with two rights of renewal for like periods.[303] Walker sold his rights to William and Joseph Suggett in 1906. The Suggett brothers applied for a 21 year lease with right of perpetual renewal, and after inspection and a valuation, this was granted, from 1 October 1906, at an annual rent of £48.5s.[304]

Pakuratahi 3 was leased by John Stratford in June 1881 on a 21 year term, at £28 a year. In 1885 the lease was assigned to John Hopword and then surrendered in 1888.
In 1889 a new lease, at an annual rental of £11.1.0 was given to Frederick William Ensor. This lease was assigned several times between 1894 and 1903, in proper fashion, with the consent of the Public Trustee, and on payment of the necessary fee. William Walker had possession in 1903, when the lease passed to Helen Mitchell Browne. Mrs Brown took up a new lease in her own right from 1 August 1907, at an annual rental of £34.16s.[305]

William Walker, who leased all of the Pakuratahi sections for various periods during the 1890s and the early 1900s, seems to have caused the Public Trustee a good deal of trouble during his tenure. He was, on a perennial basis, tardy with his rents.[306] He had to be reminded to keep the gorse on his sections under control.[307] In 1903, when he vacated section 3 in Mrs. Browne's favour, he took one of the more substantial buildings on the section with him.[308]

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[303] MA W1369 vol 10, 25 May 1894, p 219
[304] MA-MT 6/1 p 114
Public Trustee to Stafford and Treadwell, 31 July 1906, AAMK 869, 184d
[305] MA-MT 6/1 p 113
[306] Walker to Public Trustee, November 1893, AAMK 869, 184d
Walker to Public Trustee, 16 November 1896, AAMK 869, 184d
Public Trustee to Walker, 19 November 1897, AAMK 869, 184d
Public Trustee to Walker, 18 October 1900, AAMK 869, 184d
[307] Public Trustee to Walker, 6 May 1899, AAMK 869, 184d
[308] Fair to Public Trustee, 21 July 1903, AAMK 869, 184d

In 1876, a portion (9.5 acres) of section 4 was taken for railway purposes.[309] Before this taking, 4 and 7 contained 191 acres.[310] In 1929 a small part of section 4, (2.59 perches), was taken under the Public Works Act for roading.[311] Pakuratahi 4 and 7 remained Maori reserve land, leased out for terms of 21 years with perpetual right of renewal.

3.5.1 Pakuratahi 3

In 1966 the Department of Agriculture made informal inquiries of the Maori Trustee: Could Pakuratahi 3 be purchased? The Department was advised that since the land was Maori reserved land, it was doubtful that a purchase could be effected.[312] Two years later the leaseholder's solicitors approached the Maori Trustee, asking if the block could be classified as European land, to enable its purchase.[313] While section 155 of the Maori Affairs Amendment Act 1967 made the alienation of reserves like Pakuratahi 3 possible, the Maori Trustee had a discretionary power, and he decided not to proceed in the meantime.[314] Internal memoranda show that there was no objection in principle. Approval would be forthcoming once a new valuation roll had been prepared.[315]

In 1972, the Maori Trustee decided to inquire if the owners would be happy to sell.[316] By then the succession had fallen to two brothers, whose right seemed to derive from Hemi Wirihana. Hemi Wirihana had been allocated 25 acres of Pakuratahi in the late 1860s, for his subsistence. He had subsequently returned to Taranaki. Unlike other men who received land on this basis, but lost it after leaving the Wellington district, Wirihana had his right of occupation translated, by Heaphy in 1876, into a right to receive a proportional share of the Pakuratahi rent. Then, on the basis that Wirihana had been

[309] Deed of assignment, Gladman Smith to Queen, 5 August 1876, AAMK 869, 184d
[310] Public Trustee to Valuer-General, 15 June 1906, AAMK 869, 184d
[311] New Zealand Government Gazette, 20 June 1929, p 1691
[312] File Note, 7 April 1966, AAMK 869, 180b, folio 42
[313] Beck and Pope to Maori Trustee, 25 July 1968, AAMK 869, 180b
[314] Maori Trustee to Beck and Pope, 20 September 1968, AAMK 869, 180b
[315] Head Office to Palmerston North, 9 December 1968, AAMK 869, 180b
[316] Maori Trustee to Komene, 22 September 1972, AAMK 869, 180b

receiving rent, the Native Land Court later conferred on him an equal title to Pakuratahi 3.

Now, one of Hemi's successors requested a map of the block, which was duly forwarded.[317] The brothers were willing to sell. The decision was made to revest the land in the owners. This would allow the land to be declared European land. The intention was to allow the brothers to negotiate for themselves on the open market.[318] These arrangements were executed, and the land Europeanized on 12 July 1973. [319]

A somewhat confused series of transactions then occurred. The Ministry of Works purchased the leasehold, without advising the Maori Trustee or obtaining the consent of the Maori owners.[320] The former leaseholder claimed that the leasehold had been acquired compulsorily, under the Public Works Act.[321] The Ministry of Works said it was a voluntary arrangement.[322] The Maori Trustee's office decided that if the leaseholder had objected the compulsory provisions of the Public Works Act would no doubt have been used, and the end result would have been the same. [323]

The lease had been purchased on behalf of the Ministry of Agriculture and Fisheries, and they informed the Maori Trustee that they had no current interest in acquiring the freehold.[324] The owners were advised that their consent was necessary for the lease to be transferred, but that they could not withhold consent unreasonably.[325] There was some correspondence between the Maori Trustee and the owners. Who was to collect the rent and from whom? The Maori Trustee seemed to be of the view that the rent should come

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[317] Maori Trustee to Komene, 27 September 1972, AAMK 869, 180b
[318] Maori Trustee to Komene, 16 February 1973, AAMK 869, 180b
[319] Maori Trustee to Komene, 22 October 1974, AAMK 869, 180b
Application for revesting Order, 9 March 1973, AAMK 869, 180b
Wellington Maori Land Court, mb 48, p 139
[320] New Zealand Gazette, 24 October 1974, p 2430
[321] McCulloch, McCulloch and Clark to Maori Trustee, 15 November 1974, AAMK 869, 180b
[322] Gurney to Wise, 22 January 1975, AAMK 869, 180b
[323] Gurney to Wise, 22 January 1975, AAMK 869, 180b
[324] Director -General Agriculture and Fisheries to Maori Trustee, 1 August 1974, AAMK 869, 180b
[325] Maori Trustee to Komene, 16 February 1973, AAMK 869, 180b

from the former leaseholder, but eventually sent an account for the rent to the Ministry of Agriculture and Fisheries.[326] The Ministry responded with some bewilderment: they owned the freehold, and had done so since July 1975.[327] The Maori owners had mentioned that they were selling, but the Maori Trustee had not been informed that the sale had actually been completed. Pakuratahi 3 was now Crown property, part of the Ministry of Agriculture and Fisheries' Wallaceville Research Centre.

[326] Maori Trustee to Director -General Agriculture and Fisheries, 24 September 1975, AAMK 869, 180b
[327] Director -General Agriculture and Fisheries to Maori Trustee, 31 July 1975, AAMK 869, 180b

4 The Town Sections

Schedule D of the Native Reserves Act 1873, contained a list of 38 town sections and one part town section, totaling 38 acres, 1 rood , 13 perches.[328] With the exception of the part section 543 in Pipitea Street, and the two sections (80 and 90) in Upper Taranaki Street, all the town sections were in Newtown.

4.1 Sections 89 and 90

These sections, in upper Taranaki Street, were occupied in 1873 by the Mt Cook Barracks. The military had been given a temporary right of occupation in 1848.[329] When they sought a Crown grant, they were informed that this would require the consent of the Maori concerned.[330] They remained in occupation, on the understanding that they pay a nominal rent.[331]

In 1867 Swainson could find no authority for the occupation of these sections. He also noted than no rent was being paid.[332] Sections 89 and 90 were included in schedule D of the 1873 Act. The Government had the choice of either leasing the land or buying it.
In 1874, a purchase was made from Wi Tako and other Te Aro Maori.[333] Sections 89 and 90 were the only town sections alienated after 1873.

4.2 Sections 864, 893, 1081-1082, 1098-1100

Town sections 864 (south end of Coromandel Street), 893 (south end of Daniell Street), 1081-1082 (south end of Russell Terrace, running through to Rintoul Street) and 1098-

[328] Schedule D, Native Reserve Act 1873 (A-21, p 6)
[329] Eyre memorandum, 25 February 1848, , MA 17/1 (A-34, p 71)
[330] Wakefield memorandum, 6 July 1850, MA 17/1 (A-34, p 96)
[331] Domett memorandum, July 1852, MA 17/1 (A-34, p 102)
[332] AJLC, 1867, p 45 (A-25, p 6)
[333] AJHR, 1874, G-5, p2. This transaction fully discussed C-1, pp 412-416

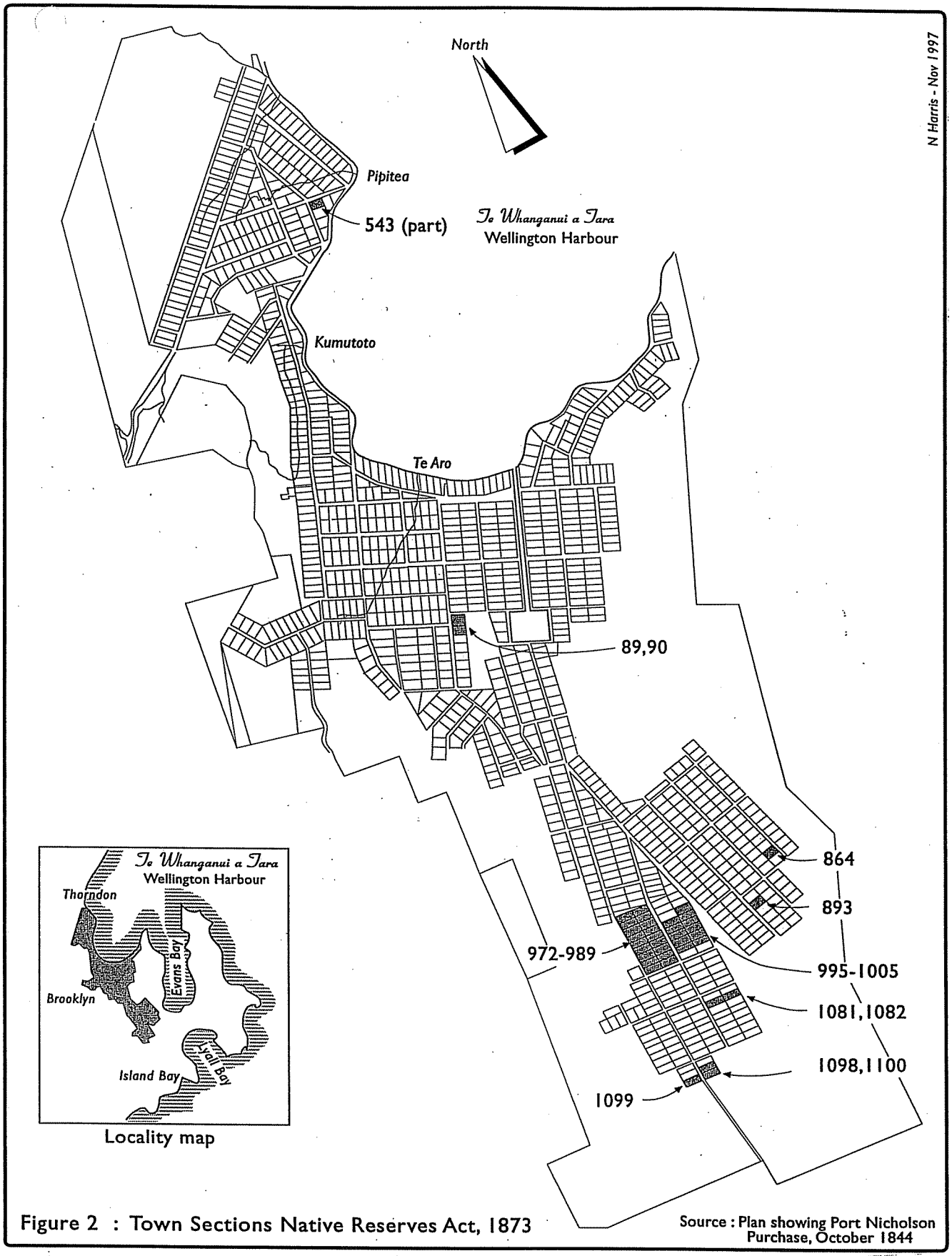

Figure 2 : Town Sections Native Reserves Act, 1873

Source : Plan showing Port Nicholson Purchase, October 1844

1100 (south end of Adelaide Road) were all unlet in 1871.[334] It was 1900 before all of these sections were successfully leased.

Sections 864, 893, 1081-1082 were described as needing 'improved access' in 1871; 1098-1100 were located at the 'extreme south of City'.[335] Section 864, 893, 1098, 1099 and 1100 were listed as let in Heaphy's 1876 report. The leaseholder was G W Schwatz.[336] He held them on a 21 year term from 1 June 1876 at £10 a year.[337] The leasehold rights to sections 1908 and 1100 were transferred to J J Foothead sometime before 1877.[338]

In 1879, the accounts show a payment by Schwartz for 864, 893 and 1099. Made in July 1878, this payment had been due in June 1877.[339] Schwartz went bankrupt sometime in the late 1870s, and sections 864, 893 and 1099 all became available for leasing again.[340] All three of these sections appear to have been offered in 1881 on 42 year terms, but none of these leases went ahead.[341]

Section 1099 does not appear to have been successfully leased until the 1890s. By the mid 1890s 1099 was being leased in two half acre sections. One of these leases, dating from 1 July 1896, for 21 years at £7.10s. failed The next lease was from 1 April 1898, for 21 years at £8 a year. When this lease was renewed in 1919, the new rent was £21 a year.[342]

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[334] AJHR, 1871, F-1B, p 5 (A24, p 53)
[335] AJHR, 1871, F-1B, p 5 (A24, p 53)
[336] AJHR, 1876, G-3, p 5 (A-24, p 99)
[337] MA-MT 6/1, p 100
[338] AJHR, 1878, G-6A, p 6 (A-24, p122)
[339] AJHR, 1879, G-7, p 5 (A-24, p 132)
[340] MA-MT 6/1, p 100
[341] MA-MT 6/1, pp 94, 95, 101
[342] MA-MT 6/1, p 101

In 1893 section 864 was described as vacant and covered in gorse. The Native Reserves Board decided it should be advertised for lease for £10 a year, on a 21 year term.[343] There were no offers at £10. The rent was reduced to £5. There were no offers at this figure either. An adjoining owner offered to lease at 10s a year, describing the land as hilly and unsuited for building. He wanted somewhere to turn out his horses.[344] This offer was turned down, and the Board decided to clear the land of gorse, and then advertise it in four quarter acre sections, on a 63 year term, with new rent assessments every 21 years.

In November 1894, the Public Trustee was able to report that three of the sub-divisions (2, 3 and 4) had been leased out, at rents of around £4 a year.[345] Sub-division 1 was not leased out until July 1896, when Wallace Stewart obtained a lease for 21 years, at £3.5s. a year. This lease was not a success and it was canceled. A new lease was issued to Walter Samuel from 1 July 1899, on a 21 year term at £2 a year. It is not uncommon to find that when leases failed, new leases were issued for a lower rent.

It appears that section 893 was not leased until 1900.[346] This lease seems to have failed, and a new lease was issued to Herrman Lewis from 1 January 1902 for 21 years at £34 a year.[347] When this lease expired section 893 (and part of 891) was sub-divided into 7 lots, all of which were leased out from 1 January 1923 for 21 years at £9 per annum.[348]

Sections 1081-1082 were leased out to Charles Swiney for 21 years from 31 December 1872, at an annual rental of two guineas.[349] A condition of this lease was that the tenant was to fence the sections within 12 months. By the late 1870s the lease had apparently been assigned to a T Mills. In January 1884 James Henry Pedder, who also had leases of

[343] MA W1369 vol 10, 15 November 1893, p 220
[344] MA W1369 vol 10, 25 May 1894, p 171
[345] MA W1369 vol 10, 28 November 1894, p 232
[346] MA-MT 6/1, p 95
[347] MA-MT 6/1, p 95
[348] MA-MT 6/1, pp 191-192
[349] AJHR, 1873, G-2, p 1
MA-MT 6/1, p 97?

988- 989, was granted a lease for 1081-1082. Pedder paid £30 a year for the 4 sections under his control.[350]

4.3 Part Section 543

Section 543 had been split into a number of sub-sections by 1873: the only part listed in the 1873 Act was an area of 1 rood 13 perches, described as the 'middle part only'.
Part of this 'middle part' was leased to Holt from 1 July 1875, on a 21 year term at £18 a year.[351] Holt assigned his lease to H Barber, and then to Phillipa Jane Barber in December 1885.

In the late 1870s, Barber became aware of the arrangements being made to give Alexander Johnston a 42 year lease on his Newtown section. He sought the same consideration.[352] When the file was placed before Rolleston, the difficulties over Johnston's leases were still current.[353] Rolleston decided that the issuing of a 42 year lease for Barber would be deferred pending a decision by Parliament on how the reserves were to be managed.[354] This seems to be the reason why the 42 year leases apparently being contemplated for the southern Newtown sections in 1881 were never executed either.

Mrs Barber tried to renew her lease for a further term of 21 years in 1892.[355] The Public Trustee rejected her request, on the grounds that the 1882 Act was 'absolutely silent as to any right of renewal'.[356] His reading of the legislation was that he had no way of meeting her wish. By 1896, however the situation had changed. New leases could be granted on

[350] MA-MT 6/1, pp 97-99
[351] MA-MT 6/1, p 92
[352] Heaphy memorandum, 15 November 1880, AAMK 869, 171C
[353] Lewis minute, 5 April 1881, AAMK 869, 171C
[354] Rolleston minute, 20 April 1881, AAMK 869, 171C
[355] Barber to Public Trustee, 22 August 1892, AAMK 869, 171C
[356] Public Trustee to Barber 30 August 1892, AAMK 869, 171C

the expiry of old leases, and Mrs Barber's lease was due to terminate. She was invited to apply for a new lease and eventually did so.[357]

A valuation was sought of the property, which appears to have been divided at this stage into three plots or allotments. The valuation was £1710, of which £900 was for the improvements. Five per cent of £1710 was £85.10s.[358] Mrs Barber was currently paying £18 a year for the land, and she declined to renew at the sum recommended by the valuer.[359] The lease was put out to auction. Mrs Barber offered £12 a plot, £36 in all. This was three times what she had paid in the past, but less than half of the valuation. Charles Johnson offered £90 for the three plots and won the lease.[360]

The balance of the 'middle part' of 543 was leased to John Smith on a 21 year term from 1 September 1876, at £6 a year. Smith obtained a new lease in 1897, at a rent of £15 a year. In 1898 Smith sub-let part of the section to Frederick Brady on a 20 year term at £6 a year. Another portion was sub-let to Charles Johnson for a similar period at £ 5 a year.[361]

The Native Reserves Act Amendment Act 1895 allowed the Public Trustee to issue new leases to anyone who had an existing lease under the 1882 Native Reserves Act. The new leases were to issue as if the West Coast Settlement Reserves Act 1892 applied. Both of the leases for part section 543 meet the requirements contained in the Natives Reserves Act Amendment Act 1895, and in due course the leases were renewed with a right of perpetual renewal. In that respect they followed the common history of the town sections.

[357] Public Trustee to Barber 10 January 1896, AAMK 869, 171C
[358] Lockie to Public Trustee, 18 May 1896, AAMK 869, 171C
[359] Barber to Public Trustee, 10 June 1896, AAMK 869, 171C
[360] MA-MT 6/1, p 92
[361] MA-MT 6/1, p 92

4.4 Sections 972-989, 995-1005

Unlike the southern sections, these Newtown sections were all leased in 1871. Sections 995-1005, 11 acres situated between Russell Terrace and what is now south Rintoul Street, just to the north of Waripori Street, had been leased by Mantell to Hemi Parai at a nominal rent.[362] The low rent may have related to the fact that the lease was conditional on grazing being provided for the horses of Maori travelers.[363] Hemi's lease had expired by 1871, but he was still in occupation.[364]

From 1873 these sections were let to Alexander Johnston for 21 years: £20 for the first 7 years, £25 for the next 7, £30 for the last 7 years. [365] According to a petition presented in 1882, this 1873 letting was not advertised.[366] Johnston was granted a renewal of his 1873 lease in 1877, running from January 1878. This was equivalent to granting him a 4 year extension of his 1873 lease. The rent was £20 for the first 4 years, £25 for the next 7 years, £30 for the next 7 years and £40 for the final 3 years. In 1882, the allegation was made by Maori that this lease was 'obtained privately, and without advertising' and that the rent set 'was little more than nominal'.[367] There may be some truth in this latter claim. In 1884 Johnston sub-let sections 995-1005 on a 14 year term for £45 a year.[368]

The lease was assigned several times after 1886. In the mid 1890s, most of these sections were sub-divided into quarter acre lots and leased out separately.[369] Johnston had been paying £25 a year for these 11 acres in 1884, when he sub-let then for £45 a year. In 1895, a half acre portion of this land was leased out on a 21 year term at £10 a year.[370]

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[362] AJHR, 1867, A-17, p 3
[363] AJHR, 1871, F-4, p (A-24, p 52)
[364] AJHR, 1871, F-4, p (A-24, p 52)
[365] AJHR, 1874, G-5, p2.
[366] LE 1/1882/6 (A-38, p 14)
[367] LE 1/1882/6 (A-38, p 14)
[368] MA-MT 6/1, p 164
[369] MA-MT 6/1, p 97
[370] MA-MT 6/1, p 164

In 1871 sections 972-989, 18 acres on the opposite side of Rintoul Street, and bound by Waripori Street on the south and Adelaide Road on the west, were leased to Mantell.[371] In 1873 the lease for these sections was assigned to Alexander Johnston and Mary Jane Burns and renewed in 1877.[372] The new rent was £35 for the first 7 years, £45 for the next 7, £60 for the last 7 years. In 1882, Maori alleged that this lease was also 'obtained privately, and without advertising' and that the rent set 'was little more than nominal'.[373]

From 1873, Johnston had control of almost all of the town acres, 29 of them in all, divided into two blocks by Rintoul Street, but a compact holding nonetheless. Johnston approached Heaphy in November 1875, seeking a 60 year lease of his Newtown sections. This was possible, Johnston claimed, under section 19 of the 1873 Native Reserves Act. Johnston said that he had taken up his leases knowing that this legislation had been passed, and with the expectation that he would be able to renew his leases for a 60 year term.[374]

Heaphy turned down Johnston's request. The 1873 act did provide for the granting of 60 year leases, but only with the consent of a board of direction. No such board had been set up for the Wellington reserves, and Heaphy felt that this meant that no machinery existed to issue a 60 year lease.[375] At the same time, Heaphy believed that longer leases were desirable, and that it had been the intention of Parliament, when the 1873 Act was passed, that a term of 60 year should be possible. He thought Johnston's case deserved consideration.[376]

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[371] AJHR, 1871, F-4, p (A-24, p 52)
[372] MA-MT 6/1, p 95
[373] LE 1/1882/6 (A-38, p 14)
[374] Johnston to Heaphy, 4 November 1875, MA 17/6 (A-35, p 259)
[375] Heaphy to Under Secretary Native Department, 15 November 1875, MA 17/6 (A-35, p 259)
Heaphy to Johnston, 24 November 1875, MA 17/6 (A-35, p 154)
[376] Memorandum re Dr Johnston's Leases, 29 September 1878, MA 17/6 (A-35, p 245)

Johnston continued to push for a better arrangement, and in 1879 was offered the chance to bid on a new 42 year lease, on terms that were very favorable to him. Briefly, the value of Johnston lease would be determined, and if anyone other than Johnston was successful at the auction, then they would pay this amount in addition to whatever the final bid accepted might be. This premium would be paid to Johnston on his surrender of his lease. If Johnston was the successful bidder then there would be no premium to pay. [377]

This was an arrangement designed to ensure that although the auction would be public, Johnston would have no real competition. Heaphy recommended that the Governor's assent be obtained before the auction, but the scheme was set in motion on the basis of ministerial approval only.[378] Acting probably on the basis of Maori objections, the Governor in Council dissented, and the auction was postponed.[379]

Another attempt was mounted, this time with a different set of financial arrangements, but still of a kind that gave Johnston an unfair advantage in any bidding contest. It would also have the effect of reducing the income from the leases.[380] Wi Tako and some Te Aro Maori complained to Native Minister Bryce about these schemes, clearly stating that they considered the sections in question 'ours'.[381] They disapproved of the lease being renewed or sold, because they wanted the land to be retained 'as a permanent place of residence for ourselves'.[382]

The auction was, nonetheless, scheduled for December 1880. In October Heaphy asked Johnston to surrender his lease. In November 1880 a number of Te Aro Maori wrote to Bryce again. They had not asked anyone to arrange new leases of these sections. They were suspicious, sure that the objective was to 'acquire the reserves for the Crown'.[383] It

[377] Sheehan to Heaphy, 16 March 1879, MA 17/6 (A-35, p 224)
[378] Heaphy memorandum, 29 July 1879, MA 17/6 (A-35, p 158)
[379] Heaphy to Johnston, 2 June 1879, MA 17/6 (A-35, p 170) LE 1/1882/6 (A-38, p 20)
[380] Sievwright and Stout to Heaphy, 2 December 1880, MA 17/6 (A-35, p 31)
[381] Wi Tako and others to Bryce, 19 July 1880, MA 17/6 (A-35, p 61)
[382] Wi Tako and others to Bryce, 13 August 1880, MA 17/6 (A-35, p 31)
[383] Te Teira Te Whatakore and others to Bryce, 30 November 1880, MA 17/6 (A-35, p 24)

was their intention 'now' to manage their own reserves, and they would take the matter to either Parliament or the Supreme Court. They asked Bryce to stop the auction, pending a determination 'whether the land is ours or the property of the Crown'.[384]

Heaphy responded that none of the Maori concerned had any rights to the sections 'beyond what any native in the Wellington district may claim to have'.[385] The auction went ahead in December 1880 despite Maori protests, but the reserve figure was not reached. Johnston's leases were returned to him, thus restoring the status-quo. But not entirely. Five Te Aro Maori occupied the sections within days of the auction. They did this, they said, 'to prevent any further improper dealings therewith'.[386] They were still there in July 1882, by which time a complaint of trespass had been made against them.[387]

They did more than take direct action; they also petitioned Parliament, alleging that the reserves were not being managed for their benefit, and that fraudulent dealing had been going on. They objected to the private arrangements being made for Johnston, to the fact that the lands were being leased in two large blocks, when a better return would be obtained if they were divided into quarter acre sections, and to the low rents being set.[388] They wanted to administer the reserves jointly with the Governor's delegate.[389]

The Native Affairs Committee heard evidence on this petition in July 1882. It considered a motion which, if it had passed, would have resulted in a report rejecting most of the allegations made by the petitioners. This motion held that there was no evidence that fraud had played any part in the arrangements made to lease the sections. It condemned the action of those who had taken forcible possession of the sections as ill advised, and without justification. On the issue of Maori participation in the management of the reserves, the Committee would have reported back that this was a question for Parliament

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[384] Te Teira Te Whatakore and others to Bryce, 30 November 1880, MA 17/6 (A-35, p 25)
[385] Heaphy to Lewis, 3 December 1880, MA 17/6 (A-35, p 28)
[386] LE 1/1882/6 (A-38, p 16)
[387] AJHR, 1882, I-2, p 14 (A-22, p 180)
[388] LE 1/1882/6 (A-38, pp 14-16)
[389] AJHR, 1882, I-2, p 14 (A-22, p 180)

- it was not a matter for a select committee.[390] The motion was not, however, put to a vote, the Select Committee deciding that the better course was to decline to make a report, on the grounds that the matter was sub judice.

In their petition, Tamiti Te Wera and the others described the land concerned as 'having been set apart for the benefit of the selling chiefs, their families and heirs'.[391] When Mackay was asked by the Committee if the petitioners were the owners of the land, he replied that they were not the sole owners, and that they had no special claim to the land. The sections in question had been set aside 'for the benefit of the whole of the natives residing in the Port Nicholson district'. There was no document showing the petitioners to be the 'proper persons' to deal with the land.[392]

Mackay was also questioned about the allocation of the Newtown rents. He told the Native Affairs Committee that the rents were 'not specially allotted to any one'. They were used 'for the general good of the whole of the people interested in the property', and 'expended as found necessary'. The petitioners would be entitled only to a share of the rent. Even Wi Tako had no special interest or share - 'no more than any other native'. Mackay also told the Committee that the ownership of the land had never been 'fully ascertained'.[393]

Johnston also appeared before the committee, and made a statement. He absolved Heaphy from any charge that there had been collusion over the leases. Heaphy had declined Johnston's original proposal, and Johnston had then gone over Heaphy's head, to the Native Minister. Heaphy had been offended by this, and thereafter disinclined to cooperate. According to Johnston, ministers had been the driving force behind the scenes.

[390] LE 1/1882/6 (A-38, p 8)
[391] LE 1/1882/6 (A-38, p 14)
[392] LE 1/1882/6 (A-38, p 28)
[393] LE 1/1882/6 (A-38, pp 28-30)

Heaphy had been opposed 'from the very first mention of [an] extended lease' and had acted only under ministerial direction.[394]

Several issues were raised by these proceedings. One was the failure to implement the 1873 Act. When he took up his leases Johnston expected that he would be able to renew his leases for the longer terms envisaged by this Act. Heaphy declined to extend Johnston's leases. He said the Board of Direction required by the 1873 Act, that would need to approve of such an extension, had never been set up. Had such a Board existed in 1875, that would have gone a long way to meeting the desire of Wi Tako and others to have more say in the management of the increasingly valuable town tenths.

Another issue is the extent to which Maori were able to influence decisions made about leases. Heaphy had been quite firm in 1874, when the Polhill Gully owners had tried to renew the lease to the Ohiro sections in their own right. He was adamant, when he discovered the Te Whetu lease for Pakuratahi in 1875, that no Maori had the right to lease out lands vested in the Governor. The exception to the rule seems to have been the 5 acre chapel site at Makara, where Heaphy did obtain the consent of the Makara owners before proceeding to issue a lease. This may have been because of the use to which this land was to be put. Makara to one side, Heaphy followed a quite consistent line: tenths were administered by him. Maori did not lease out reserves of this kind, although they might perhaps in special circumstances be consulted as to whether or not land would be leased.

Heaphy followed the same line over the Newtown tenths. The key decisions would be made by him, ministers, and Dr Johnston. Not by Maori. Faced with this attitude, the Te Aro Maori went to the Government, and they went public. The result was that the schemes made on Johnston's behalf failed, and the Newtown sections remained under the same leasing regime as before. Maori were not ordinarily able to influence management decisions made about the tenths. They were not able to impose decisions of their own

[394] LE 1/1882/6 (A-38, pp 32-35)

making. Nor was there ever any possibility that the town tenths would be placed under their control. But the events in Newtown showed that under admittedly special circumstances Maori could delay and ultimately prevent unusual arrangements being made.

4.5 Polhill Gully

What happened over the Newtown sections during the late 1870s and early 1880s has to be contrasted with what happened during the early 1870s over the McCleverty reserves at Polhill Gully. McCleverty reserves were lands given or awarded to particular hapu in 1847. They are sometimes referred to as assigned reserves. The key characteristic of these reserves, from the point of view of both the Maori concerned and the commissioner, was that they were controlled and managed by their Maori owners.

In his reports Heaphy would mention details of leases and alienations made by the owners of the McCleverty reserves, with the added explanation that these arrangements related to lands outside his control. At the same time, there was provision in the legislation for assigned reserves to be administered by the Commissioner, provided assent was obtained.[395]

One of the McCleverty reserves was known as Polhill Gully. It totalled nearly 90 acres, comprising 31 town sections as well as three large town belt blocks. It appears to have been good land, and by the late 1860s almost all of it was leased out.[396] In May 1873 the owners of Polhill Gully placed their land in Heaphy's hands, to be administered and let by him. In his 1874 report, Heaphy said that the owners had done this because they were 'unable to manage them themselves'.[397] The Polhill Gully arrangement was by no mean

[395] Section 14, Native Reserves Act 1856 (A-21, p 7)
[396] AJHR, 1867, A-17, p 3 (A-24, p 37)
[397] AJHR, 1874, G-5, p 2 (A-24, p 84)

unique. Towards the end of the 1870s, Heaphy took on the administration of Crown-granted land at Ohariu, on behalf of the absentee owner.

These arrangements did not, however, involve the gaining of assent to manage, as prescribed by the 1856 Act: there was no subsequent vesting of the land in the Governor, which was the essential requirement specified in the legislation. In the case of the Polhill Gully reserves, Heaphy simply recorded that a meeting of the owners had agreed to give the reserves into his hands, that one of the owners, Waaka Houtipu, had been appointed to assist Heaphy, that a list of owners had been provided, and that distribution of the rents was to be on a 'share and share alike' basis.[398]

The Polhill owners were the same people who had recently used Heaphy's good office to settle what seems to have been a matter of some contention: how the rent from the tenth reserves at Ohiro should be distributed. Now they wanted him to be their agent, and manage the Polhill Gully reserves on their behalf. In November 1873 Heaphy made the first distribution of the Ohiro and Polhill Gully rents, the 17 owners each receiving £4.1s.2d. Heaphy noted in his minutebook that the 'natives expressed their satisfaction at this the first result of the arrangement of 6th of May'.[399]

On 18 November 1873, the Polhill Gully owners approached Heaphy with a proposal. They wanted to lease 8 acres, and sell 3 more, to Alexander Johnston. Heaphy claimed he could not recommend such a sale unless the proceeds were to be invested in land or government securities, as required by the New Zealand Company regulations relating to tenths.[400] When Johnston pointed out that other native reserves were sold without any stipulation of this kind, Heaphy replied: 'not reserves that were tenths'.[401] This exchange makes little sense. The Polhill Gully reserves were no longer tenths, and the New Zealand Company regulations certainly did not apply to them. The Polhill Gully owners did not

[398] MA-MT 6/14, p 164 (A-36, p 37)
[399] MA-MT 6/14, p 169 (A-36, p 43)
[400] MA-MT 6/14, p 172 (A-36, p 46)
[401] MA-MT 6/14, p 173 (A-36, p 47)

want the lease to be granted to Johnston to be advertised, but Heaphy said that 'as a government officer I cannot dispense with publicity in so large a transaction'.[402]

Two days later Heaphy was advised by the Polhill Gully owners that they were assuming control of the land at Polhill Gully, in order to let it to Dr Johnston.[403] In January 1874 Heaphy paid out the Polhill Gully rents again.[404] In February he was requested to consider 'the previous word rescinded'.[405] When the owners had decided to take back control of the reserve, Heaphy seems to have accepted this without comment. When that taking back was rescinded, Heaphy seems to have accepted this without comment also.

It seems that the taking back had only applied to some of the Polhill sections. In May 1874, Heaphy reported that he had collected rents, and recovered arrears, to the amount of £124.11.6d. He had let some of the town sections, and seen to the survey of section 91 at Ohariu, another McCleverty reserve that had been placed under Heaphy's management by the Polhill Gully owners. According to Heaphy, this was the first occasion on which Ohariu 91 had been leased out.

In 1875 Heaphy reported that he had leased out more of the Polhill Gully sections, noting that the natives beneficially interested had approved of each of these arrangements, and going on to remark:

> The collective proceeds of all the Wellington lands so entrusted to me by the owners to let, I divide periodically amongst the people interested. I have induced the chiefs, who generally have other sources of income, to share alike with the inferior people in the division.[406]

The Polhill Gully arrangement was extended to cover some other 1847 reserves besides Ohariu 91 - Ohiro18, and Kinapora (Johnsonville) 7 and 8.

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[402] MA-MT 6/14, p 173 (A-36, p 47)
[403] MA-MT 6/14, p 172 (A-36, p 48)
[404] MA-MT 6/14, p 175 (A-36, p 49)
[405] MA-MT 6/14, p 178 (A-36, p 52)
[406] AJHR, 1875, G-5, p 3 (A-24, p 91)

During the 1880s certificates of title were issued for the Polhill Gully awards, and a number of the sections were sold, beginning with 24 and 25 in 1884.[407] The two Kinapora/Johnsonville sections appear to have been sold off piecemeal, although parts of both sections were taken by the Crown. The earliest taking seems to have been some land taken under the Public Works Act in 1881 for the railway. After 1900 restrictions were lifted and other parts of these sections were sold. Land was still being taken under the Public Works Act as late as 1975.[408] The first certificate of title to Ohariu 91 was issued in 1902. The section was sold in 1916, following a meeting of owners.[409]

As land included in the Polhill Gully account was sold, and the amount of rent coming in reduced, the Public Trustee simply adjusted the benefits paid out to the beneficial owners. In 1875/76 the various reserves covered by the Polhill Gully account generated rents in the vicinity of £207.13s.[410] This amount was passed onto the 17 owners without deductions.

In 1885 the Polhill Gully rents peaked at £288.16s.8d. From this amount £28.17s.5d was deducted for Public Trust commissions. After benefits had been distributed, there was a balance of £78.14s.7d carried over to the following year.[411] By 1895/96, the effects of alienations had begun to cut into the income. In that financial year rents amounted to £109.4s.8d - less than half the income generated in 1885. The balance carried over from the previous year was £89.0s.5d - a sizable sum given the annual income. Other credit adjustments amounted to £45.5s.2d. All in all, the Public Trustee had £246.10s.3d to distribute. The Public Trust fee in that year amount to 8s.4d. and rate payments to

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[407] S Quinn, Report on the McCleverty Arrangements and McCleverty Reserves, November 1997, pp 117-118.
[408] S Quinn, Report on the McCleverty Arrangements and McCleverty Reserves, November 1997, pp 119-122.
[409] S Quinn, Report on the McCleverty Arrangements and McCleverty Reserves, November 1997, pp 119-122.
[410] AJHR, 1876, G-3
[411] AJHR, 1886, G-5

£3.18.s.4d. After benefits had been distributed, the Polhill Gully account was in credit to the tune of £135.2.s.11d.

The fact that, as a result of Heaphy's actions, the Public Trustee ended up administering rents from McCleverty awards seems to have been a source of some confusion in the 1890s and later. The Public Trustee knew - because Mackay had told him - that these reserves had been taken in merely to ensure that rents were collected and the proceeds properly distributed.[412] But which reserves? At various times Makara 22 and 24, Ohiro 19 and 21, and Ohariu 12 and 13 were all described as McCleverty awards either by the Public Trustee or the Native Land Court. As such, they were liable to be treated differently compared to reserves known to be firmly vested in the Public Trustee.

The Makara sections were partitioned and vested in the owners in 1889. The most likely explanation for this seems to be a belief or impression at that time that they were McCleverty awards. In 1902 the Public Trustee polled the owners of the Ohiro sections - which were tenths - under the impression that they were either McCleverty awards, or should be treated as McCleverty awards. But in situations where no doubt existed, (and no doubt existed in the case of the Newtown sections,) Heaphy and then the Public Trustee after him followed a consistent line. Tenths were be administered for the benefit of Maori. But they were not to be administered by Maori.

Perhaps the key issue thrown up by the troubles in Newtown was that the Newtown tenths had no identified owners. Everyone knew, and accepted, that the sections were lands set aside for the benefit of Maori, but few if any of these benefits were being distributed. The reason, as Mackay, said, was that the beneficial ownership of the town tenths had never been ascertained.

[412] Public Trustee to Newman, 6 July 1896, MA W2218, Box 5

5 The Benefits

The 1873 reserves were 'lands set apart for the benefit of the Aboriginal Natives'.[413] What benefits did they receive? In 1874 Heaphy provided a return to the Under-Secretary of the Native Department, covering the revenue from the North Island Native reserves. According to Heaphy, only a small of amount of the income from the reserves was available for general purposes, to meet the expenses of running the Native Department.[414]

The implication was that most of the income had been assigned to the beneficial owners. While this may have been true of the North Island Reserves in general, it was not true of the Wellington tenths. In 1875/76 the rural tenths were all leased, and produced in that year £128.14s. There seems to have been a shortfall of £35, the result of the Mangaroa and Pakuratahi leaseholders getting behind with their rent. Pakuratahi produced only £30 of the agreed £60 rent. Of this sum, £23.19s. was expended on advertising the leases, leaving the commissioner with a bit more than £6 in his hand. At this stage, the rents for neither Pakuratahi or Mangaroa had been assigned.

The Ohiro, Makara and Ohariu tenants paid their rent in full, and all but 10s of this was passed on to the beneficial owners. They received in total £93.2s. The amount should have been £93.14s but for some reason Heaphy's accounts show that only 10s of the £1 paid for the Makara chapel lease was paid out.

The Newtown and Pipitea sections were all leased, and one of the sections towards Island Bay. Heaphy received £60.2s in rents. There may have been a shortfall of £25, due to defaults or late payments. If so, the most Heaphy could have received from the town sections in 1875/76 would have been £85.2s. Heaphy had expended £17.6s.9d on advertising the leases of the Te Aro and Palmerston North sections, and it is reasonable to

[413] Section 53, Native Reserves Act 1873 (A-21, p 23)
[414] Heaphy to Under Secretary, Native Department, 30 November 1874, MA-MT 4/1, p 351

allocate this amount equally between the two sets of reserves: say £8.13s.5d for expenses in connection with the Wellington town sections.

In total, the Wellington tenths produced £188.16s in 1875/76. Of this amount £128.14s. (about two thirds) came from the rural tenths; the town tenths produced £60.2s (just under one third). Expenses amounted to £32.18s.5d., about 17 per cent of the income. The beneficial owners received £93.4s., around 50 per cent of the rents. After expenses and benefits had been paid, Heaphy was left with a surplus of £62.16s.7d., about one third of the total income. If all of the rents due had been paid, Heaphy would have had another £60, all of it rent from unassigned reserves.

In 1877 Heaphy reported that most of the reserves under his management were let, generally on 21 year terms, and that since the work of his Department had been 'brought into system and simplified' he had recommended that his salary as Commissioner of Native Reserves be reduced from £500 to £100.[415] This reduction took effect on 1 April 1877. The Wellington accounts show expenditure for expenses before 1877, but not for salaries. After that date salaries were a charge on the reserve income.

Before 1878, Heaphy maintained a single set of accounts for the Wellington reserves, recording receipts and expenditure. From 1878 he maintained separate accounts for income derived from reserves which had known beneficiaries, and for the payments made to these beneficiaries. Money from reserves that had no particular beneficiaries, on the other hand, was paid into a general purpose account.

The general purpose account (receipts) covered all of the North Island: all the income from reserves that had no defined beneficiaries, wherever these reserves were located - Wellington, Auckland, Tauranga or Taranaki. Administration fees were also paid into the

[415] AJHR, 1877, G-3, p 2 (A-24, p112)

North Island general purpose receipts account. From this account salaries (after 1877), office expenses and other administrative charges were drawn.

The general fund was also the source of occasional grants to needy Maori. In the accounts for 1875/76 there is a line of expenditure 'W N Searancke to Hotene and others 106.4.0.'.[416] This seems to be a grant of some kind. In 1878 Heaphy arranged for £96.10s.6d to be distributed to Te Aro Maori, among whom, he reported, there were 'several old and infirm persons'.[417] The only other items in the general accounts for 1878 that could be defined as of direct benefit to Maori were the payments made for the running costs of the Native Hostelry - all other items were for salaries and stationery, the largest single item charged to the general account being the cost (£65.13s.9d.) of a survey of the Pakuratahi sections.

Records of disbursements made by Heaphy are available for most years of his period of tenure as Commissioner: these seem to show that the great majority of the payments made were of assigned rents or for operating costs of various kinds. Payments of the kind made to the Te Aro Maori in 1878 seem to have been very much the exception; in 1877, 1879 and 1880, for example, the only distribution made to Maori were of rent shares.[418]

The accounts for 1881 were delayed, and were published in 1882, with the accounts for that year, in a very brief form, giving few details.[419] In 1883 a more detailed set of accounts appeared, covering the Wellington, Nelson and Greymouth reserves for the period 1 April 1880 - 31 December 1882.[420] These showed that while part of the rents from the Nelson Tenths and the Greymouth reserves were being used to pay the salaries of schoolmasters and medical officers, and expended on clothing and provisions for the

[416] AJHR, 1876, G-3, p (A-24, p 100)
[417] AJHR, 1879, G-7, p 1 (A-24, p 128)
[418] AJHR, 1877, G-3, p 5 (A-24, p 115)
AJHR, 1879, G-3, pp 4,8 (A-24, pp 131,135)
AJHR, 1880, G-3A, p 4
[419] AJHR, 1882, G-6
[420] AJHR, 1883, G-7A, pp 3-5 (A-24, pp 195-196)

beneficiaries, none of the income from the Wellington Tenths was being used for these or similar purposes.

No accounts were published during 1884, but from 1885 the fashion was to maintain separate sub-accounts, sometimes more than one, for each reserve. In that year, there were accounts for Pakuratahi 3, Ohariu 12, Ohariu 12 and 13, Mangaroa 132, Makara 22 and 24 No 1, Makara 22 and 24 No 2, Polhill Gully (which included the Ohiro sections) and Wellington General.

By 1885 the rents from Pukuratahi 3 and Mangaroa had been assigned. The rents from Pukuratahi 4 and 7, on the other hand, were being paid into the Wellington General account. The Ohiro rent had been merged with the Polhill Gully rents for more than a decade by 1885, and while the amount of rent paid by the Ohiro tenant is known, the extent to which it was reduced by Public Trust commissions has to be estimated.

The total income from the Wellington tenths in 1885 was £369.2s. Of this sum £205.14s., or about 56 per cent, came from the rural sections. The town sections contributed £163.8s. - 44 per cent of the total income. In 1875/76 the town sections had generated about a third of the reserve income. It is evident that the towns sections had become more productive since the mid 1870s, but the rural sections were still, in the mid 1880s, contributing more than half of the total reserve income.

About 45 per cent of the rent income in 1885 - £170.19s. - was paid out to the beneficial owners. In 1875/76 the beneficial owners had received about 50 per cent of the total revenue. Heaphy had paid out all of the assigned rents in 1875/76. In 1885, however, the Public Trustee did not seem to be paying out all of the money that were left after expenses and commissions had been deducted. In 1885, of six accounts for assigned reserves, four had end of year surpluses.

The annual income from Makara 22 and 24, for example, was £60. After all expenses and commissions had been deducted, and payments made to the beneficial owners, £27 remained in the Makara account at the end of the financial year. Some of this was the balance carried over from the previous year. In total, in 1885, the funds remaining in the assigned accounts at the end of the year totalled £51.18s.2d. It is not at all clear why money was being retained in this way. Possibly it is an artifact of 19th century accounting practice, but if end-of-year surpluses were common after 1882, then the beneficial owners of the assigned reserves may have been receiving a smaller benefit when a larger one was possible.

Deductions from the 1885 income for expenses and commission totalled £47.0s.9d, around 13 per cent of the total amount collected. In 1875/76 expenses amounted to £32.12s.5d, about 17 per cent of the reserve income. Commissions and expenses varied from year to year, but for two sample years (1875/76, 1885) chosen for closer study, the cost of Public Trustee administration was less, as a percentage of the rentals, than it had been 10 years before, when the reserves were under Heaphy's administration.

No payments were made to beneficiaries from the Wellington General account. It was, however, drawn on to pay expenses, in 1885 £4.12s. in legal fees, and Public Trust commissions (£20.5s.11d.). The balance of income over expenditure in 1885 was £501.7s 10d. A large part of this surplus was the balance carried over from the previous year. In 1888, the Wellington General account was used to pay for gorse clearance, rates, postage, cab fares and Public Trust commissions. The end of the year balance showed that unexpended funds amounted to £914.15s.1d.[421] According to information provided by the Public Trustee in 1896, in the three years 1892-1895, £523 had been paid out in grants to needy Maori, and £610 in medical expenses. These benefits were paid to South Island and Auckland Maori, however. No benefits of this kind were paid to Wellington Maori.[422]

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[421] AJHR, 1889, G-2, p 6
[422] AJHR, 1896, H-11, p 14 (A-24, p 234)

The accounts for 1895 recorded the usual types of expenditure, including a payment for legal services to the Native Land Court, in connection with the definition of interest in the New Zealand Company tenths. The unexpended balance of funds in the Wellington General account amounted, by this date, to £2115.13s.7d. [423]

In 1895 the Wellington tenths generated £831.10s.6d. Of this sum £644.19s.6d came from the town sections and Pakuratahi 4 and 7. The other rural sections produced £186.10s. In 1875/76 the rural sections contributed the lion's share (two thirds) of the total reserve income. By 1885 the rural sections were still more productive than the town sections, but the split was by then 55 to 45. By 1895, however, the rural sections contributed only 22 per cent of the total income from the Wellington tenths.

In 1895 expenses and commissions amounted to £47.17s.3d. This was just under 6 per cent of the total income. In 1885 the equivalent figure was 13 per cent. In 1875/76 it had been 17 per cent. Payments made to beneficial owners in 1896 totalled £157.1s.10d. This was not a sharp reduction from the sum paid in 1885 (£170.19s.), and the sale of two of the rural tenths in the interval would have produced a reduction in payments anyway. But the payments made in 1885 represented about 45 per cent of the rent income in that year. The payments made in 1896, on the other hand, represented around 19 per cent of the total reserve income in that year. The payments, as a percentage of total income, had fallen between 1885 and 1895 because the unassigned portion of the rents, the money paid into the Wellington general account, was much larger in 1895 than it had been in 1885.

The payments made to beneficiaries were low for another reason as well. In 1885, the Public Trust accounts for the assigned reserves showed, more often than not, end-of-year surpluses. In 1895 there were surpluses again in most of the assigned reserve accounts, to

[423] AJHR, 1896, G-4, p 9

the amount of £106. Most of this surplus resulted from the Ohariu 12/13 account being in credit to the extent of £78.6s.9d. The result was that some of the beneficial owners, but particularly the beneficial owners of Ohariu 12/13, received a smaller benefit than they needed to receive. From time to time delays in leasing out reserves, the failure of leases, and the non-payment of rents, would have reduced benefits as well.

There were 23 beneficial owners, that is say, named persons who had been assigned a share of rents, in 1875/76. Seventeen of these were the owners of Ohiro 19/21. By 1885 the number of beneficial owners had risen to 36, and there were still 36 identified owners in 1895 as well. In both years the beneficial ownership of the Ohiro sections was 20 or more, but these sections were the exceptions. Most of the assigned reserves had only a handful of owners. Looking at three sample years: 1875, 1885 and 1895, the two Makara sections never had more than three owners altogether. The Ohariu sections never had more than 4 or 5 owners. Pakuratahi 3 had 3 owners in 1885 and 5 in 1895. Mangaroa had no beneficial owners in 1875, but had acquired 2 by 1885. In 1896 this section had 5 beneficial owners

It is possible to determine, in the case of these identified owners, the extent of the individual benefits received. Harata Te Kiore, for example, received half of the Makara rent between 1872-1880, when they were £31 a year, and half between 1880 and 1890, when they were £61. Her benefit was reduced a little, from the late 1870s, when administration fees were levied. In the late 1880s, Makara 24 was vested in her and she sold it in 1890 for £500. At the other extreme were the 17 to 20 beneficial owners of the Ohiro sections, who shared £40 a year, less deductions of various kinds.

In the 1870s, Heaphy had assigned the rents from all but two of the rural sections to a small number of families. At that time, the rural sections were, in terms of rent paid, more valuable than the town sections. Everyone knew that the town sections, and indeed all the tenths reserves, were held in trust for the benefit of Port Nicholson Maori, more

specifically those who had been the vendors in 1839. But no-one knew exactly who these people were.

5.1 The Beneficial Ownership

In 1878 Heaphy was directed to inquire into, and report upon, the claims of particular Maori to be beneficially interested in the Tenths.[424] Few records of the inquiries Heaphy made have survived, and he died (in 1881) before completing his work. It was 1888 before the beneficial owners of the Wellington town tenths were finally identified. This was the result of an application by the Public Trustee to the Native Land Court, under section 16 of the Native Reserves Act 1882.[425] At about the same time, the ownership of the Wellington rural tenths, at Mangaroa, Pakuratahi, Ohiro and Makara was also referred to the Native Land Court, under section 51 of the Native Land Court Act 1886.[426]

According to a memorandum prepared by Mackay, the presiding judge, the identification of the beneficial owners of the town tenths involved an investigation of the original ownership of Port Nicholson, in the same manner as the Court would have proceeded if the land had still been held under customary title.[427] This involved going back to the Ngati Toa conquest, and the arrival of the Taranaki tribes. In Mackay's opinion, Ngati Toa and the 'other hapus' (presumably Ngati Awa, Ngati Mutunga and Ngati Tama) had conquered the Port Nicholson district. In 1839 the resident Ngati Awa and Ngati Tama were allowed 'to sell such portions as they were considered to be entitled to'.[428]

It followed therefore that if the Port Nicholson block had been the property of these particular Ngati Awa and Ngati Tama in 1839 then the benefits of the tenths belonged to them - or their successors - also. To determine who were the particular Ngati Awa and

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[424] AJHR, 1878, G-6A, p 1 (A-24, p 117)
[425] New Zealand Gazette, 9 February 1888, p 243 (A-39, p 11)
[426] New Zealand Gazette, 9 February 1888, p 243 (A-39, p 11)
[427] Mackay to Under Secretary, Native Department, 14 April 1888, J 1/1903/1024 (A-39, p 109)
[428] Wellington Native Land Court, mb 2, 24 March 1888, p 137 (H-8A, p 244)

Ngati Tama in question, the Court made inquires concerning the various settlements around the shores of the habour - Te Aro, Kumototo, Pipitea, Tiakiwai, Pakuae, Kaiwharawhara, Ngauranga, Pito-one and Waiwhetu, and the inland locations like Ohariu. Who were the occupants of these places in 1839?

Ngati Mutunga made no claim in 1888. The Court had nothing to say about them, apart from noting that they had gifted away their some of their rights before they departed for the Chatham Islands in the mid 1830s, and that after their departure Ngati Awa had taken possession of the remaining Ngati Mutunga territory. Ngati Toa made no claim in 1888 either, which may have been a surprise to Mackay. In his judgement, he remarked that 'the only hapu who would have been justified in making a claim to the territory sold by the Ngati Awa in 1839 were the Ngati Toa'. They, however, had chosen to prosecute a claim to Porirua.[429]

Over 300 claimants had come forward.[430] Of these 75 were found to have no claim. Of the 241 found to be entitled, over 200 were deceased, which meant that the Court had had to spend a good deal of time determining the 'nearest of kin'.[431] Mackay disallowed a list of 84 'Ngatitu, Ngatironganui, Ngatirangitahi and Ngatiruru' claimants, said to have been resident at Tiakiwai in 1839 when the New Zealand Company purchase was made.

This list was handed in, and the case argued, by Kere Ngataierua. But the weight of Maori and European evidence told against him. Nor did the fact that these four hapu had been given land by McCleverty in 1847 cut any ice with Mackay. Apart from 'three or four families' these hapu were post-sale newcomers to the Wellington district. They had not been resident in 1839. According to the Court, any claims they had were confined to the relevant McCleverty awards, and had been dealt with in 1847.

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[429] Wellington Native Land Court, mb 2, 24 March 1888, p 136 (H-8A, p 243)
[430] Mackay to Under Secretary, Native Department, 14 April 1888, J 1/1903/1024 (A-39, p 109)
[431] Mackay to Under Secretary, Native Department, 14 April 1888, J 1/1903/1024 (A-39, p 109)

The list of original owners produced by the Court contained some surprises. Teira Te Whetu and Hori Paengahura, two of the original beneficiaries of Pakuratahi 3, were found to have been resident at Kaiwharawara when the sale was made to Wakefield. In the 1860s, it was the firm belief of all of the Pakeha officials who dealt with Te Whetu that he and his followers were newcomers to the district, who had no right to a share in any lands set aside for the benefit of the Port Nicholson vendors. But while Teira Te Whetu and Hori Paengahura were included on the list of original owners, Hemi Wirihana, one of the other principal grantees of Pakuratahi 3, was not. Yet Hemi had been receiving a share of the rent for the Pakuratahi 3 tenth since 1878.

Parata Te Kiore and Wi Pakata, the former described as a chief of Ngatironganui, had been included on the list of 84 claimants put forward by Kere Ngataierua.[432] This list had been rejected, although the Court agreed to admit any genuine claimants from this list. It seems that Parata Te Kiore was admitted to the list of original owners under this provision, as was Kere Ngataierua. Both of these men were placed on the Ohariu sub-list. Wi Pakata, on the other hand, was not.

In 1872 Heaphy had assigned the rent of the Ohariu tenths to Paiura Rangikatahu, Mete Kingi Paetahi, and Neta and Paratene Te Wheoro. Paiura Te Rangikatahu's name appeared on the 1888 Ohariu sub-list of original owners. His sister, Neta, appeared on the list of names put forward by Kere, as Neta Rangikatahu, a Ngati Tama of Ohariu. [433] Neta Rangikatahu was not moved from Kere's list onto the list of owners approved by the Court. She seems to have been the only Rangikatahu on Kere's list who was excluded from the list of owners.

No claim appears to have been advanced by or on behalf of Paratene Te Wheoro or Mete Kingi, in 1888. Neta Te Wheoro contested, unsuccessfully as it happens, with her Ngati Tama relatives. The successors of Paratene Te Wheoro and Mete Kingi continued,

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[432] Wellington Native Land Court, mb 2, 20 March 1888, p 79
[433] Wellington Native Land Court, mb 2, 20 March 1888, p 77

nonetheless, to derive benefit from the Ohariu tenths. Paratene Te Wheoro's brother, Rei Te Wharau, one of the beneficiaries of the Makara tenths since 1872, was also in the same position as Paratene. But his benefit from the Makara tenths continued, and was eventually passed to a brother, Mokena Te Haehaeora. Te Haehaeora's name did not appear on the list of original owners drawn up in 1888 either. The rent from Mangaroa 132 had been assigned to Ereni Turoa and Hemi Kuti by 1885.[434] Neither name appeared on the list of original owners of the Wellington town tenths drawn up in 1888.

The investigation of the town tenths had been something in the nature of a contest, in that some Maori disputed the rights of other Maori to be considered owners. But there was little competition when the ownership of the rural tenths was investigated.
In 1888 the Ohiro sections passed without objection to the owners identified in 1873. Mangaroa was uncontested as well. There was a rival claimant to the Makara sections, when they were heard in 1889, but no one seems to have taken this challenge at all seriously. The ownership of the ungranted portion of Ohariu 13 was not investigated until 1906. The land was given to new people on this occasion, but on the basis that the old owners had already received their share of this section. There does not seem to have been any objections to the Court's actions.

Ohariu 12 and the Pakuratahi sections did not come before the Courts until the 1920s. No-one appeared to contest the claims of the successors of the people who had been, since the 1870s, the recipients of the benefits from these tenths. In the 1920s, no evidence of original ownership, let alone whether or not the original beneficiaries had been resident in Wellington in 1839, was produced: the Court simply confirmed decisions Heaphy had made in the 1870s.

After the Court finished its investigation of the town tenths in 1888, the beneficial owners were known. But there was no immediate allocation of the funds held by the Public

[434] AJHR, 1885, G-5, p 9

Trustee. One reason for the delay was that Mackay does not seem to have prepared a list of the beneficiaries until 1895.[435] Then the Public Trustee maintained, in the end successfully, that he did not have the legal power to distribute the funds. Once this argument was settled, the Native Reserves Amendment Act 1896 provided the Public Trustee with both the legal authority to distribute benefits, and statutory guidelines as to how this was to be done.

Three quarters of the accumulated funds, and one half of all future income was to be distributed. The balance of the fund was to be expended, at the discretion of the Public Trustee, for 'the physical, social, moral, and pecuniary benefit of the Natives individually or collectively interested therein, and the relief of such of them as are poor or distressed'.[436]

The delay in implementing the 1888 decision of the Court produced a number of petitions. Enoka Te Taitu forwarded one in 1891, for example. Evidently unhappy with the reception this petition received, he forwarded it again in 1893. The committee, ignorant of Mackay's 1888 ruling, recommended that the Native Land Court determine entitlements, so that a distribution of benefits could be made.

Nothing seems to have been done, and in 1895 Te Taitu sent in more or less the same petition presented in 1891 and 1893. The Native Affairs Committee made more or less the same recommendation it had made in 1893. The Justice Department investigated, and after some arguments about who had done what, whose responsibility it was to put the 1888 decision into effect, and whether the Public Trustee did or did not have the statutory powers required, the Native Reserves Amendment Act 1896 settled the matter.

Te Taitu's petitions were to do with the rents from the reserves. There was no challenge as such to their administration by the Public Trustee, and no expressing of any wish to

[435] Mackay to Under Secretary, Native Department, 14 July 1895, J 1/1903/1024 (A-39, p 89)
[436] Section 4 (2), Native Reserves Act Amendment Act 1896. Compare section 3. (A-21, p 100)

take over the management of the land. In 1895, the first of a series of petitions from members of Ngati Mutunga began to arrive. These were also to do with entitlement to the tenths, the petitioners wanting the 1888 decision re-litigated. There were petitions in from Ngati Mutunga in 1895, 1896, 1899 and 1902. Mackay advised that Pomare, from whom the petitioners were claiming their entitlement, had not been a vendor in 1839. Nor had he been a claimant in 1888. On that basis no further action was taken concerning these petitions.

The benefits from the rural tenths were always distributed very narrowly. There was, to all intents and purposes, no distribution of benefits from the town tenths until 1896. After that date, the benefits of the town tenths were distributed on a wider basis, to members of Ngati Awa and Ngati Tama.

6 Summary

The Wellington tenths had been set apart originally for the 'future benefit of the ...Chiefs, their families and heirs for ever'.[437] Before 1882, the tenths were administered under the 1856 Native Reserves Act and it amendments. This legislation provided for the management, and regulated the leasing, of the reserves. Subsequent legislation provided new management arrangements, and new rules for leasing. The ideas that reserved lands were best managed by officials, and held on long term leases, were carried forward from one piece of legislation to another.

Maori opposition to the successive reserve regimes was evident whenever new legislation was contemplated. Maori objected to the 1873, 1882 and 1895 Acts. In 1873 and 1882 the opposition was to any scheme that involved Pakeha officials making decisions about Maori reserves. Objection was also made to other reserve bills introduced into Parliament between 1873 and 1882.

There was no legislative provision for Maori involvement in the management of reserves before 1882 or after 1894. The 1873 Act was not implemented because it contained machinery that would have allowed Maori to veto reserve management decisions. In 1882 an amendment that would have required the consent of owners to be obtained before the proposed legislation applied to their land was lost. In 1895 an amendment was also lost that would have required the consent of owners to be obtained before new leases were issued.

When Heaphy arrived in Wellington in 1872 to take charge of the tenths, he found that parts of some of the rural reserves (Ohiro and Ohariu) were occupied by Maori. The balance of the occupied rural reserves, and all of the unoccupied rural reserves, excluding

[437] Deed of Purchase Port Nicholson Block, 27 September 1839, H Hanson Turton, Epitome of Official Documents Relative to Native Affairs and Land Purchases in the North Island of New Zealand, Wellington, 1883, vol 2, p 95 (A-27)

Mangaroa 132, were leased out. In two cases, Makara and Pakuratahi, the land had been let by Maori.

The rents had either been assigned to particular Maori individuals or families, or captured by them. The Ohiro, Makara and Ohariu rent entitlements were disputed, and Heaphy began a round of meetings with interested Maori. On occasion, Heaphy associated Wi Tako with these proceedings, in much the same way as the Native Land Court employed Maori as assessors. On the basis of these consultations, Heaphy settled the beneficial ownership of each of these reserves, and the rent shares. In 1876 the rent for Pakuratahi 3 was assigned to Te Whetu and Hemi Wirihana, on the basis of an investigation of government files dating from the 1860s. No consultations or meetings with interested Maori preceded this decision. The rents from Mangaroa were assigned as well. It is not known when, to whom, or for what reason. By 1885, however, the Mangaroa rent was being paid to Ereni Turoa and Hemi Kuti.

Before 1882, tenths could not ordinarily be taken before the Native Land Court since they were considered Crown lands. If the beneficial ownership of any tenth reserve had to be determined before that date, the only convenient basis was the one specified for the distribution of benefits by the 1856 Act: namely as the Governor or his delegate directed.

The arrangements which Heaphy made for the allocation of the rents of the rural tenths in the early 1870s were not a complete break with the past; quite the reverse. The Makara Maori had been collecting the rents on their tenths since the 1860s. Hemi Parai had been assigned the rents for Ohiro in the 1860s. Te Whetu leased out the Pakuratahi sections in the late 1860s, and collected the rent for them. It seems that the Ohariu rents were also being paid directly to Maori before 1872.

Wellington had been without a resident commissioner for some years before Heaphy moved there in 1872. When he arrived, he had to spend a good deal of time sorting out disputes over rents, identifying who the beneficial owners were, and determining proper

shares. In most cases, this resulted in the benefits of the rural tenths being shared more widely. At Makara, for example, it appears that Harata Te Kiore had been taking all of the rents. Heaphy settled half of the rent on Harata, half on two other claimants. Hemi Parai had been taking all of the Ohiro rent. After Heaphy was brought in to moderate this situation, 15 and eventually 17 beneficial owners of the Ohiro tenths were identified.

As far as the rural tenths were concerned, in the early 1870s Heaphy reformed an already existing set of arrangements, assigning the rents to Maori whom he had decided were beneficially interested. If the size of the list of beneficial owners produced in 1888 for the town tenths is taken into account, however, it does appears that the benefits distributed by Heaphy after 1872 went to a minority of Wellington Maori

When Heaphy settled the disputes over rent, he also assumed control of the collection and distribution of the rents. In the mid 1870s, he made it clear that only he, as Governor's delegate, had the right to lease out the reserves. He did obtain the consent of the Makara owners before leasing out 5 acres for a chapel site, and he also seems to have obtained their consent before renewing the Trotter lease in 1880. But in all other cases where leases were executed or renewed, Heaphy and the prospective leaseholder were the only players. It is not clear why Makara seems to have been an exception to this rule.

By 1875 Heaphy was in full control of the rural sections. The rents were paid to him. He let the land. There is little evidence of any Maori resistance to Heaphy's administration of these sections. The Ohiro owners attempted to renew the Smith lease in 1874 in their own right: Heaphy made his objections plain. When the lease was renewed, it was by negotiation between Heaphy, as Governor's delegate, and the lawyer acting for Smith. The fact that Heaphy already controlled the rent for the Ohiro sections may have been the deciding factor on this occasion. In 1875 Heaphy discovered that Te Whetu had leased out Pakuratahi in his own right. Heaphy denounced this action in strong terms. No Maori had the right to lease out reserves vested in the Governor.

There is only sporadic evidence of any Maori wish or desire to participate in the management of the rural reserves, although the Ngati Awa owners of Ohiro may be the exception to this rule. All of the other beneficial owners Heaphy dealt with were Ngati Tama, with some Whanganui Maori at Ohariu and Makara as well. The Ohiro reserves had a large number of owners; the other reserves, by contrast, were assigned to a small handful of families.

What seems to have concerned the beneficial owners of the rural sections were matters to do with the rent entitlements, who was to receive payments and in what proportion. The other kind of correspondence on the files is from owners wanting to sell land in the reserves.

In 1879, Heaphy replied to a letter he had received from one of the Makara owners, Rei Te Wharau. Te Wharau had complained about irregular payment of his rent share and the smallness of the amount. Heaphy provided a full accounting of the dates and payment made 1874-1878.[438] In 1905 the Public Trustee replied to a letter he had received from Henare Pumipi. Henare wanted to know why his share of the Polhill Gully rents was so small. The Public Trustee replied that one of the Ohiro tenants had been tardy with her rent and the Public Trustee had had to pay land tax. The main reason, however, was that the new list of owners provided by the Native Land Court in November 1902 had contained new names, with large interests, and this had affected the shares of others.[439]

Te Whetu, who had interests at Ohariu as well as Pakuratahi, returned to Taranaki in 1872. By the late 1870s, many of the other beneficial owners identified by Heaphy in the early 1870s had left the Wellington area as well. The owners of Ohiro seems to be the exception to this rule, lingering longer than most.

[438] Heaphy to Rei Te Wharau, February 1879, MA-MT 1/41/61
[439] Public Trustee to Henri Pumipi, 5 February 1905, MA W2218, Box 19, 6/60/1/1

This exodus had a number of effects. First, the limited occupation of the land by Maori evident in the early 1870s ceased altogether. Any possibility of conflict between a Maori wish to occupy, and the commissioner's right to lease disappeared with it. From the late 1870s, if not before, it was clear that the reserves would be leased out, and that Maori would receive a benefit via distribution of the income. Again, the Ohiro/Te Aro exception should be noted. In the late 1870s, these Maori expressed a desire to occupy the Newtown sections.

Second, once a leasing regime was in place, the first point of influence is when leases are being given out or renewed. It is no accident that when Heaphy did clash with Maori, it was at this particular junction: Ohiro in 1874, Pakuratahi in 1875, Newtown in the same 1870s. Heaphy was adamant that no-one other than the reserve commissioner had the right to let out the land. The Maori position seemed just as clear: they wished to be able to manage their own lands, and issue, or not issue, leases as they pleased. But this window of opportunity only occurred (usually) every 21 years. In some cases, leases failed, and new leases were executed, which started the clock afresh. The absent beneficial owners probably did not know when leases were being renewed. There was no provision to consult with them, and they could not, in any event, have managed an effective resistance while scattered at locations outside Wellington.

Third, once the initial set of leases had been executed, the only other point of influence was the collection and distribution of the rent. Heaphy gained control of the reserve income at a very early stage, and with the consent of the Maori involved. The families or hapu were split on the question of who should receive the rents, and how they should be distributed. Heaphy was a neutral party, with no particular axe to grind. It was acceptable to all factions that he collect and distribute the rent. In later years, after the owners had dispersed, no feasible alternative to the centralized collection and distribution of rents existed. If there were complaints, it was because of the fees charged for this service, or because the distribution was late, or less than expected. In fact, some

absent owners made use of the service provided by Heaphy, authorizing him to collect and distribute the rent on pieces of land that had ceased to be vested reserves.

There was no Native Land Court investigation of the rural reserves until the later 1880s. Ohiro was considered in 1888 and Makara in 1889. The ungranted portion of Ohariu 13 came before the Court in 1906. Pakuratahi was heard in 1925, and Ohariu 12 in 1927. Generally, the Court confirmed the beneficial ownership that Heaphy had determined in the 1870s. At Makara and Ohariu Heaphy had acted almost as if he were a Native Land Court judge, investigating customary titles. Some at least of the evidence on which he based his decisions has survived. This seems to show that Heaphy accepted that customary rights, dating from the 1830s, were held by members of the Te Kiore, Te Wheoro and Mete Kingi families. The Court confirmed this ownership in 1889 for Makara and in 1927 for Ohariu 12.

At Ohiro, Heaphy appears to have accepted the opinions of Te Aro Maori with respect to the beneficial ownership of these tenths. When the Native Land Court investigated Ohiro in 1888, it did not go behind the original 1874 list given to Heaphy. When the land came before the Court again in 1902, the Court confirmed the 1888 finding.

The ungranted section of Ohariu 13 came before the Court in 1906. This was the only occasion on which evidence was not only taken, but recorded as well. The Court awarded the land, on the basis of customary rights and in the interests of fairness, to Maori who had a different but related line of descent to the Maori Heaphy had identified as the owners in 1872.

Heaphy assigned the rent for Pakuratahi 3 in 1876, on the basis of an examination of existing government files. These showed that the Te Whetu/ Hemi Wirihana occupancy at Pakuratahi had been granted on condition that they live on the land. Heaphy's investigations did not reveal this fact. If they did, Heaphy chose to ignore it.

When the original occupancy had been granted, a list of 21 principal occupants had been prepared. It was intended that the land would, in due course, be granted to these men. When the Pakuratahi absentees wrote to Heaphy in 1876 to inquire about the land, the letter had 7 signatories. Heaphy entered only the names of Te Whetu and Hemi Wirihana into his rent book. When the ownership of Pakuratahi 3 was taken before the Native Land Court in 1925, the only evidence available was Heaphy's original list of beneficiaries, which had been the basis for the distribution of the Pakuratahi 3 rent for as long as anyone could remember. Since no one other than the descendants of these original beneficiaries made a claim, the Court awarded the land, in equal shares, to the descendants of Te Whetu and Hemi Wirihana.

The changes brought about by the 1882 Act, the shift to management by the Public Trustee, may have been, as far as the beneficial owners were concerned, more apparent than real. No sharp discontinuity is evident. By and large, the Public Trustee inherited an up and running system of current leases: his main task was to collect the rents, chase up the defaulters, distribute benefits where indicated, and bank the rest. He even maintained the ad hoc arrangements with respect to unvested lands that Heaphy had put in place during the 1870s.

Heaphy seems to have had a good deal of personal contact with the Maori owners. Some of this was to do with the fact that Heaphy was busy sorting out owners, settling disputes over rent, putting the land up for lease, and generally getting the reserves under his control.

Mackay was appointed to the Public Trustee office in 1882, to provide liaison between Maori and the Public Trustee. He was still doing this after 1900, possibly on an informal basis. Between 1882 and 1894 there were also Maori members on the Public Trust Board. Agnes Simonds went to Mackay in 1902 with her wish to occupy part of the Ohiro reserves. She talked to Public Trust officials as well. There is no reason to suppose that

personal contact between the Public Trustee, or his officials, and owners was rare or uncommon. The Public Trustee seems to have developed local agencies at some time after 1882 - a lot of the routine contact between owners and the Public Trust went on at the agency level.

But if personal contact between the Public Trust and the Maori owners was uncommon, one of the main reasons was that many of the owners of the tenths lived outside Wellington, and communicated by letters. This was no new development. In 1872 Heaphy jotted down a list of the owners of Makara 22. Of the 8 still living, 3 were at Whanganui, 2 in the Wairarapa, and 1 at Rangitikei.[440] When the list of owners produced by the Court in 1888 is examined, a sizable proportion of the names have Taranaki addresses. Others lived in locations as varied as Melbourne, Timaru, Westport, Motueka, Waikanae, Whanganui and the Wairarapa.

As the decades passed, fewer and fewer of the owners of the tenths lived in Wellington. This may be one of the reasons why there is less evidence of grass-roots resistance to the reserve regime as the 20th century approached. One explanation for the difficulties that developed over the Newtown sections at the end of the 1870s is that there were enough resident Maori in Wellington to sustain a persistent opposition. By the middle of the 20th century, however, some of the tenths owners did not know where their land was located.

There appears to have been no particular efforts made to prevent the fragmentation of interests in the rural sections between 1873 and 1896. There seems to have been little reason to do so. The Makara sections, for example, never had more than three owners, drawn from two families. Succession was, in one case, from uncle to niece, then from mother to children and in another from brother to brother. During the 19th century, the Ohariu sections had between 4 and 7 owners. In 1906 the Native Land Court investigated the ownership of the remaining portion of Ohariu 13. Six owners were recognized, for a

[440] List of Makara 22 owners, August 1872, MA-MT 1/41/61

portion of land that previously had between 4 and 5 owners. Fragmentation was not an issue. While the Court's concern on this occasion seemed to be to provide for owners who had previously not received any benefits, succession was based on customary rights and an undisputed line of descent. By the 1960s, however, the beneficial ownership of the remaining Ohariu section (Ohariu 12) had reached 26. The Maori Trustee formed the view that there were too many owners relative to the economic benefits the reserve was likely to produce, and he obtained approval to alienate the land. His reasons for disposing of Ohariu 12 were not markedly different from the reasons advanced in 1906 by the Maori owners of Ohariu 13, before they sold the remaining portion of that reserve. They argued as well that the land was not an economic unit, and that the benefits derived from renting it would be a trifling amount.

Rights of succession to an interest in Pakuratahi 3 were limited by a series of historical accidents. Concentration, rather than fragmentation, of interest is one of the keys to the history of this section. By 1975, Pakuratahi 3 had only two owners, apparently descendants of Hemi Wirihana. They sold the land to the Government. The rents from Pakuratahi 4 and 7, the only rural reserves never assigned by Heaphy, were paid from the beginning into the Wellington General Account. This arrangement was confirmed in 1925, when the ownership of Pakuratahi 3 was determined. From this date, if not before, Pakuratahi 4 and 7 and the Wellington town sections had a common beneficial owners. Questions of succession, and the fragmentation of interests, with respect to these sections fall well outside the chronological period of this report.

The Ohiro sections always had far more owners that any of the other rural sections: 17 owners in 1875/76, 21 in 1885, 20 in 1895/96, 38 in 1902. The Ohiro sections were, from 1874, part of Ngati Awa's Polhill Gully reserve conglomerate. The Polhill Gully reserves (inclusive of the two Ohiro tenth) contained originally 500 acres or more: fragmentation of interest was not an issue before 1896. It may have become an issue in the late 1890s, as more and more of the Polhill Gully reserves were alienated.

Proximity, common ownership and an accounting system that identified Ohiro rents as Polhill Gully rents produced, in the late 19th century, a belief that the Ohiro sections were McCleverty awards. This impression survived into the 20th century, and was still current as late as 1912. The perception that the Ohiro sections were McCleverty awards may be the reason why they were partitioned (but without legal effect as it happened) in 1888, and why Mackay said in 1900 that they had been included in the 1896 Act by mistake. This belief may also explain why the Public Trustee felt obliged, in 1902, to consult the Ohiro owners as to whether or not new leases should be granted to the tenants. In 1874 Heaphy had pointedly declined to allow the Ohiro owners any involvement in the letting of the sections.

The Ohiro owners were consulted in 1902 before new leases were granted. They were not consulted when a land exchange was proposed in 1903. Nor, apparently, were they consulted in 1978, before an application was made to revest the land. When consultation on this proposal did take place, it was at the urging of the Maori Land Court. The consultation in 1902, while probably genuine in intention, was, nonetheless, meaningless. By 1902 the law covering the renewal of leases placed all the advantages with the tenants. This seems to have been the situation in 1978 as well.

Most of the town tenths were in Newtown. By the early 1870s 29 of these Newtown sections were under the control of Dr Alexander Johnston. In the latter part of the 1870s Te Aro Maori disputed Heaphy's right to make special lease arrangements for Johnston, and sought if not the return of the land then at least a say in the management of the reserves. They took action that prevented new, longer, leases being issued to Johnston on favourable terms. They gained no rights of control or management.

In the early 1870s Heaphy was given limited rights of management over some of the McCleverty awards owned by Te Aro Maori. He managed the reserves, in consultation with the owners, to the evident satisfaction of his clients. So much so that the rents from

these reserves were still being collected and distributed (Polhill Gully account) by the Public Trustee long after Heaphy's death in 1881.

The Polhill Gully arrangement was the kind of co-operative management scheme envisaged by the 1873 Act. It was the positive alternative to the regular assertion of Crown rights that characterized the management of the tenths in general and, during the late 1870s, of the Newtown tenths in particular.

In the 1870s, the rural sections were producing the bulk of the tenths income. About 50 per cent of the income in the mid 1870s was being distributed, by way of rent shares, to a relatively small number of families or individuals who have been recognized by Heaphy as beneficially entitled. The benefits received by this particular group of beneficiaries decreased slightly after 1877, when fees were deducted, and then started to decline more noticeably in the 1890s, as rural sections were vested in owners, and then alienated.

Funds from sections which had no identified owners - the town sections and during the 1870s some rural sections - went into a general fund. Benefits were made from this fund on a charitable basis. Few grants of this kind have been identified between 1875 and 1895.
By the mid 1880s, the revenue from the town sections was beginning to equal the income from the rural sections. By the mid 1890s, the great bulk of the tenth income was coming from the town sections. None of this money was being distributed as rent shares: little, if any, was being distributed in the form of charitable grants.

No distinction was ever drawn in theory between the rural and town tenths. In 1839 both were for the benefits of chiefs and their families. In 1873 both were for the benefit of the 'Aboriginal Natives'.[441] But after 1873 significant differences between the two kinds of reserves began to emerge. The most obvious difference was that the benefits from the

[441] Section 53, Native Reserves Act 1873 (A-21, p 23)

rural sections were, in general, assigned to a small number of families - probably the families of chiefs, as the original description of purpose specified.

The town sections, on the other hand, had no identified owners. No one seems to have come to Heaphy in 1872 to complain about the way the rents from these reserves were being used, or to ask for rent to be assigned. Heaphy did not go looking for anyone who might do so. There was a good reason for this: unassigned reserves were a scarce commodity. It was not policy before 1877 to make any deductions from assigned rents. But the reserves administration was meant to be self supporting. The only way it could be self supporting was to use the income from the unassigned reserves to pay operating costs. Hence the importance of reserves of this kind.

It is important to remember that Heaphy was running an operation that covered all of the North Island, not simply managing the Wellington tenths, and to remember this broader context when examining Heaphy's actions with respect to the Wellington town tenths. It is possible that the Wellington town tenths made up a disproportionate share of the unassigned reserves that Heaphy had at his disposal.

There does not seem to have been any particular Maori pressure to obtain benefits from the Wellington town tenths until the late 1870s. In 1878 Heaphy was directed to ascertain who the beneficiaries of the town tenths might be. For a number of reasons, Heaphy's death in 1881 being one, this work was not completed until 1888. A period of bureaucratic bumbling followed, before enabling legislation in 1896 allowed benefits from the Wellington general fund to be distributed.

The distribution of a benefit from the town tenths after 1896 may have influenced Maori attitudes towards the reserve system during the latter part of the 1890s. Protests made about this time seem to be more concerned with gaining recognition as owners, rather than with overturning the system of reserves management. Attempts were made to re-

litigate the decision made in 1888, and have the evidence of customary rights examined afresh. These were unsuccessful.

The list of owners of the town tenths drawn up in 1888 was intended to list all of those Maori who had customary rights in Wellington in 1839. In the case of deceased persons, their successors were ascertained in 1888 as well. When ownership of the town tenths is compared with the ownership of the rural tenths, some names are common to both lists. But some of the owners of the rural tenths do not appear on the 1888 list. This have had been an accident.

The 1882 Act allowed reserved lands to be taken through the Native Land Court, on application by the Public Trustee. The same Act also allowed restrictions placed on reserved lands to be varied or removed. These measures were designed to ensure that reserved land was not 'locked up'. In 1888 the ownership of the Ohiro tenths was determined and a partition scheme drawn up. This partitioning, and the issuing of individual titles, did not proceed as intended, and the passing of the 1895 legislation prevented any further moves in that direction. In 1889 Makara was partitioned and vested in its owners. Makara 24 was sold in 1890, and half of Makara 22 before the end of the 1890s. Around 50 acres of Ohariu 13 were granted away in the late 1870s, in fulfillment of promises made in the late 1860s and early 1870s. The balance of the section came before the Court in 1906, was vested in the owners in 1907, and subsequently sold. Mangaroa was vested in its owners in 1908. Ohariu 12 and the Pakuratahi sections did not come before the Courts until the mid 1920s. Ohariu 12 was sold by the Maori Trustee in 1964, because he did not consider the land to be a viable economic unit. Ohariu 12 was the only one of the alienated rural tenths that was not sold by its owners.

From the late 1880s the policy seemed to have been that rural tenths should be vested in their owners. This may have been because of a belief that they were McCleverty awards. The owners may have also wished to take them through the Court. Vesting, however, lead to alienation. By 1929 the Makara sections, Ohariu 13, and Mangaroa had all been vested

in owners. All or most of this land, around 400 acres, had then been sold. The 99 acre Ohariu 12 reserve was sold in 1964. That left less than half of the rural acres set apart in 1873. Around 10 acres had been taken from the 3 Pakuratahi sections for public works over the years. Apart from that, these sections were still virtually intact. So were the two Ohiro reserves. Pakuratahi 3 was vested in its owners, and then sold by them in 1975. This left the 181 acres in Pakuratahi 4 and 7. In 1976 around 93 acres (37.6584 hectares) of Ohiro 19 and 21 was taken under the Public Works Act for a rubbish dump. This was the only major Public Works taking of rural tenths land.

The Ohiro sections were originally thought to contain only 175 acres. In fact they contained something like 217 acres. But if the original estimate, contained in the 1873 Act, and accepted by Jellicoe in 1929, is used, then in 1976 only about 257 (actually about 297) acres remained of the 976 (actually about 1018) acres set apart in 1873. Something like 75 per cent of the rural tenths had been 'unlocked' between 1887 and 1977. A short term benefit went to the owners when the land was sold. What was sacrificed was any notion that the land should be protected and retained, as a source of permanent benefit.

The town sections had suffered less erosion - only 2 acres out of a bit more than 38 had gone, leaving around 95 per cent of the town reserves there had been in 1873.
This may have been the result of luck rather than anything else. While the ownership of the town tenths was determined in 1888, the list of owners was apparently not made available until 1895. By then legislation restricting the power of the Native Land Court to deal with vested land was in effect. The urban tenths could not be unlocked, as some of the rural tenths had been. Nor did they need unlocking. After 1896, the Public Trustee had power, as leases came up for renewal, or as new leases were requested, to issue leases with a right of perpetual renewal. The introduction of leases with rights of permanent renewal made unlocking, via vesting and the removal of restrictions, impractical and unnecessary. Indeed, the effect was to lock Maori out of the land, in perpetuity.

Document Bank

Ohiro

1 Map of Ohiro sections: Late 1890s (MA W2218 Box 19 6/60/1/1)

2 Public Trustee to Ohiro Owners, May 1902 (MA W2218 Box 19 6/60/1/1)

3 Public Trustee to Reserves Agent, New Plymouth, 17 May 1902 (MA W2218 Box 19 6/60/1/1)

4 Mackay to Registrar, Native Land Court, 16 June 1902 (MA W2218 Box 19 6/60/1/1)

6 Public Trustee to Registrar, Native Land Court, 24 June 1902 (MA W2218 Box 19 6/60/1/1)

7 List of beneficial owners of Ohiro 19 and 21, 28 July 1902 (MA W2218 Box 19 6/60/1/1)

10 Memorandum on Mrs Simeon's application, 8 December 1902 (MA W2218 Box 19 6/60/1/1)

11 Map of Ohiro sections 1904 - From Bradshaw's 1904 lease (MA W2218 Box 19 6/60/1/1)

Makara

12 Heaphy's jottings on meetings re Makara 22 and 24, 18 July 1872, 7 August 1872, list of original owners of Makara 22, and copy of Cooper's minute of 5 October 1869 (MA-MT 1/41/61)

19 Heaphy to Rei Te Wharau, 5 February 1879 (MA-MT 1/41/61)

20 Heaphy to Under Secretary Native Department, 3 March 1879 (MA-MT 1/41/61)

21 Minute by Mackay re Makara 5 acre lease, with sketch, 2 November 1895 (MA-MT /41/61)

22 Map of Makara 24, 1887 (MA-MT 1/41/61)

Pakuratahi

23 Swainson memorandum on Pakuratahi, 12 September 1865 (AAMK 869 179b)

27 Swainson memorandum on Pakuratahi, 12 July 1866 (AAMK 869 179b)

28 Edwards to Native Minister, 2 November 1867, with list of grantees (AAMK 869

184d)

31 Swainson to Under Secretary Native Department, 3 December 1867 (AAMK 869 179b)

33 Lease of Pakuratahi, 23 December 1873 (AAMK 869 179b)

34 Heaphy memorandum on Pakuratahi, 27 March 1875 (AAMK 869 179b)

35 Heaphy's history of the Pakuratahi reserves, 17 July 1875 (AAMK 869 179b)

38 Map of sections 3, 4 and 7 1876 - From Gladman Smith's 1876 lease(AAMK 869 179b)

39 Teira Te Whetu to Heaphy, 9 August 1876 (AAMK 869 179b)

40 Heaphy to Teira Te Whetu, August 1876 (AAMK 869 179b)

42 Minute, Native Reserves Board, re Pakuratahi 4 and 7, 17 May 1893 (AAMK 869 184d)

44 Map of sections 4 and 7 1895 - From Walker's 1895 lease (AAMK 869 184d)

45 Valuation report Pakuratahi 4 and 7, 13 June 1906, with map (AAMK 869 184d)

48 Valuation report Pakuratahi 4 and 7, 17 July 1906 (AAMK 869 184d)

50 Valuation report Pakuratahi 3, 9 August 1907 (AAMK 869 184d)

52 Jellicoe's memorandum on Pakuratahi, 19 June 1925 (AAMK 869 180a)

56 Map Pakuratahi 3 1968 (AAMK 869 180b)

Ohariu

57 Map of Ohariu 12 and 13 , early 1900s (ABOG W4299 6/50)

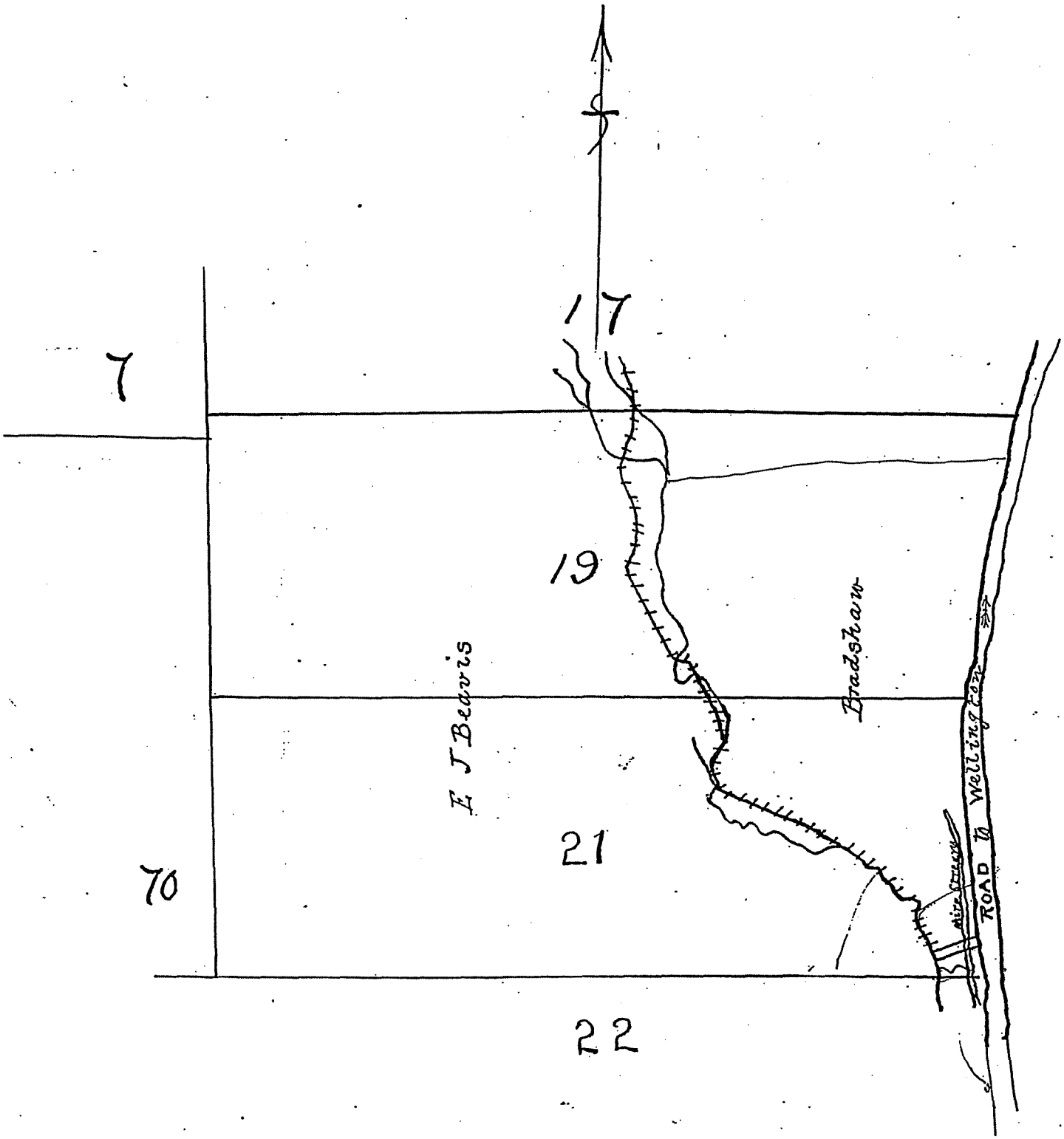
58 Valuation report, Ohariu 12, 28 April 1903 (ABOG W4299 6/50)

59 Pirhira Tarewa's petition, 1906 (ABOG W4299 6/50)

62 Jellicoe's memorandum on Ohariu, 1927 with map (AAMK 869 183a)

69 Memorandum on Ohariu 12, 1927 (AAMK 869 183a)

73 Map Ohariu 12, 1963 (AAMK 869 183b)


7
17
19
21
70
22
E J Bevis
Bradshaw
ROAD TO Wellington
Mill Stream

Public Trust Office,

Wellington, May, 1902.

Friend,

Sections 19 & 21 Ohiro.

You are no doubt aware that the lease of these sections at present held by Mrs. Smith and Mr. E. J. Beavis, will expire in April next year. I shall be glad if you will let me know whether you wish me to again lease the land on the expiry of the present lease. Mr. Beavis is anxious to obtain a lease of the whole of the sections. I am not sure whether any of the Native owners wish to occupy the portions alloted to them by the Native Land Court, but I think it would be better for all the owners if the land were again leased in one Block.

Kindly let me have your reply as soon as convenient.

From Your Friend,

Public Trustee.

Public Trust Office,

Wellington, 17th May, 1902.

The Reserves Agent,

New Plymouth.

Sections 19 & 21 Ohiro.

Tare Tahua, one of the owners interested in these sections, has written asking me to send certain information relating to the Reserve to you so that he can discuss the matter with you.

The position is this - This Reserve, which contains about 212 acres was placed in the Office for management during the currency of the present lease. This lease will expire next April. At present it is held on partition by two Assignees, Mr. Beavis and Mrs. Bradshaw who pay half the rent each. Beavis is an excellent tenant and the Natives here know it and are in favour of granting a lease to him of the whole block, if it is decided to lease again.

The Native Land Court in 1888 made a partition of the land and Warrants for the issue of titles were signed, but owing to an objection by some of the owners, they were never sent to the Survey Office . A survey in accordance with the partition was made and the Reserve cut up into 17 Allotments, one of which containing 9 acres 1 rood 13 perches was awarded to Tare Tahua.

The lands became vested in me under "The Native Reserves Act, 1896" but in ignorance of this, I understand some of the Natives applied for the removal of the restrictions in order that they might sell their sub-divisions.

Mr. Beavis is very anxious to know whether he can obtain a new lease and as Judge Mackay has informed me that the lands were included in the 1896 Native Reserves Act by mistake, I have asked the Native owners whether they wish me to again lease the land in one Block or whether they wish to obtain possession of their partitions.

A notice to fence has been served on me by an adjoining owner and this makes the present position still more unsatisfactory.

Public Trustee.

Native Land Court Dept
Wellington 16/6/02

Memo for.
The Registrar
N.L.C. Court
Wellington

Re Ohiro Sec 19 & 21

Touching Mr Simeon's statement relative to the survey of the above named Section.

According to a plan produced by Mr Simeon, it appears that the apportionment made by the Court was not carried out on Survey, both of her sections ~~being~~ having been placed on the back part of the land, and it was in consequence of her objection to the ~~Land~~ Survey in 1892 that the orders were not signed.

She spoke to me recently relative to the same matter with a view to get the allocation altered, and was informed that possibly the position could be rectified under Section 52 of the Act of 1895 as the orders had not yet been signed.

The Public Trustee's contention relative to these sections is correct so far as the land being vested in him is concerned, vide Section 2 of "The Native Reserves Amendment Act 1896" and the first

first schedule to that act.

The Act operates retrospectively consequently Sec 3 of the N.R. Act Amendment Act 1895 becomes operative.

The ascertainment of owners and the Subdivision of Sections 19 & 21 Okeiro was made in March 1888, jurisdiction having been conferred on the Court by Order in Council dated 31st January 1888 under Section 51 N.L. Court Act 1886.

According to Mrs Simeon's statement all the owners excepting herself are desirous that their interest in Sections 19 & 21 should be leased, as the land is not fit for occupation purposes, but she only desires to retain one Section to erect a house on.

The object in bringing the matter again before the Court is to throw all the divisions into hotchpot, with a view to remodel the apportionment, and to allow the major part to remain "in globo" Mrs Simeon being the only person who desires to obtain a separate allotment.

It will be necessary under Subsection 2 of Section 3 of the N. R. Amendment Act 1895 to obtain the Consent of the Public Trustee to any order being made.

(Sgd) A. Mackay

Wellington, 24th June, 1902.

The Registrar

Native Land Court,

Wellington.

Sir,

Sections 19 & 21 Ohiro.

Referring to your letter of the 23rd instant, I now beg to hand you as requested, an application to the Court to determine the owners and relative interests in these lands.

I may state for the information of the Court that recently I sent a circular letter to all the Natives who have been in receipt of rent under the lease which will shortly expire, asking whether they are agreeable to my leasing the land again. They are all, with one exception, willing that the land be leased, the exception being Mrs. Simeon, who is asking that a small portion be set apart for her occupation. I do not anticipate any difficulty in satisfactorily arranging matters with her. The land is quite unfit for sub-division and at the present time can be most profitably utilized as one holding.

I also enclose a list of the Natives who have been receiving the rent under the current lease.

I am, Sir,

Your Obedient Servant,

Public Trustee:.

In the matter of ——— [N.L.C.—11.] 3/59

"The Native Land Court Act, 1894."

~~——— and of~~ Section 16 of the Native Reserves Act, 188

IN THE NATIVE LAND COURT,
NEW ZEALAND. Wellington District

In the matter of the land known as Ohiro Sections 19 and 21 Block 10 Port Nicholson Survey District., and

of the application of The Public Trustee., to ascertain and determine the relative interests of the ~~several owners thereof.~~ persons beneficially entitled thereto.

At a sitting of the Court held at Wellington —, before William James Butler, Esquire, Judge, and Rawiri Rota ———, Assessor:

It is hereby ordered and declared that as among the several ~~owners of the said land~~ persons beneficially interested in the aforesaid land their relative shares and interests therein are ~~equal in value, or~~ *in the proportions set out after the name of each such owner respectively in the Schedule* ~~*indorsed hereon.*~~ attached hereto marked "A".

Fee charged Nil.

As witness the hand of William James Butler Esquire, Judge, and the seal of the Court, this 28th day of July 1902 ~~1899~~.

W. J. Butler
Judge.

THE NATIVE LAND COURT OF NEW ZEALAND.

Rule 20.—Order declaring Relative Interests

[illegible] Section 19 and [illegible]
Port Nicholson Survey District
The Schedule within referred to. [N.L. Court 3—*continued.*
marked A.

	First Column.		Second Column.			~~Third Column.~~*
	Name.	Sex, and, if Minor, Age.	Relative Interest. a	r	p	~~Part declared inalienable.~~ 3
✓ 1	Te Auahi Parai	m	2	1	12	342
✓ 2	Ani Maaka Bluett	F	6	0	34	994
✓ 3	Agnes Simeon	F	9	0	15	1455
✓ 4	Harata Teretiu	F	3	0	17	494
✓ 5	Haumera Teretiu	m	3	0	17	494
✓ 6	Huihana Ngaparu *Hana [illegible]*	F	9	0	36	1446
✓ 7	Hehiera Maipoariki *Mere Makeronga [illegible] Henare Pumahi*	[illegible]	4	2	25	445
✓ 8	Hami Iwitaroa *[illegible]*	m	2	1	14	344
? 9	Hunene (1)		17	2	25	2825
? 10	Ihaia Aurutu (2)	m	9	3	10	1540
✓ 11	Ihaka te Rou	m	2	1	20	380
✓ 12	Mohi Parai	m	2	11	13	343
? 13	Matakou *[illegible]*		4	2	26	446
? 14	Marangai (3) *[illegible]*	m	9	1	11	1491
15	Mare te Rangikawhararaa	F	1	0	30	190
16	Mere Nohakarau	F	0	3	7	124
17	Te Mutu Panapa		2	1	14	344
18	Muroa Panapa		2	1	14	344
19 +	Mohi te Marearea or Marerehau	m	4	2	30	450
20	Te Mutu		4	2	28	448
21	Nakora Manukaroa	m	4	2	28	448
22	Paora Teretiu	m	3	0	17	494
23	Paihika te Ngo (4)		17	2	25	2825
24	Rawiri Matenga Bates	m	1	0	7	164
25	Rapana Ohiro	m	2	1	14	344
26	Rabiina te Muru	F	4	2	27	447
	Forward		135	2	36	21416

* When the land is inalienable, the proportional interests should be shown in this column.

[1897-94]

The Schedule within referred to. marked 17. [N.L. Court 3—*continued.*

First Column.		Second Column.			~~Third Column.~~*
Name.	Sex, and, if Minor, Age.	Relative Interest. 3/			~~Part declared inalienable.~~
Forward		~~135~~	~~2~~	~~36~~	21416
27. Raniera Tora	m	17	2	25	28225
28 Taare Marahi	m	2	1	13	343
29 Turia Marahi	F	2	1	13	343
30 Taare Waitara	m	1	0	5	165
31 Te Ture or Ruihana te More	F	1	0	30	190
32 Tare Tahua	m	9	1	13	1493
33 Tamati Wiremu	m	14	0	1	2241
34 Teira te Whatakuire	m	9	1	19	1499
35 Wiremu Matenga	m	1	0	5	165
36 Mei Tako	m	3	3	23	623
37 Mariakau		4	2	29	749
38 Kuraheke Pumipi	F	9	1	11	1491
		211	3	23	33943

W. J. Butler
— Judge —

THE NATIVE LAND COURT OF NEW ZEALAND

Kurahuke Pumipi

* When the land is inalienable, the proportional interests should be shown in this column.

[1897-94

The blk. Trustee.

Sections 19 & 21 Ohiro.

These sections are situated on the Ohiro Road and were leased to Mrs. A. Smith for 21 years from the 18th of April, 1882. The lease expires on the 18th of April next. The area in the lease is stated as 175 acres, but on a survey by Mr. O'Donahoo in 1891, a tracing of which is on this file, the area is shown as just on 212 acres.

Mrs. Smith some years ago transferred the portion on the seaward side of the creek which runs through the sections to Mr. Beavis and the other portion to Mrs. Bradshaw. Beavis has been a good tenant, paying his rent regularly, but we have had a great deal of trouble in collecting Bradshaw's. Both these transferees have now applied for new leases under Section 6 of "The Native Reserves Amendment Act, 1895" and valuations have been made. The rent for Beavis's portion at 5 per cent on the valuation will be £38:15:0 per annum, as against £25 the present rent, and for Mrs. Bradshaw's £29:13:0, as against £25.

The Native Land Court some years ago partitioned the block, allocating the various areas amongst certain Natives. Mrs. Simeon has two shares and has several times expressed a desire to have one of these shares containing 9 acres odd, reserved for the use and occupation of her sons. By cutting out the share she requires Bradshaw's holding will be broken up so that Mrs. Simeon has obtained the consent of two out of the 4 owners of the sub-division on the extreme northern end of that portion of the reserve held by Mrs. Bradshaw, to have their area instead of her own.

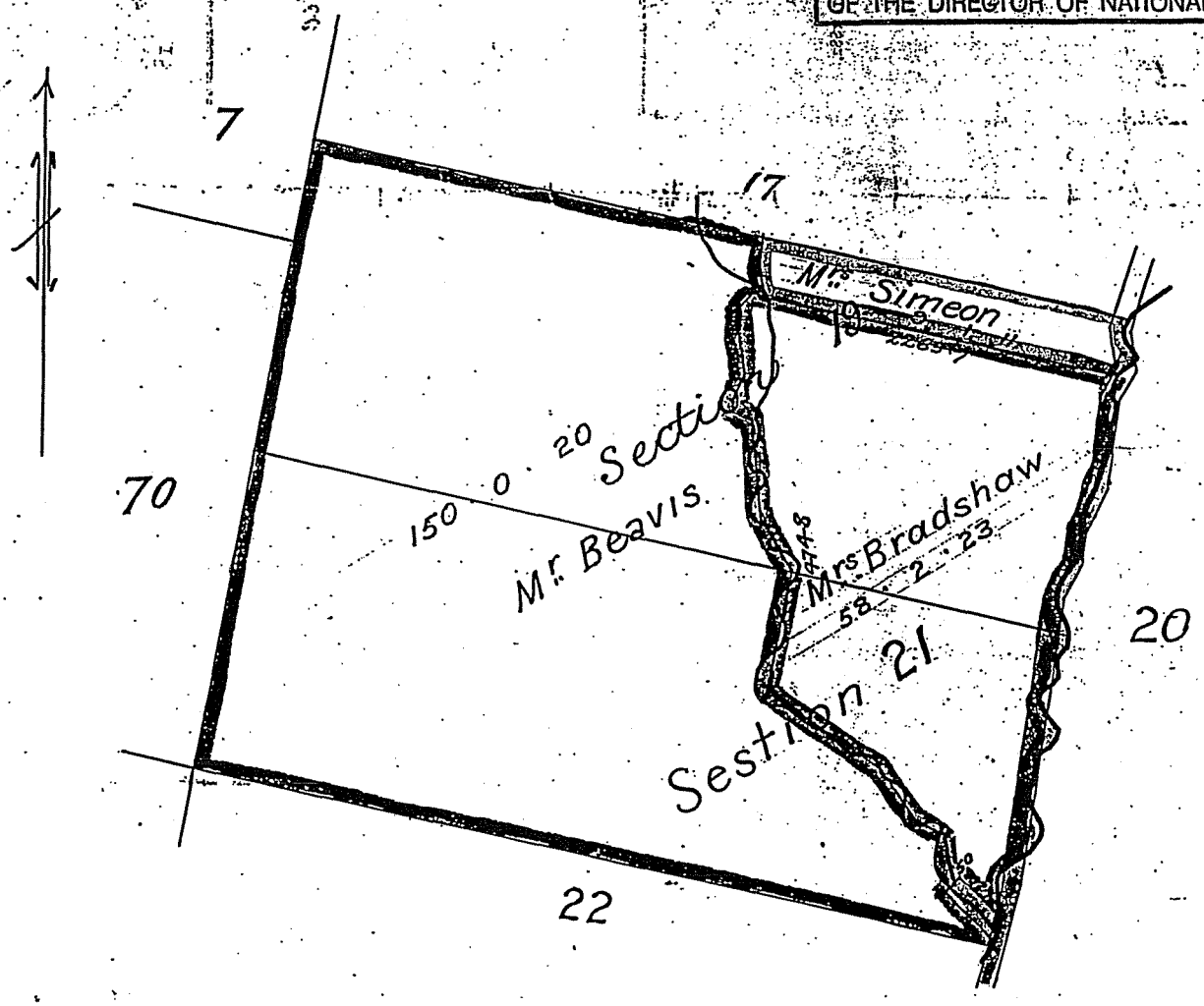
I beg to recommend that the new leases be granted in accordance with the tracing of the land by Mr. O'Donahoo hereunder; that is to say, Beavis to have all the land on one side of the creek and Brawshaw all that on the other side, with the exception of sub-division 1 to be reserved for Mrs. Simeon; also that the road as shown on the tracing which runs right up the creek, to be reserved for access to the leaseholds by both the lessees.

O.K.

P. T. O.
8th December, 1902.

Approved
9.12.02

Together with a right for the Lessee of the other part of the said Sections 19 and 21 to go, travel, pass and repass with or without, horses and other animals vehicles, sleighs and other modes of conveyance in, along and upon the course of the Creek running along or near the Eastern and Western Boundary of this Lease including a right of deviating therefrom to the right or to the left wherever reasonably necessary to continue their progress up or down and such deviation shall only be made so far as shall or may be found necessary from time to time and also is to be made with as little ~~delay as~~ injury and damage to the soil or any plants or crops growing thereon as possible.



Parts Sections 19 & 21 Block X Port Nicholson S.D
Scale 10 chains to an inch

Wellington, Suburban Districts

Meetings Re Makara, Sects 22, & 24

1872 July 18th Peter Trotter states that Haereta, Wi Pakaka's widow agreed about 7 Feb. 72 to reduce his rent from £30 to £20* on account of the former amount being too high - He paid at that time arrears amounting to £8. viz a cow (=£7) and £1 cash This at the £20 rate leaves, he says, £7 owing up to May 9th 1872

Paiura "I admit the £7 to be paid to me, not to Haereta She has married again and lost her right Paiura te Kiore is with the King and has forfeited his right

Commissioner Before I sanction the payment of any more money among you I will call you all together and hear your statements respecting this land.

All "That is good." Neta & Paiura being present.

* Haereta says she only agreed to this on the understanding and assurance that the rent as reduced to be paid punctually this has not been the case since the agreement and therefore she holds that the contract is broken. 6. Aug. 1872

North Makara Sec^s 22 & 24

Aug 7. 1872

Aug 7/72

Meeting of Makara natives by request of Paratene & Neta with Te Rei te Whara who were present with Henare Hawekotaranga and Hareta. Wi Pakeka's widow also Hiremai a Te Wheoro & Koro Henare, Te Ngamihia & Wiremu Tako were also present.

Paratene said he had twice asked that the land might be returned to him the land belonged to the lot of them and he (Paratene) is the eldest branch of the claimants and has the prior right. It is time now that Hareta's participation in rent 8. cease, and he & Rei te Warau should enjoy proceeds I am head of my hapu We were on the land 3 or 4 years before any one else About the time of the natives going hence to the Chatham I^s I lived on the land and cultivated it

Comm^r – "When Wi Pakeka was alive did ~~he~~ you ask for the rent?"

Paratene "I asked for the land & Wi Pakeka agreed to give me one Section (100 ac.). Wi Pakeka gave me £10 I cannot say when he gave me this money, it was a considerable time before he died: – 2 years. The reason my name is not in the lease to Peter Trotter is that I was absent at the time at Whanganui. When I returned I asked Wi Pakeka why my name was not in the lease and he S^d "the land is, nevertheless, yours" and; "you shall have a section after my death" – That is all.

Neta, of Whanganui – "Tarinui Kuri was the chief who killed the Ngate-Kahungunu on the Makara, Wi Pakeka was not with those who took possession of the land at that time Paratene was one of them. I was a girl at the time, Te Rei was there, Parata was not there then. Pairira was there. Wi & Parata did not come to Makara until the first of our cultivations were abandoned and the Korokio growing on them.

Hita continued — "They had lands at the Coast not at Makara.

Paratene — "Wi Pakeha lived at Heretaunga (Hutt) at the time of Rangihaeata's war we were living at Kommangatakiri and had a fighting pa at Makara."

Hareta said — "Paratene & Te Rei arrived before my people but only caught birds on the land they did not hold or cultivate it. My Father was Rewerata, who was at Whanganui, Rakaiai and Paratate Kiore my father's elder and younger brothers came after the Ngatikahungunus had been driven off by Te Rauparaha and they took up their abode at Otaki. They were there when Col Wakefield bought the land. When Rangihaeata's fight took place they were already cultivating there at Makara. I am Wiremu Pakeha's widow. Wi Pakeha came from Whanganui at the same time as my two uncles above mentioned. Ours reverted to W. P. about 1853 we lived at Otaki & Wt. Hutt. No one was then at Makara. Sir G. Grey said to Wi Pakeha "remain remember here". and when the fight was over, he said "this land is for you and your children" I remember Paratene & Rei coming for money. My husband was agreeable to their having something but my uncle Parata said nothing which meant that he did not agree, Wi Pakeha then gave Paratene £10 This was at the commencement after selling to Trotter. This was about the time of the fight at Wairaparapara Pateri. That was the first time Wi Pakeha my husband gave £7 to Rei but Young has a receipt for that £7. Then Mr Young gave £5 to Te Rei I consented to these two last payments.

Comm" Do you consent that they (Paratene & Te Rei) should have any more money "?

Hareta — "I agree that they shall have half Trotters rent amongst them for the future but the rent must be for me to divide. Paiaka has no share.

Paratene — "We agree". Paiaka has no share in this land.

Hareta stated in answer to a question by Comm" that she had consented to reduce Trotter's rent to £20, on condition of its being punctually paid.

Mr Booth interpreted.

C. Heaphy.

Wellington, 7. Aug./72

P.S. Comm" paid Hareta £6:14:0, last instalment of P. Trotter's rent, rec? 29 July/72 and she quitted it with Paratene. 7 Aug/72 C Heaphy

Jottings

Makara North.

Sections 22 & 24, Let to Peter Trotter by Parata te Kiore & Wi Pakata, for 21 years from 9 May 1862   Rent £30 a year ※

Witness Ebenr Baker Interpreter
& Wi Parata

Cheeseman Solicitor.

£10 cash
£20 rent of Hutt land
£30 total rent

※ a section near Silver Stream of Trotter's, was let to Pakata & Parata Kiore for   years, and its rent - £20 was a partial set off to the £30. This set off has now ceased with the expiry of lease of the Silver Stream land (Aug. 1872)

—

22 & 24 are "tenths", not McCleverty awards

Mr Trotter is advised by Mr Brandon not to pay the rent £10 until he knows who is the proper native to receive it. CH 12 June 187

Note - Paratene te Whioro has a tracing given to him by Mr A. Mackay in which the name of Rei te Wharau & appear written on these Sections, why, it does not appear ⊕

⊕ Mr A Mackay telegraphed to for reason.

18th July 72 Peter Trotter called at office by request of Commissioner and showed a lease of 22 & 24 as above & stated that at time of Waitara war Sir Geo Grey gave Parata te Kiore these two sections to induce him to remain on the ground and not join the rebels, and that Mr St Hill was directed to give the lease to Trotter. He had no letter to show from Mr St Hill.

This is also stated by Harata, Wi Pakata's widow CH 6 Aug. 72

Mr Trotter warned by Comr not to pay any more rent to Harata or Mr Baker but to pay it to Commissioner until such time as a document could be found showing how this land (a "tenth", for which the Govt is entirely responsible) had got into native hands. Commr would search for an approval by the Govr of the Lease to P. Trotter

C. Heaphy
18 July/72

List of owners of
Sect. 22 Makara
in Mr Comr. Maraulds
hand writing

No 22
at Makara
Section of 100 acres.
Bush & clear
a European of
the name of
Charles. £25 per ann.
offer to lease it
this section is
owned by

Charles Mabey

~~Hiriwa~~ Parata X
Te Paratene
Te Watene
Ngarahiwa Hunate
Para para
Te Apimana
Te Tahana
Henare
Hinokas
Heremaia
Hira
Pono waihia

Hoani Tauhaare
Apimana te Poho

Mukura

Mr. Dearmukes list for Sect 22 = 100 . 0 . 0

Parata ^X^ (Kiore)

Te Paratene

Te Watene (dead)

Menehira (dead)

Para para (at Rangitikei)

Te Apimana (dead)

Te Tahana (dead)

Henere at Wairarapa

Wi Iuoka "

Priera Whanganui

Hira (dead)

Hone Waihia (Whanganui)

Hoani Taukaue (Dead)

Aperahama te Pohe (Whanganui)

Harata states that this list shows the owners of the lot 22 accurately (i.e. in Mr Dearmukes time.)
EH
6. Aug. 72.

"Paratene is first & Harata second" #
The natives now agree that all these from Menehira down were not original owners but were brought to assist the two first in clearing the Land.
EH.
7. Aug. 72.

So Paratene says and Harata acquiesces.
7 Aug 72

20 Aug 72
EH

Jottings

18

Wellington Provincial Dist.

Malcarn Sect 22 x 24

Minute on application of Rei te Wharau wrapt Hutchinson and petitioners application to let Peter Noble by the Person sept 8/69 Petition Wellington

20 Mr Cooper

" This is an application for permission to sell a piece of land 200 acres at Malcara. It is a "Company's tenth" and has never been handed over to anybody. These men live at Nelson, & want to sell the land intended for Wellington people & be off with the money. I beg strongly to recommend that permission to sell be refused

Sd G. S. Cooper Oct 5. 1869

Certainly Sd Wm Fox 8/10/69

[illegible]

The Under Secretary Native Depart^t
For favor of [illegible] transmission
C Heaphy [illegible]
[illegible]-2-79

Friend Rei

You tell me not to pay your money to Hera & her children — I do not know any such persons.

You say I only send your money irregularly and in small amounts? Friend I always send it when the tenant pays it to me, and only in one year only — 1877 — was it irregularly sent.

These were the dates —

	received by me		sent to Rei	share of
First payment	Dec. 8 /74	—	£ 7 - 10 - 0	1/2 years rent
2^d	— — " 31 /75	—	5 - 0 - 0	1 " "
3^d	— — " 30 /76	—	5 - 0 - 0	1 " "
4^th	— — Feb. 25 /77	—	5 - 0 - 0	1 " "
5^th	— — Dec. 24 /78	—	5 - 0 - 0	1 " "

It was agreed to at the Hui here at the Native Hostelry on the 7 Aug^st 1872, where you Harata, Neta, Paratene, [illegible] Haeretuterangi, Heremaia te Whioro, Karo Kumare, Manihera & Wi Tako were present, & Mr Booth interpreted, that of the £30 annual rent received from Section Nos 22 & 24 Makara, the rent should first be put into Harata's hand, and that then she should receive £15, Neta £10, and you £5 —

This £5 you have always had sent to you. The situation has not been changed.

Friend I do not think there was any cause for you to write your letter to me.

Your [illegible] friend
C H

Rei te Wharau
Whakaturaka

Mahara Nat. Res. 22 & 24 of 200 acres

Mem.

1. This reserve, an original "Tenth," in the hands of the Govt is let to Mr. Peter Trotter at £30 a year: his lease expires in about 15 months.

2. Harata Pakenta Rei te Whenuku Heta Paratene receive the rent, from the Comr of Nat Reserves, they have no grant or papers giving them any rights of ownership.

3. By agreement between Mr. Trotter and the Comr Mr Howard Wallace was deputed to name a fair rental for a new lease for 21 years to the tenant in possession. He has named £60. which I believe to be a fair rent.

4. I therefore, respectfully recommend that I be authorised to prepare a new lease on the above terms for Mr. Trotter, and accept the surrender of existing lease.

Charles Heaphy
Com. Nat. Res.

3rd Mar. 79

The Under Secretary
Native Depart.

21

Public Trust No. 1.

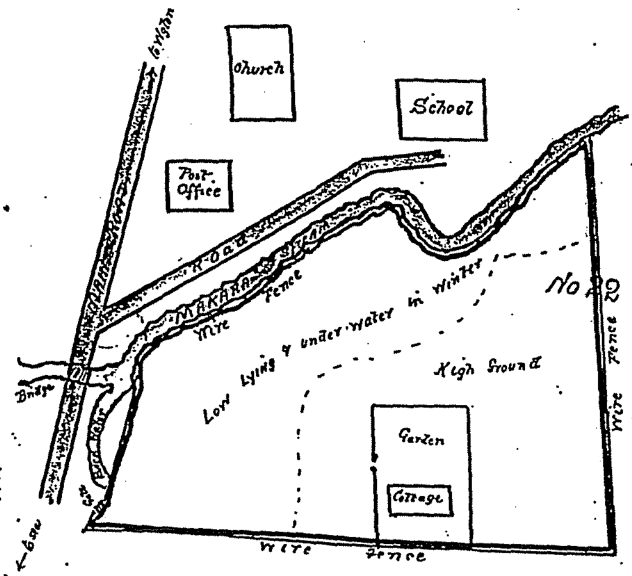
PUBLIC TRUST OFFICE.

General Account.	No.	From
NATIVE RESERVES.	95/680 84/??	Native Land Court
Particular Account.	Date of Letter. 29. 10. 1895.	
Pt. 22. Makara.	Date of Receipt. 30. 10. 1895.	Wellington.

Dairy.

Enclosures Received by

Subject: Judge Mackay's report on the position of this section



P.P.

I beg to report having yesterday gone out to Makara and inspected Part Section 22 Native Reserve 5 acres at present leased to Rev. Petit Jean (Decd) at £1 per annum but the lease of which expires 1st Jany 1896.

It appears that Rev Petit Jean took up this land on behalf of the Catholic Church for the purpose of a School Site but the school was afterwards erected on an adjoining section as per plan.

Rev Jean about 18 years ago put up a 2 roomed shanty and let the whole place to a Wm Cairns for £7 a year which rent he still pays to Archbishop Redwood but states that it is far too much and that the place is only worth 10/ an acre or £2.10.0 a year.

The land is in a valley and about 2/3rds is very low and in the winter is partly covered by the Makara Stream overflowing. The land is all in grass, with a few willow trees here & there and runs 2 cows. There is a barbed wire fence all around the section of 3 wires, the whole cost £5 but is now worth about £3 and as the Cottage is only worth about £7 the whole of the improvements may be estimated at about £10 or £12.

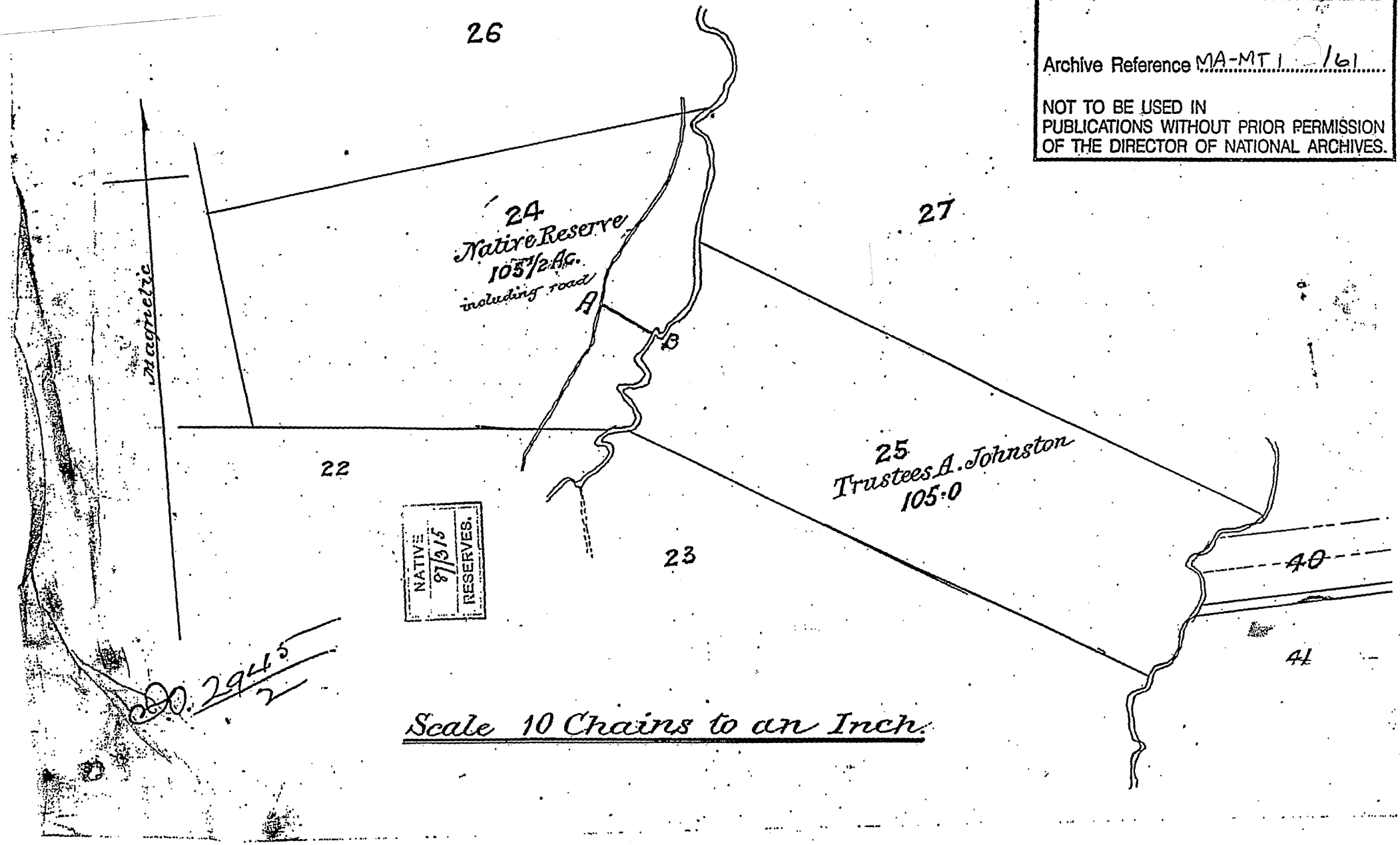
The question of the releasing of this land should now be settled and by the N.R. Amendment Act of last session the Catholic Church is entitled to a renewal. Shall communication be opened with Archbishop Redwood on the subject?

CJ 2.11.95

Bring up in a fortnight hence [initials] 8/11/95

Drawn for 22nd noon

C.S. 7/11/01



Mem. on Te Iera Whetai's Claim to Native Reserves at Pakuratahi

I cannot find any document which confer the Native Reserves at Pakuratahi on the applicant, or any authority for his occupation of them.

The facts are these;

Case 1 There are three (100 acres each) Sections at the Pakuratahi selected, by either Mr. St Hill or Capt Smith, under the Native tenths of land arrangement made by the N.Z. Coy: when the Pakuratahi was thrown open for general Selection

ditto 2 This was about the year 1843 or 4.

ditto 3 I am not aware when Iera's occupation commenced.

4.

4 These Sections are not included in Colonel McCleverty's Deeds of settlement of Ngatitama (to which tribe Tera belongs) or any other Native Claims

5 Tera produces a plan of the Sections, not bearing any signature and evidently the work of a novice.

6 On this map I find a memorandum in pencil of Mr. Searancke, as follows

"I am of opinion that it will "be advisable, as these Sections "are not, and never have been "occupied by the Natives, to let "them for a term of years to "some respectable person as a "tenant"

(Sgd.) Wm. N. Searancke
Dist. Commr.

Tera's [?] Rights of occupancy

Mr Searancke left Wellington about 1860 or 1861

7 Tera also produces a letter from the Governor, dated May 26/62, in which His Excellency promises a grant.

8

Other Natives opinion of the claim.

On inquiry from other Natives they inform me that the Governor previous to his leaving N. Zealand in 1853, told Te Ranja Kuri, & Iera, that they might occupy these Reserves as they were not then dealt with in any way.

9

Recommendation

Unless Iera's title to these Reserves, of 300 acres, is more fully substantiated, I cannot see how a grant for the whole, could be fairly given to him.

The Governor might be requested to give his confirmation, & otherwise, to Iera's statement, & such would throw much light on the question.

I think it rather unfair to other natives who sold Port Nicholson, to give Iera alone a grant for the whole of this land, which was reserved

for

for the benefit of them all.
more especially when so few Reserves are left to be dealt with for such purpose.

I should recommend that 50 acres, (out of the 300 acres so reserved) should be portioned off, and granted to Teira and other occupants

Lloyd? Swainson
Commr. of Nat. Res.

Sept. 12/60

Mem. for the Native Minister

Te Teira. Case. Pakuratahi

Te Teira Whetu failed in the Native Lands Court to prove any title to these three Reserves, but he & others admitted that having ascertained they were N. Reserves & unoccupied, they took possession.

I shall therefore with the Native Ministers concurrence, carry out my previous proposal to set apart 50 or 60 acres for Te Teira & his small party, (which might be secured to them by Grant,) and shall administer the remainder under the Nat. Res. Act, to the best advantage

Joseph. Swainson
Com. Nat. Res.

Wellington
July 12/66

Recommended accordingly
[illegible]
13.7.66.

I have not been able to enquire into this question myself at present if necessary let action be taken on above recommendation
[illegible]
15-8-66

NI 67-1652 No. 4

Porirua. R. M. Edwards

Has with Mr Swainson's assistance laid off a section of 100 acres at Pakuratahi
Porirua Novr 2 1867

Sir [illegible]

I have the honor to report that on Friday last Mr Swainson & I laid off a section of 100 acres on the Native Reserve at Pakuratahi, (vide pencil lines on map) this section includes all the clearings save a small one which is on the opposite side of the road. Te Teira & the rest of the Maoris were sulky because they could not get more than 100 acres & did not give me a list of the names of those to whom the land was to be granted, I read to them the names given in Teira's letter dated Decr 12 1865 & told them if they did not ... the ...

I have the honor to be ...

Wellington

[Marginal notes:]

Deal[t] with [illegible] with other papers [for] Mr Richmond. [illegible] 5.11.67

Hemi Weiriha[?] has been here & represents that it would be a great hardship to him to have to give up his cultivation. I think he might keep it on the same terms as Pakitai[?] ... the sect... at Ohariu[?]

Approved as to the suggestion respecting occupation of Hemi Wiriharas clearing. J. C. Richmond Nov 19/67

Hon. ...

[illegible] 2.67
[illegible] 276

a list, that there would be the names inserted in the grant, to which they annexed. The reason they give for wanting more than 100 acres each once they have all in that quantity of land many of the people have come to dwell with them increasing their numbers from 18 to about 42. I informed them that was a matter that I cannot have no power to deal with & referred them to the government & if they would occupy the land I think it would be a good to let them have a large acreage. I advised further they should not receive a Crown grant at once but should be allowed to occupy the land & if they improved & cultivated it, after a lapse of 5 years they should receive a grant gratuitous a list of names to be inserted in the grant.

I have the honor to be

Sir

Your most obedient Servant

J. F. Edwards Jun.

List of names to be inserted in Crown Grant

X ✓ Te Teira Weta
X ✓ Hori Peneamine
✓ Hemi Uruhana x Pukeroa
X ✓ Matiu Te Iwi Kumeakanui
✓ Harawira Puhanga
✓ Taituha Tarewa
✓ Witakira
✓ Tiraha Waikanae
✓ Riwai Pitoroa
✓ Tahiri Tumeke
✓ Pirimona
Peneamine
Hohua Turi
Ihaia Patene
✓ Hetimona Te Tuiri

✓ Petera
✓ Perepe Ngakuri
✓ Wiremu Ngakuri
✓ Ropata Pukirori
Te Heremini Weta
✓X Pene te Kiri

A tracing of the Section will be forwarded by Mr. Swainson

J. T. Edwards

X principal men

NA 07/[illegible]
Wellington

Dec. 4
G. F. Swainson
Forwards map of of Nat...
Res: Sections at Pakuratahi

Wellington. Dec. 3rd 1867

Sir

I have the honor to forward a map of the Native Reserve Sections at the Pakuratahi, shewing the 100 ac. marked off for Teira Whetu and others in accordance with your letter of instructions No 545/1, and in the position indicated to me by Major Edwards.

All the Native Cultivations on the South side of the Road are included in the said hundred acres, which consists almost entirely of very good land, suitable for Native cultivation, and on which is much fine timber.

The remaining unallotted portions of Sections 4 and 7 are of indifferent character, especially the former. The latter possesses good timber, but not much land suitable for growing potatoes.

On the Section No 3, the cultivations are small extent; and from what I saw the nature of the soil would preclude their extension far from the edge of the high road.

Hemi Pirihama, whose occupation I have shewn as requested on the map, and one or two others, but who are included in Teira's list of Natives who applied to the Government for a grant of land, and for whom the 100 acres has been marked off, are desirous of

still

The Under Secretary
        for
Native Office.

Recommended to acknowledge & inform W. Swainson that the vouchers forwarded by him have been transmitted to the Treasury
W. Rogers [illegible]
11-12/67

Acct G.
Tuithauldain [illegible]
11 Dec 67

G. F. Swainson
No 67/[illegible]

still retaining possession, declining to take any portion of claims which have been made by others.

The list of Iwis which I have referred to, was made under the supposition that the Government would let them have the whole three sections, and they had accordingly subdivided the whole frontage among themselves on both sides of the Road.

Iwi's mention the names of 18 natives deaths and other causes reduces these number to 5 limits 15, and among whom are one or two who have shares in Orarei and rents of other Lands, — these perhaps are not strictly entitled to receive a portion of the Pakiratahi land to the exclusion of others who have really no means of maintenance.

There are now some 13 natives, who have returned from Whangarei, Chatham Islands & other places to their Ngatitama connections, & who have to the best of my knowledge no land to settle on, and whose case is worthy of consideration.

It must also be remembered that those natives who live at Kirimoki (Masterton section) have purchased their land themselves, and have not therefore been recipients of Government Native Reserves, — their sub-divisions share are very small, and not capable of growing the double purpose of growing potatoes, beans, mangi, pumpkins, &c and also running horses and cattle

I have the honor to be
Sir
Your most obedient servant
George T. Swanson

Gold

Dec 23rd 1843

Wellington

We the owners of the Pakuratahi Native Reserve

We hereby agree to Lease to Mr A. Harris of the Taitai, the Pakuratahi Native Reserve being three hundred acres more or less, for the term of two years this first day of January 1843 until the 1st day of January 1845 in consideration of the sum of Forty pounds (£40.0.0) we the owners of the Native Reserve at the Pakuratahi

Sig our signatures

(D) A. Harris
" Te Wiwa Nehitu
" Hori Paengaheuru
" Matiu
" Rene Turuia

Witness
Chas Ludlam

April 6 — Major Heaphy

75/1476

Re claim to Pakuratahi Native Reserve.

Memo.

Pakuratahi reserves are original "Tenths", ungranted, and as such are under the management of the Governor or his Delegate. For a considerable time Harris and others have been cutting timber upon them, and injuring the property, at £16 per annum for 300 acres — a most inadequate rent — I cannot find, nor can the natives or Harris show any authorization from Governor, Minister or Commissioner for the occupation of the land, or the taking of the timber.

Certain of the Ngatitama formerly lived by sufferance of the Government in the "Upper Hutt", a considerable distance from Pakuratahi, but eventually left for Taranaki. They appear to have taken upon themselves to let these reserves — Nos 1, 2 & 7 — to mills, or Harris, but I have been unable to find that they were justified in so doing. Certainly the rent was so low as to be quite unreasonable. Harris now wants a "renewal" from me.

The attached telegram is referred to Mr Halse, to know if that part is true which states that he "told Harris, in 1871, to make his own arrangements in the future with the natives."

[Margin note: Teira te Whetu & others: Hori Pangoru is in Wellington]

[Margin note: & two other persons to lease the land]

[Margin note: See my memo on telegram 14/4/75 HH]

H. Halse Esqre
Assistant Secretary
Native Depmt.

Charles Heaphy — Com. Nat. Res.
Camp, Waiuku.
27.3.75

 17. Perused - papers &c. Major Heaphy
75/3697 — Pakuratahi Reserves, Upper Hutt.
No. 8. F.

Wellington
Giving a Sketch History

69/1141
1843 and
N.R 75/13...
1856

Some important papers relating to these Reserves having come to hand I am enabled to give a sketch history of them.

Nos 3, 4 & 7. Pakuratahi contain in the aggregate about 340 acres; they were selected in 1843 as Native "tenths". They were not amongst Col: McCleverty's allocation, but remained for many years unoccupied. At length some Ngatikama people attracted to the Hutt by their relative, Taringakuri being there, squatted upon the land. They were not amongst those who sold Port Nich: District, but had come from Wanganui, the Chatham Is. &c.

1862 — After a time their principal man, "Teira te Whetu," asked Sir Geo. Grey for Pakuratahi, and the Governor, being "in a hurry," intimates, without enquiry, that he will do so, at a future time. Teira asks for 50 acres.

1864 — Comr. Swainson states that it would be unjust to the original sellers of the district to give all Pakuratahi to these strangers, but suggests that a section, of 50 acres, be set apart for Teira.

1865 Oct 1 — Teira asks Hon. Mr Fitzgerald for a grant. Sir Geo. Grey thinks the case should be dealt with by Native Land Court. — He never, he says, intended Teira to have it without an investigation.

1866, July — The Native Land Court throws out the case. Mr Swainson suggests and Mr Rolleston recommends that 50 or 60 acres be given to Teira, and the balance, 280 a, be let by Govt. to the best advantage.

1866, 15 Aug. — Hon: Col: Russell writes "let action be taken on Recommendation." Major Edwards and Mr Swainson survey 104 acres for Teira in Nos 4 & 7 for Teira & his party. Plan approved of by Hon. Mr Richmond & Teira informed.

Another

The Under Secretary
Native Department

Hemi Wirehana.

Another Ngatitama native, also a squatter, now appears, & claims section 3, on opposite side of road from Teira's.
On survey it appears he only has 4 or 5 chains of clearing, and he is informed that he may have about 25 acres, for cultivation", but not to part with. He is not to have 50 acres, as asked for, "but his cultivation", and a "liberal allowance" about it. Mr Rolleston informs him "the land shall not be alienated, but remain a permanent resting place for ever." "Approved C. W. Haultain"

6 April/68 Teira and others leave the District, to go to Taranaki, he "hands over the land at Pakaraka to the Govt. 3 Sections [he was only entitled to 104 acres, not 300] "I am opposed" he writes "to its being left as maori land, but had rather it became a Pakeha Town."

This was intended as giving over the management of his actual claim only.

30 July/68 Hemi Wirehana informed by Mr Puckey, at Hon Mr Richmond's direction, that Govt will let the land at or near his cultivation (25 acres) and hand the rents to those who may be entitled to them.

"He certainly cant be allowed to lease land belonging to the Govt. Govt said he might live on it, but certainly never thought of giving it to him" – G.S Cooper.

28 Aug/68 "Approved" J. C. Richmond.

Part of No 7 was let by Govt to Mr Morgan who let to Mills, and Mills to Harris. The rent £16 a year, was regularly paid to Mr Halse or Mr Puckey, who paid it to the Ngatitamas.
The lease of Harris expired last year; he paid £16 a year.
Mr H. Wiglesman & J. Seumex now offer £30.0.0 per No. 3
Mr J. Seumex " " 50:0:0 } 70:0:0 } " " 4
Mr H. Wiglesman " " 50:0:0 } 80:0:0 } " " 7
average total £56:0:0 per annum *

* average total on last lease, 7 yrs £20. Differn £36.

Teira & Wirehana are at Taranaki. The land has never been conveyed to them, and the Government is still responsible for its

its being made productive of a rent. I do not see any reason for the natives (none of whom are in Port-Nicholson) who formerly lived there being consulted, although it may be proper to give them the proportion of the rent equivalent to their respective clearings, when they did live there. The remainder of the rent, I think, ought, in Mr Swainson's words, "to be dealt with as from a general reserve as originally intended".

I respectfully recommend that I may be authorised to accept the tenders of the persons mentioned below.

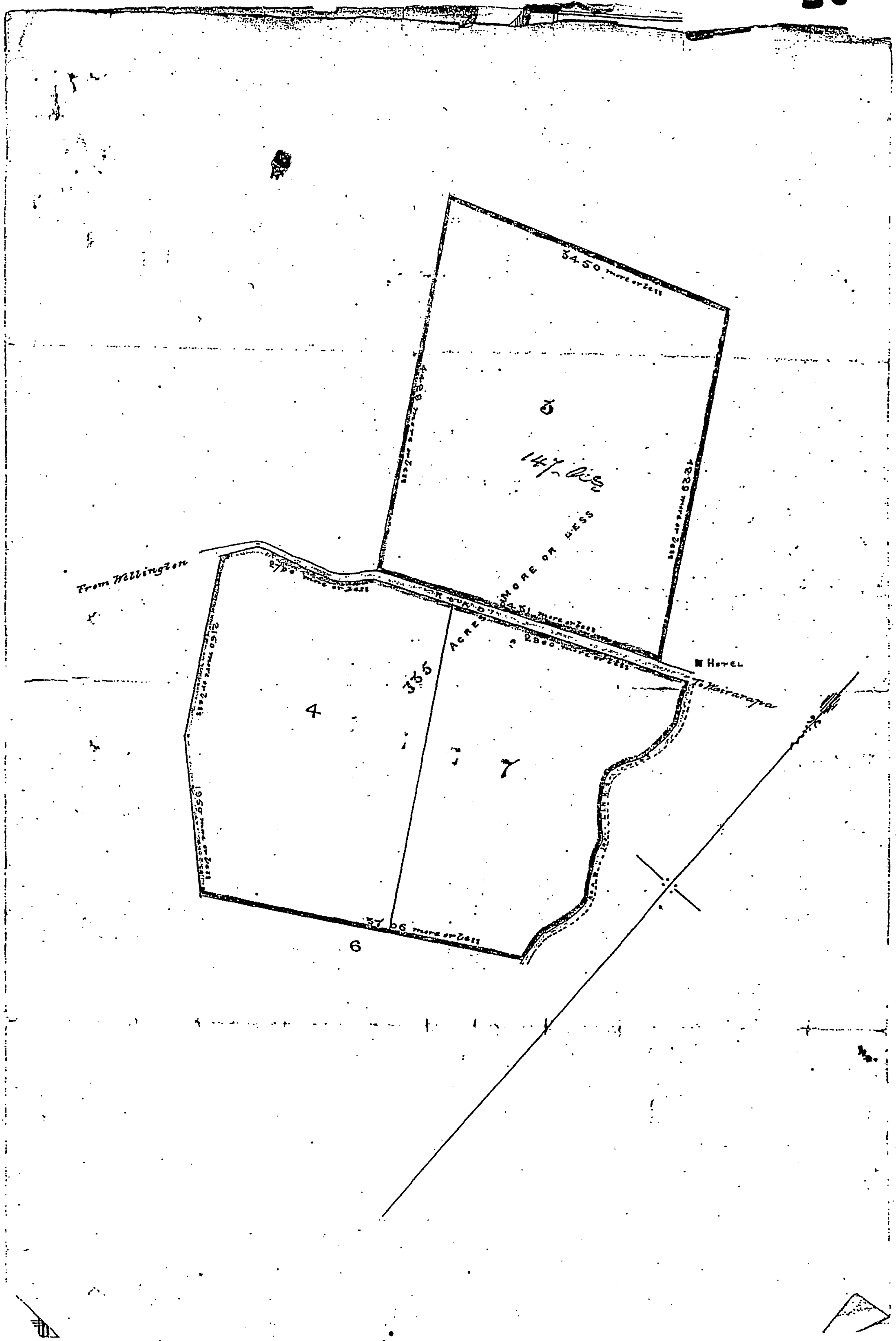
Charles Heaphy.
Com: Nat: Reserves

Wellington, 17 July, 75

Tender No 7. Wightman H. Sect. 7 £50 for 1st 7 yrs & £80 for remainder of term

" 8. Sennex J. Sect. 4. £50 for 1st 7 yrs, & £70 for remainder of term.

" 10. Wightman H. & Sennex J. } Sect. 3 £30 a year, & clear 50 acres.


3450 more or less
3
From Wellington
Hotel
To Wairarapa
335 ACRES MORE OR LESS
4
7
6
5706 more or less

P. 6.
76–180

Te Teira Potu &
Pene & others

Mr. Parkinson ...

Translation

Parihaka
Aug 9th 1876

To Major Heaphy,
This is to ask about the money for Pakurataki for the Lease of Pakurataki. If you have got it, enlighten us in the matter to that effect, and if you have not got that money send it to us. Enough—

(snd) Na Te Teira Potu
" " Pene
" " Mati
" " Tarutia
" " Hori Paengarimu
" " Takapari
" " Taiaha
" " Eraihia

The Under Secretary
Nat. Dept.
For the favor of a translation
C. Heaphy
23/8/76

Mr Grace
Translate
[illegible]
[illegible]

Friend Teera te Whetu,

I have received your letter of 8 Aug 76 from Parihaka

This is my answer —

I have searched the old letters and plans to find how much land was given to you by the Govt at Pakuratahi.

From Mr Swainsons letters and plans I find that one section was given to you; it lay on the ~~South side~~ of the road from Wellington and contained 104 acres, Mr Swainson surveyed it

On the north side of the road 25 acres were allowed for the culti vation of Hemi Wirihana and others.

These are all the lands that I can find named in the letters & plans

These lands are now let

The rent for 104 acres is £18-4-0

The rent for the 25 acres is £4-7-6

There has been paid by me £23-19-0 for newspaper advertising, and £20.13.0 for cutting the boundaries, which are own

from

Brown

The land was let Mr Whileman (Senr) about 12 months ago but he went away and never paid any rent. Then the land was let to Mr G. Smith on 1st March 1876 and he paid rent at the rate of 3/6 an acre - *

When the money for the advertising and the cutting boundaries is paid you and Hemi will from time to time receive the following - namely

Teira te Whetu £18-4.0 annually
Hemi Whirihaere £4-7-6 "

Yours very truly

C.H.

Comr N.R.

* Other reason for the rent being small is that the man whom you let the land to - Harris - cut down all the good

~~probable that you have been in Communication with him and that the opinion of Mr Travers has been obtained. Mr Hoskie, also, may have bee~~

PUBLIC TRUST.
No. 122.

NR 93/233
93/196

~~ESTATE OF~~ Secs 4 & 7 Pakuratahi

For the consideration of the Board.

The facts of the case are as follows:—
The above secs were leased to George John Squires for 10 years from 1st April 1884, at an annual rental of £40.10.0. In April 1885 Squires assigned to James Martin. In March 1887 Martin became bankrupt, but to prevent the cancellation of the lease an assignment was arranged to one Paul Stein, the parties thereto being the Official Assignee, James Martin and the Public Trustee (N.R. 87/230). Martin still resided on the property with Paul Stein remained in Wellington Stein was a Son-in-law of Martin and the person who paid the rent of £40 for the assignment. Stein subsequently absconded from the Colony, and is believed to have gone to Norway some 5 years ago. Martin continued to pay rent at intervals on a/c and by degrees, the rent became fully paid up to 1 April 1890.

On 31/1/91 Mr N Hall, Solr, wrote to P/T informing him that James Martin had assigned his interest in the lease to Wm Walker. Walker at this time was residing on the land, while James Martin was in Wellington working for the Bus Comp.

(N.R. 91/422) Rent was dropping into arrears and on 1/4/92 £52 was due. This rent was demanded of Martin who was reminded (N.R. 91/422) that the assignment to W. Walker was never consented to and that the latter could not therefore be recognised.

~~The question before the Board is:—~~ On 10/5/92 Walker wrote to P/T. applying for a perpetual lease and offering 3/- per acre = £28.13/- pa. A Report obtained from Constable McGinness named £20 or £25 a year as a fair rental (92/55). The constable pointed out that a man living opposite was paying only £12 for 150 acres, and that another farmer only paid £50 a year for 300 acres good land thereabouts.

~~The Board resolved to:—~~ The Board on 1/6/92 considered Walkers application to surrender present lease and obtain a new perpetual lease and resolved that the application could not be entertained. Walker subsequently called at the office and stated that he would pay all arrears of rent provided a re-valuation were made fixing the rental to be paid for the renewal period. On 4/11/92 the matter was again brought before the Board to decide the question of re-leasing this land, when it was resolved that as soon as possession could be

'IBLIC TRUST.
No. 122.

Secs
~~ESTATE OF~~ H T Pakuratahi continued

For the consideration of the Board.

The facts of the case are as follows:—

a new lease for 21 years should be offered by tender.

~~Walker was informed that proceedings were about to be taken through our Solrs to recover possession.~~

Walker continued, at intervals, to make payments on a/c of Rent, and at the present time the arrears due to 1st April 1893 = £52.10.0.

Messrs Buckley & Co. wrote to P/T. on 3 Mar. 93 and their letter should be read in connection herewith; N.R93/119.

Summed up in a few words:— the question now is what is best to be done to place matters on a satisfactory footing.

Shall Walker be allowed to continue in possession until the termination of the lease on 1 April 1894.

Shall any concession in rent be made to him.

If he be allowed to remain until the close of the present lease, which about the renewal period?

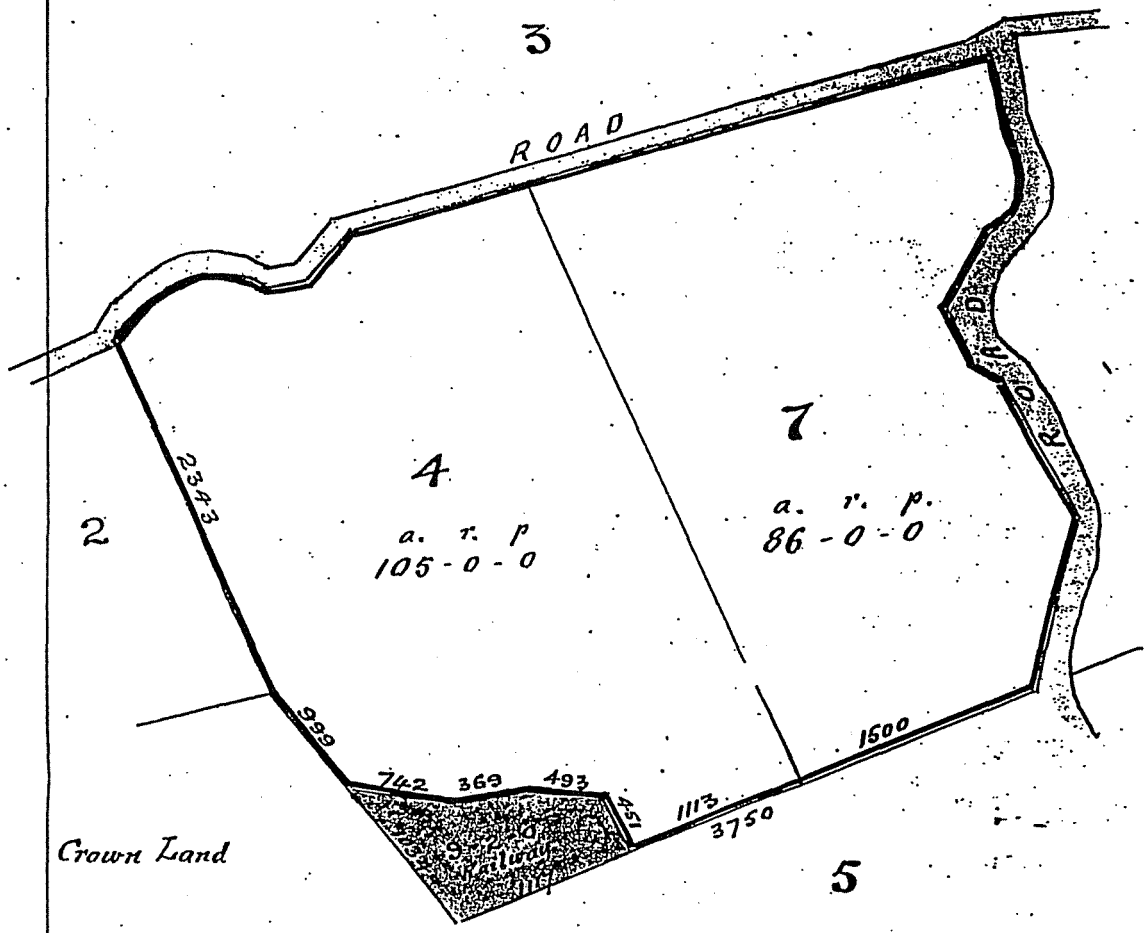
Will Walker be granted a renewal or a revaluation?

The question before the Board is:—

Generally to consider the position of this complicated matter and to decide on some definite course of action with respect to the recovery of arrears; and the termination or continuance of the present occupancy.

The Board resolved ~~to~~:— 17/5/93

That upon Walker paying up all arrears of rent the Board would consent to the assignment of the present lessee as assignee of the lease — a renewed lease at a rental of £40 a year —


3
ROAD
4
a. r. p
105-0-0
7
a. r. p.
86-0-0
2
2343
999
742
369
493
451
1113
3750
1600
Crown Land
5

Public Trust, No. 1.

PUBLIC TRUST OFFICE.

DIARY.

GENERAL ACCOUNT.
NATIVE RESERVES.

No. 1906/252
06/234

FROM
Mr S. W. Smith
Wellington

PARTICULAR ACCOUNT.
Sec 4 & 7 Pakuratahi

DATE OF LETTER.
13/6, 1906.

DATE OF RECEIPT.
13/6, 1906.

ENCLOSURES RECEIVED BY
FILED

SUBJECT: Inspection of Leasehold.

20,000/6/1905—53971

The Public Trustee,

Sections 4 & 7 Pakuratahi.

According to instructions, I inspected this leasehold yesterday.

It is situated 1½ miles from the Kaitoke Railway Station and is on the Main Road, lies well to the sun and is nearly flat. I find it is one of the best little farms round that district and like most of them there is a Dairy Farm, and the milk is sent to town by train.

The Govt valuation of these buildings is much too high Ref 15.6.06.

There are 4 buildings on it, a house of 8 rooms not in a very good condition, some of the weather boards being rotten, a shed used as a dairy, etc., another one as an implement shed and a stall. There is rather a good milking shed at which 24 cows may be milked at a time. The floor is of concrete and there is storage for plenty of hay. I inspected the property carefully and the sketch plan attached will show approximately the position of the fences and the state of the land. The property is a very compact little farm and very suitable for dairying.

Diary 10 days for valuation Ref 19.6.06

There are about 20 acres of ploughed land, 8 of these being in turnips and about 8 acres has recently been cropped for hay. The ground is fairly free from blackberry and could, with a little logging up and burning, be made to carry many more head of cattle than it does now.

Recd all W 20/6

About the worst portion of the farm is that lying to the west. It is covered with manuka, fern and dead trees and runs up on to the railway line. Nevertheless, this piece is has good rough feed on it and could be turned to good account by a careful farmer. The only piece of this section that could not be turned to account is the 9½ acres taken by the Railway Department who are the assignees. This piece is practically of no value as it runs up into the hills which are only covered with fern, etc.

Fill

The land in the Pakuratahi District has (after remaining stationary for many years) at last taken an upward turn and I understand that Section 5 adjoining this lease-

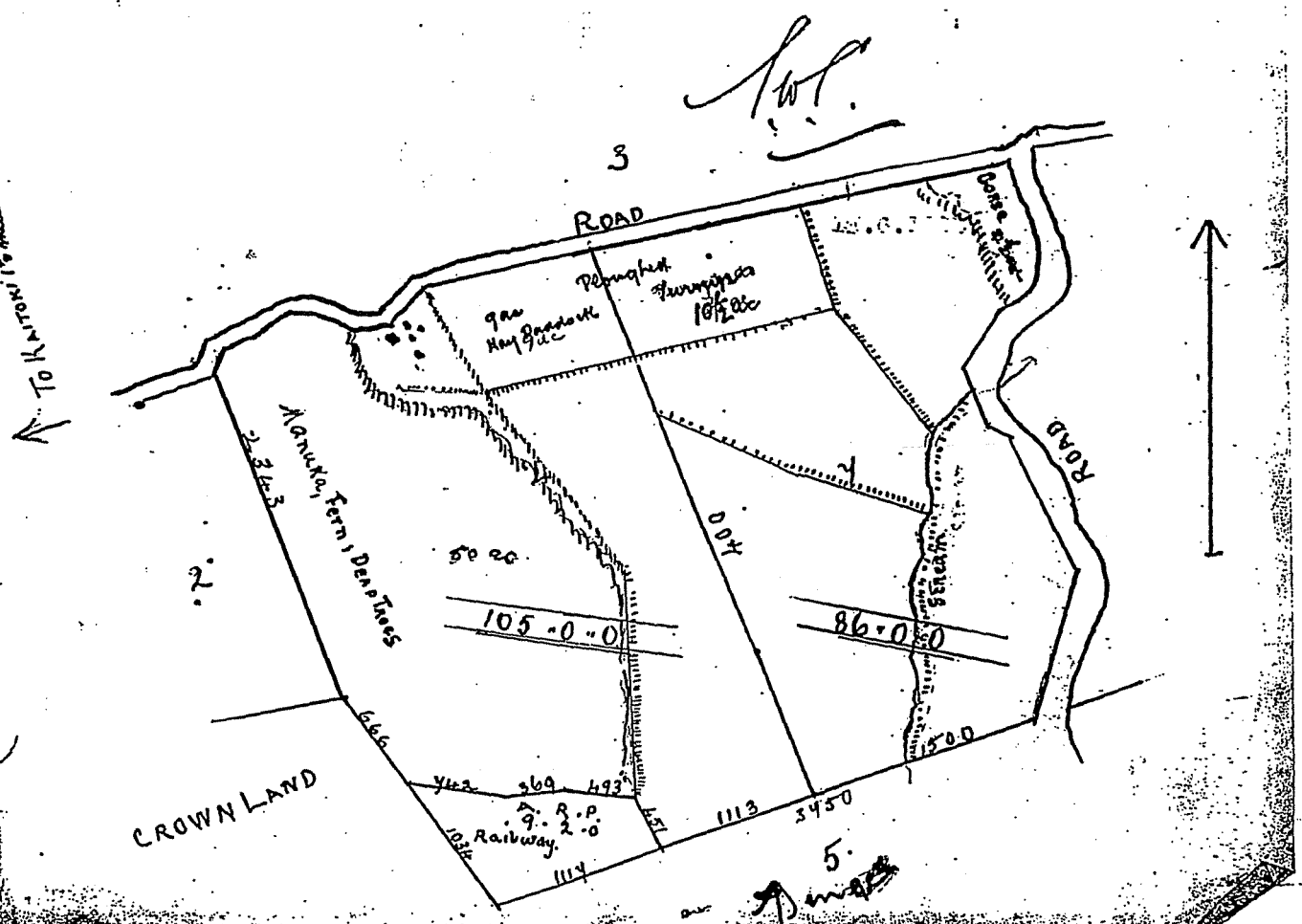
hold, which was sold about 3 years ago for £5 an acre, was resold, lately, to Mr. Benge for £10.10.0 an acre. I had a good look over this section in order that I might compare it with our leasehold. It is a long straggling piece, its only access being the road shown on the east of our leasehold. It stretches up the valley of the Pakuratahi w that river running through it from north to south. The river flats contain about 25 acres of excellent pasture. Some of the other land is good and some poor and on the whole, I do not think it would command a much better price than Sections 4& 7.

Benge is asking for his 275 acres a rental of £175 per annum. I understand that when Walker was leaving he placed our leasehold in the market at £150 p.a. and reduced it to £120. Under the circumatances I think that the upset rental of £46.10.0 p.a. is too low and I would beg to recommend that a special valuation be ordered to be paid out of the money deposited by Suggett.

The cost of valuation would be £1.11 /W

I may say that in speaking to a farmer there he stated that he would be prepared to find £400 and tender £70 a year. He informed me that if the property were placed in the market there would be a great number of people eager to get it, of course the drawback would be finding the £400.

I understand that Walker milked about 30 cows all the year round.



Mr. Smith, –

Martin, Govt valuer should make a special valuation to determine fair rental. Fee £1-11-6

J.M.D.
14-6-04

Mr. Zachariah

This direction appears to have been overlooked

J.M.D.
5-7-04

VALUATION DEPARTMENT,

WELLINGTON, 17th July 1906.

MEMORANDUM FOR

The Public Trustee,

Wellington.

Secs.4 & 7, Pakuratahi.

I append for your information a copy of a report received in this matter from District Valuer Martin:

"I visited Sections 4 and 7, Pakuratahi on the 12th instant, and have to report as follows:
"The land in the occupation of Messrs Suggett is divided as follows, the areas given being approximate and arrived at by pacing:

Cleared and ploughable	21 acres.
Swamp	30 do, (20 acres of which could be easily drained).
Gorse	2 acs.
Infested with blackberry	20 do.
Secnnd growth and bush principally manuka & fern	30 do.

"With the execption of the ploughable area of 21 acres, a considerable amount of stumping and logging remains to be done on the property. Section 4 contains about 10 acres of dangerous swamp, which was responsible for the loss of 8 cows belonging to the former lessee during the last year of his occupation, and on the day of my visit the Messrs Suggett lost a cow which they had recently purchased for £8.
"The major part of section 7 is old river terrace and is very stony, the land is sour and wet and the grass in poor condition. The rainfall is above the average on

The Public Trustee:

"account of the elevated position among the ranges. The buildings on the property consist of dwelling-house, shed, trap-shed, and implement-shed, dairy, tool-shed and loft, and milking shed of 24 bales, the last two being the only buildings in reasonable repair. The dwelling house has never been painted and is not weather-proof, daylight being visible through the walls and roof. It has been partitioned off into four compartments on the first and ground floors respectively, and the work has evidently been done with any scrap timber that was handy, the wood from packing cases not even being rejected.

"Present values are as follows:

Suggett's lease of 181 acs. 2r. 00p.

Land	£390
Clearing	145
Grassing	35
Fencing	125
Buildings	270,

making a total Capital Value of £965.

Land occupied for Railway purposes: 9 acs. 2r.

Land	£10
Clearing	10
Total Capital Value -	£20

"It would be more to the owner's interest to arrange a new lease for a reasonable term at the market rental, than to let the existing lease run for the remainder of the term, at the present rental, as under present conditions the lessees will have to work the property to get the greatest possible return at a minimum of expense in order to re-coup themselves for their outlay in buying up the present lease."

As this property has twice been valued by Mr Cowell recently the last valuation by Mr Martin would scarcely seem to have been necessary.
G.E.C.

G.R.C. Campbell
Valuer General.

50

LETTERS, ETC., TO BE ADDRESSED "THE VALUER-GENERAL, WELLINGTON."

VALUATION DEPARTMENT,

WELLINGTON, 9th August, 1907.

MEMORANDUM FOR

The Public Trustee,

Wellington.

Sec 3 Pakuratahi Native Reserve.

In reply to your letter of the 29th ultimo I enclose certificate herein, and have to advise you that the Valuer, Mr Caverhill, reports as follows:-

"I have inspected Sec 3, 147 acs. Bk.XV Pukuratahi Native Reserve, having abput 38 chains frontage to the Main Road and occupied by Mrs H.M.Brown.

The land is partly stony and of poor quality, a portion about 5 acs. on the West end being very rough with high banks and very dangerous for stock. Mr Brown informed me that he lost 9 cows and 16 yearlings the first year of his tenancy and although he has fenced the dangerous part off he occasionally loses a beast even now.

The property is divided into 6 paddocks, 9 acres have been ploughed and cultivated, 4 acs 2 rds now being stumped. the remainder is covered in logs, stumps, blackberries, gorse native grass and a small patch of scrub. I estimate the cost to clear at £5 per acre: 30 acs of blackberry and gorse have recently been cut at a cost of 13/- peracre, the whole is to be cut this year and will require cutting again nextyr.

The improvements consist of - cottage 4 rooms W.I.R. bad conditi n £110, dairy & stable W.I.R. bad and medium condition £25, cowshed & hay shed W.I.R.& ruberoid, bad to medium condition £25, cartshed £5, clearing £200, grassing £15, fencing £60.

Total improvements	£440
Land	256
Capital value	£696

I might state that these values are largely due to the way the present occupier is working the place, he has three

sons all good workers, in fact I consider they are simply wasting their youth and energy without any hope of return. If the property was let to a thrift-less tenant it would be of very little value. Mr Brown assured me that he has spent every penny taken off the place in improving it: he has a separator and buys milk from the neighbours and sends the cream to Wellington, just making sufficient to keep the pot boiling."

I have to state that Mr Martin's services were not available to make the valuation.

G. R. C. Campbell

Enc.

Valuer General.

The Native Trustee 1/47

Dec 6 1976

Pakuatahi NR

This reserve is made up of Sections 3, 4 and 7 containing the following areas.

Sec 3 147 ac 2 r

Sec 4 & 7 191

Total 338 ac 2 r (shown together in valu

According to the Public Trust records the rents from Sec 4 & 7 are credited to the North Island Tenths a/c and the rent from Sec 3 is the subject of a separate distribution to three original owners and their successors.

On attempting to prepare our new Grantees book for Section 3 it was found on reference to the Native Land Court files that no title appears to be in existence for this Section, the Court file merely containing succession orders.

Section 22 of the Native Reserves Amendment Act 1896 provides that the lands enumerated in the first Schedule of the Act shall be "Reserved Tenths" vested in the Public Trustee.

NORTH ISLAND NATIVE RESERVES—TUUOOA—continued.

Included in this schedule are Nos 2, 3 and 4 Pakuratahi containing 200 acres. Can extract from what appears to be a letter from Judge MacKay bearing on this act states that Section 2 should be Section 7 and that certain reserves among which ~~are~~ 3 Pakuratahi were not intended to be included in the Tenths as they were owned by Special Natives to whom the rents have been paid. According to the old Public Trust Officer's book the three original owners of Pakuratahi were:-

(1) Wiria te Whetu 271/67v
(2) Kawerenga te Whetu 271/67v
(3) Hemi Wiriana 130/67v

This book was no doubt prepared from information supplied by Judge MacKay as in 1884 the Judge forwarded to the P.T.O. a book (compiled by himself) containing lists of homesteads in Native Reserves. The latter book has unfortunately been lost.

A brief history of the Pakuratahi

According to this information the Pakuratahi Reserves were selected as Native "Tenths" in 1843 but remained unoccupied for many years. Later on some members of the Ngatikawa tribe squatted upon the land and their principal man Teira te Whetu was promised 50 acres by Sir George Grey. Then Hemi Wiwihana was allowed to remain on 25 acres. In 1878 the reserves appear to have been leased & the rentals apportioned as follows:-

Teira	104/340
Hemi	25/340
Government	211/340

A schedule (unsigned & undated) of the owners of the three Pakuratahi Reserves appears on the Native Land Court application file. According to this list the original owners were Teira te Whetu, and Hemi Wiwihana, and the successors to Teira were Wera te Whetu, and Kawainga te Whetu. This agrees with the Public Trust grantees book.

An order in Council dated 31/1/88 conferred jurisdiction on the Court to investigate certain reserves including Pakuratahi. But so far as the reserve was concerned the case was finally dismissed.

From the above information it seems clear that while Sections 4 and 7 remain as part of the North Island Rentals the rents from Section 3 should be paid to the three beneficiaries Wera te Whetu, Kaiwaanga te Whetu and Hemi Wiwihana or their successors and it is therefore recommended that for the purpose of preparing our new Grantee's Book these three beneficiaries be treated as the original owners.

[initials] 19.6.25

The N.T.

You proposed seeing the Chief Judge hereon. The distribution hitherto has been on the lines suggested – Sec: 3 to particular benefs. & Secs: 4–7 included in N.I. Rentals.

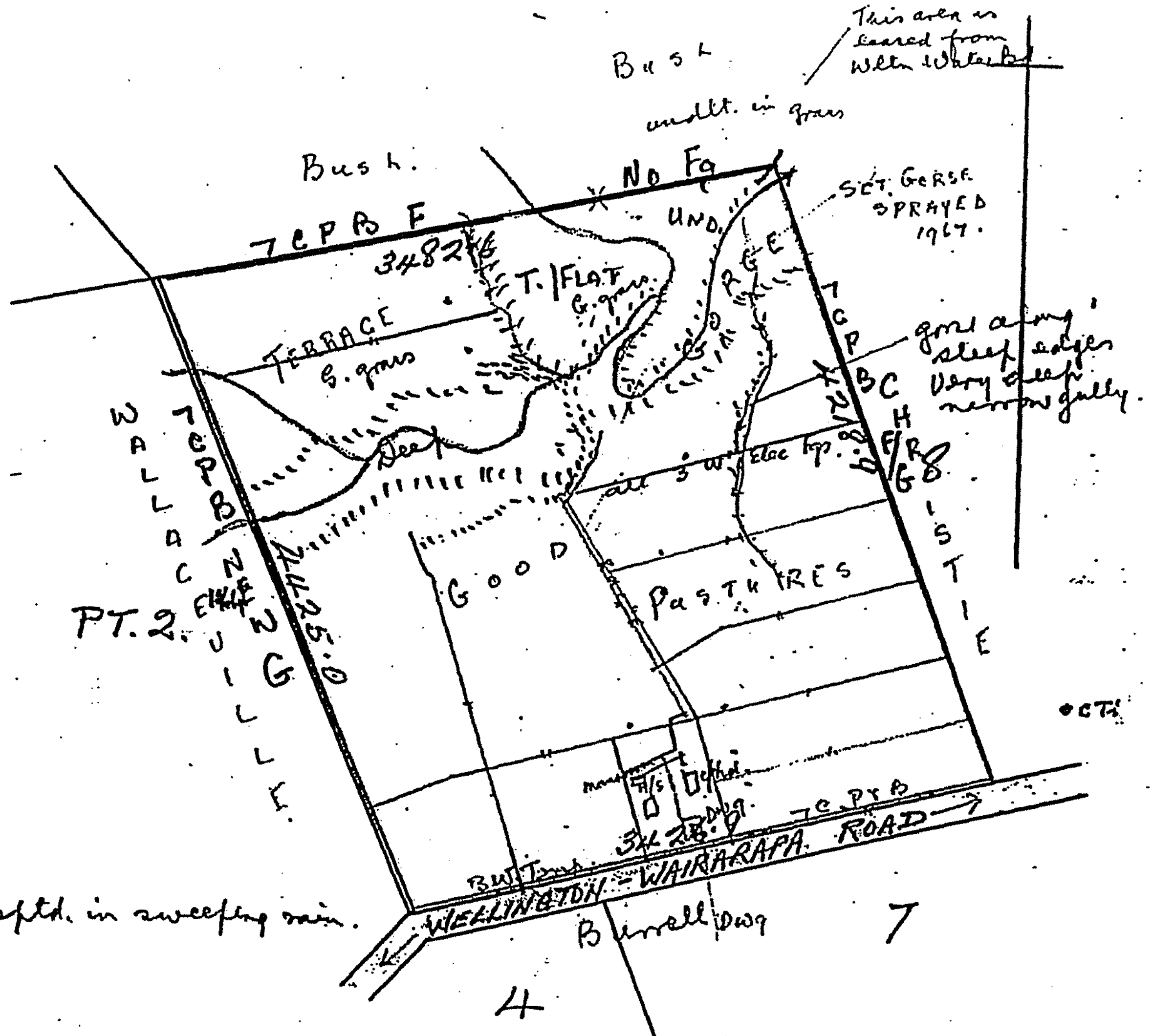
[initials]

Mr Small

In accordance with Chief Judge's suggestion I think application under Sec 16 Native Reserves Act 1882 should be made to N.L.Ct to definitely determine the ownership of Sec 3 –

Will suggest an amendment to the Chief Judge to cover the present schedule in Act of 1896 being Section 7

W.S.H. N.T. 13.7.25



Drafted in sweeping rain.

Best Flats some stone	85 acs.	
Flats over Creek	20 ..	
Scattered Flat / Und in gully	15	
Steep sidling & gully	27.	
	147	

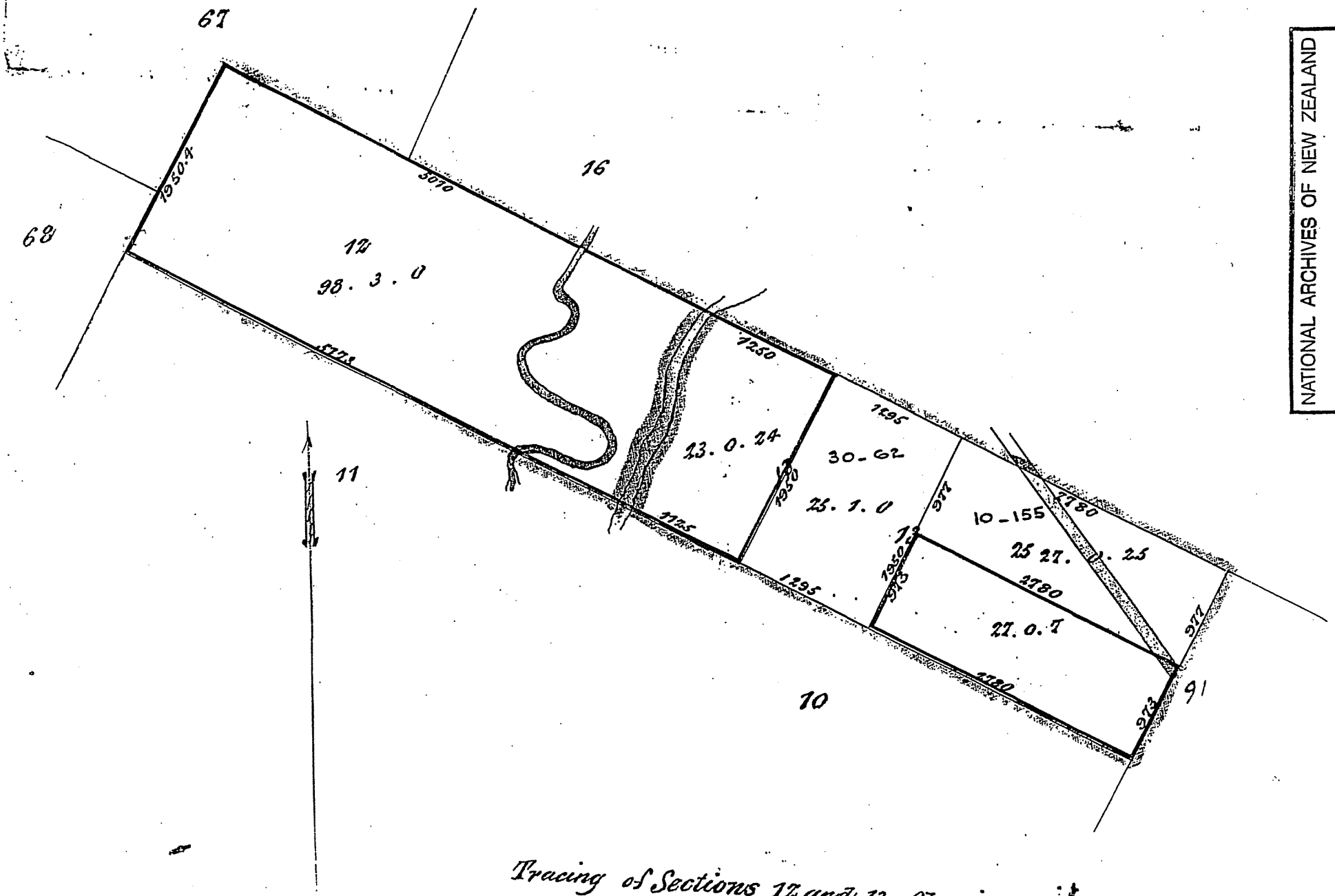
Bought from father 1963 £14950 for leasehold int.

Dairy Cows	70	Milk Quota 121 gls.
Other cattle	50	Uses large area of runoff to east of old railway at back of Burrells as a runoff. 1 mile away.
	120	
Turnips	5 acs	
Hay	500 bales. Bought 500 bales also.	

Silage 20-30 acs.
Super. 4½-5 cwt. P.Ac (21 tons)
Lime 40-50 tons.

PAKURATAHI SEC. 3
BLK XV AKATARAWA S.D
AREA : 147A-2R-00P
SCALE : 10 CH TO AN INCH.

180.
12.3.68



Tracing of Sections 12 and 13 Ohauiu
Scale 10 Chains to an Inch
Portions edged red ungranted

The Public Trustee.

Ohariu Native Reserves.

In terms of your minute of the 22nd instant I yesterday went to Ohariu and inspected this reserve, which contains 108 acres or thereabouts. The land on the whole is of fairly good quality but is somewhat broken. There is a good deal of waste ground owing to the Makara river running through the section, the banks on either side being very precipitous. The fencing on the road-line, which I should reckon to be about 10 chains, is past repair. The Northern boundary between this section and Majendi's freehold, which comprises about two-thirds of the fence line, is in very fair order having just been repaired by Majendi. The back portion of this fence as well as the back boundary fence and all the southern fence is, however, very badly in need of repair. The present wire would do for some years, but about nine-tenths of the posts want ~~renewing~~ *Renewing*.

About 40 acres of the front of this section is badly covered with gorse, and as the ground is very difficult owing to its steepness in places along the banks of the river it would be a very difficult matter to thoroughly eradicate it. The remainder of the section at the back (about 68 acres) is, however, quite clear of gorse, but the English grasses has nearly all run out, the native grass having taken complete possession of the section.

I saw Mr. Byrant and discussed the question of leasing with him. I told him the office was not inclined to let him have it on the terms offered by him, namely rent free for three years, the gorse to be grubbed and burnt by him, but that the question of reducing the upset rental would be submitted to the native Board next month and in all probability the upset would be reduced to say £30 a year and tenders again called for a twenty-one years' lease of the section. He seemed to think even £30 a year too high an upset, but I consider that a very low upset and am suprised to think that the property did not go off before when tenders were called. The drawback, however, is the fact of their being no buildings on this section and it would really only suit Mr. Byrant to lease it, as Majendi the freeholder on the other side is a man of straw, and I hear his mortgagee is about to foreclose and sell him up.

seem. Refer to Native Reserve Board meeting 28.4.03

I consider the capital value of this land to be quite £8 or £9 an acre and if there was a dwelling on the land we would have little difficulty, I feel sure, in leasing it at as much as 9/- or 10/- an acre, even in its present condition. However, as it has been tested in the market it seems to me there is no help for it but to reduce the upset and I recommend that the Native Board be asked at its next meeting to reduce the upset to £30 or even £20 per year and fresh tenders called for a twenty-one years lease.

Thos S. Donaldson

Public Trust Office,
Wellington, 28th April, 1903.

COPY.

Native Department
15 SEP. 1906
06/851.

To THE HON. THE SPEAKER and THE HON. MEMBERS of the House of Representatives in Parliament assembled.

THE HUMBLE PETITION of PIRIHIRA TAREWA
of Haukaretu near the Upper Hutt,

SHEWETH:-

1. THAT your Petitioner is an Aboriginal Native of the Ngatitama Tribe and a descendant of Te Rangikatatu, a Chief of that Tribe who owned and occupied land at Ohariu near Wellington.

2. THAT Section 13 Ohariu District containing about One hundred acres (100ac.) was some years ago subdivided into four portions, and that for two of these containing about fifty acres (50ac.) grants were issued to the Native Owners and the land was by them disposed of at their free will and pleasure.

3. THAT the two other portions containing about fifty acres (50ac.) have been lying idle producing no rent for many years and your Petitioner applied to the Native Land Court at Wellington presided over by Mr. Judge Palmer for Investigation of the Title to the said last mentioned land and after evidence had been taken such land was on the second day of May, 1906, awarded to your Petitioner and her five relatives, Harata Te Kiore, of Maramaihoea near Bulls, Ani Retimana, of Waikanae, Ruta Retimana of Pungarehu, Taranaki, Ritihia Eru Te Toi of Taihape, and Karawi Tamihana of Taihape.

4. THAT your Petitioner is informed and believes that the Judge made all usual and proper enquiries from the Survey and other Government Departments before proceeding to investigate the title to the said land and was officially notified that such title had not been ascertained and that it was properly one for investigation by the Court.

5. THAT your Petitioner and her relatives have incurred costs to the extent of Forty pounds (£40) in prosecuting their claims to the said lands before the Court.

6. THAT after the Judgment of the Court your Petitioner and certain of her co-owners entered into an agreement to sell the said land at a satisfactory price to a settler in the Ohariu District and received from him an advance of Seventy Five pounds (£75). This payment was made in good faith after the Purchaser had made due enquiry at the Native Land Court Office as to the title of your Petitioner and her co-owners.

7. THAT subsequent to the said Judgment in favour of your Petitioner and her co-owners and to their agreeing to sell the land as aforesaid and to the advance of Seventy Five pounds (£75) the Public Trustee lodged an Appeal against the said Judgment whereupon the Court and your Petitioner and her co-owners learnt for the first time that the said lands were declared by "The Native Reserves Amendment Act, 1896" to be vested in the Public Trustee as a Native Reserve.

8. THAT since the said Appeal was lodged the Court has your Petitioner understands made an order declaring your Petitioner and her co-owners to be the beneficial owners of the said land but the land is still a Native Reserve vested in the Public Trustee and your Petitioner and her co-owners can only be entitled to the rents of such lands, which will be trifling when divided amongst them.

9. THAT your Petitioner and her co-owners live at the respective places above mentioned none of which are near Ohariu. There are no Natives living or likely to live in or near the Ohariu Valley.

10. THAT the said land has been lying waste for many years and is of no use to your Petitioner and her co-owners for their own occupation. The most beneficial course for them is to sell the said land and to devote the balance of the purchase money after payment of costs and expenses to the improvement of the lands on which your Petitioner and her

co-owners have made their homes and which are ample for their support.

11. THAT all portions of the said section 13 Ohariu should be treated alike and it is unreasonable that portions thereof should be awarded to Natives to deal with at their pleasure and that other portions should be created Native Reserves.

12. THAT your Petitioner and her co-owners have incurred the above costs and expenses and spent considerable time and have also incurred the liability to repay the said sum of Seventy five pounds (£75) on the faith that the Native Land Court Investigation of Title and its Judgment were valid and effectual.

13. THAT your Petitioner and her co-owners have no immediate means to meet such liabilities unless allowed to deal with the said lands themselves.

WHEREFORE your Petitioner humbly prays that your Honourable House will introduce legislation to vest the said lands in your Petitioner and her co-owners with power for them to deal with the same as they may think proper, subject to the usual conditions and regulations as to confirmation laid down by the Native Laws of the Colony.

AND YOUR PETITIONER as in duty bound will ever pray etc..

Pirihira her X mark Tarewa

SIGNED by Pirihira Tarewa making her mark and I hereby certify that before the said Pirihira Tarewa signed that I read over contents hereof to her in the Maori language when she appeared to clearly understand the same.

Henry M. Stowell

Licensed Interpreter.

DATED at Wellington

this 21st day of August, 1906.

The Native Trustee

Ohariu Secs 12 and 13

This reserve d' appears was originally managed by Major Heaphy V.C. although the early records which go back to 1866 do not disclose his authority.

In 1872 Sec 12 was leased to Wm France and at a meeting of the owners held on 20/8/72 at which Major Heaphy Commissioner presided it was agreed that the rents be divided as follows:—

one years proceeds £14.14.0

Wanganui natives: Neta te Wiora, Paraténe te Wiora, Mete Kingi } £10

Paiwa Rangi Kalatu 4

Chief Neremaia 14.

£ 14.14.0

This is the only record of the original owners of Sec 12.

The rents from Sec 13 which in 1879 was leased to Bryant Bros. were distributed as follows:—

Mete Kingi	£ 1.4.11	for 11 acres
Paraténe	2-16-8	" 25 "
Paiwa	2-16-8	" 25 "
Turi whetu	2-16-8	" 25 "

These apparently were the original Owners of Sec 13.

By proclamation dated 29.12.75 103 acres approximate being Sec 13

was set apart for the benefit of the aboriginal inhabitants under the Native Reserves Amendment Act 1862.

In 1876 Paraiene te Wiora or whoever one of the original beneficiaries in Sec 12 died and from then onwards his share of the rents were apparently paid to Neta Paraiene who it is presumed was the same person as Neta te Wiora. There is no trace of any succession order either on the Court files or the old Public Trust Records or in fact any reference to a succession.

The chief Neremaia does not appear to have received any rents as the name does not appear in any old distribution and in 1876 the persons who participated in the distribution of Sec 12 were Neta Paraiene
Mete Kingi
Paiura Rangikalatu.

By Crown Grant dated 14/5/77 25 acres being part Sec 13 was granted to Paiura te Rangikalatu and the grantee subsequently sold to H B Duncan. On 7/8/82 a further 25¼ acres of Sec 13 was Crown Granted to Neta Paraiene.

Under Sec 2 of the Native Reserves Amendment Act 1896 the ungranted portions of Sec 12 and 13 were vested in the Public Trustee. See 1st Schedule to the Act.

On 2/5/06 the Native Land Court

determined the beneficial owners of the ungranted portion of Sec 13 containing 47 ac, 2 r, 33 p, these owners being :—

Pirihira Tarewa	1 share
Hanata te Koore	1 "
Ani Retimana	½ "
Ruta Retimana	½ "
Ritihia Eru te Toe	½ "
Kara Wi Tamihana	½ "

By Sec 43 of the Maori Land Claims adjustment and Laws Amendment Act 1907 the Public Trustee was directed to transfer this area of 47 ac, 2 r, 33 p to the Native beneficiaries and the transfer was accordingly executed on 11-12-07. The above dealings actually accounted for the total area of Sec 13 viz 97 ac 3 r 33 p.

In 1903 a lease of Sec 12 and pt Sec 13 containing 108 acres was granted to Geo Monk of Otaviu for a period of 21 years without right of renewal or compensation for improvements. In 1909 it was discovered that a portion of the lease comprising 9 ac 0 r 38·4 p — being the area between the old and new roads — was really a part of Sec 13 which was vested in the owners in 1907. The natives had since sold their interests to Mrs A G Bryant who agreed to let Mr Monk remain in occupation of the 9 acres during the term of his

(6)

To complete our records it is recommended ~~that~~:—

(1) That Pauira te Rangitalatu, Meta Paraleno and Mete Kingi be accepted as being the original owners of Oharui Sec 12

(2) That the succession order to Mete Kingi in respect of the 18 perches known as Sec 17 Featherston Pce Wgtn be accepted for Oharui Sec 12

(3) That the record of succession as regards the interest of Pauira Rangitalatu be accepted as sufficient for the new Grantees book.

lease at the apportioned rental of £6 pa.

The lease to Mr Monk expired on 30/6/24 and on 1/7/24 the Native Trustee granted a fresh lease to King Bros of Oharui of Sec 12 containing 98a-3r-0p.

In preparing new grantee's books for Native Reserves vested in this office it is necessary to trace back to the original grant or title in order to obtain an authentic list of the original owners. In this case the Native Land Court files are of little assistance the only titles being those for the two portions Crown Granted — Neta Paratene's and Paiwa Rangitatatu's — and for the area of 47ac 2r 33p reverted in the owners. No further information can be obtained from the Land Transfer office. It is clear however that only Sec 1V remains under the control of the Native Trustee although the Reserve is often referred to as "Oharui Secs 12 and 13".

As shown above the original owners of Sec 1V were — according to the information now available —

Neta Paratene
Mete Kingi
Paiwa Rangitatatu

This list has formed the basis of the Public Trust Declaration for many years and has apparently

never been questioned. The three original beneficiaries have been dead for many years and in the case of Meta Paratene a succession order has been made & is on the Board file.

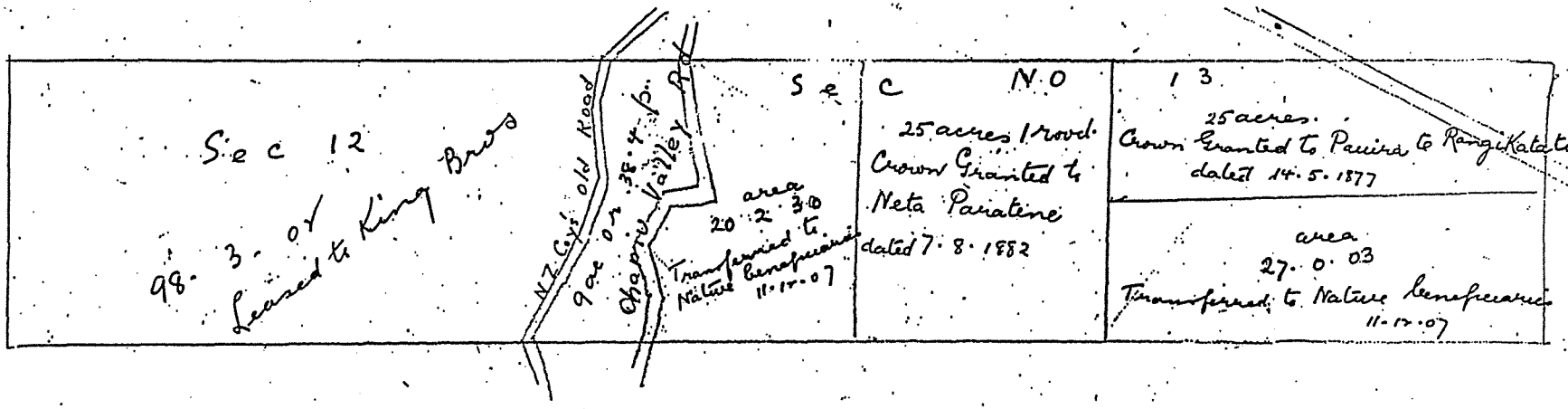
With regard to Mete Kingi dec'd a succession order in respect of 18 perches described as "No 17 Featherston Terrace Wgtn" was made by Judge O'Brien at Wanganui on 28/4/84 the successors being Hoani Takarangi and Mere Mete Kingi. Please see order attached. This order was noted in the old Public Trust grantee's book against Charis 12 and 13 & has always been acted upon. No other order can be traced. See North Island Beneficiaries NR Book page 135.

See file 6/50/2

The remaining original owner Pauira Rangitatatu has also been succeeded to but no actual order can be traced either on the NLB file or in the Public Trust records. There is a minute however dated 7/9/97 in an old record book noting the receipt from Heremaia te Wheoro of Wanganui of a succession order in the estate of Pauira Rangitatatu and this order has been noted in the old grantee's book (ref 97/713) the successors being Teopira Poiha, Wiari Poiha, Heremaia te Wheoro, and Kahurainia Henare. From then onwards the chain of successions is complete

Ohariu Secs 12 & 13 Block I Port Nicholson S.D

Sec 12 = 98. 3. 0 ov
" 13 = 97. 3. 33
196. 2. 33



OHARIU SECTION 12.

App.E No.10 1862 p.12.

This Native Reserve was selected as one of the Original Tenths in terms of the New Zealand Company's Purchase.

Native Trust Office Record 41/20.

The "take" for the land is shown on the Native Trust Office file 41/20 in Major Heaphy's (the then Reserves Commissioner) handwriting the Minute is dated 22nd August 1872 and is as under

Te Ekaia

Son Paetahi
Mete Kingi Paetahi

Daughter Whakamohu-
Married Rangi

Neta te Wheoro Paiuru

Ihaia
Waiari-a-boy
at Heretaunga

Wellington M.B. 15 at page 114.

At the investigation of title to Ohariu 13 the adjoining section, this whakapapa is supported so far as Whakamohu's line is concerned but shows Ihaia as having a second son Tiopira.

Turton's compendium of Native Affairs North Island Part D at page 85.

Apparently some family arrangement was made in connection with the Section during Major Heaphy's administration as in his report dated 30/6/73 he states inter alia "Several disputes "have arisen amongst the Port Nicholson natives interested "in the Reserves made by the New Zealand Company and Colonel "McCleverty. These disputes which chiefly related to the "appropriation of rents have been settled in the following "manner. Section 12 Ohariu. Rent paid by Mr. France "£14.14.0 a year is to be divided equally between Paiura, "Mete Kingi, Paetahi, and Paratene. It might be observed "here that Paratene was the husband of Neta te Wheoro and "presumably received the rent on behalf of Neta. It might "be also further observed that Ihaia the other son of "Whakamohu is not included in the arrangement."

Thus we can take it that the original owners by arrangement were Neta te Wheoro, Paiuru and Mete Kingi

Paetahi.

S/O dated 23/3/1895 N.L.C.file Wn.66 made at Wellington.

Neta Paratene died on or about the 24th of October 1894 and was succeeded by Heremaia te Wheoro and Kararaina Henare Paiuru Rangitatatu was apparently succeeded to by Tiopira Poiha, Wauari Poiha, Heremaia te Wheoro and Kararaina Henare. The Succession Order was apparently produced to the Public Trustee but a copy cannot be found. It is recorded in the old Grantee's Book kept by that Office. That this succession is correct is supported by the evidence quoted supra as Paiuru died without issue and the names quoted are the children of his brother Ihaia and his sister Neta.

Ref.97/713

Wgton.M.B.15 p.114

S/O made at Wanganui 28/4/1884 Old File P.T. 92/103.

Mete Kingi died on or about 22nd September 1883 and was succeeded by Hoani Mete Kingi, Takarangi Mete Kingi and Mere Mete Kingi. This Succession Order, however, was made in respect to Mete Kingi's interest in No.17 Featherston Terrace, Wellington and was accepted by the Public Trust Office as evidence of the succession to the interest in Ohariu 12 although actually no order as to succession was made in Ohariu 12, but there is no doubt that these same beneficiaries would have been appointed to succeed hadapplication been made in respect to that Block.

N.I.Beneficiaries N.R.Book p.135.

N.Id.Ct.file Wgton.66.

The successions from now on are complete and the present beneficiaries in respect to this section are -

Henare Pumipi	1/9 share
Hoani Mete Kingi	1/9 "
Miriama Matewai	1/6 "
Tame Hapurona	1/9 "
Tihema Henare	1/2 "
	1 share

N.R.Amendt.Act 1896 see First Schedule.Wgton. Dist.Rural Land.

The land was vested in the Public Trustee by Section 2 of the Native Reserves Amendment Act 1896 as from the date of the Principal Act (The Native Reserves Act 1882).

Native Reserves Act 1882 Sec.16.

Wherever doubts shall arise as to the persons who may claim

to be beneficially interested in any portion of the land comprised within any Native Reserve the Public Trustee shall make application to the Court for the purpose of ascertaining the names of all persons who shall be deemed to be beneficially interested therein.
And the Court shall hear any application and determine the same according to such evidence and in such manner as it shall think best and shall make such order therein as to it shall seem fitting.

Native Reserves Amendment Act 1896 Sec.13.

Further jurisdiction is given the Court on the application of the Public Trustee to determine the relative interests in any Native Reserve of the persons beneficially interested therein.

No application for the investigation of title or ascertainment of beneficial interests has ever been made to the Native Land Court. The original beneficiaries as ascertained by Major Heaphy when Native Reserves Commissioner have always been accepted and it must of course be presumed that they are correct.

It would appear that you have no Statutory Authority to accept the suggestions made by Mr. Jellicoe in his report, but that it is a matter for the Native Land Court to decide.

I think the Native Land Court would accept the evidence of our records in the matter as it is more likely to be correct than any evidence that could be given by present day natives.

I would suggest that the question be brought before the Native Land Court by an application under the provisions of Section 16 of the NativenReserves Act 1882 and the evidence adduced from our records in support. The Court could be asked to make an order in favour of the owners as now shown on our records to be the rightful successors of the original

owners as found by Major Heaphy.

R P Dykes

Office Solicitor.

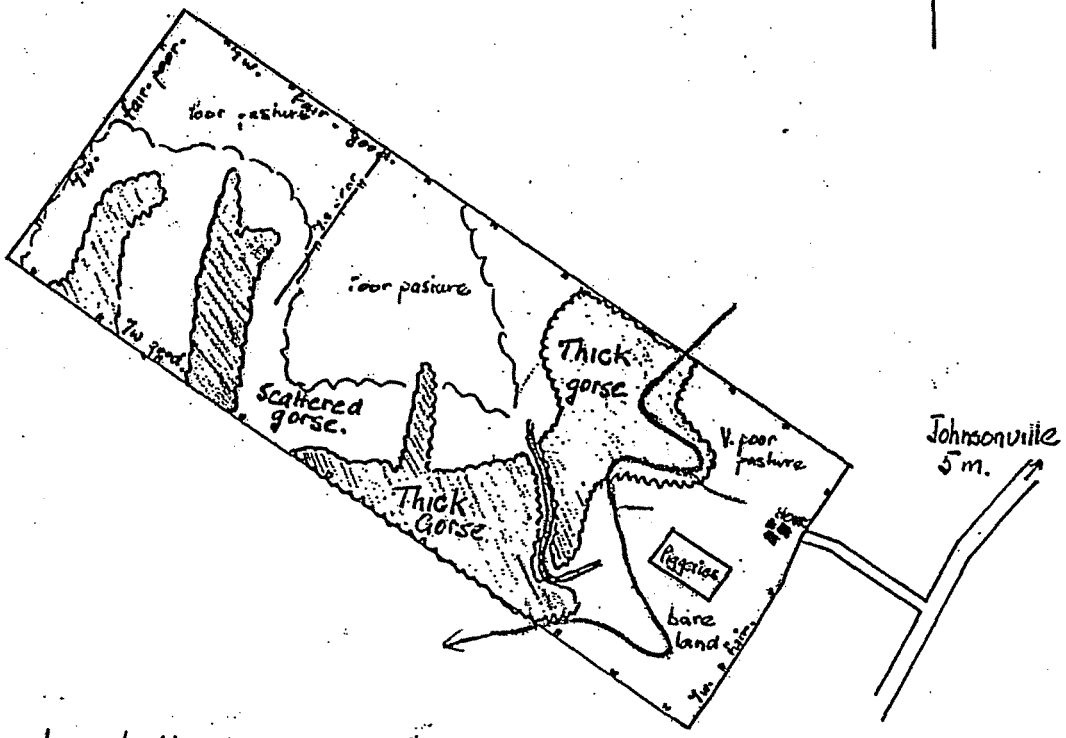
Mr Dykes suggestions approved + application to be made to H.L Court accordingly W E H
21. 7. 25. 8. 27

14

Section 12 Ohariu District
Block I
Port Nicholson S.D.

Area: 98ac. 3r. 01·6p.

Scale: 10chains to an inch



Lease to L.H. Wood.

Plan of improvements as at 24·1·63.
C.I.S.

Heavy gorse	23	acres
Light gorse	26	"
Poor pasture	32	"
V. Poor pasture	6	"
Bare land	12	"
	99	acres.

WAI 145 #3.28

WAITANGI TRIBUNAL

CONCERNING the Treaty of Waitangi Act 1975

AND CONCERNING the Wellington Tenths claim

DIRECTION COMMISSIONING RESEARCH

1 Pursuant to clause 5A(1) of the second schedule of the Treaty of Waitangi Act 1975, the Tribunal commissions Dr Keith Pickens, a member of staff, of Wellington, to complete a research report on the Wellington Tenths reserved lands in the period 1873-1896, for the Wellington Tenths claim. The report is to include the following:

(a) a brief account of the origins of the unassigned tenths reserves described in schedule D of the Native Reserves Act 1873

(b) a description and analysis of the legislation affecting the reserves

(c) details of any alienations, appropriations, and subdivisions of the reserves

(d) details of any McCleverty assigned reserves which came under the administration of either the Reserves Commissioner or the Public Trustee. This is to include an account of the alienation or leasing of any such lands.

(e) a description and analysis of the nature and extent of the involvement of Maori in the administration of the reserves

(f) details as to how the rents from the lands were administered — in particular the nature and extent of any benefits that accrued to Maori with interests in the reserves

(g) a description and analysis of any evidence that shows the attitude of Maori to the way in which the reserves were administered

(h) an examination of the 1888 Maori Land Court hearing and decision that determined the beneficial ownership of the reserves

Cont page 2. a description of.....

(i) a description of any attempts by Maori to be included as beneficial owners of the reserves on grounds other than succession

(j) in terms of the beneficial ownership of the reserves, a general description of the policies and practices that determined how matters such as succession and fragmented interests were dealt with

(k) as part of the report's document bank, lists of people with interests in the reserves found in the course of research

2 This commission commenced on 1 September 1997.

3 The commission ends on 31 October 1997, at which time one copy of the report will be filed in unbound form together with an indexed document bank and a copy of the report on disk.

4 The report may be received as evidence and the author may be cross examined on it.

5 The Registrar is to send copies of this direction to:

Dr Keith Pickens
Claimants
Counsel for Claimants
Solicitor General, Crown Law Office
Director, Office of Treaty Settlements
Secretary, Crown Forestry Rental Trust
Director, Te Puni Kokiri

Dated at Wellington this 24th day of September 1997.

G S Orr
Presiding Officer