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A Report Commissioned by the Waitangi Tribunal

for the Taranaki claim (WAI 143)
concerning

Ngati Tu Lands

by Brian Bargh

January 1996

Any conclusions drawn or opinions expressed are those of the author

Ngati Tu Lands

INTRODUCTION

Ngati Tu (their old name being Hamate), a hapu of the iwi Nga-Ruahine, claim descent from Turi and Rongorongo of the Aotea waka, but can also claim descent from Te Whanau A Tangaroa and Te Kahui Maunga, of the tangata whenua prior to the Great Fleet arrival in about 350 AD. The hapu is so named after their tipuna Tuhaereao.[1]

The boundary of Ngati Tu is, "south of the Otakeho River to south of the Kapuni Stream" - from the sea to the mountain. The boundaries are shared with Ngati Haua and Ngati Manuhiakai.[2] Their grievance in this claim deals with land around the Kaukoponui stream (see Figure 1). Following the 1860's wars between the Government and Taranaki Maori, all Taranaki land was confiscated pursuant to the New Zealand Settlements Act 1863, contrary to the Treaty of Waitangi. Evidence to this effect was presented to the Waitangi Tribunal in 1991.[3] Some land was returned to Ngati Tu but most was retained by the Crown in order to provide farmland and towns for new immigrants and soldiers. Ngati Tu protested at the confiscation of their land for many years culminating in their claim to the Waitangi Tribunal.

The purpose of this report is to investigate specific claims made by Ngati Tu to lands known as Sections 9 (Okawanui) and Sections 10 and 11, which are together known as Rurupopo, and to determine whether the Crown was in breach of the Treaty principles with respect to the alienation of these lands. The Waitangi Tribunal commission for this report contains further details of the requirements of this investigation and is attached as Appendix I.

THE NGATI TU CLAIM

Ngati Tu are joint claimants with other Taranaki hapu in the Waitangi Tribunal claim WAI 143. Ngati Tu's claim to the Tribunal, like the claims of other Taranaki hapu, is that the confiscation of their land in 1865 was wrong. The details of each claim are somewhat different.

Ngati Tu claim that by the use of the NZ Settlements Act 1863, which provided for the confiscation of land of any Maori who was deemed to be in rebellion, they became dispossessed of their land, and that Ngati Tu sections 9, 10 and 11 granted to them by the Crown were to have been inalienable according to the conditions stated on the original grant (copy attached as Appendix II).

By the confiscation of their lands Ngati Tu believe that their, "Economic, Political and Social bases had been destroyed along with their Sovereign Rights and the subsequent 'colonisation' of

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1 WAI 143, Doc # F3, p6

2 WAI 143, Doc # F3, p5

3 Evidence given at Aotearoa marae, Okaiawa, 15/10/91 by Maraekura Horsfall and Richie Luke, see also WAI 143 Doc #'s F3-F9

their descendants".[4] The hapu also claim that their ancestors did not forsake nor abandoned their tribal lands; many were driven off and sought refuge at Parihaka, whilst the remainder were hunted and imprisoned.[5]

CONFISCATION OF NGATI TU LANDS

The Government's plan for confiscations during the 1860 wars was not only to acquire large areas of land suitable for allocation and sale to immigrants and soldiers (and thereby finance the military campaign), but also to pacify the Maori in supposedly 'rebel' districts. The NZ Settlements Act 1863 gave the Governor statutory powers of land confiscation in order to establish settlements in so-called 'rebel' districts and to pacify these areas. Land was subsequently declared a district under the Act and all land was then confiscated, becoming Crown land.

In practice, not only 'rebel' Maori land was confiscated but also lands of those Maori deemed 'friendly'. Maori who had not fought against the Crown were forced to make claim to special Compensation Courts for either monetary compensation for the land confiscated from them or for a grant of land from the court.[6]

Under the NZ Settlements Act, lands in Taranaki were divided into 3 confiscated districts, viz, Middle Taranaki, Ngatiawa and Ngatiruanui.[7] Ngati Tu lands were confiscated under the Ngatiruanui Coast District.[8]

The Compensation Court hearing into the Taranaki confiscated district sat during 1867 and awarded Ngati Tu land in part of what was described as a "Continuous Reserve" on the Waimate plains. However, the Compensation Court awards were not given effect to resulting in numerous petitions and complaints from aggrieved Maori which in turn resulted in the Fox Royal Commission of Inquiry into the West Coast Confiscated Lands. The 'Continuous Reserve' consisted of 25,000 acres which extended between the Oeo and Waingongoro rivers.[9]

As a result of the West Coast commission findings, Ngati Tu had some land restored to them under three grants, viz, 3670, 3672 and 3799.[10] Grant No.3799 of 5944 acres (attached as Appendix II) contained Sections 9, 10 and 11 and was allocated to Ngati Tu as part of a "continuous reserve". The court award was refereed to in the report of the West Coast

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4 WAI 143, Doc # L28 contains a fuller account of Ngati Tu grievances

5 Ibid

6 Crown Forestry Rental Trust, **The Maori land legislation manual**. CFRT 1994 p 27-28. The manual also refers to the records of Compensation court in RDB & the Sim Royal Commission 1928, 'which gives figures for the amount of land confiscated, returned, or paid for, and contains numerous petitions regarding particular blocks'

7 WAI 143, Doc # E6

8 See Gazette 1865, 266-67, RDB 11, p 4038-9

9 AJHR 1883, G-3 Appendix II & MA 1 19/1/250, Vol 1 - Petition 299/1936 Taranaki Confiscations, RDB, Vol 68 - refer to Petition 299/1936 p.....??

10 MA 1 Acc W 1369 - WCSR - Names & No.'s of Grants [No file ref.]

Commission of March 1880. The land was originally to be granted to Manaia Hukunui (on behalf of the Ngati Tu hapu).[11]

THE HISTORY OF LEGAL OWNERSHIP OF NGATI TU BLOCKS 9, 10 AND 11

As a result of representations to the West Coast confiscated lands commission, Ngati Tu were awarded a specific area of land near the Kaukoponui river (see Figure 1) by Crown Grant No.3799 (attached as Appendix II).

Grant 3799, dated 24 October 1882, consisted of 5944 acres with a legal description of 'Sections 43, Block XIV and Section 40, Block XV, Kaupokonui S.D., and Section 14, Block II, Waimate S.D.', granted to Manaia Hukunui et al.[12] The Grant was issued on the condition that:

> the said land shall be inalienable by sale, gift or mortgage or in any other way except as follows. That is to pay first by exchange for other lands of at least equal value such lands taken in exchange being held in fee simple. Secondly by lease for any term not exceeding twenty one years.....

Any lease or exchange of the land had first to be agreed to by the Governor in Council (see Appendix II).

The block was surveyed and various boundaries created between the whanau of Ngati Tu in 1896 (see Fig.1).[13] Ngati Tu blocks shown on the plan were numbered 1 to 20. Section 9 consisted of 55/2/0 acres; Section 10, 17/2/0 acres and Section 11 of 56/3/0/ acres. It is not clear when the blocks were named but section 9 is known by Ngati Tu as Okawanui and sections 10 and 11 together are known as Rurupopo.

Allocation of Sections

On 23 February 1915, the Native Land Court [NLC] in Wanganui considered the Ngati Tu block award known as Grant 3799. The judge noted that "the names affected in the Act of 1913" had been notified and the "requirements to bring into effect pointed out".[14] The case was adjourned and resumed on 25 February 1915 but Rangihuna Pire (on behalf of Ngati Tu) informed the Court that no arrangements had been made yet. Ngati Tu were still in the process of deciding on partitioning the block.[15] Partition orders and plans for sections 10 and 11 are attached as Appendices III and IV respectively. Certificates of Title were issued for No.10 block on 17 April 1919 (Appendix V) and for No.11 block on 20 July 1935 (Appendix VI).

A day or so later Ngati Tu decided on the division of the block and Section 10 of 17/2/0 acres was awarded to Te Aonui Poumua and Section 11 of 56/3/0 acres awarded to Nganeko.[16]

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11 AJHR 1880 G-2 Part I 15/3/1880

12 CT 10/43, Land Titles Office, DOSLI, New Plymouth - front page of grant attached as Appendix II

13 See plan 997, DOSLI NP

14 Taranaki (Tar) MB. 22 Fol 13

15 Tar MB. 22 Fol 24

16 Tar MB. 22 Fol 99, Feb 1915

Section 9, known as Patukopa's kainga, was not decided until April 1915. Rangihuna spoke first at the Court and asked that the "tumbled down" house of Patu and the land be awarded to him. Nganeko said that he claimed the house and contents "under Patu's will". However, the judge stated that the will could not affect "fixtures" even if it were in favour "which it is not". Turaki Maui then claimed the land for himself and his brothers but the judge pointed out that Turaki had his shares in other blocks and went on to state that as there were so many competing claims for this block and the claims were difficult to decide because it was "Patukopa's kainga" which should go to his successors, he would award the block in Patukopa's name and appoint the Public Trustee receiver of the rents and profit from the land pending the determination of the appeal which Te Ua had already indicated would be made.[17]

On 16 April 1915, later on the same day Number 9 block was considered, block No.20 was considered. The judge commented in the minute book that the Court had been adjourned to help Ngati Tu reach agreement but that there was considerable fighting amongst the families over the partition.[18] Further comment on the difficulties of this partition process were made in Court by Nganeko when it sat in Manaia on 17 April 1915. He stated that the discussions held by Ngati Tu to sort out the matter had been "abortive - the people can't even agree to meet. It is useless going on with attempts at further meetings."[19]

On 9 July 1915, Rangihuna Pire was granted sole ownership of Ngati Tu No. 9 under a Partition Order of the Court.[20] The Partition Order and plans are attached as Appendix VII while the original title for the block issued to Rangihuna Pire on 8 November 1916 and subsequent title issued to other private owners are attached as Appendix VIII.

On 17 April 1919 title was issued for Ngati Tu No.10 Block of 17/2/0 acres in the name of Te Aonui Poumua but by order of the Native Land Court[21], the land was vested in Rangihuna Pire on the same date.[22]

Waemura Kato [a.k.a. Waemura Nganeko] succeeded to Nganeko (Taratuterangi) on 1 December 1939 in all his land interests held under the Ngati Tu Grant 3799.[23]

Unpaid Rates

All three of the Ngati Tu blocks were frequently before the Native Land Court as subjects of orders for unpaid rates from the local authority - the Waimate West County Council (WWCC). Various penalties were incurred both for the failure to pay and for the administration of the orders through the court. It seems that the owners borrowed money to pay the rates.

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17 Tar MB. 22 Fol 103 of 16/4/1915

18 Tar MB. 22 Fol 104

19 Tar MB. 22 Fol 106 - 17/4/1915

20 MLC-WANG W1645 - 3/1920/8 Ngati Tu No's 9 & 10

21 See Exchange Order under the Native Land Act 1909 of the interests of Te Aonui Poumua to Rangihuna Pire dated 25/7/1917. Whanganui MB 69 Fol 280

22 CT 91/135 Land Titles Office, DOSLI and Succession Order 29/8/1939 Tar MB. 51 Fol.153

23 MA-WANG Acc 2140 Bundle 21, TAR 193, Vol 5, 1934-39, N.A

It is not clear why rates were not paid on time but the period 1920s to 1940s was characterised by a depression in world prices for agricultural products and as the land was being used by the owners for farming this may have created financial problems. In addition, Rangihuna Pire in particular and probably Nganeko, were involved in a number of petitions to parliament over the failure of the government to properly address Ngati Tu grievances relative to the confiscation of their lands in 1865. Ngati Tu protests are discussed below. The social and economic disruption of Ngati Tu as a result of the confiscations was probably still a continuing.

A number of copies of rate charging orders are attached as Appendix IX. In 1918 notice was given under the auspices of the Native Land Act 1909 by the WWCC for unpaid rates over Ngati Tu No. 10 and 11 for the sum of 1/1/0 respectively, with an Order being made for the recovery of these monies by way of mortgage on both these blocks.[24]

In 1922, demands were made on Ngati Tu No. 10 Block for rates under powers contained in the Rating Amendment Act.[25]

On 29 June 1927 the WWCC made a claim to the Native Land Court on the appropriate form for unpaid rates on Ngati Tu Blocks 9 and 10 of 31/19/9 for the period 1926/279. The land was noted to be worth 2560 pounds.[26]

On 17 September 1929 the WWCC made a claim to the court on the appropriate form for unpaid rates on Ngati Tu Blocks 9 and 10 of 35/4/0 pounds for the period 1928/29. Noted on the back of the claim form was that both blocks were alienated by mortgage to E McLaughlin for a 5 year period from 1920.[27] This mortgage may have been to pay rates.

On 29 April 1930 the WWCC made a claim for unpaid rates to the Native Land Court for the Ngati Tu No.10 Block of just over 55 acres. This claim was for 28/9/1 pounds and included a 10% penalty for a 2 year period, April 1929 to March 1931. Rangihuna Pire was listed as the sole owner and 'no alienations' was noted on the official form.[28] In 1931, a further claim was made for rates on the Ngati Tu 9 and 10 blocks.[29]

1941 saw another claim for rates by the WWCC, made under Section 108 of the Rating Act 1925 for the sum of 9/3/3, over Ngati Tu No.11. The reverse of the official form states that land is owned solely by Waemura Kato and has no alienations. Rates were also unpaid during 1941 to 1943 on this block.[30] Again in 1966 Waemura Kato failed to pay rates on the 7 acre portion of the block he had retained after selling the rest in 1963.

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24 MA-WANG Acc 2140 Bundle 20, TAR 193, Vol 2, 1910-20, N.A

25 CT 91/135 Land Titles Office DOSLI

26 MA-WANG Acc 2140 Bundle 20 TAR 193, Vol 4, N.A.

27 MA-WANG Acc 2140 Bundle 20 TAR 193, Vol 4, N.A.

28 Ibid

29 Tar MB.44 Fol.17

30 Tar MB.56 Fol.81.

Mortgages and Transfers

Ngati Tu No.'s 9 and 10

On 16 December 1915, the Aotea Maori Land Board applied to the under secretary of Native Affairs for an Order in Council to be issued permitting a mortgage of Ngati Tu No. 9 (see CT 87/115 - Appendix VIII). Rangihuna Pire required a 5 year, 300 pound mortgage to enable him to erect a cottage and cow-shed and release a lien in favour of the Kaupokonui Dairy Co. over his cows. The Board recommended that approval be given in light of Rangihuna's "attempt to improve his position".[31] On 13 January 1916 approval was given (see Appendix X).[32]

A further mortgage was applied for on 28 November 1916 in order for Rangihuna to purchase Ngati Tu No. 12 block and he wished to mortgage both Sections 9 and 12 to the Kaupokonui Dairy Company Ltd for 1505 pounds. The value of his lands is noted at being 'well over' 30 pounds per acre. Rangihuna is noted 'for some years' as dairy farming 'successfully' at Manaia. Consent for mortgage was given on the 1 March 1917.[33]

On 8 June 1920, Rangihuna applied for a 1800 pound mortgage to Edward McLaughlin over Ngati Tu No.'s 9 and 10, subject to registered mortgages, viz for No. 9:

> No. 35962 to MA Swan (300 pounds) and No. 38930 to Kaupokonui Dairy Co (1505 pounds).

Ngati Tu No.10 is noted as being free of encumbrances. The mortgage was to be used to; pay off mortgages 35962 and 38930; pay off lien on stock; and the balance to purchase more cows. Mortgage (No. 44096) was registered on 19 October 1920.[34]

A Memorandum of Transfer dated 30 November 1936 (attached as Appendix XI) was signed by the Public Trustee as mortgagee which transferred the Ngati Tu Blocks 9 and 10 from Rangihuna Pire to AV Ashley. The land was sold by auction by the Public Trustee due to the owner's failure to make payments on an 1800 pound mortgage. The Public Trustee stated that notice of overdue payments and consequent intention to sell the land, was given to the owner (Rangihuna Pire) in May 1931 and prior to that to the secretary of Native Affairs in December 1930. No action was taken by either party to prevent the forced sale. The land was passed in at auction on 6 August 1931 and later sold to J Savage for 200 pounds on 31 October 1931. AV Ashley then purchase the land from Savage in November 1936 (Memorandum of Transfer attached as Appendix XI).

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31 MLC-WANG W 1645 - 3/1920/8 - Ngati Tu No.'s 9 & 10

32 NZ Gazette No. 2, 13/1/16 On 13 January 1916 pursuant to the Native Land Act 1909 provided for Maori owned land to be alienated by way of mortgage (or otherwise) only with the consent of the governor. In this case the notice gave the governor's consent to a mortgage being taken over Ngati Tu No.9 block of 55 acres 2 roods

33 MLC-WANG W 1645 - 3/1920/8 - Ngati Tu No.'s 9 & 10

34 MLC-WANG W 1645 - 3/1920/8 - Ngati Tu No.'s 9 & 10

Ngati Tu No. 11

Nganeko died in July 1939 and the ownership of Ngati Tu No.11 block was transferred (by the will) to Waemura Kato on 4 July 1939.[35]

On 4 December 1963, the Ngati Tu No.11 block was subdivided by Waemura Kato who retained 7/0/10 acres (called Lot 1 - see Appendix XII) while the remainder (of 49/2/30 acres called Lot 2 - CT A1/62 -see Appendix XIII) was sold to WL Cowling.[36]

It has been noted that another rating payment order was made against Part 1 of the Ngati Tu No.11 block on 4 October 1966 by the Maori Land Court for 8/16/0 pounds.

In June 1967, Waemura Kato sold his remaining interest in Ngati Tu No.11 block of about 7 acres to WL Cowling (see CT A1/1216 Lands and Deeds New Plymouth office)

Cowling subsequently transferred his interests to Brian Alexander Wan and wife, Hazel Alice Wan on 22 August 1974. They in turn transferred on 2 September 1994, to Bruce Alexander Mead, Colin Campbell Mead and Mark Goffrey Hughson.

Thus, Rurupopo had by 1967 been entirely alienated from Ngati Tu. It could be said however. that all three blocks (Ngati Tu No.s 9, 10 and 11) were primarily alienated by the 1863 NZ Settlements Act and the subsequent individualisation of title that occurred through the Confiscation Court and the Native Land Court. Although Rangihuna Pire was a leading person within Ngati Tu, he was closely involved in fighting the injustices of the confiscations at the same time as he was running his farm and having to cope with a world depression in farm product prices. Little wonder that he and other Ngati Tu farmers were unable to retain ownership of the last vestiges of their lands.

NGATI TU PROTESTS

The first representations by Ngati Tu regarding their confiscated lands were made by Manaia Hukanui to the Compensation Court hearing in Wanganui (no date provided but some time in 1867) for grants to be given to the hapu. Upon asking for the return of his hapu's lands, Ngati Tu have stated in their current claim to the Waitangi Tribunal that Hukanui was offered a bribe of some 2000 pounds as payment for all the Ngati Tu lands. Manaia promptly rejected the offer.[37]

Further protests, in the form of petitions, were made by Taranaki Maori during the 1870s culminating in the Fox West Coast confiscated lands commission.[38] Following the release of the

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35 Taranaki MB 51 Fol.153 and CT 139/29, Land and Titles office New Plymouth (attached as Appendix VI)

36 Taranaki MB 30/7/1958 and 23/5/1960; certificate of confirmation/Transfer No. 123514 Land and Titles, New Plymouth (attached as Appendix XIV)

37 WAI 143, Doc # L28 - 'Claim of Nga Uri Whanau o Ngatitu' - although stated in this claim the claimants provide no reference as to their sources. Refer also to WAI 143 Doc # E6, Janine Ford's report

38 See list of petitions included in evidence given to the Waitangi Tribunal in October 1992 at Parihaka Pa (Wai 143 Doc. # I 12). It is not clear which of the petitions is specific to the Ngati Tu lands and further research would be required to determine this point

West Coast commission findings and subsequent return by way of Crown grant, certain lands, one or two petitions were made by those claiming to have been omitted from land ownership.[39]

It was not until 1921 that the first comprehensive protest over the confiscations was made by Rangihuna Pire and others on behalf of Ngati Tu. In petition No. 281/21, from Rangihuna Pire et al, as representatives of Ngati Tu (and presented to Parliament by Sir Maui Pomare), it was stated that the original 25,000 acres cited as the 'Continuous Reserve', as referred to by the West Coast Commission in their report 15 March 1880, was in fact only about 20,000 acres, and as a consequence Rangihuna claimed that they were entitled to a further of 5000 acres.[40]

The petition was referred to Government on the 28 August 1923 and subsequently dealt with by the Confiscated Lands Commission (the Sim Commission). The Commission, quoting a letter from Sir William Fox to the Native Minister of the 8 March 1882, disallowed the petition stating:

> In this report of the West Coast Commission of the 13th March, 1880, it was recommended that 25,000 acres of confiscated land should be set aside as a continuous reserve, extending the whole distance between the Oeo and Waingongoro Rivers. This reserve, on survey, was found to contain 25,363 acres, while the total area granted to Natives was only 20,348 acres. The petitioners, who are members of the Ngatitu hapu, claim to be entitled to a grant of approximately 5,000 acres. It appears from Sir William Fox's letter to the Native Minister of the 8th March, 1882, that the Government decided to deduct 5,000 acres from the reserve, and that is why more land has not been granted to the Natives. The Government was entitled, of course, to do that , as the Natives had not acquired any legal or moral claim to have full effect given to the recommendation of the Commission. We think, therefore, that the petitioners have not made out any case for relief.[41]

No reason was given as to why the 5000 acres was withdrawn from the Reserve. However, in 1934 and 1936 two further petitions were submitted by Rangihuna Pire and others. These petitions provided further evidence for the return of more land.[42]

Petition No.299/1936 was, more or less, a reiteration of the earlier Petition No.281/21 but also stated that the land confiscated from their hapu was about 130,000 acres worth about 425,000 pounds. The petitioners requested the return of Sections 31 and 32, Block II, Waimate S.D. along with a 6 acre 'canoe landing strip' at Kaupokonui stream. The petition also sought an inquiry regarding the imprisonment of their elders at the Hokitika goal, Dunedin, in 1879.

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39 See for example, Petitions 25/11 by Ani Bishop in AJHR 1911 I-3 p5

40 MA 1 19/1/250, Vol I - Petition 299/1936 Taranaki Confiscations; RDB, Vol 68 p26193-26198

41 AJHR 1928, G-7 p31

42 See petitions 299/1936 and 340/1934-35 RDB V 68 p25990 and 26095-26106

The Petition was referred to the undersecretary of Native Affairs, on the 16 October 1936, for a report. On the 7 December 1937, the undersecretary responded to the petition by citing the department's response given in Petition 281/21 and adding:

> Although the report of the Commissioners does not set forth the reason for the reduction in area, it is apparent that the reduction was made on account of the continued complicity of the Native residents with Te Whiti - see G-5, 1882, p 2.

It appears that the petition was then referred to the Native Affairs Select Committee who stated in a memo dated 29 June 1938 the no recommendation was considered, "in view of Commission's [1928 Sim Commission] findings. .[43] It was noted in his memo of 7 October 1935 to the chairman of the Native Affairs select committee, by the Native Trustee that the setting up of the Taranaki Maori Trust Board was in settlement of the matter.[44]

In 1941, Rangihuna Pire and one other again petitioned parliament to suggesting that the earlier petition from Ngati Tu made in 1936 be dealt with by a commission similar to the Surplus Lands royal commission convened to look into claims in Northland. A note written on the petition shows that the war intervened and that "no immediate action" on the petition was required.[45] On 1 September 1941 the undersecretary for Native Affairs wrote a memo to the clerk of the Native Affairs committee stating that the Taranaki confiscations had been dealt with by the "Commission of 1927". This commission recommended the setting up of the Taranaki Maori Trust Board and for it to receive an annual payment to benefit Taranaki Maori.[46]

Rangihuna Pire and others also separately petitioned parliament over the amount of compensation due to Ngati Tu via the Taranaki Maori Trust Board. Presumably the amount of compensation received was insufficient. The Native Affairs committee had "no recommendation to make". A report on the petition by the under secretary noted that anyone dissatisfied with the conduct of the Taranaki Trust Board could apply to the Native Minister to have the dispute decided by him. The minister had powers under the legislation to direct the Board in such circumstances.[47]

On 17 September 1941 Rangihuna's petition was referred to the government by parliament "for favourable consideration".[48]

In 1944 Rangihuna Pire and others again petitioned parliament over the confiscation of their land on the "Waimate Plains Block". The petition stated that Ngati Tu were a hapu of Ngaruahine and were former owners of the Waimate plains block. They stated that the Fox commission of 1881 had recommended that 25,000 acres be set aside as compensation for the earlier wrongful confiscation of the Waimate plains lands. Apparently, the Native Minister (Sheehan) promised

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43 MA 1 19/1/250, Vol I - Petition 299/1936 Taranaki Confiscations, RDB, Vol 68 ibid

44 RDB V 68 p 26103

45 Petition 38/1941 in RDB V68 p26038

46 Memo from u/s Native Affairs to clerk 1/9/1941, RDB V68 p26043

47 Petition 36/1941, Native Affairs committee report of 14/8/1941 in RDB V68 p26044-26046

48 RDB V68 p26040

"additional reserves and money payments on account of the confiscation of 31,000 acres of land including great forests". The petitioners noted that in settlement with the Crown, the Taranaki Trust Board received 5000 pounds per year as compensation for all Taranaki losses but that this amount was only reasonable for the "Waimate plains confiscations alone" and by implication, unacceptable as compensation for the confiscation of all Taranaki lands.[49]

About August 1950, Rangihuna Pire made further representations to the Minister of Maori Affairs regarding his earlier 1936 petition (No. 299/1936). Apparently, nothing had been done despite Pire giving evidence before the Native Affairs committee. The minister told Pire that the matter had been dealt with by the Sim royal commission and subsequent setting up of the Taranaki Maori Trust Board with its annual payments.[50]

This appears to be the last significant protest by Ngati Tu about the confiscation of their land until their claim lodged with the Waitangi Tribunal. Representations were made to the government by the Taranaki Maori Trust Board over a period of years prior to 1977. These representations attempted to have the Trust Board's annuity adjusted upwards to take account of its declining value due to inflation. Ngati Tu were one of the hapu supposed to receive benefit from the distribution of the annuity by the Trust Board. The government did increase the annuity payment by some 25 percent in 1977.[51]

Given that Ngati Tu are one of the beneficiaries of the Taranaki Maori Trust Board the writer believes that the claims made by the Trust Board should be examined in greater detail particularly as the government seems to accept that many other payments it makes are indexed to inflation. For example, war pensions and certain other benefit payments. As some compensation for inflation was made to Maori trust board payments in 1977, it is strange indeed that this has not been done as a matter of principle on an annual basis.

THE RETURN OF OKAWANUI URUPA

The Ngati Tu No.9 block known as Okawanui was alienated from the hapu following the confiscations. Although it remained in the ownership of a member of the hapu (Rangihuna Pire) this was not the same as tribal ownership. Eventually, for reasons discussed above, Pire sold the land. Thus legally, Ngati Tu have no right to return to their urupa within the block.

During the 1970s and 1980s, various people have sought to protect the Okawanui urupa. A chronology of these attempts in the form of submissions, letters and representations was presented to the Waitangi Tribunal as part of the evidence given by Ngati Tu. A chronology of this information has been prepared and is attached as Appendix XV.

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49 Petition 48/1944, RDB V68 p25993

50 File note of interview between Pire and minister of Maori Affairs 3/8/1950 in RDB V68 p26200

51 A report titled **Maori Trust Board Annuity Payments** was prepared for the Minister of Maori Affairs by Manatu Maori in 1991. No action was taken by the Minister on recommendations contained in the report. Referring to the 1977 increase in annuity payments paid to 5 Maori Trust Boards (which included the Taranaki Trust Board) the report notes "the increase was not reached by an exact mathematical process but was regarded as a more or less arbitrary increase to give some compensation for inflation."

In summary, the owners of Okawanui are the Ashleys. They agreed to allow Ngati Tu access to the urupa under certain conditions. They also agreed not to disturb the urupa apart from grazing it as they currently farm the land. Ngati Tu have had plans of the urupa surveyed and an agreement between the owners and the Ngati Tu trustees of the urupa land has been drawn up. The urupa is still not reserved due to further administrative matters needing to be attended to.

The Crown failed to ensure that this urupa and other wahi tapu of Ngati Tu were protected. In the opinion of the writer, this and other wahi tapu should have been identified by the Crown and reserved from alienation for all time. The Waitangi Tribunal is now specifically prevented from recommending the return of private land. This should not prevent the Crown from acquiring this urupa and any other Ngati Tu wahi tapu on private land from private owners on a willing buyer-willing seller basis.

SUMMARY AND CONCLUSIONS

Ngati Tu have suffered like other Taranaki tribes as a result of the wrongful confiscation of their land in 1865 following the 1860 wars which were initiated by the Crown.

A second tier of suffering occurred following the confiscations which left Ngati Tu effectively landless, through the Confiscation Court process. Land granted to Ngati Tu by the Court was not made available to them and they had to go through another taxing round of submissions and hearings before the West Coast Confiscated Lands Commission in 1879/80 to once again convince the government to give them back some of their lands. As a result they were granted a fraction of the land they had been deprived of - the Ngati Tu block. The process of restoring this 5944 acres to them was lengthy. The Crown grant was made in 1882 but the block was not surveyed until 1896. Ngati Tu were able to live on the land but individual whanau were not allocated specific lands until the Native Land Court sat in 1916 to partition the lands between competing individuals and families.

Another source of grievance for Ngati Tu was that the lands granted to them were done so on an individual basis. Certain urupa and kainga were not reserved for the benefit of the tribe as a whole but fell in ownership to particular members. Thus, an urupa on Section No.9 block (Okawanui) became the property of an individual. It was not until this block had been sold to a pakeha farmer that the tribe felt the full effects of this alienation of their urupa and in the 1970s moves were begun to recover the wahi tapu. The private farmer owners were unwilling to sell the land back to Ngati Tu although they did consent to reserve the land and not to damage it and allow access. The failure of the Crown to protect wahi tapu on the Ngati Tu block would appear to be an obvious breach of the principles of the Treaty of Waitangi.

The Ngati Tu section 9, 10 and 11 blocks were thus not available for development until a time when agricultural prices were low and development very difficult. The individuals who farmed these blocks were therefore at a disadvantage from the beginning. Rangihuna Pire established a farm on Ngati Tu No.9 and 10 blocks but after several years of failure to pay rates on time (which incurred penalty payments) and financial difficulties (through the 1920s and 1930s) the lands were sold by mortgagee sale in 1936 to farmers. Rangihuna's involvement in petitions and

protests at the original confiscation would have severely drained him and his family and it is little wonder that he was eventually forced to sell his share of the tribal endowment in order to pay his debts.

The owner of Ngati Tu No.11 block similarly did not pay rates on time over several years (during the 1920s and 1930s) and incurred penalty payments. The block was transferred by will to Waemaru Kato who was a member of Ngati Tu. Eventually, this block too was sold to private farmers - 49 acres in 1963 and although Kato had retained 7 acres of the original block he sold this also in 1967.

This report has not investigated the fate of other Ngati Tu lands within the original Ngati Tu block. It would however be interesting to determine how much of the land was still owned by members of the hapu. Whatever is left remains the property, not of the hapu as a whole, but the property of individuals. Therefore it may be said that Ngati Tu became landless following the confiscations and despite many years of protest have failed to receive satisfactory redress from the Crown.

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