

NGA WHENUA TAUTOHETOHE O TARANAKI

LAND AND CONFLICT IN

TARANAKI, 1839-59

REVISION OF REPORT NO.1 TO

THE WAITANGI TRIBUNAL:

"THE PURCHASE OF MAORI LAND

IN TARANAKI, 1839-59"

by

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November 1991

AUTHOR'S EXPLANATORY NOTE

1. PREFACE

1.1 The report "The Purchase of Maori Land in Taranaki, 1839-59" was drafted before the Muru me te Raupatu hearings commenced, and was circulated in July 1990.

1.2 It was written at the direction of the Waitangi Tribunal as a background paper to the Taranaki claim.

1.3 It was written without the benefit of claimant consultation.

1.4 Inasmuch as the purpose of the Report was to provide information about the events of the period, the author did not attempt to outline issues relevant to the Claim.

1.5 In June 1991, at the request of claimants, the author was released by the Waitangi Tribunal, and with Crown consent, to be historian advisor to the claimants.

1.6 Subsequently, and at the request of the Waitangi Tribunal, the report was redrafted by the author so as to include additional material and to aid clarification of the issues on behalf of the claimants.

2. THE REVISED REPORT

2.1 All material added to the Report since it was first circulated has been highlighted in bold lettering.

2.2 It should be noted that there has been some reorganisation of material in the early sections of the report. This involves text which was previously headed as follows:

- The New Zealand Company, The Plymouth Company, and the Origins of "Systematic" British Settlement in Taranaki (pp.3-8, Draft Report)

- Taranaki Land Transactions of the New Zealand Company; Selection of the New Plymouth Site (pp.8-9, Draft Report)

- The Company Purchase Deeds, 1839-40 (pp.9-12, Draft Report)

- Company "Native Reserves": The "Tenths" (pp.14-16, Draft Report)

- The Foundation of New Plymouth: Settler Aspirations and Disappointments (pp.18-19, Draft Report)

In the Revised Report, this material is reorganised in Sections 3-7. Additional material has also been incorporated into these sections.

2.3 Two new Section headings have been added: Section 10, "Governor Grey's Taranaki Policy", and Section 16, "The Hua Repurchase Scheme". The heading of one section (now Section 11) has been changed, from "Land Purchases in the Wake of Grey's Visit, 1847-8" (in the Draft Report), to "The Tataraimaka, Omata, Grey, and Bell Purchases, 1847-1848". The text in each case comprises both original material (previously incorporated in other sections) and some additions.

2.4 A Conclusion (Section 27), and six new Appendices have been added to the Report; also a Bibliography.

3. MEMORANDUM ON THE EXAMINATION OF REPORTS FROM HIS HONOUR THE CHIEF JUDGE

3.1 By memorandum dated 31 July 1990 the Chief Judge raised a number of questions arising out of the Draft Report ("Taranaki Claim (Wai 143): Parsonson Reports - Response from Chief Judge Durie"). (See Appendix 6, pp.219-221).

3.2 These questions are answered in the present Report. My responses appear on the following pages of the Report:

- Question 1. - pp.6-8.
- Question 2. - pp.35-6.
- Question 3. - pp.40, 100.
- Question 4. - pp.47-50.
- Question 5. - pp.60, 65.
- Question 6(a). - p.170.
- Question 6(b). - Yes, (though see Grey's Views, pp.71-3)
- Question 7. - See Janine Ford's Paper, Wai 143, #D19.
- Question 8. - This matter has already been dealt with separately.
- Question 9. - p.76.
- Question 10. - pp.108-112.
- Question 11. - See Section 16 (pp.120-125).

3.3 THEMES as outlined by the Chief Judge in his Response referred to above. I agree with those Themes which His Honour has identified in section 12 (a) - (d). I have made some attempt to comment further on (d) e.g. at pp.52-3, p.124, in the Conclusion, and in Appendix 2.

3.4 A further theme which I have developed (in Appendix 2) is that Maori were detrimentally affected by the early imposition of a Government policy which prevented them from leasing their lands. They were thus deprived of a major source of income from their lands, and of control of their own lands, without their consent having been sought or

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LAND AND CONFLICT IN TARANAKI, 1839-59

1. INTRODUCTION

The aim of this Report is to provide some understanding of the origins of grievances of Nga iwi o Taranaki in respect of land purchase policies and practices 1839-59, and to give a background to the Waitara Purchase of 1859-60, which led to the outbreak of war in Taranaki.

The Report covers the period 1839-59, focusing on Taranaki land transactions conducted by the New Zealand Company and by the New Zealand Government. It attempts to explain the development of Government land purchase policy in Taranaki, and to shed some light on the attitudes of Government land purchase agents and officials to the Maori with whom they had dealings, and on the attitudes of the Taranaki settlers. It shows the origins and development of the troubles in Taranaki between the British settlers and the iwi, and suggests that the Crown was much more conscious of its obligations to the settlers than to the iwi, and that land purchase policy was formulated and carried into effect accordingly. In these years, Taranaki Maori were subjected to unrelenting pressure to sell land.

While it is possible to point to the immediate origins of such troubles in the New Zealand Company land purchases, and the lack of British understanding of the iwi political landscape, ultimately the strained relations between Maori and Pakeha, the iwi and the Crown, should be viewed in the context of the expansion of British imperialism, and Maori reaction to it. In recent years historians have been more aware of the various aspects of imperialism - political, economic, and cultural - and of the often damaging effects imperialist expansion has had on the cultures and structures of indigenous societies. The extension of sovereignty or control by one Government or society over another, based on the belief of the imperial nation "in an inherent right...to impose its pre-eminent values and techniques on the 'inferior' indigenous nation or society" is recognised generally to involve the collision of two or more cultures.¹ Bernard Porter in his short history of British imperialism, has written of the "new values, new products, new diseases, occasionally new rulers" being "foisted on" indigenous peoples, and of the remoulding of whole economies, sometimes, to complement Europe's:

"And the natural consequence of this economic

¹. George H. Nadel and Perry Curtis, Imperialism and Colonialism (The Macmillan Company, New York, 1964), p.1.

and cultural onslaught was friction, pained reactions against it from the native..."²

The British came to New Zealand to colonise a new land, as they saw it, and to establish those institutions with which they were familiar - their own Government, legal system, their own system of land tenure - and they brought with them Eurocentric assumptions that their own civilisation was the highest form, divinely ordained, and that less fortunate peoples could do no better than adopt British values and institutions. In the circumstances there was bound to be friction as Maori defended their people, their lands, and their own institutions.

This report shows that in Taranaki friction was present from the beginnings of British settlement, and that British unwillingness to accept Maori social organisation, Maori attachment to the land, Maori economic aspirations, denied Maori the option of participation in te ao hou on their own terms.

At this point some comment should be made on the sources on which this report draws, and their limitations. Government officials in Taranaki wrote innumerable reports and letters in this period, and it is not difficult to document their attitudes, their views on policy, or indeed their views on the politics of the iwi among whom they lived. But it must always be remembered that, on the whole, this is precisely what the written records of this period give us: Pakeha views of Maori communities, written from the outside. Some Maori letters have survived, and some accounts of the speeches and comments of chiefs on important occasions. Government officials often reported their conversations with Te Ati Awa or Taranaki leaders, too.

But it would be a mistake to conclude from the surviving written evidence of Maori politics and attitudes in this period, that as much is known about Maori communities in Taranaki as is known about the settler community. There were some thousands of Maori living in Taranaki, whose politics were very complex, and whose relationships with one another were based on kinship ties often only dimly understood by outsiders, and shaped both by events which had taken place generations before and by recent events.³

². Bernard Porter, The Lion's Share: A Short History of British Imperialism 1850-1970 (Longman, London and New York, 1975), p.26.

³. It is not easy to give exact figures for iwi populations in this period. Cooper (Sub-Commissioner for the Purchase of Native Lands) wrote in April 1854 that "It has been found impossible to obtain a census of the Native population, from an

Maori, moreover, did not keep minutes of their political discussions as Pakeha often did, and yet it is clear that in this troubled period there must have been countless such discussions, both formal and informal, inter-hapu and inter-iwi.

Pakeha sometimes attended and reported on such meetings, but it is hard to avoid the conclusion that even the best-informed of the officials must have missed the significance of certain events in the Maori world around them, or have misunderstood Maori motives or decisions. If Pakeha officials had little knowledge of the history of relations between two hapu, for instance, or of past incidents which might have been at the root of conflict over particular places or resources, or if they had been absent from night-long discussions about certain offers of land, it is hardly surprising that they should have got the wrong end of the stick, or simply have failed to understand more than the most obvious aspects of any situation. The occasional complaints of officials about the "cleverness" or "untrustworthiness" of certain chiefs may well reflect their unease at not being able to grasp the political nuances and changes within Te Ati Awa and Taranaki communities.

It seems important to make this point at the outset because the Government's policy of land purchase in Taranaki had a substantial impact on, and was in turn affected by, Maori politics. Land purchase agents speculated on the motives of those who offered land for sale, or opposed offers made by others, and it is tempting to accept their explanations simply because they are there. Yet those explanations may, on occasion, be incomplete, or even misleading. **We should always remember that** much more is heard, more continuously, from Pakeha participants in the events of these years, than from Maori.

In the period to 1859, most Maori land in Taranaki was purchased from Te Ati Awa in the region around and to the north of the present site of New Plymouth. Some land was

idea which they have formed that the object of the Government in seeking the information is that they may calculate what force would be required to exterminate the Maories and seize upon the land." Those "best qualified to form an estimate" however, estimated the "three principal tribes" (Ngatiawa, Taranaki, Ngati Ruanui), to comprise "about one thousand souls" each, of whom a large proportion were males "capable of bearing arms". Ngati Maru were thought to comprise about 300 people. The total, then, was about 3,500. These figures, of course, are only estimates.

G.S. Cooper, Draft Report to Colonial Secretary, 29 April 1854, McLean Papers, MS Papers 32, Folder 126 (65).

also purchased from the Taranaki people, around and to the south of the town; none was purchased from the more southern iwi until 1859.⁴ Government officials based in New Plymouth were moderately well acquainted with the leaders of the Taranaki iwi, and poorly acquainted with those of the southern iwi. They had most to do with Te Ati Awa.

2. TARANAKI IN 1839

At the time when Pakeha land purchasers first began to take an interest in Taranaki, the great majority of the northern iwi were not living on their **ancestral** lands.⁵ That is not to say the land was unoccupied, because it is clear from the slender Pakeha sources available at this time, that certain families remained on the land to keep it warm.

But the 1820s and 30s had been a time of massive upheaval on the west coast of the North Island - indeed in many parts of both islands. The 1820s saw the arrival of foreign shipping and traders in the far north on an unprecedented scale, and northern leaders armed their toa taua with imported muskets and tomahawks and set out to exact payment for unavenged deaths of their relatives, to destroy the capacity of their adversaries to compete for trade with the foreigners, and to capture workers who could be taken home to help with food production on a massive new scale, so that trade with the shipping could continue. As the taua moved south in these years, into the Bay of Plenty, to Waikato, to Kaipara, the ramifications of the social and economic changes in the far north became far-reaching. Other iwi sought new coastal trading outlets, extra workers to increase production of potatoes or dressed flax, and new weapons.

On the west coast, this period saw a remarkable series of heke to the south, involving many iwi over a number of years. During 1821-2, Te Rauparaha, driven from Kawhia by Waikato-Ngati Maniapoto, led a heke of Ngati Toa, Ngati Koata, Ngati Rarua and other hapu which eventually occupied the Kapiti coast. Later Te Rauparaha was joined by various heke of his Ngati Raukawa relatives from Maungatautari. And in the course of the 1820s, large Taranaki heke also moved south. Some iwi indeed accompanied Te Rauparaha's own heke, including a group of Ngati Tama, some Te Ati Awa men, Ngati

⁴. More evidence respecting these purchases may be brought forward later.

⁵. As the iwi themselves have addressed the Tribunal on aspects of their history at this time, this section is a brief one only.

Mutunga and Ngati Rahiri. The leaders of this taua were Te Puoho of Ngati Tama, Reretawhangawhanga, father of Wiremu Kingi Te Rangitake, Te Whakapaheke of Puketapu and Tumokemoke and Ngatata of Ngati Rahiri.⁶ Te Puoho and Te Reretawhangawhanga returned home about 1823 with many of this party, and led a large heke of their own people south the following year, including Ngati Mutunga, Ngati Tama, Ngati Hinetuhi, Kaitangata and Ngati Hineuru. They settled at Waikanae, though some moved on before long to Whanganui-a-Tara (later Port Nicholson) and to Wairarapa.⁷

A second heke of the Taranaki iwi followed about 1827, in the wake of a series of Waikato/Ngati Haua attacks on Taranaki and Ngati Ruanui. (Smith says that about 120 Taranaki warriors and their families, however, remained behind, with Wiremu Kingi Matakatea). A third also arrived before 1830, largely northern Te Ati Awa (Puketapu, Otaraua, and people from the Manukorihi and Pukerangiora pa). All these migrations took place before the fall of Pukerangiora pa.⁸ And after Waikato/Ngati Maniapoto took

⁶. S.Percy Smith, History and Traditions of the Maoris of the West Coast, North Island of New Zealand prior to 1840 (The Polynesian Society, Memoirs, Vol.1, New Plymouth, 1910), pp.384,393.

⁷. It is not easy now to be certain of the exact number and composition of the heke. One elder of Ngati Mutunga, Pikau te Rangi, a boy of ten or eleven at the time of the heke, distinguished later in the Maori Land Court between a second heke (i.e. after Te Rauparaha's) led by Te Puoho, a third of Ngati Mutunga led by Poke and other chiefs, another of Puketapu, and another led by Reretawhangawhanga and W. King; the last was Te Heke Poukina (Smith has "Paukena"). (Evidence of Pikau te Rangi, 22 February 1890, Ngarara Rehearing, Maori Land Court Minutes, Otaki Minute Book No.10, pp. 301-3). Hohaia Pokaitara of Ngati Toa and Ngatiawa spoke of a second heke of Te Puoho, and a third of Ngatiawa, which he later referred to as Wiremu Kingi's heke. (ibid., 31 January 1890, pp.98-102).

⁸. The general context in which this fighting took place is outlined on p.6 above. Specific causes of fighting are detailed in Smith's History and Traditions, chapters 14-18. According to Smith, for instance, the Amio-whenua expedition (Ngati Whatua, Waikato, Ngati Tipa, Ngati Maniapoto), was attacked by an Ati Awa taua on their way south, because Te Rauparaha (then settled at Urenui with his people in the course of their heke to Kapiti) wished to be avenged on Ngati Maniapoto. He therefore incited Te Ati Awa to attack the taua. Some hapu of Te Ati Awa however assisted Ngati Maniapoto to a strong defensible position in Pukerangiora pa, where they were then besieged by many Te Ati Awa hapu (1821-22). Eventually a large Waikato, Ngati Haua, Ngati

Pukerangiora in 1831 (though they failed to take Otaka pa at Ngamotu in 1832) a heke of Te Ati Awa, Ngati Mutunga, Ngati Tama and some Ngati Maru people set off south, led by Tautara, Rauakitua, Te Wharepouri, Te Puni and others; they too settled initially in the vicinity of Waikanae. There was one more smaller heke (or possibly two) in the early 1830s; a "large number of Ngati Ruanui" migrated at this time.⁹

The process of migration south was gradual, and was completed only some ten years before the arrival of Pakeha settlers in Taranaki. Nor was it simply a series of movements from Taranaki to Waikanae. Many groups spread across to the South Island, to Karauripe (Cloudy Bay), to Queen Charlotte Sound, Te Awaiti, Whakapuaka, Te Taitapu, down the west coast to Mawhera; some went to the Chathams, some settled at Te Whanganui-a-Tara. Percy Smith suggested that many small groups went back and forward between Taranaki and their new places of occupation, which would hardly be surprising, given the distances that the people were evidently becoming accustomed to travel.¹⁰ And it would also suggest that keeping their fires burning was an important consideration to numbers of people. Within ten or fifteen years, many would return home.

Maniapoto taua came to try to raise the siege; hence the battle of Te Motunui (1822) fought at Okoki, after which Waikato, who had suffered heavy losses, were allowed to withdraw - along with the toa of Amio-whenua. Waikato later came south to seek utu for those who fell at this time.

The Tribunal has heard Mr Hamiora Raumati state that Te Ati Awa were not vanquished; that a number of the heke left to travel south after Te Motunui. They did not, therefore, "flee". During later Waikato/Maniapoto incursions a number of Taranaki people were taken back to Waikato. But Waikato did not occupy the land; the manawhenua remained with the tangata whenua.

⁹.Smith, History and Traditions, p.497.

¹⁰.ibid.,p.446. It may be added that Carrington recorded in 1841 that: "Though these people have fixed habitations, they are continually on the tramp from place to place, and appear to think no more of walking across the country or along the coast for 150 or 200 miles, than we should in England of going from one village to another." (Cited in Latest Information from the Settlement of New Plymouth ... Comprising Letters from Settlers there ... (Smith, Elder and Co, London, 1842) p.21.

3. THE NEW ZEALAND COMPANY, AND THE ORIGINS OF "SYSTEMATIC" BRITISH SETTLEMENT IN NEW ZEALAND

As this Report is primarily concerned with land purchase in Taranaki, it moves on now from the iwi history of the 1820s and 30s to consider the beginnings of British interest in central New Zealand. The origins of "systematic" British settlement in Taranaki lie with the broader colonisation schemes of the New Zealand Company.

The New Zealand Company which -after some experimentation - took its final shape in 1839, was a joint-stock company set up to colonise New Zealand in accordance with the theories of Edward Gibbon Wakefield. Such theories on colonisation were the product of a society undergoing great upheavals. Britain was the first nation in the world to industrialise, and as her population also increased at a dramatic rate (from 15.8 millions in 1801 to 26.7 millions in 1841), many people suffered great distress. One historian has talked of "the almost traumatic experiences of economic depression and social misery " which characterised the 1830s and 40s.¹¹

One of the matters to which British social reformers turned their attention, therefore, was colonisation, as a means both of alleviating distress at home and of expanding the British empire. Not that theorists were necessary to get migration under way; British people - and other Europeans too - had already begun emigrating in their thousands in the first decades of the 19th century - to the United States, to Canada, and to the Cape of Good Hope. Only a tiny proportion of British migrants ever came to Australia and New Zealand.¹²

The British "new poor", victims of industrialisation, modernisation and of a rapidly increasing population (as improved living conditions resulted in a huge drop in mortality rates), poured across the Atlantic, in order to survive. Wakefield, however, was not interested in the United States, but in the colonies. He was one of a number of theorists who contemplated British problems, and suggested that some sort of controlled migration to the colonies would be one means of dealing with them. There

¹¹. J.F.C. Harrison, The Early Victorians (Weidenfeld and Nicolson, 1971), p.3.

¹². P. Burns, Fatal Success: A History of the New Zealand Company, ed. H. Richardson (Heinemann Reed, Auckland, 1989), pp.30-1; Philip Taylor, The Distant Magnet: European Emigration to the U.S.A. (Eyre & Spottiswoode, London, 1971), p.25.

was a glut of capital in England; it could be usefully invested in the colonies; there was unemployment in England: labourers, skilled people, could be shifted to new lands and provided with employment. And overseas, British labour and British capital could be reunited; and the colonies would provide the land which was to be the basis of their prosperity.¹³

Wakefield, then, was not concerned with "shovelling out paupers" from Britain; he wanted to use the skills and the capital of the middle classes to build solid, respectable communities, outposts of empire.

"His gospel was an emotional appeal to the pride and self-interest of the professional and middle classes who needed only a little encouragement to seize waiting opportunities; to the respectable, thrifty, and industrious citizens of small means; to the wage-earners who possessed ambition and enterprise but lacked the opportunity to improve their fortunes and their social status."¹⁴

But how could capitalists be attracted to the colonies? Wakefield argued that it was crucial to guarantee them a supply of labour, and that the key to this was to regulate the price of land in a colony. It had to be high enough that labourers could not buy their own land at once, but would have to work for wages. Yet they would be guaranteed jobs, and they would have the promise, ultimately, of a farm of their own. In addition, settlement should be "concentrated"; capitalists should not be allowed to acquire vast, scattered estates, but should rather be congregated in a given district, based around a planned town, so that a body of settlers could assist one another in pioneering, and could create a civilised community together.

Wakefield's theories were not without their weaknesses - in particular, it proved impossible to manipulate the price of land to achieve the effects which he desired and they attracted considerable hostility, as well as support, at the time. But Wakefield was a superb propagandist, and his views achieved great popularity.

¹³. Peter Burroughs, Britain and Australia 1831-1855: A Study in Imperial Relations and Crown Lands Administration (Clarendon Press, Oxford, 1967), pp. 16-17.

¹⁴. *ibid.*, p. 18.

By the mid 1830s, Wakefield had turned his attention to the colonisation of New Zealand. In 1837 the New Zealand Association was formed and The British Colonisation of New Zealand (written anonymously by Wakefield) was published, extolling New Zealand as "a most eligible field for a novel enterprise in colonisation".¹⁵ The Association was short-lived; it was offered a Crown charter for the administration of New Zealand's affairs, but did not wish to accept it because of the condition that the corporation have a paid up capital or, in other words, that members put their hands in their pockets. In 1838, however, some members of the Association formed a new body, the New Zealand Colonisation Company, and it was this Company which turned itself into a joint-stock company, the New Zealand Land Company, in 1839.¹⁶ (The Company changed its name to the New Zealand Company early in 1840.)

The Earl of Durham was elected the governor of the new Company, and a wealthy London merchant, Joseph Somes, its deputy governor. The prospectus, issued on 2 May 1839, informed the public that:

"The Company has been formed for the purpose of employing capital in the purchase and re-sale of lands in New Zealand, and the promotion of emigration to that country."¹⁷

Thus in 1839, on the other side of the world, a process was gathering momentum which was to have drastic results for some iwi; they, of course, were quite unaware of these developments.

¹⁵. The British Colonisation of New Zealand; Being an Account of the Principles, Objects, and Plans of the New Zealand Association... (John W. Parker, London, 1837), p. 43.

¹⁶. Peter Adams has drawn attention to the fact that the terms "Company" and "Association" were used in reference to the 1838 body almost interchangeably. He himself refers to it as the "Colonisation Association"; Patricia Burns refers to it as the "Colonisation Company". See P. Adams, Fatal Necessity: British Intervention in New Zealand 1830-1847 (Auckland University Press/Oxford University Press, 1977), pp. 124, also p. 141. The New Zealand Land Company was formed, according to the official version, by a union of the New Zealand Company of 1825, the New Zealand Association, and the Colonisation Company (or Association). See Durham to Normanby, 22 May 1839, IUP/BPP, Vol. 3, pp. 76-77.

¹⁷. Burns, Fatal Success, p. 101.

The terms of purchase for land in the Company's first New Zealand settlement were issued soon afterwards; all the sections were sold within two months. But the ship Tory, aboard which were the Company men whose job was to buy the necessary land from the Maori, lay out the settlement, and survey the sections, was still on its way to New Zealand. Why did the Company not move more slowly? The hasty despatch of the Tory - and the very formation of the Land Company - had been prompted by the colonizers' discovery that the plans of the British Government for intervention in New Zealand were crystallising in ways which might jeopardise their project.

The British Government had already decided to intervene in New Zealand itself; Lord Glenelg, Secretary of State for the Colonies, had written to Governor Gipps of New South Wales in December 1838 informing him that a consul would soon be appointed, and in February 1839 Captain William Hobson accepted the appointment. It had already been decided in the Colonial Office that the consul should seek the cession of certain parts of New Zealand from the chiefs. And Glenelg himself, a sincere humanitarian, had exerted his influence to exclude from Colonial Office plans the chartering of a colonising company. By March, the Colonisation Company was aware that it did not have Government approval to proceed; and it had also learned that the Government had made a further decision - to establish Crown pre-emption over land in New Zealand.¹⁸ But if this happened, the Company's scheme would fall to the ground; it had to be able to buy land cheaply from the Maori itself and resell it to colonists at its own price, if it were to make a profit - both to pay for the continuing emigration of labourers to New Zealand, and to provide dividends for its shareholders. E.G. Wakefield himself had advised the Company that they should buy up New Zealand land at once: "possess yourself of the Soil & you are secure..."¹⁹; and the Tory was subsequently despatched as soon as it could be managed, on 12 May 1839. The first ships carrying colonists for the as yet unknown settlement in New Zealand left before it was possible to hear any news from the Tory, in September 1839. Only when they arrived, during January, February and March 1840, did the colonists learn of the site of their new homes, at Port Nicholson.

One result of the unsatisfactory negotiations between the Colonial Office and the New Zealand Company was thus that the Company unilaterally sent off an expedition which

¹⁸. Adams, Fatal Necessity, pp.125-140.

¹⁹. *ibid.*, p.14.

aimed to purchase New Zealand land on a vast scale. The Colonial Office issued a belated warning that no promise could be given that titles to land purchased from the Maori would be recognized, and that the title to such lands purchased by "private parties" might pass to the Crown - with suitable compensation being paid.²⁰ To justify such a course of action, it specifically mentioned the need to protect "the interests of the aborigines". But as it turned out, Maori interests could not be properly protected in such circumstances.

²⁰ Labouchere to Hutt, 1 May 1839, IUP/BPP, Vol. 3, pp. 76-7.

4. THE NEW ZEALAND COMPANY'S "PURCHASES" OF MAORI LAND, 1839-40, AND "NATIVE RESERVES"; THE ORIGINS OF COMPANY CLAIMS TO TARANAKI LAND

The Company's preliminary expedition to New Zealand was commanded by Colonel William Wakefield (brother of E.G. Wakefield), who was appointed Principal Agent of the Company. According to his written Instructions, Colonel Wakefield was to buy land for the Company, and to take particular care to choose superior sites - the shores of harbours, the mouths of rivers - which would facilitate trade and communication. His attention was especially drawn to the importance of the harbour of Port Nicholson, and to other parts of Cook's Strait which might be suitable for commercial settlements or for agricultural purposes. In his negotiations with "the natives" (who might be suspicious of the expedition) he was to be frank, and to explain that he wished to purchase the land in order to establish a settlement of Englishmen there. Nor was he to complete such negotiations until "the native proprietors" and "the tribe at large" fully understood what the consequences of their sale might be.

Yet the Company was aware (Wakefield was informed) that it might be difficult for the native sellers to anticipate all the consequences of ceding all their tribal lands. The "superior intelligence of the buyers" should thus be exerted to guard against such "evils".

"The danger to which they [the native owners] are exposed, and which they cannot well foresee, is that of finding themselves entirely without landed property, and therefore without consideration, in the midst of a society where, through immigration and settlement, land has become a valuable property."²¹

To avert this danger, and to provide for the future of the Maori in the new Company settlements, the Company adopted a policy of "native reserves" - "tenths". These would be vested not in the Maori, but in the Company, and were intended to be used for the benefit of the Maori. Thus Colonel Wakefield was instructed that he should

"take care to mention in every booka-booka [sic], or contract for land, that a proportion of the territory ceded, equal to one-tenth of the whole, will be reserved by the Company, and held in

²¹. Instructions from the New Zealand Land Company to Colonel Wakefield, encl. in Hutt to Normanby, 29 April 1839, IUP/BPP, Vol.3, p.72.

trust by them for the future benefit of the chief families of the tribe ...

And you must endeavour to point out, as is the fact, that the intention of the Company is not to make reserves for the native owners in large blocks ... whereby settlement is impeded, and the savages are encouraged to continue savage, living apart from the civilised community - but in the same way, in the same allotments, and to the same effect, as if the reserved lands had been purchased from the Company on behalf of the natives ... Wherever a settlement is formed, therefore, the chief native families of the tribe will have every motive for embracing a civilised mode of life. Instead of a barren possession with which they have parted, they will have property in land intermixed with the property of civilised and industrious settlers, and made really valuable by that circumstance ...

The intended reserves of land are regarded as far more important to the natives than anything which you will have to pay in the shape of purchase-money."²²

"Wilderness land" was worth "nothing" to its native owners; only capital expended on emigration and settlement would give it value. But if Colonel Wakefield was not to be "heedlessly profus[e]" in distributing goods in return for land offered, the Company nevertheless wished that the

²². *ibid.*, pp. 72-3. (Emphasis added.) It may be added that James Stephen (Permanent Under-Secretary at the Colonial Office) was one humanitarian who was not convinced by this particular argument. In a long minute written in December 1840 on the whole question of purchases of Maori land, and "native reserves", he referred scathingly to the New Zealand Company provisions for the Maori: "Thus...the NZ Company bought twenty million acres of Land of the Natives for some old Livery Coats, or some such trumpery, and on condition of making certain reserves of Land at the rate of ten per Cent. This sounded plausibly. If the transaction had been expressed in apt words it would have been called the taking possession of Eighteen millions of Acres of Land for no consideration at all. The use of the word "Reserves" cheated all parties...It seemed a virtuous and liberal action to secure to these Savages one tenth of their own property as some writers convert a Highwayman into a Hero by making him give back a few Guineas out of the purse he has taken." Stephen, Minute, 28 December 1840, CO 209/8, pp. 444-5.

Maori should derive some "immediate and obvious benefit by the intercourse".²³

It is well known that when Colonel Wakefield reached New Zealand he began negotiations to purchase land from chiefs in the Cook Strait region. Several deeds of purchase were transacted; various groups of chiefs put their marks to deeds and received payment; and at the end of the process the Company considered that it had secured a sound title to some 20 million acres of land bounded in the North Island by a diagonal line drawn between Mokau on the west coast and Cape Tehukakore (which Cook had named Flat Point) on the east coast; and in the South Island by the 43rd parallel, "being about one-third of the area of the whole of New Zealand" as the Directors put it in their Second Report to the annual Court of proprietors.²⁴ **The deeds that were the basis of this claim will be considered next, with particular reference to the Company's interest in Taranaki land.**

The Tory, with Colonel Wakefield and the Company party aboard, had initially anchored at Queen Charlotte Sound on 17 August 1839, where the British learned a little about the country and the local tribes from various resident traders. Wakefield intended to buy Te Hoiere (the Pelorus district) first, but learning that "a missionary schooner" had visited Port Nicholson and taken messages to the chiefs "not to dispose of any land", he made instead for the other side of Cook Strait.²⁵ On board the Tory was Dicky Barrett, who would act as the Company's interpreter, and his Te Ati Awa wife Rawinia, sister of the Ngati Te Whiti Chief Te Wharepouriri. The Tory arrived off Pito-one on 20 September 1839, and the purchase arrangements were finalised on 27 September. This was the first Company purchase made in New Zealand. The deed stated that the Company bought all the "right, title, and interest" of the undersigned chiefs (who were described in the deed as the "sole and only proprietors, or owners" of the lands and waters named) "in

²³. Colonel Wakefield was authorised to buy goods worth 3000 pounds for the purpose of barter for land. Burns, Fatal Success, p. 85.

²⁴. Second Report of the Directors of the New Zealand Company (London, 1840), p. 7. See also contemporary Company maps showing the extent of its land "purchases", in the Volume of Supporting Documents.

²⁵. W. Wakefield to Secretary of the New Zealand Company, 10 October 1839, Appendix to the Twelfth Report of the New Zealand Company (London, 1844), F. No. 4, p. 41F.

all the said lands, tenements, woods, bays, harbours, rivers, streams, and creeks" within the boundaries listed:

"The whole of the bay, harbour, and district of Wanga Nui Atera [Te Whanganui-a-Tara], commonly called Port Nicholson..." bounded by the headland known as cape Turakirae on the east and by Te Rimurapa headland (Sinclair Head) on the west, and by a "direct line" between the two points on the south. The boundary ran along the summit of the "Turakirai" range (actually the Remutaka or Rimutaka range) on the east," along the foot of the... Tararua range", about forty miles inland, and along the summit of the "Rimarap range" (Te Kopahou and other ridges) to the west."²⁶

Here at Port Nicholson, Colonel Wakefield learned for the first time that he might be able to buy land in Taranaki, the ancestral home of the people he met at the harbour pa. After he had made the payment for the Port Nicholson land, he wrote that Te Wharepouri's "sudden regard" for him had:

"also opened the way to acquiring a large district of fine flat land at Taranake and Moturoa on the western Coast in the neighbourhood of Mount Egmont... Should I be able to obtain possession of this tract, which is very extensive and perfectly level, through the means I have obtained here, I shall be less anxious about purchases in the north..."

The chiefs had chosen Te Whare, son of Te Puni, and Tuarau to accompany him to Taranaki, "where it is hoped they will be able to open a negotiation with the present possessors of the land, to whom they are both related."²⁷

The Tory returned to Te Awaiti to take Barrett on board as interpreter for the trip to Taranaki, but as Barrett was delayed by the illness of his wife, crossed without him to Kapiti to negotiate with Ngati Toa, taking an interpreter named John Brooks, a sawyer. Through this man Wakefield explained to the chiefs:

"that, after the transaction, they would have no more land, or rights over land of any sort to sell... and Rauperaha [sic] dictated to

²⁶. Appendix to the Twelfth Report of the New Zealand Company, F. No.10, pp. 140F-144F.

²⁷. Colonel William Wakefield, 1 October 1839, Diary 1839-1842, typescript.

[Jerningham Wakefield] the native names of all the places on both coasts to which they had any claim, whether by conquest or inheritance... He then joined with the others in consenting to cede the whole of his rights whatsoever to land in those places."²⁸

The negotiations, according to Colonel Wakefield, were "difficult and disagreeable", but, in the end, successful as far as the Company was concerned.

The second Company deed, transacted at Kapiti with Ngati Toa chiefs, is dated 25 October 1839. The chiefs put their marks to a document which stated that they sold "all our rights, claims, titles, and interests in all the lands, islands, tenements, woods, bays, harbours, rivers, streams, and creeks, within certain boundaries' the whole of the lands... which are now in our possession, or to which we now lay any claim, or in which we now have any rights or interests, on the southern as well as on the northern shore of Cook's Straits". In the South, the boundary was the 43rd parallel south, running across the island from a point south of the Hurunui river mouth on the east coast to a point north of the Wanganui river mouth on the west coast.

In the North Island the line was envisaged as running diagonally from Mokau on the west coast, wrongly stated to be on the 38 degree South parallel (in fact this parallel runs through Aotea harbour), to "Cape Tehukahore" (Flat Point) stated to be about 41 degrees South on the east coast. On paper, this included all the Taranaki lands, and a number of Taranaki names were specifically mentioned. The only places excluded from the purchase were Kapiti and Mana Islands, and the small islands adjacent to Kapiti.²⁹

On 31 October the Tory left the Kapiti coast, returning to Queen Charlotte's Sound to begin negotiations with some 300

²⁸. E.J. Wakefield, Adventure in New Zealand, from 1839 to 1844... (John Murray, London, 1845; facsimile edition/Wilson and Horton, Auckland), Vol.1, pp.127-8.

29. Eleven chiefs marked this deed: Te Hiko, Te Rauparaha (for himself, Maoranga (Mahurenga), and Nohorua), Tunia, Te Whetu (for himself and Mare), Etaki (Te Taki?), Eota, Paioki, Enghia or Charley (Tamaihengia), for himself and his brothers, Rangaihiro (Te Rangihiroa), Tutahanga, and Te Rangihaeata. The prominent names are those of Ngati Toa chiefs. See copy of the deed reproduced in Patricia Burns, Te Rauparaha: A New Perspective (Reed, Wellington, 1980), pp.318-320. Also Appendix to the Twelfth Report of the New Zealand Company, F. No.11, pp.144F-147F.

Te Ati Awa living in the South. The third Company deed, dated 8 November 1839, was transacted with "chiefs of the Ngatiawa tribes, residing in Queen Charlotte's Sound, and other places on both sides of Cook's Straits". The wording was the same as in the Second deed, and the boundaries were the same, though more South Island place names - or approximations of them - were listed. This was the deed to which Wiremu Kingi, who according to Wakefield had been "deputed" by the Waikanae people to accompany him across the Strait, put his name ("E Wite" - Whiti - "for himself and E Redi" - Reretawhangawhanga). Patukekeno put his mark too, "for himself and Toeroa" - Te Manutoheroa of Puketapu. In all there were just over thirty names at the foot of the deed, mostly Puketapu and "Nga Mutu". The payment was similar to that made to the Ngati Toa chiefs: a small number of single and double - barrelled guns, 100 red blankets, 100 tomahawks, 40 kegs of gunpowder, 60 muskets, a large quantity of tobacco, flints, fishhooks, and some clothing, 200 yards of print, scissors, beads, and other miscellaneous items.³⁰

With this concluded, Wakefield decided to proceed to Taranaki "in order to satisfy the now scanty occupiers of that extensive and fertile region...".³¹ En route, at Waikanae, he transacted a further deed with three Wanganui chiefs who happened to be there, and made a down payment of three fowling pieces. (E.J. Wakefield would "complete" this purchase at Wanganui in May 1840, of the land between the Wanganui and Manawatu rivers, "continuing to Patea, going inland to Tongariro Mountains".)

It appeared, however, when the Tory arrived at Ngamotu that it would take a week to assemble all the people and, as Wakefield was anxious to proceed to Kaipara, he landed Barrett and his family and promised to return in a month's time to "receive the written assent of the chiefs to the sale".³² In fact, Wakefield struck such trouble in the north - the Tory ran aground off Kaipara - that it was to be nearly two months before he was able to send a Company man back to Ngamotu.

The fifth Company deed was thus transacted at Taranaki itself on 15 February 1840, with "the undersigned Chiefs of

³⁰. *ibid.*, F. No.12, pp.147F-150F.

³¹. E.J. Wakefield, Adventure in New Zealand, Vol.1, pp.137-8.

³². Wakefield to the Secretary of the Company, 13 October 1839, Appendix to the Twelfth Report of the New Zealand Company, 1844, F. No.7, pp.130F-131F.

the District of Nga Motu near Mount Egmont...". They too "parted with all our Rights, Titles, Claims and Interests" and guaranteed to the New Zealand Company "true and undisputed possession" of the territory described therein, bounded by the mouth of the "Wakatino [Mohakatino] River" south "along the sea shore" to "Auronga" [Hauranga], "the said sea shore at low water mark forms the North Western boundary of the said lands...". The southern boundary then ran inland along a line through Patuha to Pouakai and to the summit of Taranaki; then another line forming the eastern and northern boundary went by the "Wanganui" [Manganui] River, crossing the Onaero, Urenui, Mimi and other rivers at various named points until it reached the Mohakatino River and ran down to its mouth. The payment comprised 200 blankets, 58 fowling pieces, 80 tomahawks, 40 casks of powder, a large quantity of tobacco, cloth, various articles of clothing, gardening implements, cooking implements, scissors, and miscellaneous items. About 40 men and 30 women put their names to the deed.³³

The final deed was also transacted on 15 February 1840 with "chiefs of the district of Taranaki, near Mount Egmont", and concerned land to the south of that included in the Ngamotu deed. The boundary began at Hauranga and followed "a line drawn along the sea-shore at low water-mark" to the mouth of the Wareatea River, "then" to the mouth of the "Wangatawa" [?Hangatahua] river; it ran up this river to its source, then to the summit of Taranaki and "along the southern boundary of the Nga Motu district" by way of Patuha "to the sea-shore at the aforesaid Auronga [Hauranga]...". There are 13 names on the deed. The main items of payment were 100 blankets, 15 fowling pieces, 15 kegs of powder, cloth, tobacco, and clothing.³⁴

"Thus", wrote the naturalist Ernest Dieffenbach, who had spent the two months at Taranaki with Barrett, "the New Zealand Company became proprietors of the finest district in New Zealand, which offers to the colonist, besides its natural resources, the advantage of there being no natives

³³. H.H. Turton, (comp.) Maori Deeds of Old Private Land Purchases in New Zealand, from the Year 1815 to 1840, with Pre-emptive and Other Claims (Government Printer, Wellington, 1882), pp.392-3.

³⁴. Encl.2 in Spain to FitzRoy, 31 March 1845, IUP/BPP, Vol.5, pp.74-5. See also contemporary Company map, in Volume of Supporting Documents.

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³⁴. Encl. 2 in Spain to FitzRoy, 31 March 1845, IUP/BPP, Vol. 5, pp. 74-5. See also contemporary Company map, in Volume of Supporting Documents.

on the land, with the exception of the small remnant of the Nga-te-awa tribe at Nga-Motu."³⁵

The Company deeds, then, purported to extinguish all the rights of the Maori who marked them, to all their lands, harbours, and inland waterways. They left the Maori without any land of their own. Yet the Company did not see this as an act of dispossession. In accordance with his Instructions, Wakefield made provision in all the deeds he transacted for "native reserves". The second and third deeds, with Ngati Toa and Te Ati Awa in the South respectively, both contained a clause binding the Company to reserve:

"a portion of the land ceded by them, suitable and sufficient for the residence and proper maintenance of the said chiefs, their tribes, and families...[to be] held in trust by them for the future benefit of the said chiefs, their families, tribes, and successors forever."

The two Taranaki deeds (involving the "purchase" of more narrowly defined tracts of land) contained a "tenths" clause:

"That a portion equal to one tenth of the land ceded by them will be reserved by...the New Zealand Land Company...and held in trust by them for the future benefit of the said chiefs their families tribes and successors forever."³⁶

These clauses embodied the Company view of its duty to the Maori, with respect to land. Clearly, it was a limited view.

"There was no actual provision in the deeds for any land to be retained in Maori control ... for Maori places of residence to be respected; or for Maori to have any say in where their "reserved lands" would be situated.

The deeds, and the provision for "tenths" (however 'well-intended', as Professor Ward

³⁵. Ernest Dieffenbach, Travels in New Zealand: with contributions to the Geography, Geology, Botany, and Natural History of that Country (Murray, London, 1843; Capper Press reprint, Christchurch, 1974), Vol. 1, p.171.

³⁶. Ngamotu deed, in Turton, (comp.) Maori Deeds of Old Private Land Purchases in New Zealand, p.393.

puts it), thus embodied a totally foreign view of Maori land tenure, and of Maori rights and the Maori future in a Company New Zealand. This view bore no relation (initially) to Maori custom and usage relating to land, or Maori expectations of their future alongside the new settlers. It was to be arbitrarily imposed from outside."³⁷

The assimilationist thinking embodied in the Company's policies was in fact in line with the general British views of the time. It was widely considered that the Maori, "superior to most, if not all thoroughly savage people"³⁸ would welcome the chance of "improvement" on British terms, and that they would willingly trade large quantities of their "waste" or unused lands in return for the benefits of British settlement in their midst. From London, the Company assumed the right to redesign Maori society and to take control of Maori social and economic development.

5. THE COMPANY VIEW OF THE TRANSACTIONS

Wakefield reported confidently to the Company on the outcome of his transactions in New Zealand. The key to understanding his approach to his negotiations with Maori is to be found in the remarks of his nephew, E. J. Wakefield:

"It was extremely difficult - nay almost impossible - to buy a large and distinct tract of land, with fixed boundaries, from any native or body of natives of this part of New Zealand, perfectly unused as they were to any dealing in land according to our notions... Colonel Wakefield was accordingly obliged to buy of the natives, not certain lands within certain boundaries, but the rights, claims, and interests of the contracting chieftains, whatsoever they might be, to any land whatever within certain boundaries."³⁹

³⁷. Ann Parsonson, Observations by the Claimants on the Report by Professor Ward, Wai 27, #U10(c), pp.1-2.

³⁸. British Colonisation of New Zealand, p.28.

³⁹. E.J. Wakefield, Adventure in New Zealand, Vol.1, pp.85-7.

Thus, after transacting the Ngati Toa deed, William Wakefield wrote that he had "not obtained a title to all the land included within those parallels" [i.e. from the 39th to the 43rd degree of latitude on the western coast and from the 41st to the 43rd on the eastern]. To complete the Company's title he must secure a cession of the rights of the "Ngatiawa", and of the Ngati Raukawa and Wanganui people to the areas they occupied. And after he had secured the marks of Te Ati Awa to his "parallels of latitude" deed he considered that he still needed to make purchases from the Te Ati Awa living at Waikanae, at Taitapu and Wanganui (on the west coast of the South Island), and from Ngati Raukawa. But he did not have time just then to treat with them all; this was something that could be done later.⁴⁰ Nor did he seem to be aware that there were numbers of other iwi living within "his" boundaries. After his negotiations with Ngati Toa, he wrote:

"In purchasing on the large scale I have done in this transaction, in marking the boundaries of territory acquired, upon the fullest and most satisfactory explanation and examination, by parallels of latitude, I conceive that I have obtained as safe and binding a title as if the subject of negotiation had been but a single acre, and defined by a creek or a notched tree; and it must be remembered that nine-tenths of the land is without an inhabitant to dispute possession, and that the payment I have made to the owners is large when valued by the standard of exchange known amongst them, and perfectly satisfactory to the sellers."⁴¹

Wakefield was aware, of course, that other "foreigners" had bought and were buying land, but he dismissed such purchases as unlikely to interfere with the Company's title because they were "insignificant" in size, and not properly

⁴⁰. It is not in fact clear that Wakefield considered time his only problem at Waikanae; he noted on 28 October that "If time had permitted, I could have concluded the bargain for their lands, although I should have had some difficulty in satisfying them in respect to arms, with which I am ill provided." Appendix to the Twelfth Report of the New Zealand Company, p.115F. It should be noted that the Company purchasers arrived at a time of considerable tension in the region; there was fighting between Ngati Raukawa and Te Ati Awa at Kuititanga (Waikanae) on 16 October 1839, the day the Tory arrived at Kapiti.

⁴¹. Colonel William Wakefield, 24 October 1839, Diary 1839-1842, typescript.

transacted anyway. He did not think regular documents had been made out, or payment made, in most cases.

To Wakefield, then, his deeds written in English, his plans and lines of latitude, his cases of muskets and other trade goods, and the patient explanations of his interpreters to the chiefs - warning that they might never sell the land again, and would never receive any more payment from the Company - were sufficient. The chiefs, he wrote, were all anxious for Pakeha to live among them, and were all pleased with the negotiations - despite a few hiccoughs - and the payments. And, after transacting his deeds, he took possession of the land in the name of the Company. The Company lands, he wrote to England, he had called "North and South Durham", in the hope that a British population would one day "render them [the two Provinces] worthy of their name."⁴²

The Directors of the Company, for their part, received this news with enthusiasm. As they reported to the Court of proprietors:

"It will be the duty of your Directors to maintain and defend your rights to this valuable property by all lawful means; and they trust that...the Company's territory may be made not merely a source of profit to you, but a basis on which the work of Colonization may continue to be carried on with substantial and lasting benefit to the mother country."⁴³

But the Company was to find that matters were not to be nearly so straightforward as they might have hoped for at this time. Major difficulties were to spring from the very land transactions which the Directors learned of with such relief late in 1840.

6. MAORI VIEWS OF THE TRANSACTIONS

It is clear that Maori who put their marks to Wakefield's deeds did not interpret them in the same way as he did. Nor is this surprising. The deeds were all in the English language, and were lengthy, technical documents; and they purported to buy land on an unprecedented scale. Despite the verbal explanations given by the various interpreters,

⁴². *ibid.*, 9 November 1839.

⁴³. Second Report of the Directors of the New Zealand Company p.7.

it is obvious that the chiefs did not see either the parchments, or the negotiations themselves, as compromising their position in their own domains. The chiefs who dealt with Wakefield could not have conceived that their actions would have the effect of making them guests in their own country, completely dependent on the goodwill of newly arrived Pakeha for their right to occupy any land at all. As Professor Alan Ward has put it:

"... the resident Maori [Ngati Awa, Ngati Toa and others] clearly had no intention of handing over both ownership and control of this vast territory and putting themselves at the disposition of the Company's officers. Whatever they had intended (those who in fact marked deeds) they did not mean that."⁴⁴

⁴⁴. Alan Ward, A Report on the Historical Evidence: The Ngai Tahu Claim, 1989, Wai 27, #T1, p.75.

E. J. Wakefield reported vividly the amazement of Te Ati Awa at Port Nicholson after the first Company settlers arrived, concluding that "their minds had evidently not been of sufficient capacity to realize the idea of such numbers." Te Wharepouri even made preparations to return to Taranaki soon after emigrants from the first two ships had landed. According to Wakefield, he said:

" I know that we sold you the land, and that no more white people have come to take it than you told me. But I thought you were telling lies, and that you had not so many followers. I thought you would have nine or ten, or perhaps as many as there are at Te-awa-iti. I thought that I could get one placed at each pa, as a White man to barter with the people and keep us well supplied with arms and clothing; and that I should be able to keep these White men under my hand and regulate their trade myself. But I see that each ship holds two hundred, and I believe, now, that you have more coming. They are all well armed; and they are strong of heart, for they have begun to build their houses without talking. They will be too strong for us; my heart is dark. Remain here with your people; I will go with mine to Taranaki."

According to Wakefield, the people decided to stay after all, and later Te Wharepouri "often laughed at this sulky fit".

(Wakefield, Adventure in New Zealand, Vol. 1., pp.202-3

But Te Wharepouri did not enjoy watching the establishment of the new settlement. "Brooding over his wrongs" (of various sorts), he died in November 1842. Angela Ballara, "Te Wharepouri", in The Dictionary of New Zealand Biography, Vol. 1, 1769-1869 (Allen and Unwin/Department of Internal Affairs, Wellington, 1990), pp.521-2.

And although Wakefield instructed his interpreters to explain the "tenths" to the Maori, it is clear from later Maori reactions that the Company reserves system had not been understood at all.

The chiefs looked at Wakefield's trade goods, his cases of muskets, his prized double-barrelled guns, his boxes of ammunition, and blankets, and, as Taituha of Te Ati Awa later explained it to Commissioner Spain:

"When I saw the goods I did not think of anything else, but put them on my shoulders and walked away."⁴⁵

Some speakers at the negotiations did express alarm; what if Wakefield's promised hundreds of Pakeha did come? But these fears were discounted. So far, resident Pakeha had been men, who were accommodated singly or in small groups by the chiefs: they were given a place to live, they were usually tied to their hosts by marriage, and they posed no threat at all to Maori autonomy. Nor were the new land deeds seen as threatening that autonomy. Some of the Cook Strait communities were just beginning to learn to read and to write at this time, from Maori teachers who had arrived from the far north. But they had no experience at all of the weight which Pakeha attached to written land deeds, of the legal force of such documents, of the workings of land courts or commissions. Ultimately, they had no idea of the imminent establishment of British power in their country, the immediate effect it would have on their lives and, in particular, the new status it would bestow on the sort of land transactions they entered into in the latter part of 1839.

Before Annexation in 1840, only the chiefs had the authority to decide whether Pakeha might reside with their people; in the years immediately after Annexation they found that for the first time the British were able to make and enforce their own decisions on this matter. It was a dramatic change, which could hardly have been envisaged at the time of the visit of the Tory - the arrival of the Treaty of Waitangi in the south was still some months away (April-May 1840).

The difference between Maori and Company expectations of the effect of the transactions of 1839-40 was thus very great. The Company intended to lay the basis of an exclusive claim to as much land as it could, basing that claim not merely on the deeds of purchase but on immediate occupation and the establishment of at least one settlement

⁴⁵. Spain to FitzRoy, 31 March 1845, IUP/BPP, Vol.5,p.63.

and, it hoped, on recognition of their claims by the new Government. The Maori appear to have considered that if settlers did arrive, there would not be enough of them to constitute a threat, and it would be possible to accommodate them, and to benefit from their presence.

Colonel Wakefield himself more than once recorded comments which hinted at the gulf between the two views. After the Ngati Toa deed had been transacted, for instance, he wrote that he had heard of various Maori opinions of the sales, and some "betrayed a notion that the sale would not affect their interests, from an insufficiency of emigrants arriving to occupy so vast a space, to prevent them retaining possession of any parts they chose or of even reselling them at the expiration of a reasonable period." And at Queen Charlotte Sound, on 2 November 1839, he wrote:

"The natives here, some of the ancient possessors of Taranake, are very desirous that I should become the purchaser of that district, in order that they may return to their native place without fear of the Waikato tribes."⁴⁶

But such warnings that Maori might be seeing the transactions in a different light evidently escaped him. In Taranaki, that gulf between Maori and Pakeha expectations was to have far-reaching consequences.

⁴⁶. Colonel William Wakefield, 2 November 1839, Diary, 1839-42, typescript.

7. THE PLYMOUTH COMPANY AND THE FOUNDATION OF NEW PLYMOUTH:SETTLER ASPIRATIONS AND DISAPPOINTMENTS

While the first Company settlement was taking shape at Port Nicholson, plans for a new colonising venture were being made in Britain. An "auxiliary" company to the New Zealand Company was formed - the Plymouth Company of New Zealand, which came into existence early in 1840. The Earl of Devon (who had been chairman of the Committee of the House of Lords on New Zealand in 1838) was its chairman; and it had a close association with the New Zealand Company, which acted as its agent in London.⁴⁷

The Plymouth Company was founded to make a direct appeal "to the landed Proprietors, and others, interested in the Counties of Devon and Cornwall... to co-operate with the New Zealand Company, in giving further effect to its views"; and to form its own settlement, "the New-Plymouth Colony of New Zealand". The Company intended to raise a capital of 50,000 pounds in shares of 25 pounds each, to put 10,000 pounds into the capital stock of the New Zealand Company, and to spend 10,000 pounds buying 10,000 acres of land from the New Zealand Company. The rest of the capital would be used either to buy more land or to lend to settlers. The Plymouth Company's Surveyor would select the site from among the New Zealand Company's "possessions". The settlement would comprise 11,000 acres - 10,000 to be purchased from the New Zealand Company:

"and 1,000 acres to be added by them, for gratuitous distribution among the native families surrounding the Settlement: thus presenting them with an inducement to embrace a civilized life; and, in lieu of the waste they originally sold, investing them with a property rendered really valuable, from its admixture with that of industrious settlers".⁴⁸

⁴⁷. J.S. Marais, The Colonisation of New Zealand (Clarendon Press, Oxford, 1927;reprinted Dawsons, London, 1968), p.52.

⁴⁸. Prospectus of Plymouth Company of New Zealand, encl. in Ward to Wakefield, 10 February 1840, NZC 102/1, pp.348-352. Initially the Company offered for sale 40 Country sections of 50 acres each at £50 per section, and 1000 out of 2000 Town sections of quarter of an acre each at £10 per section. In July 1840 the price of £75 was fixed for double land orders consisting of 50 acres of rural land and 1 town section. Memoranda, - on the various terms of purchase issued by the Plymouth Company ... NZC 303/2.

The Maori of this new settlement (as yet unknown), then, were to be accommodated in accordance with the New Zealand Company notion of "tenths" (in this case, clearly "elevenths").

The New Zealand Company was enthusiastic about the new venture, regarding it "as a fresh proof of the increasing confidence of the British public in this Company, and in the system of colonization which the Directors have laboured so strenuously to carry into effect."

On 2 July, John Ward, Secretary of the New Zealand Company, wrote to Colonel William Wakefield, principal agent of the Company in New Zealand, instructing him (in accordance with the wishes of the Plymouth Company) to select a site for the new settlement; the Plymouth Company was to have "the first right of choice out of all the Lands of the Company which may be disposable...".

A site was to be chosen which could accommodate a substantial increase over the 10,000 acres which the Plymouth Company was to buy from the New Zealand Company, for the Company was to have a right of pre-emption to at least 20,000 acres over and above this. Wakefield, therefore, should allow room in New Zealand for 20,000 - 50,000 additional acres. The object of the Company, wrote Ward:

"appears to be to establish a Town and Settlement which in a Commercial and Agricultural view shall be second only to the Capital...".⁴⁹

On 6 August 1840 the two companies signed a Memorandum of an Agreement. By this the Plymouth Company was to receive 400 shares in the New Zealand Company, for which the Directors paid 2500 pounds down, and owed another 7500 pounds to be paid in instalments. This expenditure entitled the Plymouth Company to a Special Land Order authorising its agent to select 11,000 acres from the New Zealand Company's "possessions". One thousand acres out of the 11,000 was to be set aside and chosen by lot as Native Reserves in the town and settlement of New Plymouth, to be held by the Plymouth Company "for the native families" in accordance with New Zealand Company regulations. The New Zealand Company was itself to contribute to the settlement, free of charge, enough land for public purposes and roads. It also undertook to sell another 50,000 acres adjoining this land at 5 shillings an acre as required; but in five years all land unpaid for should revert to the New Zealand

⁴⁹. Ward to Wakefield, 2 July 1840, NZC 102/2, p.28.

Company. Further lands adjoining this block should be set aside for Native Reserves "equal to one-tenth of the same."

The two companies agreed that the Plymouth Company should spend 7500 pounds on emigration, and that if and when additional lands were sold at least 15 shillings per acre should likewise be spent on emigration.⁵⁰

In fact the Plymouth Company was to have only a brief life. It had a paid-up capital of less than 4,000 pounds, and when it lost a large proportion of its funds because of the failure of its bankers, it had to appeal to the New Zealand Company to bail it out. The New Zealand Company was at first quite unhelpful, refusing to help with a loan, but eventually it came to the aid of the Company. The Plymouth Company was merged into the New Zealand Company, by an agreement reached during February 1841. The New Zealand Company was to take over the assets and liabilities of the Plymouth Company, and in return the Plymouth Company would receive 500 shares in the New Zealand Company, including the 400 previously assigned to it. The two companies were united in May 1841, and from this time on the New Zealand Company considered:

"the settlement of New Plymouth, and all the arrangements for the disposal of Land there, and for the conveyance of Emigrants thither, to be under the management of this Company..."

And it appointed its own Resident Agent at New Plymouth, Captain Liardet.⁵¹ New Terms of Purchase were issued by the New Zealand Company in July 1841, outlining a plan for the New Plymouth Settlement. It was to consist of 2200 town sections of a quarter acre each (a total of 550 acres, exclusive of public places), 209 suburban sections of 50 acres each (a total of 10,450 acres), and at least 1150 rural sections of 50 acres each (a total of 57,500 acres, exclusive of roads). The policy of "Native Reserves" was reaffirmed. The settlement therefore would comprise at least 68,500 acres.⁵²

The Court of Directors of the Plymouth Company remained as a "Committee of Agency", called the West of England Board, to sell land in England and select emigrants under the

⁵⁰. Memorandum of an Agreement...encl. in Ward to Wakefield, [14] August 1840, NZC 102/2, No. 67.

⁵¹. Bell to Wakefield, 26 April 1841, NZC 102/4, No. 135.

⁵². New Zealand Company Notice, 22 July 1841, CO 208/292.

regulations of the New Zealand Company. Henceforward land would only be sold in England to actual colonists. (This had also been the policy of the Plymouth Company from July 1840, though because of its financial difficulties the Company had been forced to abandon it in December 1840.) But towards the end of 1842, as a cost-cutting measure, the New Zealand Company decided to abolish the Plymouth establishment under the West of England Board forthwith.⁵³

The systematic British settlement of Taranaki, meanwhile, had begun. By the time the Taranaki purchase deeds were transacted, the Treaty of Waitangi had already been signed at the Bay of Islands, and the process of British annexation was underway. Lieutenant-Governor Hobson proclaimed British sovereignty over New Zealand on 21 May 1840. The New Plymouth settlers, therefore, arrived in a British colony. The first ship left England in October 1840, before the settlers knew where their town would be. Only when they reached New Zealand did they learn of the choice that had been made by Frederic Carrington, chief surveyor of the Plymouth Company. Carrington, who had reached Wellington in December, had been given a free hand by Colonel Wakefield. Offered Queen Charlotte's Sound, Blind Bay, or Taranaki (all of which he inspected), he chose Taranaki.⁵⁴ In the wake of his decision, three British ships landed at New Plymouth during 1841, two more in 1842, and a third in 1843, bringing some 900 passengers in all.

The early emigrants were drawn from Cornwall, Devon and Dorset, where farming had been depressed for some two decades. "Agricultural labourers in the three counties were among the worst paid and the least secure in the whole

⁵³. The Board accepted this decision with some grace, while expressing its deep concern that the severing of its ties with the Company might leave its infant settlement in New Zealand at the mercy of a Court of Directors with no real interest in it. Already it was rumoured, wrote the Board, that the Court considered New Plymouth "an unpromising Branch of the Company's operations", not really deserving of its full attention. Marais, Colonisation of New Zealand, pp.52-3; The Earl of Devon to Ward, 10 February 1843, CO 208/38, pp.511-2.

⁵⁴. W. Wakefield to Secretary of New Zealand Company, 22 December 1840, NZC 3/1, p.434. Also W. Wakefield to Secretary of Plymouth Company, 12 February 1841, encl. in Wakefield to Secretary of New Zealand Company, 14 February 1841, NZC 3/21, p.3.

of England."⁵⁵ The promise of land in a new colony therefore was particularly attractive to those farmers and farm labourers who had been hard hit at home by low prices and high rents. They came to New Plymouth to escape the difficulties at home; and the Company's propaganda had not prepared them for the situation they walked into at New Plymouth. There was no harbour, and because the shipping tended to avoid a difficult roadstead, the settlement was cut off. And, added to the usual pioneering hardships, were the problems arising from the weaknesses of the colonising companies. The Plymouth Company, as has been noted, folded quickly. And ultimately the New Zealand Company did not have enough capital, and was not able to attract enough settlers of means - potential employers - to its infant colonies to give them a strong economic base in the early years. Too many of those who bought land in Company settlements stayed in England; as late as 1851, 320,000 acres were held by absentees, of a total of 440,000 acres held from the Company.⁵⁶ There were simply not enough employers, and in the early years the Company - which had guaranteed employment - struggled to pay even low wages to hundreds of labourers in its settlements. In New Plymouth the Company Resident Agent John Tylson Wicksteed was faced with outbursts of popular anger - fierce abuse and attacks on his property - when he cut wages, in accordance with his instructions, in 1842-44.⁵⁷ J.S. Marais suggested various further reasons for the difficulties of the early settlers. Ultimately, he said, the problems were caused not by the defects of the Wakefield system (which envisaged agricultural settlements in a country where the economic future lay with pastoralism), nor the problems of the Company securing title to its lands, nor the reaction of the Maori to the arrival of Company settlers; rather it was "the nature of the case, which was the attempt to strike root in a new country." It would take ten years, he considered, for the new settlements to get off the ground.⁵⁸

But this is the considered opinion of a Pakeha historian, writing some ninety years later. It was not necessarily how the Company or the settlers viewed their problems.

⁵⁵. R. Dalziel, "Popular protest in New Plymouth: why did it occur?" NZJH, Vol. 20(1), April 1986.

⁵⁶. Marais, Colonisation of New Zealand, p.137.

⁵⁷. Dalziel, "Popular protest in New Plymouth", pp.17-25.

⁵⁸. Marais, Colonisation of New Zealand, pp.121, 144.

(And Taranaki Maori, doubtless, would have seen settler difficulties in a **very** different light.) The Company blamed the Government for not giving it a fair deal; the settlers tended to blame the Company. And in New Plymouth the settlers blamed both Company and Government, and pointed to the poor handling of land title problems, and "native" problems, by both as the root of the particular dilemmas of their settlement. Whether those complaints were well-founded or not, they are of crucial importance, because the settlers' analysis of their own problems shaped their attitudes and their actions towards Maori and towards the Government in the formative years of the New Plymouth settlement.

8. THE BACKGROUND TO SPAIN'S AWARD

There was nearly a year's delay between the negotiation of the Taranaki deeds, and the arrival of the Company surveyor Carrington to select the actual site of the new settlement in January and February 1841; during that time the Company had not given any indication that it would take possession of the land. For a while Carrington considered putting the town at Waitara, but gave up the idea because of the "almost constant surf on the Bar".⁵⁹ Waitara however impressed all the survey party because of its fine river and very fertile soil.

"What we did see quite satisfied us that if brought into cultivation the banks of the Waitara might become the garden of the Pacific" wrote R. H. Aubrey of the surveying staff in February 1841.⁶⁰ And one of the early settlers (W.H.H.) wrote :

"We are glad that the Waitera[sic] river ... is secured to us, and that the boundary of our settlement is fixed on the other side of it. The Waitera river is of great importance, as by removing some obstacles, and deepening its mouth, it will be capable of receiving vessels of small burden."⁶¹

But Carrington decided to lay out the town between the Henui and Huatoki rivers, where there was plenty of water, and a good roadstead. The original plan of the settlement was for 550 acres of town land, surrounded by 10,450 acres of suburban land, surrounded by 57,500 acres of rural land, making a total of 68,500 acres. The surveyors' neat grid of sections extended in a thick belt along the coast from a point opposite Ngamotu (the Sugar Loaf Islands) to Te Taniwha, north of the Waitara River. **Nothing illustrates more vividly the difficulties faced by Te Ati Awa at this time than the Plan of New Plymouth, extending right across**

⁵⁹. Carrington to Woollcombe, 4 May 1841, Letterbook of F.A. Carrington [1841-1865].

⁶⁰. Cited in B. Wells, The History of Taranaki, a Standard Work on the History of the Province (Edmondson and Avery, New Plymouth, 1878; Capper Press, Christchurch, 1976), p.55.

⁶¹. Cited in Latest Information from the Settlement of New Plymouth on the Coast of Taranake, New Zealand ... Published under the Direction of the West of England Board of the New Zealand Company (Smith, Elder and Company, London, 1842), pp.14-15.

so much Te Ati Awa territory.⁶² Carrington began cutting his survey lines - and almost at once ran into Maori opposition.⁶³ At first he thought that it was more payment

⁶². See copy of the Plan in the volume of Supporting Documents; this version (undated) was prepared by Octavius Carrington, Frederic's younger brother, who was also a surveyor, and became chief surveyor (unpaid) after Frederic left New Plymouth in 1843. It was enclosed in Spain to FitzRoy, 12 June 1844, encl. 5 in FitzRoy to Stanley, 22 February 1845, IUP/BPP, Vol. 5, between pp. 140-1.

⁶³. This was hardly surprising. In traditional society the relationship of people with the land was both recorded in the land itself, by names given which established links or commemorated those established earlier by various tupuna; and was constantly maintained spiritually and physically - by dwelling, use of resources, and in other ways. Trespass by intruders, or interference with resources which were already claimed by another hapu (whether or not they were presently using them), was always dealt with immediately in ways which varied depending on the nature of the challenge, the nature of the relationship with the intruders, the importance of the resource under threat, and so on. An eel weir erected by a challenging party, for instance, might be burnt by those opposing them. A rahui mark might be destroyed, if the right of those who put it there was not recognised. Pits dug as boundary marks by one hapu might be filled up by a chief who considered them to be in the wrong place.

It may be added that Maori interpretation of the Pakeha act of land survey as a challenge to their own rights was recognised later in the Report of the Board of Inquiry into Native Affairs appointed by the Governor (1856), which commented that Maori at that time had "generally an objection to the regular survey of a piece of land prior to the sale, as they imagine that the act partakes of the character of ownership..." (IUP/BPP, Vol. 11, p. 110).

In response to Chief Judge Durie's question about the cutting of survey lines, I append two documents in the Volume of Supporting Documents. The first is an extract from the New Zealand Government Gazette, 28 September 1842, Notice to Land Claimants, setting out the Terms and Conditions of Contract Surveys (pp. 284-5). The second is an extract from Arthur Whitehead, A Treatise on Practical Surveying, as Particularly Applicable to New Zealand and Other Colonies... (Longman, London, 1848), pp. i-viii, 1-29, 30-40, 41-67. (Whitehead was a New Zealand Company surveyor who had worked in the forested hills near Port Nicholson; he returned to England in 1845 and in his treatise outlined his views on the future of surveying in New Zealand - as well as giving sound practical advice on field problems likely to be encountered.) Both documents give some idea of the degree of physical interference with the landscape involved in

for the land that the Maori wanted; that promises had been made at the time the deed was signed of a case of double-barrelled guns, when the settlers should arrive. But it soon became evident that the difficulties went deeper than that. Carrington, struggling to explain the Company "native reserves" to Te Ati Awa men, found that what was at issue was the amount of land that had been sold in the first place.⁶⁴ In particular two chiefs had arrived from Waikanae to deny the sale of the Waitara district; they were prepared to admit the sale only of "some scattered lands between the Waiongona [sic] River and the Sugar-loaves."

These chiefs were the forerunners of many Te Ati Awa who began to return to their ancestral lands, both from the north (where some had been taken in the wake of the battles with Waikato/Ngati Maniapoto) and from the south. And those who returned to Waitara challenged settler attempts to take up land north of the river from the first. In July 1842 an armed party drove off two settlers, and warned them to keep to the south of the river. Wicksteed, the Company agent, went with a posse of special constables to threaten the leader with arrest and trial at Port Nicholson, and to take formal possession of the land for the Company. The Waitara people were not impressed.⁶⁵ A year later 100 men, women and children of Otaraua and Ngati Rahiri sat down to block the path of surveyors, and refused to shift, quietly declaring "that they would not allow white men to occupy

surveys: the cutting (with axes and bill-hooks) of lines through fern and manuka, the felling of "larger trees", the digging in of stakes. An early British settler's journal comments on the "fine flat fern country at the back of Nga Motu", the fern growing to various heights but averaging from 3 to 5 feet, "and so thick that it is impossible to walk through it." (Extract from Cutfield's journal, cited in Latest Information from the Settlement of New Plymouth, p.18.) Carrington reported to Wicksteed in June 1842 that he had the lines cut and sections marked out to 26,000 acres. The cost was about 4 shillings an acre, including the cutting of all streets of the town and cutting up the rivers. The initial surveying work had been more expensive than the work that remained because of the five rivers that required much labour and cutting before they could be surveyed. (Carrington to Wicksteed, 30 June 1842, NZC 335/1.)

⁶⁴. Carrington to Colonel Wakefield, 8 March 1841, Letterbook of F.A. Carrington [1841-1865]. See also Evidence of F.A. Carrington, 6 June 1844, Minutes of Evidence Taken Before Select Committee on New Zealand, 1844, IUP/BPP, Vol.2, pp.70-1.

⁶⁵. Wicksteed to Wakefield, 25 July 1842, NZC 105/1, No.11.

any land at the Waitera". Wicksteed, mindful of Wairau, withdrew his party at once.⁶⁶

By this time there had also been confrontations south of the Waitara, on Puketapu land. The settlers made their selections on 4 July 1842, and the first of them who went out onto their sections found Puketapu people ready to contest their occupation. Challenges were frequent: Josiah Flight was prevented from taking his sheep across the Mangaoraka River in December 1843; in January 1844 a hundred armed men with their families **(200-300 people in all)** cut down acres of trees at John Cooke's property, to the north of the Waiwakaiho River, **and prepared to burn off the timber so that they could plant potatoes on the ground.** The various attempts of the Magistrate, Wicksteed, and two missionaries to mediate were all ignored. Yet despite all this there was friendship between Maori and Pakeha, and co-operation; Cooke for instance, was described as **being the most "generally popular" resident of the District among the Maori.**⁶⁷ Te Ati Awa doubtless had no quarrel with individual settlers; but from the start they were prepared to defend their rights to their land from the newcomers. Such apparent hostilities were acts of assertion of their own ownership of the land.

The settlers, however, did not think much of these challenges. By this time, according to Wicksteed, it was their "universal opinion of the Settlers" that the Government should sanction the establishment of a local militia:

"or that a small body of regular troops should be stationed in New Plymouth for the preservation of the public peace ..."⁶⁸

Such views would be expressed many times during the next fifteen years.

At the time when these confrontations were taking place, the Company - and therefore its settlers - had in fact no legal title to the Taranaki land. Its claims to Taranaki

⁶⁶. Wicksteed to Wakefield, 31 July 1843 (enclosing monthly report of the same date), NZC 105/2, No. 23.

⁶⁷. Wicksteed to the Colonial Secretary, 12 January 1844, encl. in Wicksteed to Wakefield, 20 January 1844, NZC 105/3, No. 6.

⁶⁸. Wicksteed to Wakefield, 22 January 1844, Appendix to Seventeenth Report of the New Zealand Company, p.430.

land rested on its purchases, but as yet it had no Crown title. Captain Hobson had, in accordance with his instructions, issued a proclamation as early as 30 January 1840 warning purchasers that only titles derived from the Crown would give valid title to land in New Zealand, and declaring:

"that all purchases of land in any part of New Zealand, which may be made from any of the chiefs or native tribes thereof, after the date of these presents, will be considered absolutely null and void, and will not be confirmed or in any way recognized by Her Majesty." ⁶⁹

An ordinance passed by the New South Wales Government had confirmed that all titles to land in New Zealand except those allowed by the Crown were null and void; and a subsequent ordinance passed in this country to repeal the New South Wales one - once New Zealand had been erected into a separate colony - also provided that

"all titles to land in ... New Zealand which are held or claimed by virtue of purchases or pretended purchases ... either mediately or immediately from the chiefs or other individuals ... of the aboriginal tribes inhabiting the said Colony, and which are not or may not hereafter be allowed by Her Majesty ... shall be absolutely null and void ..." ⁷⁰

It was this Ordinance also which enacted

"that the sole and absolute right of pre-emption from the said aboriginal inhabitants vests in and can only be exercised by Her said Majesty, her heirs and successors..."

The New South Wales act, moreover, empowered the Governor of New South Wales to appoint Commissioners to examine claims to land in New Zealand; the New Zealand ordinance (which abolished the New South Wales commission) authorised the Governor of New Zealand to appoint Commissioners for the same purpose. There was no reference in the ordinance

⁶⁹. Proclamation, 30 January 1840, encl. in Gipps to Russell, 19 February 1840, IUP/BPP, Vol.3, pp.44-5.

⁷⁰. Land Claims Ordinance, 1841, 4 Victoria No.2 (9 June 1841), NSW Act 4 Vict. No. 7 repealed. The Ordinances of the Legislative Council of New Zealand ... 1841 to 1853 (Government Printer, Wellington, 1871).

to Hobson's proclamation; it stated (in Clause 3) that whereas it was:

"expedient and necessary that in all cases wherein lands are claimed to be held by virtue of any purchase ... whatsoever from the said chiefs or tribes ... of the said Colony of New Zealand"

the Commissioners should have power to

"hear examine and report on all claims to grants of land in virtue of any of the titles aforesaid..."

(Notification that the New Zealand Ordinance had received royal confirmation was gazetted on 7 September 1842.)

The New Zealand Company, meanwhile, had made its peace with the British Government. By the important Arrangement of November 1840 (proposed by the Government and accepted by the Company), the Company gave up its claims to "any lands purchased or acquired by them in New Zealand" other than lands which they might buy or be granted by the Crown. In return they would be granted as many acres of land as equalled four times the number of pounds they had spent on colonisation. (The amount spent was to be estimated by James Pennington, a Government accountant.)

"The lands so to be assigned to the company shall be taken by them in that part of the colony of New Zealand at which their settlement has been formed, and to which they have laid claim in virtue of contracts made by them with the natives or others, antecedently to the arrival of Captain Hobson, as Her Majesty's Lieutenant-governor at New Zealand. Within those local limits the company shall select the lands so to be granted to them." ⁷¹

The first 160,000 acres to be assigned to the Company were to be chosen in the Port Nicholson and New Plymouth settlements.

Clause 13 of the Arrangement referred specifically to the Company's undertakings to make native reserves, and to the

⁷¹. Copy of arrangements transmitted to Joseph Somes by the Colonial Office on 18 November 1840, also letter from Somes to Russell of 19 November conveying the Company's acceptance of the terms, both encl. in Russell to Hobson, 10 March 1841, IUP/BPP, Vol.3, pp.207-210.

Government's own intentions in respect of the "benefit of the natives":

"It being also understood that the company have entered into engagements for the reservation of certain lands for the benefit of the natives, it is agreed that, in respect of all the lands so to be granted to the company as aforesaid, reservations of such lands shall be made for the benefit of the natives by Her Majesty's Government, in fulfilment of and according to the tenor of such stipulations; the Government reserving to themselves, in respect of all other lands, to make such arrangements as to them shall seem just and expedient for the benefit of the natives." ⁷²

In accordance with the Arrangement the Company received from the Crown (on 12 February 1841) a Charter of incorporation, which allowed it to sue and be sued in all British and colonial courts, declared it to be established for the purpose of :

"purchasing and acquiring, settling, improving, cultivating, letting, selling, granting, alienating, mortgaging, charging, or otherwise dealing with, and making a profit of lands, tenements, and hereditaments, in Our said colony and its dependencies, and of laying out settlements and towns, and of working therein all mines, pits, and quarries, and all minerals and metals; and for the further purpose of conveying... emigrants to... Our said colony... and of exporting the produce of the said colony and its seas, and of importing such articles as may be required for the furtherance of any of the purposes aforesaid; and for the further purpose of lending and advancing money, on the security of land and other property situate in Our said colony..."

and granted it the powers to discharge these functions. ⁷³

With much jubilation the Company considered its troubles were over. But they were not. The Company was aware in

⁷². *ibid.*, p. 209.

⁷³. The Charter also defined the capital stock of the Company, the entitlement of shareholders to be proprietors, and the constitution and government of the Company.

1840 that the British Government intended to investigate all land purchases from the Maori, but it had assumed that in its own case this was to be a mere formality. After receiving news of the 1840 Arrangement, Governor Hobson had written to Colonel Wakefield on 5 September 1841 stating that the Crown would forego its right of pre-emption to certain specified lands in favour of the New Zealand Company, and that the Crown would compensate any previous purchasers within those districts. The lands specified included the town of Wellington and some surrounding districts, Wanganui, and Taranaki - 50,000 acres in the neighbourhood of New Plymouth, a block extending 10 miles up the coast from the "Sugar Loaf Point" and 8 miles inland.⁷⁴ (The letter was published in the Gazette by Hobson's direction.)

The publication of Hobson's letter, it may be noted, produced a howl of outrage from the surveyor Carrington, who pointed out to Captain Liardet that the Taranaki boundary excluded "the most valuable and indeed the very piece of country which was the Cause of my giving preference to this part of the New Zealand Company's land" - namely Waitara. Liardet went to Port Nicholson at once, and by November had secured Governor Hobson's authority for the Company survey to cross the Waitara River, extending some four miles beyond it.⁷⁵

Despite this apparent encouragement from the Government, however, it soon appeared that there was to be a serious investigation of the Company titles. Commissioner William Spain, appointed by the Crown on 20 January 1841, arrived in New Zealand at the very end of that year; **his appointment as "Commissioner for investigating and determining Titles and Claims to Land in the Colony of New Zealand" was gazetted on 5 January 1842.**⁷⁶ He and Governor Hobson both

⁷⁴. New Zealand Government Gazette, 13 October 1841.

⁷⁵. F.A. Carrington to Liardet, 15 October 1841, and note by Carrington dated 7 March 1859, McLean Papers, MS Papers 32, Folder 209.

⁷⁶. New Zealand Government Gazette, 5 January 1842. The draft of a warrant for the appointment of Spain, dated 20 January 1841, may be found in CO 380/122, pp.294-5; Governor Hobson was instructed to pass Letters Patent "under the Seal of Our Colony of New Zealand" appointing Spain Commissioner. Spain's warrant (IA 9/12) is apparently missing from the National Archives. The commission appointing him Commissioner for investigating & determining Titles and Claims to Land in the Colony of New Zealand was forwarded to him by the Colonial Secretary on 15

believed that the Company's title "was conditional upon the Company first proving that it had fairly extinguished the Maori title."⁷⁷ Indeed, Hobson's September letter to Wakefield had contained a clause reserving the Crown's discretion to grant land to the Company:

"... the Company will receive a Grant of all such lands as may, by any one, have been validly purchased from the Natives ...".

When Spain began his hearings in Wellington on 15 May 1842, considerable Maori opposition to the Company's 1839 Port Nicholson "purchase" surfaced, and Colonel Wakefield was appalled to find that Commissioner Spain intended to examine the case thoroughly.⁷⁸ The Company objected strenuously to the Colonial Office, accusing it of flying in the face of the guarantees of the 1840 Arrangement. But Lord Stanley, Secretary of State for the Colonies since August 1841, was not a great friend of the Company. He maintained that the 1840 Arrangement, and the promise of a grant of certain lands to the Company, were based on the Company's statement that they had made valid purchases and extinguished the native title over considerable quantities of land. Now the onus was on the Company to show that their purchases of land in New Zealand had been valid, if they expected a Crown grant.⁷⁹ In New Zealand, Colonel Wakefield reacted by withdrawing his co-operation from Spain's commission- though Spain continued his hearings anyway - and Wakefield did not reach some measure of agreement with the Governor about the settlement of the

March 1842. IA 4/253,p.5.

⁷⁷. R. Tonk, "The First New Zealand Land Commissions, 1840-1845", MA thesis, University of Canterbury, 1986, p. 130.

⁷⁸. A notification that the New Zealand Company claims had been referred to the Commissioners appeared in the New Zealand Government Gazette of 30 March 1842; among them were the two Taranaki deeds of 15 February 1840, (Case 374(d), "John Dorset, on behalf of the New Zealand Company, claimant"- the Ngamotu deed, and Case 374(e), ditto -the Taranaki deed. Spain's notice of intention to investigate these claims, summoning all interested parties to appear in Wellington, was gazetted on 6 April 1842.

⁷⁹. It may be noted that Clause 12 of the 1840 Arrangement stated: "The company having sold, or contracted to sell, lands to various persons, Her Majesty's Government disclaim all liability for making good any such sales or contracts..."

Company's Port Nicholson claims until early in 1844. Commissioner Spain considered that his proceedings had been considerably impeded by Wakefield's attitude to his court. And it was not until May 1844 that the court was finally opened in New Plymouth.

9. SPAIN'S TARANAKI AWARD(1844), AND GOVERNOR FITZROY'S REACTION

By this time, as has been noted above, there was considerable tension between Maori and Pakeha. For Te Ati Awa, there had been a long period of uncertainty. It was three years since the British settlers had begun to arrive and stake their claim to the land at New Plymouth. It was two years since Spain's court had opened in Wellington. The nature of its work had become known; but how would this affect the land claimed by the Company in Taranaki? The Government, thus far, had taken few active steps to defuse the tension. It was not until after the confrontation at Wairau in 1843 that steps were taken to discourage settlers from persisting in confrontations with Maori on land to which the title had not yet been decided. A proclamation published in the Government Gazette of 12 July 1843 "publicly warned" all land claimants that they should not exercise acts of ownership on disputed land, or "otherwise prejudice the question of title to the same" until the Land Claims Commissioners reached a verdict. This proclamation was specifically drawn to the attention of the Police Magistrate at New Plymouth in August 1843, and in accordance with it he was instructed:

"to render every assistance to the Protector of Aborigines in preventing Europeans entering on forcible possession of Lands which are claimed by the Natives." ⁸⁰

According to Wicksteed, in the wake of this proclamation, the Police Magistrate himself was given "notice to quit" by the Maori, and the Wesleyan missionary Creed was threatened with the firing of his house "unless he yields peaceable possession of the same to a native claimant." Wicksteed did not think such threats would be carried out, but he drew attention to the uneasiness of the situation in Taranaki. And he added:

"In my opinion, the decision of Mr. Spain (whose name has become a bye-word) would only be respected when favourable to the Natives." ⁸¹

⁸⁰. Colonial Secretary to Henry King, 30 August 1843, 1A4/265, Colonial Secretary Outwards Letterbook. Police Magistrates 1, p. 271, 43/172.

⁸¹. Wicksteed to Wakefield, 31 August 1843, NZC 105/2.

Spain's court opened in New Plymouth on 31 May 1844. The Land Claims Ordinance 1841 declared that it was

"Her Majesty's gracious intention to recognize claims to land which may have been obtained on equitable terms from the said chiefs or aboriginal inhabitants or inhabitant of the said Colony of New Zealand, and which may not be prejudicial to the present or prospective interests of such of Her Majesty's subjects who have already resorted to or who may hereafter resort to and settle in the said Colony..."

The Governor of New Zealand was empowered to appoint Commissioners, any two of whom should proceed to hear and report on claims.

In hearing claims, the Commissioners were to be

"guided by the real justice and good conscience of the case without regard to legal forms and solemnities, and shall direct themselves by the best evidence they can procure or that is laid before them, whether the same be such evidence as the law would require in other cases or not..."

In every case they were to enquire into the price paid for land, the circumstances in which it was paid, and the number of acres which such payment would have been equivalent to. They were to report to the Governor whether they considered claimants to be entitled to such lands or part of them, but were not to recommend grants in excess of 2560 acres "unless specially authorized thereto by the Governor with the advice of the Executive Council". The Governor was not obliged to make any grants unless he "deem[ed] it proper so to do."⁸²

⁸². Land Claims Ordinance, 1841, 4 Vict. No.2 (9 June 1841), NSW Act, 4 Vict., No.7, repealed, The Ordinances of the Legislative Council of New Zealand. The latter provisions of the Act relating to restrictions on grants of land were repealed by an amending Land Claims Ordinance of 1842 (5 Vict., Sess.2, No.14), but the 1842 Ordinance was disallowed by the Queen (gazetted September 1843). The Land Claims Amendment Ordinance, passed 13 January 1844, provided that a single Commissioner might exercise all the powers given by The Land Claims Ordinance 1841 to any two Commissioners, and validated acts done by a single Commissioner before the passing of the ordinance.

Spain was further guided by his Instructions, issued evidently in March 1842. Echoing the Ordinance, the Instructions directed Spain to:

"be guided in his investigations not by the strict laws of evidence but by the real justice and good conscience of the case without regard to legal forms and solemnities...

No court shall in any case be holden whereat an official protector of Aborigines or person duly appointed to act in his stead shall not be present to represent the rights of the natives and protect their interests and it will be the duty of the Protector or such persons as may be appointed to act for them to conduct the native cases, giving due and timely notice of opposition or caveat on the part of the natives to the Commission."

Should any case of doubt or difficulty arise in which he might require advice, Spain might reserve such case

"and submit the same without delay to the Governor specially who will then direct such further proceedings to be taken as he may deem fit".⁸³

When Spain opened his proceedings at New Plymouth, both settlers and some 300 Maori were present. (The interpreter and Protector had visited Te Ati Awa settlements the day before, to request their attendance.) Evidence was given by Richard Barrett (who was examined by Colonel Wakefield), and by Awatea, Edward Pukiki, John Ngamotu, Taituha, Haki and Te Huia and Mane - all called by Wakefield in support of the Company's claim. George Clarke junior, the Protector, called one Te Ati Awa witness "on behalf of the natives".

The Company's case was initially founded on the two deeds of 15 February 1840. At the hearing, however, Colonel Wakefield stated that the Company did not wish to claim any land south of the Sugar Loaf Islands by virtue of the

⁸³. "Instructions for William Spain Esquire, Commissioner, ordered to hear and report on the Claims of the New Zealand Land Company, under the provisions of the Ordinance of Council -5th Vict: Session No.2", evidently attached to Colonial Secretary to Spain, 26 March 1842, IA 4/253, pp.11-12. The paragraphs of the Instructions cited above derived from sections of the 1841 Ordinance not amended by the 1842 ordinance.

second deed signed with Taranaki chiefs. The Company's case for Taranaki land thus ultimately rested on only one deed, the Ngamotu deed.

The Te Ati Awa witnesses who gave evidence before Spain in June 1844 were clearly in a very difficult position. Surrounded by their relatives, with the fate of their ancestral lands hanging in the balance, they had no way of explaining to an English lawyer why it was that they had never expected their receipt of trade goods in 1840 to result in the occupation of their own lands by hundreds of British settlers. One man, Te Tua, answered Spain's questions as honestly as he could:

"After you had taken payment for the land, do you think it would be just and fair to claim it again?". "Yes", he said.

But Spain would not accept, or could not hear, what Te Tua was trying to tell him about the lack of concern with which Te Ati Awa had entered into negotiations with the Company; he thought the Te Ati Awa witnesses were merely "prevaricating".

Instead Spain concluded that the New Zealand Company "did make a fair purchase of the block of land, containing 60,000 acres...of the resident natives of this district..." In his Taranaki judgement, delivered publicly on 8 June 1844, Spain announced that he would recommend a Crown grant to the Company of 60,000 acres of land between the Sugar Loaves and the Taniwha - except for the pa, cultivations and burial grounds within the block, as well as "the reserves for the natives, equal to one-tenth of the 60,000 acres" - that is, 6,000 acres - the Wesleyan reserve, the reserve for Mr Barrett and his family, and any other portions of land to which private individuals might subsequently prove a claim before the Commissioners.⁸⁴

In an interim report to Governor FitzRoy written shortly after the seven day hearing had closed, Spain reported that the case had now been "completed" so that he would be able to write his final report. He noted approvingly that the

⁸⁴. Minutes of the Proceedings of the Court of Land Claims...encl. 3 in No. 3 (New Plymouth), FitzRoy to Stanley, 13 September 1845, IUP/BPP, Vol. 5, p.77. In his official report of March 1845 Spain stated that the Wesleyan Missionary Society was entitled to a Crown grant of 100 acres, and Barrett and his wife and family were entitled to a Crown grant of two pieces of land amounting to 180 acres, such grant to be made (he recommended) to the trustees of native reserves in trust for the Barretts. Spain to FitzRoy, 31 March 1845, No.3 in FitzRoy to Stanley, 13 September 1845, IUP/BPP, Vol.5, p.72.

Company's transaction of this deed was free from the "carelessness" that had marked its other "alleged purchases". The Company had previously made a partial purchase of Port Nicholson, and had "got another deed executed" by Ngatiawa resident in Queen Charlotte's Sound "purporting to convey this district..." Furthermore, Spain wrote, Te Puni of Port Nicholson had recommended that Colonel Wakefield should purchase Taranaki. He concluded "that the Port Nicholson natives, who had formerly resided here, and the Ngatiawa, in Queen Charlotte's Sound, had ample notice of the intended purchase."⁸⁵

Spain made no comment in his report on the fact that the Ngamotu deed was dated February 1840 - despite the wording of the 1840 Agreement between the Company and the British Government, which stated that:

"lands ... to be assigned to the Company shall be taken by them in that part of the colony of New Zealand at which their settlement has been formed and to which they have laid claim in virtue of contracts made by them with the natives ... antecedently to the arrival of Captain Hobson as her Majesty's Lieutenant-governor at New Zealand".

The Ngamotu deed however had been transacted after Hobson's arrival.

No claim, Spain noted, was put forward by the Waikato, which was perhaps accounted for by the fact that Captain Hobson had purchased Te Wherowhero's "claims" to the original Company block in 1842. (The deed, which Spain apparently had not seen, was signed by Kati and Te Wherowhero of Ngati Mahuta on 31 January 1842, in Auckland. The Maori version did not refer to "claims", but said:

"...ko maua nga rangatira o Waikato ka tuku ka hoko atu i enei kaainga o matou ki a Hori Karaka te Kaitiaki o nga tangata Maori mo Wikitoria te Kuini o Ingarangi...",

translated in the English version as:

"...we chiefs of Waikato do let go and sell these lands of ours to George Clarke the Protector of natives for H.M. Victoria Queen of England..."

⁸⁵. William Spain to FitzRoy, 12 June 1844, encl.5 in no.4 (New Plymouth), IUP/BPP, Vol.5, p.140; and encl. 3 in no.3, *ibid.*, p.77.

The boundaries were Tongaporutu in the north, and Waitotara in the south, and the chiefs received on behalf of Waikato 150 pounds sterling and 100 blankets, and were also to get two horses, saddles and bridles.⁸⁶ Governor Hobson, it might be added, had not been very happy about making the payment, but had done so in the wake of an interview with Te Wherowhero, who denied the right of Te Ati Awa to sell the land without his consent, and threatened to drive off both Maori and Pakeha in Taranaki unless he received payment (the nature of which he stipulated himself.)⁸⁷

Commissioner Spain evidently considered the matter of Waikato claims to Taranaki closed by virtue of Hobson's purchase and the failure of Waikato to appear before his court, and added that in any case no evidence was offered "to show that that tribe had ever cultivated any land within the Company's block."⁸⁸

Spain, then, was convinced that his judgement had been fair. As far as he was concerned, the Company had not made the same mistakes it had with its "latitude" deeds, purporting to buy millions of acres from a few leading chiefs of the conquerors rather than from the resident "cultivators of the soil". The Port Nicholson and Queen Charlotte Sound Te Ati Awa knew the purchase was to take place. (Spain did not mention the hundreds of Te Ati Awa who lived in other areas, notably Waikanae, though he was aware that Te Ati Awa were settled at Waikanae.) Barrett had had plenty of opportunity to explain the transaction to the people actually living on the land south of Waitara before they signed the deed. Te Ati Awa, argued Spain, had been conquered by Waikato at Pukerangiora and had then migrated south (evidently he was ignorant of the history of the Taranaki heke).

⁸⁶. H.H. Turton (comp.), Maori Deeds of Land Purchases in the North Island of New Zealand, Vol.2 (Government Printer, Wellington, 1878,) p.1. The original deed is in the Department of Survey and Land Information (Dosli) Head Office, Conveyances to the Crown, Taranaki, Tar 26.

⁸⁷. Shortland to Wakefield, 15 December 1841, encl. in Wakefield to Secretary of the Company, 8 February 1842, NZC 3/21.

⁸⁸. Spain to FitzRoy, 12 June 1844, encl. 5 in no.4, FitzRoy to Stanley, 22 February 1845, IUP/BPP, Vol.5, p.141.

Te Ati Awa had established themselves at Port Nicholson (again he ignored Waikanae) where he had "admitted their title", and having done so he was quite unable - if his awards were to be consistent- "for one moment [to] entertain any claim of theirs to this district [New Plymouth]". In his view the people had abandoned their land, and become "cultivators of the soil" elsewhere. For these reasons he would also refuse to admit the claims of those who had returned since the land had been sold and the settlement formed. If he had admitted them, he pointed out, he would also be obliged to pay those who might subsequently arrive and state their claims, "and my inquiry would have been almost interminable." And Spain concluded:

"I have not seen any block of land claimed by the Company which can be spared from the aborigines with so little interference with, or injury to their interests, as the one in question." ⁸⁹

After all, Te Ati Awa had only a small number of acres under cultivation within the Company purchase, yet several thousand acres of reserves would be provided for them,

"so that ample provision has been made for them in the reservation of land, more than sufficient for their wants." ⁹⁰

(Here Spain assumed that it was acceptable to assert the right of the British to redistribute selected small portions of Te Ati Awa lands to those who had inherited them from their ancestors, in accordance with the English system of land-tenure.)

Reserves in fact had already been selected on behalf of Te Ati Awa when the lottery for distribution of both town and suburban sections had taken place: 200 town allotments (totalling 50 acres) and 19 suburban allotments (totalling 950 acres) had been chosen. No rural sections however had been selected.⁹¹ Spain considered that this omission

⁸⁹. *ibid.*, p.140.

⁹⁰. *ibid.*

⁹¹. See Map, F.A. Carrington, Plan of the Town and Settlement of New Plymouth ... 1842, with Abstract (New Zealand House 6 December 1843). This map shows 'Surburban' Native Reserves. Map AAFV TR4 Plan of the Town of New Plymouth 1842 (National Archives) shows the location of New Zealand Company Native

should be rectified at once, and that the newly appointed Government Trustees of Native Reserves (who had taken over the management of Company reserves) should appoint an agent in New Plymouth at once to make the selections, "as it must tend to convince the natives that their condition is really improved by the sale." ⁹²

(Spain believed that it was the absence of such an authorised agent which had led to the failure to make rural "tenths". In fact the protest of Company purchasers, that the choice of "tenths" would interfere with their right to take their rural lands in contiguous sections, had been more important, and in 1842 the Company's agent Wicksteed had sought approval for a plan to select a block of land for the Maori, equal in size to their rural "tenth" entitlement, "in some district agreeable to themselves". ⁹³ William Wakefield sanctioned the proposal in October 1842, and conveyed the approval of the Court of Directors to Wicksteed in a despatch of 30 January 1844. But in the meantime a difference of opinion had arisen between Wicksteed and Bishop Selwyn (one of the new Trustees for Native Reserves) who according to Wicksteed insisted that the Native Reserves should be let for the benefit of the Maori - not occupied by them - and evidently considered that the Company should make land available for Maori occupation from its own sections. Selwyn, for his part, stated no land occupied by Maori should be let without the "express consent" of the Board of Trustees, and that Maori wishes must always be consulted. ⁹⁴ There matters had rested until the Spain hearing.)

Reserves in the town; unfortunately this map could not be copied, owing to the temporary closure of the Archives.

⁹². Spain to FitzRoy, 12 June 1844, encl. 5 in No. 4, IUP/BPP, Vol. 5, p. 133. See also encl. 3 in no.3, *ibid.*, p.77.

⁹³. Wicksteed to Wakefield, 8 July 1842, NZC 105/1.

⁹⁴. See Wakefield to Wicksteed, 30 January 1844, NZC 303/2; and Wicksteed to Wakefield, 30 November 1843, NZC 3/22. Also Selwyn to Wicksteed, 5 April 1843, NZC 308/1. The government had decided to appoint a new body of trustees in 1842 (the Bishop, Chief Justice and Chief Protector of Aborigines), who in theory would manage both New Zealand Company reserves, and funds to be credited to the Protector's department whenever new purchases of land were made by the Crown, "for the benefit of the native race". Bishop Selwyn complained in 1845 that the scheme had hardly got off the ground. See #C1, Wai 27, pp.46-9.

Spain's attitude to their claims, as well as his decision, must have made a marked impression on Te Ati Awa. He commented in the course of his judgement on the Company's "fair" purchase of the land from the resident natives, who he believed sold so that Europeans would settle among them to protect them from their enemies,

"and, from the manner in which the purchase was effected, I am convinced that they entered into the transaction with a perfect knowledge of what they were about."

He took it for granted, in other words, that the Maori understood the transaction exactly as the British understood it; his cultural blindness prevented him from seeing that Te Ati Awa, lacking any knowledge of the context in which the British were operating, could not have negotiated the deed as equal partners.

He lectured the people on the benefits that British settlement had brought : they had been at peace with their enemies since then, they had "enjoyed the advantages of the introduction of civilization", and had learned how to cultivate their lands and be industriously employed.

"These blessings that I have described will be very much increased now that this land question is settled. There is ample land left for you and your children besides what I have awarded to the Europeans, and you will find your condition daily improved."

Nor must the Maori interfere with the Europeans, or obstruct their cultivation of the land,

"for if you do, after this, you will be liable to be punished."⁹⁵

This was the sort of power over their fate that Maori could never have foreseen in 1839. In the wake of the Company men and their distributions of trade goods, and in the wake too of the coming of a British governor, one Pakeha, apparently, could visit New Plymouth for a week and assume the right to decide the fate of all Te Ati Awa and their descendants. He could decide that the people of several hapu who took

⁹⁵. Minutes of the Proceedings of the Court of Land Claims...Encl. 3 in No.3 (New Plymouth), FitzRoy to Stanley, 13 September 1845, IUP/BPP, Vol.5, pp.77-8. Spain also warned the settlers against interfering with pa, cultivations, burial grounds and reserves.

the Company goods in 1840 had had the right to alienate forever most of the Te Ati Awa lands, and that they had known that was what they were doing. He could decide that those Te Ati Awa who had not been present forfeited the right to return and live where they chose on their ancestral lands. He could decide which lands Te Ati Awa were to have henceforth to live on. Yet to those Te Ati Awa who had moved away, returning home had always been an option. They had made this clear to Wakefield when he was in the south. How could it have seemed possible to them then that the British would be in a position, a few years later, to deny their right to do so on their own terms?

Spain's award to the Company could perhaps have been predicted. He simply did not see it as an option open to him, to deny the claims of British settlers who had bought land from the Company in good faith, and had established themselves on the soil. So, even at Port Nicholson, where he considered the Company claims were weak, he had recommended the payment of "compensation" to Maori who had not originally received payment from the Company, rather than giving them a choice as to whether that they wished to be party to a new transaction. And at Taranaki he decided against offering any further payment to the Maori, even "as an act of grace on the part of the Company, calculated to assist in procuring a good understanding between the two races" - largely because he was sure it would have been refused. It would, he thought, have been "construed into an admission that they had not sold any part of the land, besides making them still more determined to withhold [sic] the land from the Europeans." ⁹⁶

But Te Ati Awa did not share Spain's view of their relationship with the land. The Maori, reported Thomas Forsaith, Protector of Aborigines, who interpreted Spain's decision to them, "strongly objected to it..."⁹⁷

Nor were they deterred from expressing their opposition by threats of "punishment". Within hours, the Puketapu leader Katatore led a party of 50 men to destroy the homes of the Mangaoraka outsettlers, and drive their occupants into town; and they desisted only when the Protector of Aborigines, George Clarke junior, assured them that the Governor would listen sympathetically to their case.

Spain's Taranaki decision in fact left the Protector appalled, the more so since he knew Spain had reached

⁹⁶. *ibid.*, pp.141-2.

⁹⁷. Forsaith to Clarke, Chief Protector, 10 July 1844, 1A1, 44/1596, filed at 44/1696.

similar conclusions about Manawatu and Whanganui. He wrote to his father George Clarke, the Chief Protector:

"... it is all a perfect mess from beginning to end and if this is to be the decision things will be in a much worse mess than if the cases had never been investigated - after the decision was given for Taranaki the natives were so annoyed that I feared they would do a good deal of mischief. I told them however that if they had grievances they must have then removed by constitutional means and not resort to violence so they have kept quiet and sent their letters to the Governor ...".⁹⁸

In a later letter to his father his concern over Spain's recent decisions was expressed even more strongly. Taranaki he described as "the most complicated and the most difficult case that there is and yet it has been very easily managed or very lightly thought of by the commissioner ...". Clarke drew attention to the fact that those who signed the 1840 deed were all of "Puketapu and Ngamotu tribes", whereas the Company had been granted land which belonged to many other hapu. He was derisive about the Company reserves:

"I believe in no single instance of the Company's purchases have they been explained fully had they been so I think no purchase would have ever taken place at least to the extent claimed by the Company ...".

When he contemplated Spain's views he came close to despair, fearing that bloodshed might well be the result.

"The natives never will give up tamely what they consider to be their just rights. if the Govt. are determined to put the settlers in possession of Lands which we cannot convince the natives or ourselves honestly that they have alienated they must do it at the point of the bayonet ...".⁹⁹

⁹⁸. George Clarke junior to G. Clarke, 17 June 1844, George Clarke Letters MS. Vol. 62/B, (78), Hocken Library.

⁹⁹. George Clarke junior to G. Clarke, 27 June 1844, George Clarke Letters, MS. Vol. 62/B, (79), Hocken Library.

Was this an overstatement? In the wake of Wairau, Clarke had heard a great deal from the Cook Strait settlers about their attitude to Maori; it filled him with despair. Colonel Wakefield, writing to the Secretary of the New Zealand Company after Spain's decision had been delivered, complained of the grumbling of the Maori, and added:

"It will, nevertheless, require the same demonstration of force as in the other settlements to secure possession of the land to the settlers."¹⁰⁰

And Wicksteed, the Company's Resident Agent, reporting the great indignation of the Maori at Spain's decision, and their "annoyance" of some outsettlers, stated that the settlers were:

"... considerably alarmed, being utterly unprotected by the Government, and prohibited from arming and drilling themselves. On the 26th instant, they held a public meeting, and adopted a memorial to the Governor, stating their grievances, and requiring his Excellency's interference with a military force, to preserve the public peace ...".¹⁰¹

In response to the petition, and the reports he received from his own officials in Taranaki, Governor FitzRoy arrived in New Plymouth in August. A new Protector for the New Plymouth District, Donald McLean (appointed 1 April 1844), had already been sent there in July by the Chief Protector, with instructions to "do all in [his] power to allay excitement of feeling [arising chiefly from disputes about Land] and to preserve the peace" ; and to report on the "Natives" in his district, and the extent of their cultivations.¹⁰² (McLean's general instructions, it may be noted, were sent by the Chief Protector a little later; among the "principles" which were to guide him he was to

¹⁰⁰. W. Wakefield to Secretary of the New Zealand Company, 5 July 1844, NZC 3/4, No. 49.

¹⁰¹. Wicksteed to Wakefield, 30 June 1844, Appendix to the Seventeenth Report of the New Zealand Company, pp. 113-5.

¹⁰². George Clarke, Chief Protector, to McLean, 16 July 1844, McLean Papers, MS Papers 32, Folder 1(8).

consider first the primary intention of the Government in establishing the Protector's Department, viz.

"to watch over the interest, to protect the persons and property, and advance the social and moral improvement of Her Majesty's Aboriginal Subjects."

And on the subject of land, he was to

"Assure them that Protection will invariably be afforded to their property and relieve their minds from any apprehensions that may arise on the increase of a European population by reiterating the assurances of the Late Governor Captn Hobson, that in no case should they be deprived of their estates or cultivations, and that no Lands shall be taken possession of but those they have or may willingly alienate." ¹⁰³

About the same time McLean also received further instructions from the Chief Protector's Office relating specifically to land purchase. He was to listen to all the Maori had to say on the subject of the price they wanted for the lands they might wish to sell,

"but at the same time to inform them that extravagant demands cannot be complied with."

He was to use his own judgement in his negotiations with them,

"as the Natives cannot determine what is a fair & reasonable price for their Lands without such assistance."¹⁰⁴)

FitzRoy met the Maori on 3 August 1844, and found that the Puketapu leader Katatore had a great deal to say to him. The Governor for his part urged the people to be peaceful and not to molest the Pakeha. According to the report printed in Te Karere, FitzRoy denied any intention to take the land of people who had not agreed to sell. This, he said, would be stealing. ("Mehemea, e wakaae ana ahau, kia tangohia noatia o koutou whenua, i rite ahau ki te tahae.

¹⁰³. George Clarke, Chief Protector, to McLean, 2 August 1844, McLean Papers, MS Papers 32, Folder 1 (10).

¹⁰⁴. Forsaith for the Chief Protector to McLean, 22 August 1844, D. McLean, Letterbook [1844], Protector of Aborigines (13).

Kihai ahau i haere mai ki Nui Tireni ki te tahae." ¹⁰⁵ But the Pakeha who were on the land were not at fault; they had acted in good faith. There had been a mistake, and now the matter must be put right. Mr McLean would remain here as their protector, and write down all the names of those who had not received any payment, and who were not present at the sale. Then the Governor would return to settle the matter.

On 8 August FitzRoy wrote to Wakefield - though he forgot to sign the letter - to:

"take the earliest opportunity of informing [him] that it is not my intention to comply with the recommendation of Mr. Commissioner Spain, regarding the New Zealand Company's purchase of land at Taranaki";

he would at once cause a new investigation to be made.

"A large number of natives would be set aside by Mr. Spain (namely, those who were absent or in captivity at the time their lands were said to have been sold), whose claims I am bound to recognize and maintain." ¹⁰⁶

Spain was angry, evidently considering that the Governor had no power to overturn a decision he had made; he talked of resignation.

FitzRoy returned to New Plymouth on 8 November, and proposed to Wicksteed that the Company and Government each put up a sum "for the purpose of treating with the natives"; Wicksteed declined to put up anything, but promised to pay back the Governor if he should effect a settlement, to a maximum of 500 pounds. Colonel Wakefield was appalled, and painted a bleak picture of a future in which Taranaki Maori, encouraged by the prospect of being able to extract further payments for the land, returned home in large numbers from the south. This he suggested would be:

¹⁰⁵. Ko te Karere o Nui Tireni, 2 Hepitema [sic] 1844.

¹⁰⁶. [FitzRoy] to Wakefield, 8 August 1844, encl. in FitzRoy to Stanley, 22 February 1845, IUP/BPP, Vol. 5, p. 143.

"productive of ruin to the colonists, and may hereafter convert the New Plymouth block into the battle field of the New Zealand tribes." ¹⁰⁷

It is interesting indeed that FitzRoy did not take the course he had at Port Nicholson, and insist that all those claimants who had received no payment at the time of the purchase now accept "compensation" from the Company to complete its purchase of the whole block. But at Taranaki there were far more unsatisfied claimants; moreover, it was their ancestral lands which were at stake. Spain himself did not think the people would accept "compensation". FitzRoy talked to Te Ati Awa himself, listened to his officials, and evidently concluded that he was not in a position to enforce the Spain award, and that to let outsettlers move on to isolated farms in pursuance of it - given the mood of Te Ati Awa - was to invite difficulties which he might not be able deal with. ¹⁰⁸

On 22 November, therefore, he wrote to Wicksteed explaining his decision on Taranaki. The New Zealand Company's title to land in Taranaki he considered "defective". He would however secure possession of a small block about the town for the immediate occupation of the settlers - in other words, those who had actually emigrated - "by completing that small part only of the purchase said to have been made by the New Zealand company." Distant outsettlers would be removed to this block to take up land there in exchange for their own; suburban settlers (there were 12 on "Katatore's Block" at Mangaoraka) would have to shift in four months unless the Puketapu allowed them to remain. If they preferred, the Government would give these settlers some assistance to move north to Whaingaroa, Kawhia, or Auckland. Reserves within the new block "hitherto

¹⁰⁷. Wakefield to Wicksteed, 30 November 1844, NZC 303/2.

¹⁰⁸. McLean, the new Protector, had reported on opposition to Pakeha occupation from both Katatore, the Puketapu leader, and the Waitara river people (some 250). The latter informed him that they had never consented to the sale of their lands, that those who had agreed to sell were not owners there, and that "fifteen" people living at Waitara at the time of the purchase had known nothing of it till afterwards. (McLean to [Chief Protector], 26 August 1844, D. McLean, Letterbook[1844], Protector of Aborigines(5).) In his Journal he recorded that he found a "fixed determination with the whole of them to hold their lands...and that they did not wish me to write their individual boundaries..." (D. McLean, Journal, 13 August 1844, in D. McLean, Letterbook[1844], Protector of Aborigines.) See also FitzRoy to Stanley, 22 February 1845, IUP/BPP, Vol. 5, pp. 151-3.

intended for the natives" - though not those "required for their present use or occupations"- and also the town belt, would be at the disposal of the Company for the sole purpose of allowing it to satisfy the requirements of outsettlers needing to exchange their land.

Finally, outside the block, the Crown's right of pre-emption would be waived in favour of the New Zealand Company only, "throughout the whole extent of the large block of land already surveyed by the Company, and said to contain about 60,000 acres"). The Government would lend funds to the Company to enable it "to make payments for the several portions of land to be purchased, or of which the purchase is to be completed". More land, FitzRoy concluded, might be "obtained by small purchases from the proper owners, from time to time, and, in a similar manner, land for the future benefit of the natives themselves may be obtained by the trustees of native reserves." ¹⁰⁹

Wakefield's wrath knew no bounds. He let the hapless Wicksteed take the brunt of it for "complying" so meekly with the Governor's plans, for "omitting to protest in the strongest terms against the ungrounded assumption of the Governor, that the Company's title to land in the neighbourhood was defective ...", and for compromising the interests of the absentee landowners. ¹¹⁰

But FitzRoy went ahead with his plans, leaving his Protector, McLean, to negotiate with Te Ati Awa. On 26 November 1844, over 80 (Ngamotu) Te Ati Awa men and women entered into a transaction by which they received payment "in full consideration of our altogether parting with all our pieces of land and places within all our lands described in this deed that is to say all the places at Ngamotu within the following boundaries..." The document, dated 28 November, recorded their receipt of payment from Wicksteed of the New Zealand Company (mostly clothing, plus 9 double barrelled guns, 12 calves and 50 pounds in money - amounting to 350 pounds altogether). This document, like all those subsequently transacted in Taranaki, was written in Maori. ("Kua homai ki a matou... e wha tekau paraikete wero [te mea, te mea, te mea]... he tino whakaritenga he

¹⁰⁹. FitzRoy to Wicksteed, 22 November 1844, encl. in FitzRoy to Stanley, 22 February 1845, IUP/BPP, Vol. 5, pp. 144-5. On the significance of FitzRoy's waiver in favour of the Company, see Appendix 3.

¹¹⁰. Wakefield to Wicksteed, 13 December 1844, NZC 303/2, No. 34/44.

whakamahuetanga rawatanga i to matou papa katoa i o matou wahi katoa...").¹¹¹

The block comprised 3500 acres - though this was not specified in the deed - and embraced the town site (from the Wesleyan Mission Station to the south, to Waiwakaiho north of the town). According to the English translation of the deed:

**"the pas, cultivations, burial places,
and reserves are all that we retain..."¹¹²**

The people "agreed to sign our names to a proper deed of cession hereafter, on being requested so to do, to the Agents of the said Company ...".¹¹³ ("Ko nga Pa, ko nga Ngakinga, ko nga wahi tapu, ko nga wahi rongoa anake e toe ki a matou a ka wakaee matou kia tuhituhia e matou o matou ingoa ki tetahi pukapuka tuku whenua a muri nei me e kiia kia tuhia ki nga kaiwhakariterite o taua whakaminenga i o matou wahi katoa i roto i aua whenua heoti ano nga wahi e waiho mo matou ko nga wahi anake kua korerotia ra i mua.")¹¹⁴ (It does not seem that they were asked to sign

¹¹¹. A copy of the deed is in MA/MLP, 6/1, National Archives. It appears that the English translation was added later. Cooper wrote later that the amount paid was £340 (FitzRoy wrote £350, in 1844), paid in cash, goods and cattle, and the total cost of the purchase including payments to absentees, was £507.6.9d. Cooper, Draft report to Colonial Secretary, 29 April 1854, McLean Papers, MS Papers 32, Folder 126 (65).

¹¹². It is interesting that McLean, writing to Parris years later about one such reserve at Waiwakaiho made under FitzRoy's "arrangement of 1844" (part of which Wiremu Te AhoAho was about to give up as a site for a road), stated that the land did not come within the operation of The Native Reserves Act 1856. Parris was instructed that he must obtain the "cession of the land" from the owners, and forwarded him the draft of a deed. McLean to Parris, 20 September 1858, in H.H. Turton (comp.) An Epitome of Official Documents Relative to Native Affairs and Land Purchases in the North Island of New Zealand (Government Printer, Wellington, 1883), D p.31.

¹¹³. Turton (comp), Maori Deeds of Land Purchases in the North Island of New Zealand, Vol.2, pp.2-4.

¹¹⁴. Conveyance of the FitzRoy Block, TAR 3, Conveyances to the Crown, Taranaki, Dosli Head Office, Wellington.

such a deed subsequently.) FitzRoy described the payment to Lord Stanley as:

"a full compensation and completion of payment for a block of land at and around the town".¹¹⁵

The transaction is often regarded as having been readily entered into; though it is clear from McLean's report that the Governor had

"some difficulty in obtaining the quantity of land which [he] was desirous of purchasing, to enable him to place all the Europeans who occupy land in this settlement in quiet and indisputable possession..."¹¹⁶

Nor were the Puketapu at all happy with the distribution of the payment for the land.

And from McLean's rather truncated diary entries from the period it appears that among the hapu most closely affected by the "FitzRoy Block" transaction there was considerable concern - both before and during it. On 31 August 1844 he reported the anxiety of the Huatoki people, who had come to see him to ask about the Governor's intentions towards them

"and if he was disposed to let them have all their Lands back - I informed them that His Excellency would not wish to have the Europeans disturbed that he would prefer the natives would accept of compensation for such portions as the real owners had not been paid for and that I supposed the Lands that were not occupied by Europeans and had not been paid for would be paid for by the Governor..."

From McLean the people understood that the Governor would have the final say about their lands, and that he had only good intentions towards them. And he wrote in his diary:

¹¹⁵. FitzRoy, Memorandum on the Arrangements in respect of the Land Question at Taranaki, 2 December 1844, encl. in FitzRoy to Stanley, 19 December 1844 (Confidential), IUP/BPP, Vol.4, p.482. It should be added that this is quite different from Governor Grey's later description of it as "a totally new purchase". (G. Grey, "Memorandum of course to be pursued...", 5 March 1847, encl. in Bell to Wakefield, 8 March 1848, NZC 105/7.)

¹¹⁶. McLean to Chief Protector, 17 December 1844, encl. in FitzRoy to Stanley, 22 February 1845, IUP/BPP, Vol.5, pp.151-3.

"...in all cases the Natives seem to place a Great deal of faith and full reliance on the steps the Governor intends to take towards the Settlement of the Land question..."¹¹⁷

Early in September McLean had discussions with the Moturoa and Huatoki people, telling them he wished to find the "distinct portions claimed by each several tribe". At this time several forceful statements were made.

"Poharama states that he received a share of the goods that were paid for the Land at Ngamotu but he was not aware then of the quantity that the Europeans were to hold...";

At a meeting on 9 September Poharama (of Ngati Te Whiti) stated that the land from Ngamotu to Waiwakaiho

"belongs to me, I will not part with it. Sometime ago I was foolish and wd. have sold it, but now that I know the value of it I will not. I don't want to part with my Lands to be made a slave of by the Europeans".

Puketapu, another speaker on this occasion

"states that he wishes the Europeans not to encroach any further upon their Lands & that the Governor need not be preparing any payment as they will not part with any of their Lands--"

McLean recorded in his diary :

"After this meeting Poharama came and spoke to me about his having been advised by all the natives to disallow any claim to Land by the Europeans and that if he expressed himself [sic] but that all the tribe were to be represented by him that their wishes were that they should hold their land but they were not desirous of disturbing or molesting the Europeans who were already settled upon lands but they do not wish any further encroachments upon what they consider their property not giving any understanding as to where/what [illegible] that property was."¹¹⁸

¹¹⁷. Journal entry recorded in D. McLean, Letterbook, Protector of Aborigines, [1844].

¹¹⁸. D. McLean, Diary, 1844, entries for 6 and 9 September.

Later in September McLean recorded a meeting with the "Ngamotu natives" at which they had indicated a wish to settle the boundary from the Mangotuku towards the Waiwakaiho River as between themselves and the British, moving the British to the seaward of the line. McLean expressed his disapproval of any talk of removing settlers. Poharama, replying, said he would not press the point;

"but I do not wish them to extend their cultivation, our cultivations on the sea side are not to be trespassed - our Pah at Huatoki is to be left in our possession and Puki Ariki is an old favourite Pah of our forefathers and we wish to have it back... As also the Pah that Honi Ropiha and tribe occupy at Waiwakaio and from that Pah down to Seaward."

Te Waka also spoke strongly:

"the Lands the Europeans are cultivating is all that they are to have".¹¹⁹

McLean replied that he was not there to "beg" them to give up their lands, and would ask them to do so if he considered it to be for their benefit. But he agreed that they should get their pa back.

After FitzRoy returned to New Plymouth in November 1844, McLean recorded his meetings with leaders and the people, notably during a long day on 13 November. At the end of the day

"the governor declined seeing them again till they had made up their minds to sell".

On 15 November FitzRoy saw the Mangaoraka settlers and arranged their removal "to the land he was about to purchase from the Ng[amotu] natives".

And on 18 November McLean recorded in his diary that he

"had the goods for the Natives with cash and cattle etc displayed at Mr Dorsets Store[,] hard work advising the natives to take the payment".¹²⁰

¹¹⁹. D. McLean, Diary, 1844, 27 September 1844.

¹²⁰. *ibid*, entries for November 1844.

The transaction then was not concluded without some pressure being applied by the British. And the question thus arises, whether the Ngamotu people considered that they had any alternative to completing the FitzRoy transaction? It is clear that they debated the matter at length. They had been told that the fate of their lands lay with the Governor, that the Governor would deal with them fairly; then they were told that the Governor intended to concentrate the settlers on the Town lands. Moreover the fate of most of the Te Ati Awa lands was at stake; the people understood that the Governor would not take the other lands if he could have the lands at New Plymouth. The signing of the FitzRoy deed might well have seemed to the people as much a safeguard of the rest of the Te Ati Awa lands, as an acceptance of the loss of the New Plymouth lands. For if they defied the Governor, when Spain had already said that the land belonged to the Company, might not FitzRoy yet change his mind and agree with Spain?

Then on 4 December, McLean recorded in his diary that he and the surveyor and Chilman, clerk to the New Zealand Company, had been all day "laying out the Native reserves". He added:

"had a deal of trouble with some of the Natives about the Lands reserved they holding out it was not sufficient every allowance was made for them that could be done reasonably."¹²¹

The wishes of the people as to reserves, then, were not met; instead "reasonable allowance" was made for them by the Government and Company representatives. It appears that the Crown considered it "reasonable" to reserve 265 acres, of which 43 acres were for five years only, leaving 222 acres in all for those who sold the land.¹²²

But FitzRoy was pleased. The Maori, he wrote, were:

"generally speaking, willing and anxious to sell the greater part of their lands, however tenacious of their right and choice, the Company's agent will not find it difficult to purchase portion after portion, for reasonable prices, provided that he does not injure his own market, by buying too much or too hastily.

¹²¹. *ibid*, entry for 4 December 1844.

¹²². See Janine Ford's paper, Schedule of Land Purchases and Native Reserves, Taranaki, 1839-60, Wai 143, # D 19.

Undoubtedly, it is the duty of the Company to make these purchases, in order to put the settlers in possession, and that the settlers themselves should be saved from further expenditure."

But FitzRoy considered that the Company's agent should not start negotiations until those Te Ati Awa who intended to return had done so, so that he could treat with the "real owners", and effect a "secure and definite transfer" of the land. "An expenditure of about 3,000 [pounds]" he added, "spread over three or four years, may settle the whole question amicably." Crown grants for the small block, meanwhile, would be prepared as soon as the Governor received a signed copy of the deed and lists of reserved lands.¹²³

Wicksteed reported that there was enough land in the block to satisfy the claims of actual settlers; indeed there would be a surplus, which land the Company, with the security of a Crown grant, would be able to sell to recoup some of its costs.¹²⁴

Commissioner Spain, however, was unimpressed. In his final report on New Plymouth dated 31 March 1845, he protested in strong terms at FitzRoy's overturning of his decision, and reiterated his belief that Te Ati Awa had abandoned their land only after their defeat at Pukerangiora, and that "slaves taken in war, and natives driven away, and prevented by fear of their conquerors from returning" forfeited their claim to their lands entirely. He went on to restate his award to the Company, which had used "the greatest caution and deliberation" in its negotiations, and was "fairly and justly entitled to the whole block of (60,000 acres) ... of Land ...".¹²⁵

Governor FitzRoy signed the Crown Grant for the small block "said to contain Three thousand five hundred acres" on 25

¹²³. FitzRoy, Memorandum on the Arrangements in respect of the Land Question at Taranaki, 2 December 1844, encl. in FitzRoy to Stanley, 19 December 1844 (Confidential), IUP/BPP, Vol. 4, pp.480-2.

¹²⁴. Wicksteed to Wakefield, 21 December 1844, NZC 3/24, No. 58/44, pp. 474-5. See also Appendix 4, for figures showing the amount of land sold by the Company in the Settlement by 1844.

¹²⁵. Spain to FitzRoy, 31 March 1845, encl. in FitzRoy to Stanley, 13 September 1845, IUP/BPP, Vol. 5, pp. 70-2.

January 1845. The grant cited the Commissioner's finding that the Company was entitled to a grant of "more than three thousand five hundred acres of Land, particularly mentioned and described in Claim 374D: and in a Report on the New Zealand Company's purchase at Taranaki". It excepted "all the lands therein reserved by the Aborigines, being their Pahs, their Cultivations, their Sacred Places, and a Place for a Hospital" , as well as Government reserves for public purposes. The Crown grant thus derived from the New Zealand Company transaction of 6 February 1840 - the Ngamotu deed.¹²⁶ But Colonel Wakefield, clearly aware of Spain's views, refused to accept the Crown grant unless he received specific instructions from the Directors of the Company to do so, arguing that when the Directors had entered into certain engagements with the public, they had expected to form a settlement of 50,000 acres (sic), based on the 1840 Agreement with the Government and Governor Hobson's letter of October 1841. If he accepted the grant of the small block, he said, it would be "an implied abandonment of the benefit of Mr. Spain's report that the remaining portion of the block of 60,000 acres was fairly and fully purchased in 1840 by its Agents."¹²⁷

The Company approved of Wakefield's refusal of the Crown grant, and urged him to "adhere rigidly to the plan of the settlement to which the Court [of Directors] is pledged by its published engagements - from the principle of which it cannot depart without breach of faith ...".¹²⁸

¹²⁶. Crown Grant 36 (T)- FitzRoy. Conveyances to the Crown, Taranaki. Dosli Head Office, Wellington. Commissioner Spain, finding that Te Ati Awa had been promised a case of 25 double-barrelled guns by Barrett, at the time the Ngamotu deed was transacted, recommended that a sum equivalent to the value of the guns (£200) be spent on building a Maori hospital on the "native town reserves". The money, at Spain's request, was provided by the Company. Spain to the Governor, 12 June 1844, encl. in FitzRoy to Stanley, 22 February 1845, IUP/BPP, Vol.5, p.142.

¹²⁷. Wakefield to Colonial Secretary, 5 February 1845, 1A/1, 45/371.

¹²⁸. Wakefield to Wicksteed, 24 January 1846, NZC 303/2, No. 4/46.

10. GOVERNOR GREY'S TARANAKI POLICY

In May 1845 Governor FitzRoy was recalled (though it was several months before the news reached the Colony); his successor Captain George Grey arrived in New Zealand in November that year. Lord Stanley, Secretary of State for the Colonies in Sir Robert Peel's Conservative Government, had come under increasing fire from the New Zealand Company in London for his failure to accommodate the Company, and eventually had to compromise in the wake of a lengthy debate on New Zealand affairs in the House of Commons. He instructed Governor Grey to issue conditional grants as soon as possible for the lands selected by the New Zealand Company's Agent under the terms of Pennington's award, to waive the Crown's right of the pre-emption of all lands "belonging to the natives ... within those portions of the Northern and Middle Islands which are usually called the Company's districts" in favour of the Company, and (secretly) to spend 10,000 pounds buying Maori land which could be used if necessary to make up the full extent of the Company's entitlement (1,300,000 acres) under Pennington's awards.¹²⁹ Taranaki he was still waiting for more information on; but in the meantime Grey was to give the Company's agent "every assistance" to secure more land there for the Company.¹³⁰

Despite all this however, Wakefield got no better news from Governor Grey on Taranaki. On 23 April 1846 he wrote to the Secretary of the Company that the new Governor had told him he considered himself bound by Spain's awards "in all the instances which are unfavourable to the Company"; nor would he issue a Crown grant for Taranaki (the 60,000 acres), because FitzRoy had disallowed the award and Lord Stanley considered he had been within his authority to do so.¹³¹

Yet with a change in the British Government in 1845-6, and new ministers at the Colonial Office, there was a more accommodating attitude to the Company. Thus on 2 July 1846, W. E. Gladstone, then Secretary of State for the Colonies, wrote to Governor Grey expressing his hope that

¹²⁹. W.P. Morrell, British Colonial Policy in the Age of Peel and Russell (Frank Cass, London, 1930; 1966) p.123.

¹³⁰. Stanley to Grey, 6 July 1845, IUP/BPP, Vol. 5.

¹³¹. Wakefield to Secretary of Company, 23 April 1846, NZC 3/6, No. 24, pp. 156-7.

Grey might have found himself able to give effect to Spain's award to the Company at New Plymouth:

"and, in any case, I rely on your endeavours to gain that end, so far as you may have found it practicable, unless indeed, which I can hardly think probable, you may have seen reason to believe that the reversal of the Commissioner's judgment was a wise and just measure."¹³²

Gladstone, then, condemned FitzRoy's overturning of Spain's award. Thus encouraged, Governor Grey went to New Plymouth early in 1847 to "solve the problems" of the settlement. Indeed, Grey was well aware at the time of his appointment that Governor FitzRoy had been recalled because he had failed to respond adequately to evident Maori challenges to British authority (especially in the Bay of Islands), and failed to balance the interests of the Maori against the interests of the settlers. If Grey wished to survive and to impress his superiors, therefore, he had to be seen to "deal firmly" with the Maori. Clearly, this was in his mind when he went to New Plymouth - though he found Taranaki a much tougher proposition than he had imagined. **And Te Ati Awa found themselves facing a Governor prepared to confront them head-on.**

Grey arrived late in February, accompanied by Colonel Wakefield, and by Te Puni, Wi Tako and Wiremu Kingi Te Rangitake and other Te Ati Awa from the South, who he evidently hoped would exercise their influence at New Plymouth to assist him. Grey held his first meeting with the Maori on 1 March; it was also attended by Donald McLean, no longer a Protector of Aborigines (since Grey had abolished the Protectorate), but the Inspector of Police at New Plymouth, whose duties included land negotiations with the Maori. According to McLean, Grey asked Wi Tako (through his interpreter) to explain his plans for the settlement to the people informally before the meeting began "as many of them were savages & could not comprehend what was for their good ...".¹³³

During his week at the settlement Grey met various hapu of Te Ati Awa, whose leaders explained their views of the land situation to him; he, for his part, explained his own

¹³². Gladstone to Grey, 2 July 1846, IUP/BPP, Vol. 12, pp. 306-7.

¹³³. Sir D. McLean, Private Letters and Native Correspondence, 1846-7, (58), "Taranaki Land Claims".

policies. He was particularly annoyed by the Puketapu and their leader Katatore on whose lands FitzRoy had allowed some settlers to remain on sufferance. It was evident, wrote Grey to Earl Grey, that they:

"regard the Europeans as, in every respect, in their power, and as persons who must submit to their caprice. I thought it proper, therefore, at once to assume a high tone to them ..." ¹³⁴

But Grey was also irritated by Wiremu Kingi Te Rangitake, who was talking of returning with his people from Waikanae, and would not agree to fall in with the Governor's plans for the future of the settlement. McLean recorded that:

"William King Waikanae also opposed any sale that should be concluded at Waitara without his sanction & presence as many of the natives were absent and no permanent sale could be effected without them as all natives however low in rank had an interest in land. The Governor replied that he could not prolong or delay operations on his account & that he & others had better depute agents to select the lands they wished to have reserved ..." ¹³⁵

The Wesleyan missionary H. H. Turton wrote later that Grey told him after his meetings:

"that he had never felt so annoyed as with this fellow, whom he had really believed to be sincere ... His Excellency had proposed leaving[sic] out a nice little hamlet for them, on the other side of Waitara, with streets, cottages, gardens, church, school-house, minister's residence, small farms, and indeed everything complete, and the rest of the land, until you arrive at the Mokau claims, he would purchase for the Europeans. But no; this coarse minded man could not see the advantage of taking so advanced a step in civilised life, and therefore told the Governor at once, that "he did not need his assistance, that he could erect his Pa himself, and moreover that he would build it where he pleased and when he pleased, without asking permission from any

¹³⁴. Grey to Grey, 2 March 1847, IUP/BPP, Vol. 6, p. 3.

¹³⁵. Sir D. McLean, Private Letters and Native Correspondence, 1846-7, (58), "Taranaki Land Claims".

one" ... Governor Grey was much annoyed at this impudent speech of King's, and replied immediately, "Tell him, that I say he is to remain at Waikanae, and that I will place him under guard; and that if he dares to remove to Waitara, without my permission, I will send the steamer after him, and destroy all his canoes, &c." ¹³⁶

Similarly, McLean recorded in his Letterbook that on 5 March he had an interview with the Governor and Colonel Wakefield, and:

"we had a long conversation as to how military operations should be conducted in this settlement & how far the Waikanae natives could be stopped from coming up here. I told him they would in all probability be 10 days on the voyage and not likely to put in at Wanganui but rather 20 miles this side of it and at Otumatua where they might be stopped and their canoes seized." ¹³⁷

In general, then, Grey found that Te Ati Awa were not prepared to meet his wishes. The "Ngamotu family" said that they wished "FitzRoy's arrangements to remain, and no more land to be sold"; and the settlers to remain within the FitzRoy Block. And the majority of others whom he met (who had returned from the Waikanae area and had not been parties to the original transaction), "stated, in the first instance, that they would not, upon any terms, permit the Europeans to move beyond the block of 3500 acres." Unimpressed by Grey's arguments that Pakeha had spent a great deal of money "improving" the district, they replied "that it was their land, and they would do as they thought proper with it."

"At the same time" Grey noted, "I found the settlers in a state of great distress", as their capital was used up while they waited to get secure possession of their land. For the Colonial Office he painted a picture of a selfish tribe, who had returned from well-established homes in the south solely in order to benefit from the payments they expected to be made for their land, whose quarrels over the

¹³⁶. H.H. Turton to the Editor, Taranaki Herald, 5 September 1855, Note on his quoted Journal entry of 2 March 1847.

¹³⁷. Sir D. McLean, Private Letters and Native Correspondence, 1846-7, (58), "Taranaki Land Claims".

extent of their respective claims meant that they could not even agree on the sales they really wanted to make. Thus:

"they have prevented the Europeans occupying any additional land, although many hundred thousand acres of the richest soil are lying perfectly neglected and useless, whilst many European families have been left in comparative want." ¹³⁸

Grey therefore told Te Ati Awa that he should order:

"that the most ample reserves for their present and future wants should be marked off for the resident natives, as well as for those who were likely to return to Taranaki; but that the remaining portion of the country, in that district, should be resumed by the Crown, and for the use of Europeans; that, in the fulfilment of the promises made by my predecessor, the value of the resumed land, in its wild and defenceless state, should be assessed by a Commissioner, and that a Court should then be appointed to inquire into the native titles to the whole, or portions of the district so resumed; and that those natives, who established valid claims to any parts of it, should receive the corresponding portions of the payment to which they would become entitled."

In a "Memorandum of course to be pursued in reference to the contemplated occupation of land at New Plymouth" Donald McLean was instructed to take steps to put the settlers in possession of the land. When reserves had been made for the "several tribes" in the district which would "amply suffice for their present and future wants", and the rest of the land resumed for the European population, the extent of the resumed land would be ascertained, and a decision made on "what price shall be paid to the Natives for it." The Maori were to be paid in annual instalments over three or four years, by which time Grey hoped their reserved lands would be yielding an income. If possible, 60 - 70,000 acres were to be resumed for the settlers; this land would then be Crown - granted to the Company. "Every effort" should be made to acquire the lands awarded the Company by Spain; and if blocks were reserved for the Maori within these limits, portions of land of equal extent must be purchased outside the limits for the Company. The price paid for any portions of land was not to exceed 1/6d per acre; the average price should be below this. Two surveyors and parties were to be engaged, as economically as

¹³⁸. Grey to Grey, 2 March 1847, IUP/BPP, Vol. 6, p. 4.

possible. McLean was "entrusted with the conduct of these arrangements", though he was to consult on all important matters with Captain King (the Magistrate); the arrangements were to be completed as soon as possible.¹³⁹

Finally, Grey added, in intimidatory fashion:

"Those natives who refuse to assent to this arrangement, must distinctly understand that the Government do not admit that they are the true owners of the land they have recently thought proper to occupy."¹⁴⁰

It appears, then, that Grey's view was that the native title to 60,000 acres of Taranaki land had been extinguished by the Ngamotu deed, signed by some 80 people of certain Te Ati Awa families. He affected to believe that FitzRoy had never intended "that the original purchase should be set aside" in so far as those Maori who had entered into the transaction were concerned. Thus the Crown had acquired rights over the land. It had acquired the right to determine whether or not any Te Ati Awa claims to the land were now to be recognised, and to decide how much land Te Ati Awa might retain for their occupation, and the locality of their reserves. Such decisions stemmed from Grey's view - following Spain - that those Te Ati Awa who had not been occupying the land in 1839- 1840 had forfeited their rights altogether and that if the Crown made them concessions now, it did so purely to smooth over practical difficulties, and to put the settlement's affairs on a sound footing quickly.

Te Ati Awa were never prepared to accept this view of the situation, and as a result the Government had quietly to abandon it. Grey himself reported at the time that "very few of the natives seemed disposed to assent to this arrangement ...",¹⁴¹ but that he told them he would enforce it anyway. But the Government never appointed a Commissioner to value the "resumed land", or a Court to

¹³⁹. On McLean's role in land purchase in Taranaki, see Appendix 1.

¹⁴⁰. G. Grey, "Memorandum of course to be pursued in reference to the contemplated occupation of Lands at New Plymouth", 5 March 1847, encl. in Bell to Wakefield, 8 March 1848, NZC 105/7; also in Grey to Grey, 5 April 1847, IUP/BPP, Vol. 6, pp. 13-14.

¹⁴¹. Grey to Grey, 2 March 1847, IUP/BPP, Vol. 6, p. 4.



inquire into "native titles" north of New Plymouth. Henceforth, the Government conducted its land purchases in the Taranaki area on the same basis as its purchases elsewhere. **(Though while the Company remained in existence, it handed over purchased land to the Company for its settlers.)**

Grey, it may be said, had found that the New Zealand Company "purchase" and the rapid British settlement thereafter of Te Ati Awa land had left a very difficult situation for the Government to deal with. Clearly he identified much more closely with the dilemma it posed to the settlers, than with the dilemma it posed for Te Ati Awa. With the latter he had no sympathy at all. This meant that he could not put forward a workable solution. His "solution" was one which was designed to impress the Colonial Office, not one based on any real understanding of the situation in Taranaki. But though his "solution" was soon quietly buried, his shallow analysis of the problems of the settlement was not; it, too, made its contribution to settler interpretations of their difficulties - **that they had been unjustly treated - and that the land north of New Plymouth was rightfully theirs.**

Te Ati Awa, for their part, were determined to resist Grey's assertion of authority over their ancestral lands. **They had reached an agreement with one Governor; now another was trying to overturn it.** Yet though this must have been very unsettling, Te Ati Awa stood firm. Grey's lectures and chidings and veiled threats do not appear to have overawed them at all. For them, there was too much at stake.

11. THE TATARAIMAKA, OMATA, GREY, AND BELL PURCHASES, 1847-1848

In the wake of Grey's visit, several blocks of land were purchased in Taranaki. The main negotiations for three of the blocks were carried out by Donald McLean. The first two purchases were made south of New Plymouth. On 11 May 1847 the Tataraimaka block, 3500 acres of land between the Timaru and Katikara rivers, was sold to the Governor by a group of 20 Taranaki people "with the streams, bays, trees and all things appertaining to that land" - for 150 pounds sterling (**£100 paid at the time of the transaction; £50 a year later**). (McLean promised a further payment of 50 pounds in two years' time if the people would agree to abandon their claims and cultivations on an adjacent piece of land by then.) On 30 August 1847 the Omata block estimated at 12,000 acres (to the south of the surveyed line of Spain's award to the Company) was sold to the Governor by Tamati Wiremu Te Ngahuru and some 60 others for 400 pounds plus a cask of tobacco valued at 24 pounds 3

shillings. (Further research may be needed on these purchases.)¹⁴²

The Grey (or "Mangorei") Block estimated at 9,770 acres, east of the FitzRoy Block, was sold on 11 October 1847 by "Ngamotu" people - people of Ngati Te Whiti and other hapu: the first name on the deed was that of Wiremu Kawaho. The price was 390 pounds (to include the payments to "absentee" relatives). In all the purchases, McLean made the payments by annual instalment, in accordance with the Governor's instructions: two instalments for Tataraimaka, three for the Omata and Grey blocks. (The second instalment for the Grey block of 130 pounds went to "the people of Ngamotu and Ngatiawa" living in Wellington, Arapawa and Nelson, whose numbers McLean estimated at 555; at the same time these people received 100 pounds set aside for them when the FitzRoy Block was purchased in 1844. McLean was very pleased that their claims to the two blocks were "finally extinguished", and hoped it would prevent many of them returning to New Plymouth.)¹⁴³

McLean was clearly most anxious at this time to buy land which could be immediately useful to the settlers - in other words, to buy land with the full agreement of all who were recognised as owners of the land. Thus at Tapuae he reported with approval that those taking the lead in the sale of the Omata land had given "the utmost publicity to their intentions" - as he had himself. A public meeting was held at Tapuae on 26 April, when over 30 speakers stood in succession to agree to the sale.¹⁴⁴

In general, McLean aimed to secure agreement on a sale; subsequently a survey of the external boundaries of the block would be undertaken, for the purposes both of estimating the amount of land involved, and of testing the reaction of other groups who might have claims. If there were no opposition, McLean considered the claim of the sellers as "fully admitted". Finally the deed would be signed and payment made. McLean himself evidently engaged

¹⁴². Cooper wrote later that the Tataraimaka block contained 4000 acres and cost altogether £210. The total cost of Omata was £434.3.0d. Cooper, Draft Report to Colonial Secretary, 29 April 1854, McLean Papers, MS Papers 32, Folder 126 (65).

¹⁴³. McLean to Lieutenant Governor, 12 April 1848, Sir D. McLean, Official Letter Books, Police and Native Land Purchase Department.

¹⁴⁴. D. McLean, entry for 19 April 1847, Diaries and Notebooks, Box 1, (Diary December 1846-7).

surveyors, though their expenses had to be referred to Auckland for the Governor's approval, through the Sub Treasurer at New Plymouth. He seems also to have drawn up instructions for the surveyors - though in April 1847 he reported a visit by the Surveyor General who "afforded every assistance...as to the general conduct of the survey."¹⁴⁵

In his negotiations at this time, McLean clearly found the Taranaki people easier to deal with; the "Ngamotu" and Puketapu hapu were "difficult". It appears there were two main reasons why McLean should have viewed things as he did. The first was that south of Paritutu the boundaries appear to have been more clearly established. The rights of the Taranaki people (for example to Omata) were recognised by other hapu, including some Puketapu people who had been living there until the time of the sale. North of Paritutu, however, was an area where there had been considerable hapu movement in the 1820s and 30s, and the hapu in the 1840s were watching the boundary lines of the surveyors very carefully indeed. When the inland boundary of the Grey block was being cut, for instance, the Puketapu turned back the surveyor when he proceeded from the junction of the Mangorei stream up the Waiwakaiho river, and sent him back to the Mangorei; nor were the surveyor's assistants (Ngati Te Whiti) willing to go any further. The Puketapu then camped on the other side of the Mangorei and, as Harris cut his line on the west side, cut their own line on their side of the river, some 6 miles, to mark the extent of their claims.¹⁴⁶

¹⁴⁵. It is interesting that McLean's letter to the surveyor Harris of April 1847 refers to the fact that the line Harris was then cutting on the banks of the Mangorei River was not intended to be a permanent boundary, "only as between the tribes of Ngamotu and Puketapu"; therefore McLean was anxious that Harris "should save as much time & incur as little expence in the Survey as possible, and as the river itself forms a good natural boundary all I conceive at present necessary is to run your lines along without heavy Cutting if avoidable using the most practicable & expeditious means of ascertaining the extent of the present purchase rather than laying down the river accurately which being no doubt tributary to a larger is in itself of little importance further than it may be well to know some of its bearings." McLean to Harris, 30 April 1847, MA/MLP/NP 1, p.72. See also McLean to Colonial Secretary, 13 April 1847, *ibid.*, p.70, and McLean to Carrington, 24 March 1847, *ibid.*, pp.68-9.

¹⁴⁶. E. Harris to McLean, 9 August 1847, McLean Papers, MS 32, Folder 123, 25.b.

The other reason why McLean found differences in his negotiations north and south of Paritutu was connected with the matter of "Native Reserves". Grey's decision on Reserves, announced in 1847, was that enough land should be set aside for the "several tribes" to "amply suffice for their present and future wants"; policies of "tenths" (as initiated by the Company, and then enunciated - on a quite different basis - by Governor FitzRoy) were set aside.¹⁴⁷

In a despatch of 15 May 1848 Governor Grey outlined general Government policy on "native reserves" as it had been practised since his arrival:

"What has then been done was, to extinguish absolutely the native title to the tract purchased, but to reserve an adequate portion for the future wants of the natives, which reserves were registered as the only admitted claims of the natives in that district, and they have been furnished with plans of these reserves, and with certified statements that they were reserved for their use, which documents are somewhat in the nature of a Crown title to the lands specified in them, are much esteemed by the natives, and accustom them to hold land under the Crown, which is an extremely desirable object to attain."¹⁴⁸

This policy appears to have been the basis for McLean's proceedings in Taranaki. Thus he told the sellers of the Grey Block that the reserves:

"should be considered as part of the purchase, that the claims of the original owners to the lands comprised within them should be thereby extinguished ..."¹⁴⁹

¹⁴⁷. G. Grey, "Memorandum on course to be pursued...", 5 March 1846, encl. in Grey to Grey, 5 April 1847, IUP/BPP, Vol.6, p.13. FitzRoy had not announced a specific policy on Reserves for Taranaki; his general view, however, was that Maori did not adequately consider their own future interests when selling, and needed protection: "the provision of at least a tenth of all lands sold, besides extensive reserves in addition." FitzRoy, Memorandum, 14 October 1844, IUP/BPP, Vol.4, p.404.

¹⁴⁸. Grey to Grey, 15 May 1848, IUP/BPP, Vol.6, Further Papers relative to the Affairs of New Zealand, 1849, p. 25.

¹⁴⁹. McLean to [Grey], 18 June 1847, D. McLean, Private Letters and Native Correspondence, 1846-7, (100), No. 47/3.

McLean was gratified to find that the Taranaki people did not ask for reserves in either of the blocks they sold. (In fact he made one himself (500 -600 acres) within the block, considering that "ample provision" should be made for the sellers, and also because it would "obviate ... the difficulty of making large reserves within the surveyed and chosen limits of the Company ..."). He put this reticence on the part of the Taranaki people down to the fact that they were "large possessors of land". But when he ran into difficulties in his negotiations with the Ngamotu people over reserves in the Grey Block there was no suggestion in his reports that their concern might have stemmed from the fact that they were not "large possessors", and that they saw their interests as being considerably compromised by his attitude. Instead McLean criticised the "extravagant and urgent demands [of the sellers] for extensive reserves which would ... interfere with the various interests of resident settlers and absentee proprietors who had chosen lands within the surveyed limits of the Company...".¹⁵⁰ And he labelled the people "evasive" and "dilatory" in fulfilling their promises to Governor Grey, and (on another occasion) complained of their "faithlessness and insincerity".¹⁵¹ In the end two reserves were made for them, and surveyed: one of 200 acres adjoining the seashore at Moturoa and one of 250 acres at Rotokari, inland; as well as a third of 460 acres for the Waiwakaiho people, and a small 50 acre general reserve which McLean thought might be useful for "absentees" who returned.

Thus a total of 960 acres reserves were marked out in a block estimated at over 9,000 acres - 450 of them for the Ngamotu people. And already the theme was being developed in Government reports that Maori who asked for reserves on a larger scale than this were "extravagant" and should be talked out of such "demands". If they resisted Government persuasion they were considered trouble-makers. The settlers however were not impressed. Although the Grey Block was handed over to the Company soon afterwards, only six people exchanged land they held outside the FitzRoy Block for land in the Grey Block. The settlers got up a memorial to the Governor complaining of the delay in providing the land he promised, since the best land in the

¹⁵⁰. McLean to [Colonial Secretary], 18 June 1847, Sir D. Mclean, Private Letters and Native Correspondence, 1846-7, (102), Turnbull Library.

¹⁵¹. D. McLean, Diary. Diaries and Notebooks, Box 1 [1847].

new block was reserved for the "natives". And in any case, they wanted their own land at the Waitara. ¹⁵²

In the wake of these purchases, an instruction arrived from the Governor to the local Resident Magistrate that "the Government do not at present desire to purchase any more land in this district ..." but the Government would help the Company buy land if it wished to do so. All land negotiations in the district were to be suspended at once. ¹⁵³ This rather dramatic announcement came in the wake of despatches from London informing Grey that the Company and the British Government were negotiating as to the Company's future in New Zealand. Whatever his motives in making it, however, the Governor was on the point of returning to New Plymouth himself.

He arrived on 27 February 1848 - and during his visit authorised further purchases of land. Clearly at this time Grey was preoccupied with the proposed return of hundreds of Te Ati Awa from the south, and with the "complications" this would cause for the settlement, especially in respect of the Waitara land. (On this see Section.12) After long discussions with F.D. Bell, the New Zealand Company Resident Agent, Grey received a deputation of landowners who complained of purchases being made outside Spain's award, and asked that the Governor would restrict future purchases to the land they had originally selected. They also asked that Bell be allowed to negotiate with the Maori "who were or might become willing to sell to the Crown", to which Grey agreed. (There was some feeling against McLean at this time among the settlers because he had not bought land north of New Plymouth; Grey clearly responded to this feeling).

On 1 March 1848, after discussions with Bell, Grey drew up a set of additional Instructions respecting local land purchases, to "increase or amend " his instructions of March 1847. The Company's agent Bell was authorised to negotiate with the Maori (and was to receive every assistance to enable him to do so). He should however only "conduct the negotiation to the final point" before reporting to the Resident Magistrate " the nature of the contracts the natives are prepared to enter into". According to these Instructions Captain King was then to ascertain from McLean that "the intended native sellers are the true owners of the property about to be sold", and that

¹⁵². Bell to Wakefield, 20 October 1847, 24th Report of the New Zealand Company, (31 May 1848), Appendix No. 10, p. 58.

¹⁵³. H. King to F. D. Bell, 6 December 1847, NZC 308/1, No. 47/118.

the purchase would not jeopardise the peace ; and King was then to conclude the transaction on behalf of the Government, and place the land at the disposal of the Company's Agent. The additional Instructions stressed the importance of acquiring for "actual settlers those tracts of land which the New Zealand Company agreed to put them in possession of". For small blocks more than 1/6d per acre might be paid, at a rate agreed by King, McLean, and the Company's agent to be "reasonable and fair". Captain King was authorised to "disburse such amounts."¹⁵⁴

Bell thus embarked on negotiations for land at the Hua (the sections occupied by a settler named J. G. Cooke), and Mangati (later known as the Bell Block). Bell, who knew little about Maori land claims or land negotiations - though he modestly stressed in his report to the Company that he had spent some time "watching the conduct" of the people, and "obtaining their opinions"- was certain that he could succeed where McLean, evidently, had failed; all that was needed was firmness. But his efforts brought little immediate joy to the settlers. Though he secured agreement to the sale of Cooke's land, paying for it with cattle (and McLean later negotiated a purchase of the 70 acres from Puketapu people on behalf of the Crown), Bell failed completely to secure Cooke's undisturbed possession of it because had no idea of how to settle a very complex dispute over the land (near the site of the old Ngati Tawhirikura pa Rewarewa) between Ngati Tawhirikura and various Puketapu groups.¹⁵⁵

The Mangati land was also disputed between various hapu of Puketapu. It had been offered for sale by the elderly chief Paora Horoatua of Ngati Huetu as a result, it seems, of a dispute which broke out among the Puketapu as the northern boundary of the Grey block was being

¹⁵⁴. G. Grey, additional instructions , 1 March 1848, copy encl. in Bell to Wakefield, 8 March 1848, NZC 105/7.

¹⁵⁵. Bell considered that the Maori were about to sell another 70 acres, as soon as the consent of Te Puni was received, "which I presume is certain"; Cooke would then be put in possession of a 140 acre farm. Bell to Wakefield, 15 April 1848, NZC 105/7. But the purchase, transacted on 24 November 1848, amounted only to 70 acres, excluding the land called Ruatangata, according to the Deed, which however was marked on the plan as "Native Reserve" (5 acres). Cooper wrote later that the cattle cost £23.5.0d. Cooper, Draft report to Colonial Secretary, 29 April 1854, McLean Papers, MS Papers 32, Folder 126 (65). See also H.H. Turton, (comp), Plans of Land Purchases in the North Island of New Zealand (Government Printer, Wellington, 1877), Vol.2, Hua Block.

defined. McLean first recorded the offer in April 1847, when he reported that the "Puketapu natives still offer the most determined opposition to dispose of any lands claimed by them", but that one group led by "Paul" had decided to offer lands "of no great extent" to the Government.¹⁵⁶

Bell was perfectly well aware that there was no unanimity on the sale, but decided to go ahead anyway, **publicly declaring his "determination to get it [the land]". He named a day to start cutting the boundary lines, "in order to try the right of the disputants".**

Those who opposed the sale (led by Te Huia and Katatore), started to cut their own boundary lines first, and when Ngati Huetu arrived the two parties cut their lines alongside each other and, according to Bell:

"at some places the ground was fought for inch by inch ... the natives used only their fists, sticks, and the backs of their tomahawks ... and it was perfectly wonderful to see the amount of battering they endured, without really using the deadly weapons they carried."¹⁵⁷

Each party thus defended their claims in a very traditional way. Years later the descendants of those who had been present would remember what happened that day, and would know that their respective hapu had made a strong statement about their boundaries. It was very important that that knowledge be passed on, long after payment had been taken for the land and Pakeha settlers had established their farms on it. The history of the land, and the people's relationship with the land did not cease simply because of the arrival of the Pakeha. The circumstances in which the transfer of the land took place were a part of that history too.

At Mangati, Bell made the mistake which McLean - at that time - had been so anxious to avoid. He was buying "paper land" - land which in practice could not be secured to the settlers because the sale had not been agreed on. McLean knew that if settlers went to live there, the Puketapu would deal with them just as they had with outsettlers on other disputed sections (like Flight and Cooke); trees would be felled on their property, their stock would be herded off, potatoes planted on the land, pigs let in to

¹⁵⁶. McLean to the Colonial Secretary, 29 April 1847, MA/MLP/NP1.

¹⁵⁷. Bell to Wakefield, 15 April 1848, NZC 105/7, No. 9/48.

root. Such actions had nothing to do with attitudes to individual settlers; they were a statement of the right of various Puketapu families to the land. And McLean had another fear about acting too hastily to occupy the Bell Block :

"... I conceive that the premature occupation of the Puketapu block might seriously operate against the acquisition of more land in that disturbed and easily excited district." ¹⁵⁸

Yet McLean went ahead, finally, and presided over the formal signing of a deed, though it was November before even that event took place, because the Puketapu held out for a higher price than the Company wished to pay and the price was not recorded on the Memorandum of agreement they had signed with Bell. Bell's offer of 200 pounds, the Puketapu insisted, was to have been only the first instalment of three. (It is possible that they were thinking of the other purchases in the district; though it is also seems that Bell and the Puketapu did not understand each other. Bell himself had written in his April report to Wakefield that the price to be paid - which had been proposed by the Resident Magistrate- "is 200 pounds in two Instalments". But McLean wrote after a meeting with the people in November that "out of the mass of Contradictory evidence adduced on the subject of Compensation ... I cannot infer that the natives agreed on any specific Sum." He thought that Bell's proposal of £200 had however been construed by the people "according to their mode of calculation into Four hundred pounds" (2 instalments of £200). McLean understood their method of counting; Bell did not.)¹⁵⁹ The people gave in in the end, however, because the payment became available in the form they had asked for :

200 pounds in cattle, a mare and two fillies. Bell recorded that they wanted the price mostly in cattle, because

"with the numerous claimants to be paid, each would receive but a trifle for his land if money were divided, which trifle would soon vanish:whereas by getting Cattle they would possess something, which like the land itself, (to use their favourite phrase) would

¹⁵⁸. McLean to Colonial Secretary, 1 December 1849, AJHR, 1861, C No. 1, Taranaki District, p. 195.

¹⁵⁹. McLean to Resident Magistrate, New Plymouth, 28 November 1848, MA/MLP/NP 1, pp.112-4.

not rot or decay." ¹⁶⁰

The deed was transacted on 29 November by some 75 men and women; Paora Horoatua and Rawiri Waiaua signed first. The sellers acknowledged receipt of 200 pounds from the Governor, which would be the only payment made for the land. For 1500 acres, this was about 2/6d per acre. ¹⁶¹ In return they made over to him the land "mo nga pakeha e wakaaetia e te Kawana mo ratou taua wenua ake, tonu atu." As with the purchase of Cooke's land, Henry King, the Resident Magistrate, signed the deed on behalf of the Governor. Bell had made no reference in his report to Wakefield to any reserves for the sellers. But the deed refers to a reserve, not included in the survey,

"of which the plan appears on this deed and that place was set apart for us the Maoris for ever."

The plan on the original deed shows a large Native Reserve marked, occupying a substantial proportion of the coastal frontage of the block. ¹⁶²

But in fact the purchase was not completed in November. The majority of the claimants had been paid, but not all. The Government would need more time, wrote McLean, to deal with "outstanding claimants", those who would not enter into the deal because they opposed the sale of part of the land (Putaatutonga). So he kept aside 30 pounds of the payment for them, and recommended that the land be retained in the hands of the Government, and not made over to the Company until all the claimants were satisfied. ¹⁶³

This, then, was McLean's solution in 1848 to the "problem" of a disputed sale. It was 1852 before Parata Te Huia, Te Tuke and Katatore agreed to take the 30 pounds, and when

¹⁶⁰. Bell to Wakefield, 15 April 1848, NZC 105/7.

¹⁶¹. Turton, Maori deeds of land purchases in the North Island, Vol.2, pp. 19-20. Cooper wrote later that the block contained 1400 acres, and that the total cost (including payments to "absentees") was £354.

¹⁶². TAR 5, Deed by the Puketapu Natives conveying about 1500 acres of land, Conveyances to the Crown, Taranaki, Dosli Head Office, Wellington.

¹⁶³. McLean to Resident Magistrate, 28 November 1848, MA/MLP/NP 1.

they did it was because they had their own reasons for doing so. Then and only then, did surveyors move on to the Bell Block.

Katatore and Te Tuke, it may be added, were full of scorn for the size of the payment they got, making it clear that what they wanted was "cattle, horses, carts, threshing machines, indeed every conceivable article of farming implements". Or why should they not be paid what some settlers were prepared to give them: one pound ten shillings for fern land and two pounds ten shillings for bush? ¹⁶⁴ But they had no option, and so eventually they took 30 pounds because they wished to finish one matter before starting another - the sale of the Mangaoraka land, north of the Bell Block.

Among Te Ati Awa, indeed, this was to be a familiar pattern during these years. Government land agents tended to lament the "fragmented authority" within the tribe, and the passing of the authority of the old chiefs, which they considered the cause of these land disputes. But whether they understood the nature of chiefly authority, either in the 1840s or in earlier ages, is questionable. Nor did they dwell on the ceaseless pressure for land sales exerted on Te Ati Awa, which kept the people in a continual state of excitement in these years, and added a new dimension to the normal tensions and occasional explosions which could occur among the close-knit communities living north of New Plymouth.

It is very difficult, at this distance, to speak with any certainty about the motives of those who offered land for sale. But one thing is clear : this was a period of tremendous change for Te Ati Awa. A Pakeha town had already been founded on their land; the settlers were very anxious to gain possession of precisely the lands where they themselves had made their settlements - the coastal lands. Te Ati Awa could see a new economic future opening to them, if they could acquire the stock and implements they needed to set up farms, and the sale of land gave them a means to do so. **Direct leasing of their lands to settlers, after all, was not an option; the Government had without consultation, enacted that such leases were null and void, and had laid down penalties for settlers who entered into leases.** ¹⁶⁵ Hapu leaders had to make choices about how to survive in te ao hou.

¹⁶⁴. P. Te Huia to Cooper, [24] June 1852, McLean papers, MS Papers 32, Folder 676C.

¹⁶⁵. On this whole question, see Appendix 2: Government Policy on the Leasing of Maori Lands.

Some - for various reasons - made those choices in favour of engaging with the new order earlier than others. Some were more inclined than others to offer land for sale in order to make a strong assertion of their claims if they felt these to be under threat. And this meant that there were those who were inevitably left appearing to be on the defensive. But whether or not people wanted or did not want to sell land, whether they came to see the whole process as somehow inevitable, and feared that in holding back they might lose the benefits that involvement in it might bring, is very difficult for outsiders to judge.

What is clear, is the lack of Pakeha appreciation of the position in which Te Ati Awa found themselves, and the tragic effect of the conflict of Maori and Pakeha economic interests on race relations in Taranaki. Such was the settler desire for Te Ati Awa and Taranaki land that from the outset those Maori who appeared to be likely to sell were considered "friendlies" while those who did not initiate sales, or who opposed them, were labelled uncooperative or hostile. That Pakeha should have viewed their Maori neighbours largely through this single lens was tragic. It greatly obscured Pakeha understanding of events in the Maori communities they lived so close to. And above all, it led to the alienation of some Maori leaders who were not anti-Pakeha at all, but only anti-the attitude they perceived, which sought to deny them any future at all on their own lands.

12. EARLY TENSIONS AT WAITARA, 1844-48.

At Waitara tensions over land were especially evident from an early date. An offer had been made to sell some land there as early as 1844. Then, in 1847, there were other moves. McLean received a letter from three men in January 1847 (one of them evidently Ihaia Te Kirikumara of Otaraua) promising an offer of land when the Governor visited New Plymouth.¹⁶⁶ Later that month Ihaia reported that a meeting had been held of the people of Huirangi, Mamaku, and Mahoi (pa on the Waitara River) to discuss (among other matters) a sale. The people from Kuhikuhi did not attend, evidently because they opposed a sale.¹⁶⁷

McLean, reporting on the discussions, noted that there was "still an objection with many of the natives to relinquish their interest in this universally favoured district", and enclosed a letter from Wiremu Kingi written at Port Nicholson on 9 December 1846, to prove the point.

"Friend McLean my love is great for my land at Waitara - The land of my forefathers & parents. do not listen to what people say respecting it (meaning the sale of it) nor consent to their words. You know Hurataonga [sic] (or the Hutt) was the land that occasioned Rangihaeata's fighting, and therefore be thoughtful."

In the meantime, said Kingi, they were busy defending the Pakeha, for whom they had a great regard, against Te Rangihaeata; when that was finished they would think of returning.¹⁶⁸

Kingi had already written a year before, in September 1845, talking of the people's wish to return to Waitara, to take Reretawhangawhanga back with them, and to sell their land at Waikanae when they went.¹⁶⁹

¹⁶⁶. Ihaia ma to McLean, 5 January 1847, MA/MLP/NP 1, encl. in McLean to Colonial Secretary, 1 February 1847, in 47/4.

¹⁶⁷. Ihaia ma to McLean, 24 January 1847, MA/MLP/NP 1, p. 39.

¹⁶⁸. Kingi to McLean, 9 December 1846, MA/MLP/NP 1, encl. in McLean to Colonial Secretary, 1 February 1847, No. 47/4.

¹⁶⁹. Kingi to Kemp et al, 2 September 1845, IUP/BPP, Vol. 12, Appendix B, p. 219.

Governor Grey, as has been noted already (See Section 10), was opposed to a return of the southern Te Ati Awa to Taranaki. In April 1847 he wrote that he considered it:

"a matter of the utmost importance for the protection of the isolated settlement of Taranaki and its undefended settlers, that the Ngatiawa tribe should not be allowed to proceed for the present to that place."

He thus suggested that nine large canoes being put together by Te Puni (which Grey feared would be used for the heke) be dismantled - or failing that, seized by the Government:

"and either be retained in their possession until the land question at Taranaki is settled, or that they should be destroyed, as may be thought most advisable" ¹⁷⁰

(It is not clear whether this instruction was carried out or not.) But in July Superintendent Richmond found the Waikanae people still "bent" on going home, and Kingi very courteous, and very willing to inform the Government of his intentions and movements. ¹⁷¹

By the end of 1847, McLean was beginning to take steps to follow up the Waitara offer. In November he took a surveyor with him and went to Mamaku, where a large hui was held, and Ihaia reiterated forcefully his support of the Pakeha and his wish to sell land. (Ihaia Te Kirikumara, it may be noted, was one of those who had not migrated south, but had stayed at Waitara and had fought against Waikato. He had eventually been taken back to Waikato by a taua.) McLean recorded how far-reaching and complex the claims were in the area. Walking on the north side of the river with people pointing out boundaries he noted that the land on the banks was "intersected with innumerable little claims" ¹⁷² and at the meeting where claims were discussed

¹⁷⁰. Grey to McCleverty, 27 April 1847, IUP/BPP, Vol. 12, Appendix B, p. 222.

¹⁷¹. Richmond to Grey, 26 July 1847, *ibid.*, p. 223.

¹⁷². D. McLean, Diaries and Notebooks, Box 1, 1846-7, 4 November 1847.

he noted that "their claims would extend over the whole uninhabited country".¹⁷³

On 3 November, after much discussion among Te Ati Awa, McLean spoke:

"assuring them that it would be useless to resist the Governors determination to have the land. That it would to [sic] our mutual advantage and general good to make a fair division of the land that the southern natives who they seemed so anxious about should participate in the arrangements. That land in large quantities for the use of all should be reserved and fears of war would vanish amidst the enjoyment of peace and prosperity would certainly follow an amicable and well understood arrangement of the Land Question."¹⁷⁴

Elsewhere he noted that there was "no trace" of the Waitara people having received payment for the land, in 1840, though some of them were "in the bush" at the time. Drafting a letter to the Colonial Secretary at this time, McLean wrote that because of the numerous claimants on the river, and "the general indisposition to part with the land it will be necessary to examine the individual claims of the natives" which would take some time.¹⁷⁵

And he added that he had stationed two policemen there "in order to keep those of the natives who are favourable to the sale of land in countenance", who could be useful later laying out the "native reserves".

"The fact of having commenced operations there and having men on the spot will induce several of the most obstinate to yield to our terms."¹⁷⁶

¹⁷³. *ibid.*, 2 November 1847.

¹⁷⁴. *ibid.*, 3 November 1847.

¹⁷⁵. D. McLean, Letters and Native Correspondence, 1846-7, early November 1847 (draft) to Colonial Secretary.

¹⁷⁶. *ibid.*

This, then, was the position when in February 1848 Grey arrived for his second visit to New Plymouth, and outlined his plan to "deal with" the southern Te Ati Awa. As Bell, the Company's Resident Agent, put it, Kingi's determination to return with so many people, "notwithstanding the Governor's threats to him last year that he should be stopped or driven back if he persisted in the attempt to come up", would embarrass the land question more than ever. At a meeting with Bell, Grey suggested that Wiremu Kingi and his people abandon all claims to land south of the Waitara, and in return have their claims to the north bank of Waitara recognised, where they might select "spots" which the Government would survey for them. They would be assisted to become a "model native settlement". The Government would meantime buy the land south of Waitara.

Bell was not impressed. Much of the land on the north bank had already been selected by Company settlers, he pointed out; how were they to be compensated? And what about the security risk of placing such a large body of "natives" on the north side of the river, if there were no troops on the town side? It was very hard to buy land south of Waitara, as they now knew- and certainly not for 1/6 per acre. Grey replied that if he bought Te Ati Awa land at Waikanae and made the payments in annual instalments, this would give the people a "direct inducement" to stay peacefully on the north of the river; by the time the payments were finished Te Ati Awa would have extensive cultivations established which they wouldn't want to jeopardise. By then the Governor would be in a better position to deploy a military force if necessary, but in the meantime he hoped to station a detachment of Fencibles in the district. With respect to Bell's representations about land purchase south of the Waitara, he decided, as we have already seen, to revise his 1847 Instructions.

Before he left New Plymouth, Grey sat down with Bell and McLean and drew up a "Memorandum of an agreement proposed to be entered into with the native Land claimants in the Taranaki District." This, wrote Bell to Wakefield, "was intended as the basis of the arrangement as far as New Plymouth is concerned"; Grey also hoped that a similar arrangement between the Government and the Company could be reached for the Wellington settlement, and that from the two agreements "a complete Plan should be struck out if possible with your concurrence."

The Taranaki Memorandum began as follows:

"It is proposed that the whole of the natives having claims to lands lying between Ngamotu and the Waitara (with the exception of the Puketapu natives now resident within this block) [the Town block?] should if possible be induced to abandon their claims

her enquiry and to
locate themselves on the North bank of
the Waitara."

It laid out proposals for dealing with "two classes" of "natives". The first, those then living on the south bank of the Waitara, should be "induced to agree" to give up their present cultivations within three years and then to move to the North bank of the Waitara. The second class, those shortly expected to arrive from Waikanae, should be "induced to proceed at once to the North bank of the Waitara" and locate themselves on sites they selected, "relinquishing all pretensions to any land to the south of that river."

Since these proposals would promote the future peace and prosperity of the settlement, the Government would offer certain advantages to the Maori to "induce" them to accept them. Firstly, it would admit the claims of those agreeing to the proposals to the lands lying north of the Waitara. Secondly, if they gave up their "pretensions" to all land south of the Waitara, the Government would "without further enquiry" admit that because they were abandoning their "pretensions" they were entitled to compensation, to be agreed on by themselves and Government officials. The Government would then also recognise and permit them to sell their claims at Waikanae and Totaranui. Finally the Government would survey village sites on the north bank of the Waitara and would do its best to assist with the people's "permanent advancement in civilization and prosperity."

The advantages for the Settlement, apart from the solution of the difficult land claims, included the securing of an alliance with "a very powerful tribe" against possible hostile incursions of other tribes, and a strong post occupied by "friendly natives" which would (according to the Memorandum) give the "ill disposed tribes of the Wanganui" pause for thought should they wish to attack New Plymouth.¹⁷⁷

W. Halse pointed out (as had Bell) that settler claims north of the river covered 1500 acres, and that the Company had understood these lands, being included in Spain's award, were to be secured to them - with extra payments where necessary. He considered Grey's proposal a reluctant capitulation "to the claims of the natives" north of Waitara, designed to avoid the alternative of putting

¹⁷⁷. G. Grey, Memorandum of an agreement... 1 March 1848, copy encl. in Bell to Wakefield, 8 March 1848, NZC 105/7.

the Company in possession "by force of arms".¹⁷⁸ Colonel Wakefield, finally, gave his grudging approval to Grey's plan, thinking it:

"better than allowing them to scatter themselves over their former places of abode ... the location of the natives on the right bank of the river would probably save the settlement from all risk of disturbance by the new comers."¹⁷⁹

Donald McLean was no more enthusiastic about Grey's plans than Bell was. But Grey ignored McLean's objections that the southern Te Ati Awa would not abandon their claims south of the Waitara, arguing that Te Wherowhero, then at Wellington, would probably be able to influence them in favour of the Governor's proposal. Instead, Grey sent McLean off to Waikanae to try and get Te Ati Awa agreement to give up all their claims to the land south of Waitara. Kingi was clearly distressed by McLean's mission; McLean, making his own contribution to Kingi's new image as an "unco-operative" chief, described him as "unusually sulky". McLean's diary notes of his visits - he stopped at Waikanae in mid March 1848 on his way to Wellington to meet the Lieutenant Governor, and returned there a week later - convey both the pressure that he attempted to exert on Te Ati Awa to accept Government policy, and the anger and uncertainty that his activities caused. Lieutenant Governor Eyre had already spoken with Wiremu Kingi, and had reached the same conclusion as McLean - "that the natives will not come to any terms about Waitara", and that the best thing to do would be to try and induce at least some of them to stay at Waikanae.¹⁸⁰

But at a large meeting at Waikanae on 22 March McLean put the Government position to the people in the strongest possible way. The Government, he said, had no objection to Ngati Ruanui returning home, nor to Taranaki, nor to the people of Mimi or Urenui; their land was not noa, or encroached upon by Europeans. But to the people of Waitara he had something to say:

¹⁷⁸. Halse to Bell, 29 February and 24 March 1848, NZC 308/1 (103 and 106).

¹⁷⁹. Wakefield to Bell, 20 March 1848, NZC 303/2, No. 8/48.

¹⁸⁰. Donald McLean, Diaries and Notebooks, Box 2 (March-May 1848), entries for 17 and 18 March 1848.

"... that their land had been considered our property by the cession of Chiefs who claimed it as theirs that we finding it not occupied purchased it and surveyed it, that it consequently became the property of a great number of pakehas whose determination if not immediately carried into effect would be eventually to live on the lands surveyed for them, that if the natives were ever so numerous that their opposition to us as a body would be perfectly useless and would result in their being in a more unsettled state than ever if they did not accede to the Governor's proposals, which were intended for their lasting and permanent good, that the land was sold, that we had now to consider the best means of providing for them and satisfying the Europeans that the old men who spoke about losing their lives on the land were fools that they were driving their followers to destruction and that we only were the parents who guided their persons and interests with impartial consideration for their safety and welfare now an opportunity [was?] afforded of settling things satisfactorily and we should do if they could only see their own interests. that no opposition to us could be either durable or successful. to day or on the morrow I should inform them more distinctly of what the Governors intentions respecting their land was..."¹⁸¹

The people, wrote McLean, listened with

"grave silent attention and for some long time no one got up to reply but all seemed panic struck..."

Both meetings were also addressed by those who saw security in a Pakeha presence and in the Government proposals, who felt that the land had already passed from their hands, and were prepared to offer land for sale - notably Ihaia and Te Tupe of Otaraua.¹⁸²

¹⁸¹. *ibid.*, entry for 22 March 1848.

¹⁸². *ibid.*, entries for 15 March , 22 March, 25 March.

The general feeling however was rather different. Wiremu Kingi replied to one speech in particular (according to McLean's translation), in these words:

"My fathers and friends why treat me in this manner, why not speak this way before, when our old men were alive to advise on the subject, now that I am in the canoe to leave here, you sell the land to which I was returning from under my feet: My land! my land! he exclaimed! I will not give up my land till I am first dragged by the hair and put in gaol!" ¹⁸³

On subsequent days Kingi spoke privately to McLean, listening carefully to the Governor's proposals, and even offering to sell a small piece of land at Waitara when he returned. (McLean refused the offer unless Kingi would promise to give up the south and occupy the north bank of the river.) But ultimately, Kingi explained to McLean, he had to protect the interests of those whose ancestral lands were on the south bank who were "strongly attached to the patches originally possessed by them" and would not want to occupy the lands of other hapu on the north bank. When he returned he would try to persuade those on the south banks to sell, but he asked that McLean would not buy until "they were all unanimous as it would lead to various disputes". ¹⁸⁴

McLean, reporting to Lieutenant Governor Eyre, spoke of the "inalienable attachment" of the people to the Waitara river. ¹⁸⁵

On 17 April 1848, then, Kingi set out from Waikanae, leading a heke of nearly 600 people, under no illusion as to the sort of pressures Te Ati Awa were returning to. The people travelled slowly along the coast - some by sea, some over-land, driving their stock. McLean took a census of

¹⁸³. McLean to the Lieutenant Governor, 8 April 1848, MA/MLP/NP 1, No.48/1. The version given in McLean's diary is a little different, and contains the following sentence:

"the Land he exclaimed in a lamentable ejaculation the Land. Te one e te one let me be on my land till you come to [put] me in gaol.the land will be held." McLean, Diaries and Notebooks, Box 2 (March-May 1848), entry for 22 March 1848.

¹⁸⁴. McLean to the Lieutenant Governor, 8 April 1848, MA/MLP/NP 1, No.48/1.

¹⁸⁵. *ibid.*

the heke en route : it included 264 Ngati Kura (or Manukorihi or Patupo); 39 Puketapu people, 89 of Ngati Rahiri, 79 Ngati Mutunga and 19 Ngati Tama. In addition there were 51 people of Taranaki hapu, and 20 Ngati Ruanui. (McLean, it is interesting to note, divided the people geographically as well as tribally - and counted 211 as being "north of Waitara", 264 "at Waitara".¹⁸⁶ (These figures should be borne in mind when considering Grey's proposed arrangements for the people.)

The heke reached Moturoa on 2 November, and the northern Te Ati Awa came home to Waitara on 16 November 1848. The people settled on the south bank, in a complex of three pa. Grey's plan for the resolution of the tensions left in the wake of the Spain/FitzRoy decisions thus failed. It failed because it took no cognizance of the unwillingness of Maori to settle on lands to which they believed themselves to have no claim, and because Kingi and Te Ati Awa refused to accept the premise on which it was based, namely that the Government had somehow acquired a right to direct which part of their ancestral lands they should occupy. This Kingi refused to accept; he is reported to have told Grey in 1847 that he would build his pa where and when he pleased.¹⁸⁷

¹⁸⁶. McLean Papers, MS 32, Folder 124.

¹⁸⁷. H. H. Turton to the Editor, Taranaki Herald, 5 September 1855, Note on his quoted Journal entry of 2 March 1847.

13. GREY'S THIRD VISIT TO NEW PLYMOUTH, 1850.

With the return of the heke from the South, the Maori and Pakeha populations of northern Taranaki (that is, within the limits of "Spain's Award") were roughly the same - about 1100 Maori, and 1116 Pakeha.¹⁸⁸

Te Ati Awa at once made themselves available to work for settler farmers - who had long complained of the shortage and high cost of labour. They cut fern, burnt and stacked timber and helped with harvesting the wheat crops. As they competed with one another and with Pakeha labour, the cost of labour in the settlement dropped dramatically. Pakeha had been harvesting for 21 shillings to 24 shillings an acre; Maori parties offered their services for 10 shillings an acre on average. And they thus began to acquire their own stock and seed and farming implements, so that they could farm on their own account.

But despite the apparent co-operation between Maori and Pakeha in "breaking in" the land, settler unease persisted. The New Zealand Company still had no legal title to any land in Taranaki, neither did any of the settlers.

And above all, the settlers wanted more land, and more people - British people. Their own population was growing only slowly; they wished to be able to attract more settlers, so that the colony would expand and flourish. In March 1849 a public meeting of Taranaki settlers appealed to the Directors of the New Zealand Company to take active measures for renewing colonisation to New Plymouth. The Directors had an obligation to supply labour, which they had never fulfilled. The farmers were "reduced" to employing "native labour" for the harvest because they could not get Europeans.

"That some advantages attend the employment of natives may be maintained with truth; but as a regular and permanent resource, it cannot be relied upon; and with reference to the Company's interests and plans of Colonization, is most injurious. The money paid to the natives is paid to the sellers, not buyers of land; and every shilling so passing from the pocket of the European to the native renders the latter more independent of the sale of land, and less willing therefore to dispose of it on reasonable terms. Besides, it was not savage but civilized society; not the labour of New Zealanders, but of

¹⁸⁸. Statistics of New Plymouth, 1848, McLean Papers, MS Papers 32, folder 127. See also p.212.

Englishmen, that was promised as an inducement to colonize the wastes of this country." ¹⁸⁹

The settlers, then, considered that their position might never "improve". Even as the availability of Maori labour encouraged farmers to bring more land into production, and increased their demand for land, they themselves were supplying a source of income to the Maori which might enable them to resist the pressure to sell. If Pakeha labour were available, and Maori could be forced out of the market, they would have to sell land to raise capital. Seldom can the settlers' view of their economic competition with the Maori have been so starkly expressed.

At first, there was some hope in New Plymouth that the return of the heke might lead to offers of land for sale, because most of those with land claims would now be on the spot. In the early part of 1849 there were many rumours that offers were imminent. J.G. Cooke, meeting Wiremu Kingi in New Plymouth, decided to "attack him about selling the 'Waitara' - He was taken aback at my impudence, and said that I was an 'akongo' [sic] of yours - [he] wished there was no land at all that he might hear no more about it ...". ¹⁹⁰ Already, Kingi was weary with the constant British campaigning for land for settlement.

In July 1849 a group of leading Taranaki settlers wrote to the Governor lamenting the "present depressed state of New Plymouth", and seeking his return - or at least, Donald McLean's -

"so that, henceforth, strenuous efforts may be made, both by the Government and the New Zealand Company, to repurchase lands in this district, and more particularly between Waiwakaiho (the boundary of Governor Fitzroy's block and Waitara."

¹⁸⁹. G. Cutfield, Chairman of the Meeting, to the Court of Directors of the New Zealand Company, [14 March 1849], encl. in Cutfield to W. Halse, 15 March 1849, NZC 308/2.

¹⁹⁰. J. G. Cooke to McLean, 17 January 1849, McLean Papers, MS 32, Folder 226 (14).

Grey replied in conciliatory tones, promising to visit soon, and to send McLean as soon as was practicable.¹⁹¹

By the end of the year McLean reported that the settlers:

"are growing daily more anxious for the acquisition of land in the direction of Waitara are holding public meetings to urge the Government to commence purchasing operations there as if tedious and perplexing negotiations with the natives so excessively jealous and tenacious of parting with their land could be judiciously accomplished without time trouble or difficulty. To make any progress in such questions in a district where native rights are so complicated and interwoven requires a deal of persuasion, patient investigation and is altogether a most worrying tiresome and disagreeable occupation."¹⁹²

But Governor Grey, at last, returned to New Plymouth for his third (and last) visit. He arrived on 19 January 1850 and soon afterwards had a long discussion with William Halse, Resident Agent of the New Zealand Company, who urged on him the settlement's need for land. It was true that the Company still had 15,000 acres at its disposal from previous purchases, but it was timber land, unsurveyed, and the settlers wanted "open plains" - and especially the land between Waiwakaiho and Waitara. This land was already surveyed, there were roads, and the Waitara river would be a good trading port - the coastal ships always ran in there in bad weather, without accident. Grey listened carefully to all Halse's points, and finally discussed with him a plan for settling soldiers in the colony from India; he thought Taranaki would be "a most desirable place" for such men, and Halse agreed with him.

Grey's subsequent stormy meetings with Te Ati Awa were clear evidence both of the growing tensions over land in the region, and of the unease aroused by the presence of the Governor. His meeting with the Puketapu "nearly terminated in a disturbance" as an extension to the Grey block eastwards was discussed. When it was the turn of the

¹⁹¹. J. Flight, G. Cutfield and others to Grey, 18 July 1849, and Colonial Secretary to J. Flight et al, 30 August 1849, Turton (comp.), An Epitome of Official Documents Relative to Native Affairs and Land Purchases in the North Island (Government Printer, Wellington, 1883), A2, pp.131-2.

¹⁹². D. McLean to the Colonial Secretary, 18 December 1849, Donald McLean, Letterbooks (1849-70), Vol. 4.

Waitara people, Ihaia and Matiu (Kingi's brother) offered land to Grey, but:

"the opposition mustered in large numbers ... and were firm and haughty in their refusal to part with the land. Wiremu Kingi called upon his people to dispossess his brother and Ihaia of the land they had just offered to the Governor."

Ihaia tried to exact an answer from the Governor but (wrote Halse):

"His Excellency avoided the explicit answer the friendly natives had a right to anticipate, and the meeting terminated very unsatisfactorily."

McLean also made a considerable impression on Te Ati Awa at the meeting. One of the Waitara people planted his spear in the ground, indicating that he made Waitara tapu to his people and their descendants. McLean went over, drew it out of the ground and, as he walked to the Governor to give it to him, sang a waiata to the effect that the tapu was broken. Te Ati Awa were "astonished".¹⁹³

But McLean's gesture did not, it seems, have the desired effect. After the meeting Grey presented blankets and tobacco to Ihaia and Matiu "for their good conduct". Kingi and his people, hearing this, drew a rather different conclusion. Might not these "presents" be later construed into a payment for land? So, "in order to prevent the Officers of Government from ever in future founding any claim to Waitara upon it " they went to Mamaku and burnt the presents, as well as other property."¹⁹⁴

But this was not all. A few days later the Governor set off to visit Pukerangiora pa. At the Waiongana river he was challenged and warned to turn back by a brother of Whatitiri, the chief of Pukerangiora. The Governor ignored him and crossed the river, to meet Whatitiri himself and twenty men armed with spears and tomahawks, spread across the road. Go back, said Whatitiri, you may not pass. Grey's replies were brushed aside, and the chief told the Governor:

¹⁹³. W. Halse to Fox, 21 March 1850, NZC 105/9, No. 22/50.

¹⁹⁴. G.S. Cooper to the Resident Magistrate, 20 September 1852 .

"that he had caused many quarrels in New Zealand; but he sh'd not produce one at Pukerangiora the burial place of his people... If the Governor wished to see the place of death, he could go to Wairau, Korora-rika [sic], Heritaonga [sic] (valley of the Hutt), Porirua and Wanganui."

Grey's bridle was seized, and a tomahawk brandished at him; and though he went on to Waitara, he abandoned his attempt to visit Pukerangiora. On their way back they noticed a board at the turn-off to Pukerangiora, with a notice addressed to Grey:

"Friend the Governor go back go back from here, we are all very dark, or displeased."¹⁹⁵

Grey left New Plymouth on 17 March, and did not return during his term of office. The settlers were amazed at the Governor's reaction to such a challenge to his authority. All he demanded -through his interpreter Pirikawau- was the surrender of the tomahawk raised against him. Wiremu Kingi himself brought it to New Plymouth (but not, Te Ati Awa noticed, the man who had raised the weapon), and promised that Pakeha would not be further obstructed on public roads. But surely, wrote Halse, the "Waitara natives" should have been punished, and a protective force brought in to maintain order.¹⁹⁶

The Governor, as far as the settlers could see, had slunk away. He had not accepted an offer of land at Waitara. He had had to listen to objections to an offer of land made south of New Plymouth, between Tataraimaka and Omata, by Paora Kukutai of the Taranaki tribe. The offer had first been made in November 1849 (in the wake of Paora's anger at being omitted from a payment for an addition to the Tataraimaka block). But the offer was opposed vehemently by the Ngamahanga people, whom McLean recognised as "conjoint claimants". This time, it may be noted, instead of holding aloof from a disputed sale, McLean made an "advance...on acct. of the land" to Paora (a horse and tobacco valued at 50 pounds), promising him the rest of the payment "when he can grant indisputed right to the settlers." This move, McLean thought, would ensure Paora's cooperation in acquiring other land as well. But Halse thought the

¹⁹⁵. McLean to Grey, 12 February 1850, MA/MLP/NP 1); see also Halse to Fox, 4 May 1850, NZC 105/9, No. 30/50. The two accounts of the Pukerangiora incident differ slightly.

¹⁹⁶. Halse to Fox, 4 May 1850, NZC 105/9, No. 30/50.

opposition so strong that the land would not help the settlement for a considerable period.¹⁹⁷

And finally, the settlers had no further hopes of land at Waiwakaiho. A group of Puketapu people had erected a carved pou, 40 feet high, on the northern bank, near the Devon Road, late in 1849. McLean thought its purpose was to "prevent the Europeans from acquiring more land in that direction", and he added that William King had nothing to do with such "troublesome proceedings".¹⁹⁸

In short, the Company settlers were cheered by one main event in 1850: the issue of a Crown grant to the New Zealand Company on 8 April for the FitzRoy, Grey, Omata and Tataraimaka blocks - **"saving and always excepting and reserving all the Native and other reserves situated within the said blocks of land"**- plus a separate grant of the Hua block of 70 acres on 20 April. Over twenty nine thousand acres thus passed to the Company. Halse reported that the settlers, since 1848, had increasingly taken up land in the Omata district, overcoming their "natural prejudice" against "any permanent diversion of capital and labour from the Waitara, and the other districts between that river and the Waiwakaiho, where nearly the whole of their land was situated."¹⁹⁹

And the hopes of more land south of New Plymouth looked good. The Directors of the New Zealand Company had disallowed the earlier arrangement made by the Company's Resident Agent, whereby two settlers - Cutfield and King - had sole rights to lease land in the Tataraimaka block; it was now to be surveyed and made available to Company settlers. (The land was offered for selection in November 1851.) Once settlers were located on both blocks, Halse

¹⁹⁷. McLean to Grey, 25 January 1850, MA/MLP/NP 1; Halse to Fox, 2 January 1850, NZC 105/9, No 105/9.

¹⁹⁸. McLean to Colonial Secretary, 11 October 1849, MA/MLP/NP 1.

¹⁹⁹. W. Halse to Fox, 13 August 1850, NZC 105/10, No. 59/50. The Crown Grant specified the FitzRoy Block as containing 3500 acres, the Grey Block 9770 acres, the Omata Block 12000 acres, and the Tataraimaka Block 4000 acres. The Native Reserves in these blocks were shown in a plan attached to the Deed and described in a schedule attached. The original is in Dosli Head Office, TAR 36 i, (Conveyances to the Crown, Taranaki) Grant to the New Zealand Company.

thought, Maori opposition to the sale of the intervening land would fade away, and it too could be acquired.²⁰⁰

In July 1850, meanwhile, the New Zealand Company - unable to continue profitable operations - ended its existence as a colonising body, and handed back its Charters. The Crown (by virtue of an earlier agreement made with the Company in 1847) came into possession of the Company's lands in New Zealand, some 1 million acres.²⁰¹

²⁰⁰. Halse to Fox, 18 September 1850, NZC 105/10, No. 65/50.

²⁰¹. For these lands the Crown was bound to pay the Company £268,000, bearing interest at 3½ per cent. This sum was to form a first charge on the land revenue of New Zealand. For further details of the eventual settlement of this debt see Marais, Colonisation of New Zealand, pp.207-8.

14. NEW PROTECTIONIST MOVES

Towards the end of 1851 a new flagstaff was erected at New Plymouth; it was 98 feet high and, reported Henry Halse, "will be seen at a distance seaward of about four miles."
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At about the same time Ngati Ruanui held a large meeting at Waimate to discuss the flag, and their fears that it was connected with a Pakeha plan to take the land. The missionary William Woon recorded that the subject was causing great excitement among the people. After the meeting they wrote a letter to Te Ati Awa chiefs expressing their concern, and their own wish to retain the land. It began: "Haere ra e tenei pukapuka kinga rangatira pupuru i te whenua, kia Iharaira, kia te Waitere, kia Raniera, kia Arapata, kia Wiremu Kingi, kia Paturoi, kia Koutou katoa e pupuru ana i tetahi wahi o to tatou waiu." The Pakeha might have the land they had already purchased, but that was enough for them: "one side of the blanket has been torn off for them; let that be enough for them, the side that remains to us, let us hold fast". And they suggested that Te Ati Awa might like to consider whether the flag should be "pushed down"; for had not God erected a flag for New Zealand, namely Mount Egmont - "ships can see Mount Egmont." ("Kua kite ano ratou kua wakaturia he kara mo Nuitireni e te Atua ko Taranaki; kei te kite mai nga kaipuke i Taranaki." 203

Halse found that the subject was "assuming some importance" among Te Ati Awa, and immediately reassured them that their lands were not to be taken from them; that it was not a "kara tango whenua". And several letters were written to Ngati Ruanui - one by Katatore warning that such interference with the flagstaff could lead to bloodshed. It stood on Pakeha land, and should be left alone; if it had been put up on his land, he would then have destroyed it himself straight away. 204

202. H. Halse, Report from 12 to 25 October 1851, McLean Papers, MS 32, Folder 126.

203. Hori Kingi and Te Rei to Te Ati Awa chiefs, 20 October 1851, McLean Papers, MS 32, Folder 675I. Interestingly enough, the contemporary translation (evidently made by Henry Halse) began: "Go then this letter to the Chiefs opposed to the sale of land ..." *ibid.*

204. Katatore to chiefs of Ngati Ruanui, 2 November 1851, *ibid.*

Nevertheless, reported Halse, the appeal to Te Ati Awa seemed to have caused the Puketapu to reconsider their offer of settling the Bell Block, and selling land at Mangaoraka. Still, he added:

"I rely on their internal dissensions for a favourable adjustment of the great question in that beautiful district." ²⁰⁵

Whatever the fears of Ngati Ruanui, they were clearly not fears about participation in the new economy. William Woon, the Wesleyan missionary, recorded in March 1851 that the people were spending all they could manage on mills, horses, cattle, etc.²⁰⁶ In May he wrote disapprovingly that the young people were very "unsettled", going to the towns to work to pay for cattle "which are increasing fast among them".²⁰⁷ In July he found "several parties...from different places" busy sowing wheat at Manawapou, and noted that a third mill for Ngati Raunui was nearly completed.²⁰⁸ Cooper, writing in 1852, noted that the people drove their pigs and carried wheat on their backs 50 to 70 miles to New Plymouth.²⁰⁹

But the people did not wish to sell land. Woon complained constantly that he could not even get them to sell him a small piece of land for a mission station; nor, he thought, would they sell land:

"even if Her Majesty came, such is their tenacity to keep it from Europeans! for they know if they

²⁰⁵. H.Halse to McLean, 10 November 1851, McLean Papers, MS Papers Folder 312.

²⁰⁶. Journal of William Woon, 1830-59, 31 March 1851.

²⁰⁷. *ibid*, 26 May 1851.

²⁰⁸. *ibid*, 15 July 1851.

²⁰⁹. Cooper to Civil Secretary, 18 September 1852, MA/MLP/NP
1.

sell it to the Mission, the way will be opened to sell to others."²¹⁰

In September 1852 Donald McLean (appointed Land Commissioner in 1850) and G.S. Cooper (the recently appointed Inspector of Police at New Plymouth), hearing that the Patea people might wish to offer land for sale, went south to investigate. But at Patea the "Principal Chief" told them the people had "fully determined not to dispose of any of their lands; and at Manawapou they learned that Ngati Ruanui "had made a solemn compact not to dispose of any land to Government." (This was the first mention of a "solemn compact" among Ngati Ruanui.) Cooper replied that the Government tried to buy land not for the sake of the soil itself, which would only be useful for grazing:

"but principally for their own sakes, as it was a pity to see so large a quantity of grain raised by them to no purpose, which, had they an opportunity of selling it, would be a source of great wealth..."

And he went on in his report to comment on the poverty of the people, notwithstanding their "comparatively extensive and well kept" cultivations, for they consumed the bulk of their wheat in feasts and presents to neighbouring tribes. Clearly he did not place much weight on signs of a flourishing internal economy.²¹¹

On 20 October 1852 the Taranaki Herald published an extract from a letter by Woon on the subject of Ngati Ruanui attitudes to land sales:

"The natives of my district are altering fast, and are certainly taking leave of their senses. They try me to the utmost in my endeavours to lead them in the right way. They are continually holding meetings to prevent the land being sold to the Europeans. The greater part of the Ngatiruanui met at Whareroa on the 27th ult. to adopt measures to secure it ... In one of the Taranaki Herald's it is stated that the natives are likely to sell a part of Patea. For the information of all concerned I can assure them that

²¹⁰. William Woon, Journal, 1830-59, 14 August 1851.

²¹¹. Cooper to Civil Secretary, 18 September 1852, MA/MLP/NP 1.

were they to cover the land with gold, the Pateans would not part with it. They are like the "dog in the manger" they cannot enjoy it themselves, nor will they let others have it. They have wonderful ideas of its value and for their wheat they expect a most exorbitant price..."²¹²

²¹². Taranaki Herald, 20 October 1852.

15. THE PURCHASE OF THE WAIWAKAIHO AND HUA
BLOCKS, 1853-1854

The conclusion of the Bell Block purchase in 1852 cheered the settlers, but did not satisfy them. The Taranaki Herald editorial for 8 December 1852 complained that the purchase did not go nearly far enough towards meeting the needs of the settlers, and complained further of the "inactivity" of Government agents.

"It is impossible to magnify the mischief which the want of cheap available land is working upon our interests, and the prosperity of our settlement..."

The Maori, suggested the paper, were extending their cultivations, increasing their stock, learning how to farm European-style, and:

"are every day getting more sensible of the value of available land, and will consequently be more difficult to bargain with." ²¹³

G.S. Cooper, writing a year later, commented in fact on the large and annually increasing cultivations of Te Ati Awa, ("the richest of all the neighbouring tribes"), and their substantial crops of wheat, oats, maize and potatoes. During 1853 they sold over 2,800 pounds worth of produce to the two largest local exporting firms, and it was estimated that this figure would rise to nearly 5,000 pounds during 1854. "Ngatiawa" (who numbered about 1,000) owned 150 horses, 250-300 head of cattle, 40 carts, 35 ploughs, 20 pairs of harrows and 3 winnowing machines. They had not, Cooper added, built any flour mills, because "it pays them better to sell their wheat in the English market." ²¹⁴

In February 1853 the settlers held a large meeting to discuss the Land Question; how more land could be bought for the settlement, and how the settler case could best be brought before the Governor. The Government agents again came under fire, with some speakers saying the settlers must show the land could be bought, and must buy it themselves, if necessary! Why was land bought elsewhere, but not at Taranaki? Why did the Governor have to wait until

²¹³. Taranaki Herald, 8 December 1852.

²¹⁴. G.S. Cooper, Draft Report to Colonial Secretary, 29 April 1854, McLean Papers, MS Papers 32, Folder 126 (65).

all owners agreed to a sale; why could a small minority of Maori prevent a sale? Why couldn't a higher price be paid to the Maori - say, five shillings an acre? A purchase agent must, it was said, be active in his job; always "[mixing] with the natives and... always urging them to sell land, as Mr. McLean used to do." ²¹⁵

The meeting appointed a permanent committee to "carry out [its] objects", and before long a memorial to the Governor had been drawn up to

"all the attention of Government to the necessity of obtaining a supply of available land for this settlement."

It was true that the Government had timber land at its disposal, but what was wanted by most settlers - especially new arrivals not accustomed or equipped with proper implements to fell timber - was fern land.

"...we can state our firm belief ... that with such exertion as we conceive Her Majesty's subjects have a right to expect from Government, fern land may be acquired from the native owners in quantities sufficient for the more pressing wants of this settlement." ²¹⁶

What was bothering the settlers at this time was that no major purchases had been made - and in particular, none had been made during Mr. Commissioner McLean's visit to New Plymouth between July and September 1852. This was especially disappointing, as it was widely believed that if anyone could buy land, it was McLean.

But McLean and Cooper (and especially Cooper, who had taken over responsibility for day-to-day negotiations) had been doing their utmost to achieve a purchase. They had hopes of land at Mokau, at Warea, and especially at Mangaoraka, where land had been offered by the Puketapu leaders Parata Te Huia and Iharaira Te Tuke. During August 1852 the two men had daily meetings with the Puketapu people, anxiously counting those who seemed to favour the sale which the settlers so badly wanted. McLean wrote to ask for funds to be sent at once, apologising to the Governor, but adding:

"...I find when negotiating with the natives that we can make a much greater impression if we can actually exhibit a sum for their acceptance, the knowledge of its being at hand when

²¹⁵. Taranaki Herald, 16 February 1853.

²¹⁶. Taranaki Herald, 2 March 1853.

discussing a Sale has sometimes a talismanic effect on their movements." ²¹⁷

McLean and Cooper both knew, however, that offers of land for sale were bound up with the complexities of Te Ati Awa politics, and that changes in the political situation might lead to new support for, or opposition to, any sale under consideration. Their problem (as they saw it) was not so much to attract offers of land, as to attract offers with sufficient general support among the hapu that there was some prospect of actually completing a purchase. And once an offer had been made, they had to tread carefully, so as to avoid alienating (on the one hand) those who wished to sell at once (or said they did), and (on the other) those who were presently opposed, but might be persuaded to change their minds.

Cooper, for one, found the whole situation very stressful. As he put it on one occasion:

"it is exactly like playing a difficult game of chess against an opponent whom you rather suspect to be a better player than yourself..."²¹⁸

And the unrelenting pressure of the settlers, most of whom had no understanding of the difficulties involved in buying land, did not help at all.

McLean, for his part, had concluded long before that buying land in Taranaki would not be easy. Early in August, after he arrived at New Plymouth, he wrote to the Civil Secretary explaining some of the problems, and suggesting a partial solution. In a variation on Grey's "solution", designed more specifically to deal with the "problem" presented by the Puketapu people, he suggested in effect that they be tidily confined between natural boundaries. The whole of the land between the Mangaoraka and Waiongana rivers (which comprised 1000 acres, as far as the New Zealand Company surveys had gone) should be reserved for the "natives", since the Puketapu were "greatly attached" to it. If they agreed to this, he would like to be able to offer to buy the rest of their land at a higher price than the one shilling and sixpence per acre he was authorised to spend

²¹⁷. McLean to Grey, 18 August 1852, McLean Papers, MS Papers 32, Folder 4 (8).

²¹⁸. Cooper to McLean, 19 June 1853, McLean Papers, MS Papers 32, Folder 227.

at present. Such measures, he hoped, might overcome Puketapu indifference to achieving sales.²¹⁹

This proposal was later put to the Puketapu people, who said it wouldn't work, "as the natives now there would prevent those on this side from going there, which indeed the latter would not care to do."²²⁰ In other words, there would still have to be reserves south of Mangaoraka. If McLean really thought that his plan would be accepted, then clearly even he had failed to understand that no hapu could tolerate being arbitrarily moved onto the land of another, while giving up forever all connection with their own (nearby) ancestral land. **And if he, with his experience, believed this was a "workable solution", it said little for the prospects of the iwi of Taranaki in te ao hou.**

In the meantime, McLean decided at last to take seriously an offer of land at Mokau, where some chiefs were anxious to sell. Encouraged by the thought that Mokau - with resources of coal, limestone and timber - might be a useful satellite settlement to New Plymouth, he also wondered if the example of the Mokau chiefs' sale might not be a splendid example for Te Ati Awa to follow!²²¹

It seems also to have been about this time that McLean abandoned his earlier policy of publicity for all payments made for land. **Just before he left New Plymouth at the end of August** he was offered land near Waiwakaiho, between the northern bank of the river and the Manganaha stream (inland of the Devon Road). He accepted the offer, and made two payments. (It is not entirely clear from the wording of the deeds whether the same piece of land was involved in both purchases, or whether more land was included in one than in the other.) On 30 August McLean paid chiefs of Ngati Te Whiti and Ngati Tawhirikura twenty five pounds for land "inland of Mr. Smart's farm". **The following morning - the day, evidently, that he left for the south** - he made an unpublicised payment of twenty pounds to Puketapu leaders for "all our land from Mr. Smart's boundary as far as

²¹⁹. McLean to Civil Secretary, 5 August 1852, MA 24/16.

²²⁰. Cooper to McLean, 19 June 1853, McLean Papers, MS Papers 32, Folder 227 (13).

²²¹. McLean to Civil Secretary, 9 August 1852, and Halse to McLean, 4 August 1852, MA 24/16.

Araheke adjoining the boundary of Governor FitzRoy".²²² Ngati Te Whiti and Ngati Tawhirikura were very angry when they they later discovered what had happened, and protested as soon as Cooper returned from his journey south with McLean. Poharama threatened to rub out the boundary on the map - and then on the ground, taking it further north from Smart's farm to Cooke's. Clearly his people were angry that the Puketapu had been paid for land on the south side of Waiwakaiho: "Let Karira's payment for Araheke be moved to the other side of Waiwakaiho and then all will be right...".

In the wake of this dispute - as it appears McLean had hoped- the Puketapu offered a long narrow block for sale running inland to Taranaki from the pou on the northern bank of the Waiwakaiho; its seaward boundary was the inland boundary of the Grey Block. Cooper did not think the purchase would be much immediate use to the settlement, but he was delighted with the offer because it came from Puketapu, and he hoped it would lead to a further sale at the Hua.²²³

He was less delighted a month later, when a preliminary survey showed that the block contained far less land than he had thought - only 15000 acres - and when the Puketapu refused to consider a lump sum for the land. (Cooper offered £700.) They wanted to hear his price per acre, calculated by deducting the cost of emigration, roads, schools, etc. from the price the Pakeha purchasers would pay.²²⁴ "The natives ask five pounds an acre, as children would", wrote W. Halse in November, "and will take less..."²²⁵

²²². See Deed receipts - Nos. 8 and 9, in Turton, (comp, Maori Deeds of Land Purchases in the North Island of New Zealand, Vol.2, pp.87-8. Smart's sections are marked on Carrington's map (printed 1846) as nos. 185-6 and 203-4 (the latter two adjoined 186).

²²³. Cooper to McLean, 12 September 1852, McLean Papers, MS Papers 32, Folder 227 (8).

²²⁴. Cooper to McLean, 24 October 1852, McLean Papers, MS Papers 32, Folder 227 (8-sic for 9).

²²⁵. Halse to McLean, 11 November 1852, McLean Papers, MS Papers 32, Folder 318.

Meanwhile, Te Puni of Ngati Tawhirikura had written to the Governor to object to the sale. McLean suggested to the Governor that Te Puni had always opposed the sale of his Taranaki land because he wished to return there himself, but that it would be unjust to allow him to impede a sale on which the majority of the claimants were agreed. And McLean went on to make another new suggestion:

[perhaps it would be a good idea] "to have the claims of E Puni and his followers within the block in question defined so that the majority of the claimants may dispose of their claims without interfering with E. Puni's interest".

McLean, then, admitted the claims of Te Puni and his Ngati Tawhirikura relatives to the land; but now, for the first time, he suggested partitioning the land, to separate the interests of "sellers" from "holders". And Governor Grey replied in very much the same words that Gore Browne was later to use at Waitara. He agreed that Te Puni's "claims" should be "defined":

"and in as far as they are just shall be secured to him - But that if the other natives desire to sell their land, I cannot refuse to purchase it from them." ²²⁶

Thus by 1852 McLean and Grey were beginning to look for new ways out of the land purchase "deadlock" that they seemed to be facing in Taranaki. At Waiwakaiho Poharama refused to co-operate in a sale with Puketapu; the boundary must be carried across to Te Hua, and the land sold in one block. As he wrote to the Governor:

"we do not consider it fair that the Natives of 'Te Hua' should have the selling of our Land, while at the same time they are carefully reserving their own portions; therefore we are determined that Te Hua should be included within the sale of the land, over which, in reality, they have no voice..."²²⁷

But the Puketapu insisted on settling their Waiwakaiho offer first - then turning to the Hua Block.

Cooper wrote to McLean:

226. Te Puni to Grey, 12 October 1852, and minutes of McLean and Grey, McLean Papers, MS Papers 32, Folder 676E.

²²⁷. Poharama Hautere Te Whiti to the Governor, 18 December 1852, Maori Letters, Grey Collection, Auckland Public Library.

"I am rather in doubts about this land as to who is the proper owner - Ngamotu or Puketapu - both tribes are anxious to sell, but each opposes the other, and I fear there will be great difficulty in getting them to join in a sale."²²⁸

This clearly was the legacy of McLean's Araheke payments, made separately to different groups of hapu. Instead of waiting till the people had agreed among themselves and made a collective offer, McLean had decided to force the pace - and had evidently made his payments deliberately just as he and Cooper left, so that the "petty jealousies about Araheke" could "work most opportunely" in their absence.²²⁹

Time passed, and no agreement was reached. Cooper waited until £500 (which McLean had asked for months before) finally arrived (in May or June 1853), and advertised the fact. If the people would not agree on a sale of Mangaoraka, he said, he would pay the money for Waiwakaiho. But at this point none other than Raniera of Puketapu (Poharama's great opponent in the Waiwakaiho sale) threw a spanner in the works. Instead of insisting on the money for his own sale, he took exactly the opposite position, and insisted that it be "tapu for Mangaoraka", and that nothing could be done about Waiwakaiho until Mangaoraka was settled. Hoist with his own petard, Cooper became paralysed. Some Puketapu groups were anxious to take payment for Mangaoraka, since it had been decided this land was to be the payment for the death of the Puketapu leader Parata Te Huia who, it was considered, had died - in September 1852 - because he had not received the payment, the recognition he sought from the Government for the land and because of the disputes about the sale of land. But at Mangaoraka Whaitere te Katatore was still opposed to the sale, and threatened death to the "first man who cuts a fern stalk" on the boundary (a threat which Cooper did not take lightly). (What issues of mana and of fears of the trampling of mana were at stake here can only be guessed at. Rawiri Waiaua, for one, probably put his finger on the trouble when he wrote of the importance of all giving their consent to the sale of land.)²³⁰

²²⁸. Cooper to McLean, 11 November 1852, McLean Papers, MS Papers 32, Folder 227 (10).

²²⁹. Cooper to McLean, 12 September 1852, McLean Papers, MS Papers 32, Folder 227 (8).

²³⁰. Rawiri Waiaua to the Governor, 23 October 1852, Maori Letters, Grey Collection.

The likelihood of agreement over the sale of the Mangaoraka land,²³¹ however, was so remote, that it seems Raniera's tactics must have been designed to stall over Waiwakaiho. If that were so, then Raniera was defeated by McLean. On 4 August 1853 McLean made a payment of £400 in Wellington - to the "absentee" Te Ati Awa for their claims in the Waiwakaiho and Hua land - stretching to Pukahu, on the coastal corner of the Cooke (Hua) block.²³² Cooper immediately publicised the fact. "Raniera" burst out into a terrible rage" - but finally became calm and agreed to accept payment for the whole block to the Hua (that is, the same land as had been paid for in Wellington; and the same land that Poharama had wanted included in the sale). Cooper offered an additional £500 for the coastal part of the block.

Cooper drew up a deed for the Waiwakaiho block, which was signed at New Plymouth by 315 people on 24 August 1853. The boundary began at Pukahu, that is on the southern side of J.G. Cooke's land, following Cooke's fence until it reached the Mangaone river, thence into the Mangonaha, the Araheke, and the Waiwakaiho, which it followed inland to the mountain, to Pikipari, then Pouakai, then returned along the Mangorei river to its junction with the Waiwakaiho, and along the Waiwakaiho past several named points to its mouth, thence to Pukahu. The price was twelve hundred pounds, which the people refused to take in instalments and thus received in a lump sum.²³³ The deed contained a section headed "Ko nga wahi tapu" which referred to reserves as follows:

"... e whakaae ana a te Kupa i runga i te
mana whakariterite whenua kua tukua mai nei
e te Kawana ki a ia - kia whakatapua etahi
wahi whenua mo matou, mo nga tangata Maori,
koia era, mea ake tuhia ki te kara whero ki

²³¹. According to Cooper, the boundaries were to be "from the corner of the Bell Block to the Mangaoraka river, and following that river to its source and thence to the boundary of Ngatiruanui at Paritahi...the other boundary commences at the beach, following the Waiongana to its source and thence to the Ngatiruanui boundary", perhaps 30,000 acres in all. Cooper to McLean, 19 June 1853, McLean Papers, MS Papers 32, Folder 227 (13).

²³². Taranaki Herald, 10 August 1853.

²³³. Cooper's letter to McLean of 29 August 1853 shows how this money was distributed. McLean Papers, MS Papers 32, Folder 227 (14). Cooper wrote later though that £1545 had been paid to "resident natives". Cooper, Draft report to Colonial Secretary, 29 April 1854, McLean Papers, MS Papers 32, Folder 126 (65).

runga ki te pukapuka whakaahua o te whenua
me ka oti te ruri." ²³⁴

This has been translated by Lyndsay Head as follows:

"...Mr Cooper agrees, in accordance to our land agreement which has been sent by the Governor to him, that some places of land are to be reserved for us, for the Maori people; they are those which are immediately to be written in the colour red upon the map of the land on completion of the survey." ²³⁵

The people agreed that henceforth it would not be lawful for them to live elsewhere within the block, and although they might harvest crops already planted in cultivations they were to abandon the cultivations altogether within the coming year.

But Te Puni had his own method of countering McLean's manoeuvres. He had opposed the payment made in Wellington, but finally led the signing of the "absentees" deed on 16 January 1854. The signatories were "the tribe and family now living at Port Nicholson at Arapaoa the Uruhi of the Ngatiawa who may be now living at Kapiti" ("o enei Hapu, o enei Iwi, e noho nei ki Poneke ki Arapaoa ki te Uruhi, o Ngatiawa katoa e noho nei ki Kapiti"). The northern boundary of the lands finally recorded in the deed had been extended further than Pukahu, to Waitaha (the stream within the Bell block). Thence it went to Tarurutangi, Mangaoraka, and inland to Tahuna-tu-tawa, and Pouakai; back along the Mangorei and Waiwakaiho rivers to the sea. ("He pukapuka tino wakaae pono na matou .. .kia tino tukua rawatia tenei wahi o to matou kainga e wakaae

²³⁴. Deed of Purchase of Waiwakaio Block[sic], McLean Papers, MS Papers 32, Folder 4 (19). This copy of the deed was evidently made by Parris some time later; there is no English translation attached, nor are the names of the signatories given - the copyist has simply put a note "Signed by 315 Natives". Another copy of the deed, with signatories' names, and translation attached, is in MA-MLP, Series 6 /1.

²³⁵. Translation by L. Head of the Department of Maori, University of Canterbury, attached to copy of deed. The translation in MA-MLP, Series 6/1 has "...Mr Cooper consents, on the authority vested in him by the Governor for adjusting land claims, to make certain Reserves, for us, for the Maories, which are those, shortly to be marked red upon the general map when the survey is completed."

ana hoki a Wikitoria te Kuini o Ingarini mona ..."). One thousand pounds was to be paid for the land in total. ²³⁶

But Te Puni's son Henare Te Whare did not sign the deed. He had already been sent back home months before to lead a group of his relatives in occupying and maintaining possession of first the seaward part of the block, and then across the Devon Road - some 500 acres. Cooper described them as "obstinate as mules", but thought he would be able to overcome their opposition to the sale by keeping them part of the payment and promising them a reserve. But he did not. Te Whare, charming and amicable to the last, stayed where he was, reinforced by new arrivals from Wellington. By 1856 he was reported to be "successfully withholding" about 1200 acres of the block. He had turned down an offer of 300 acres seaward of the Devon Road. Parris tried to make an agreement with him in 1858, but Te Whare took no notice of it. ²³⁷

The reserves in the Waiwakaiho block, then, were not finalised at the time the purchase was made in August 1853. It appears in fact that Cooper was still negotiating about them with Te Ati Awa, and perhaps he was anxious to settle the purchase, at any rate. The people, he wrote, were "excessively greedy" about reserves. ²³⁸ It appears that he in fact "promised" reserves amounting to 1784 acres, and 395 acres were also to be purchased by the sellers at 10

²³⁶. The original of this deed is in Dosli Head Office, Wellington (Conveyances to the Crown, Taranaki, Tar 11, Waiwakaiho Block (Waiwakaiho and Mangati). McLean also transacted another deed about the same time, on 3 January 1854, paying one hundred pounds to "the people of Arapaoa now residing at Wellington" for a narrower piece of land at Taranaki bounded on the north by Pukahu. There were over forty names on this deed, headed by that of Hamarama Rongo. *ibid.*, Tar 10 (Mangaorei Block).

²³⁷. Evidence of Robert Parris, 7 June 1857, Maori Land Court Minutes, Taranaki Minute Book No.3; Parris to the Chief Commissioner, 6 June 1861, AJHR 1861, C No 1, No 97.

²³⁸. Cooper to McLean, 29 August 1853, McLean Papers, MS Papers 32, Folder 227 (14).

shillings per acre before the block was opened to the settlers.²³⁹

Cooper wrote two reports at different times on the selection of these reserves, which are most interesting documents, and shed some light on Government policy and practice in respect of reserves at this time. (These will be dealt with together here, though it means breaking the chronological sequence.) The first was a memorandum written in December 1854 (after he had left New Plymouth) in response to a request from the Superintendent of the Province for a detailed account of the reserves within the block. Cooper wrote the memorandum from memory, referring the Superintendent for "full information" to a tracing map in the Land Purchase Office at New Plymouth. The memorandum is a list of reserves "promised". From this it appears that Cooper entered into agreements with heads of families or groups of individuals to make reserves of different acreages- and that he also responded to the wishes of those who wished to purchase part of their reserves. He notes, for instance, that it was agreed that reserves be made for Hone Ropiha and Wi te Ahoaho of 100 acres each in the seaward part of the block and two hundred acres each further inland, "for themselves and relatives". Cooper also agreed to a request that each of them be allowed to purchase one hundred acres of their respective inland reserves. Among other "promises" were a forty-acre section to Hopataia, "being a reserve for all his unsatisfied claims in the FitzRoy and Grey purchases...", but it was noted too that Hopataia was "to pay 10s. an acre for the excess over forty acres". Clearly this man was expecting more than 40 acres. Matena Tupoki, Wi Tana Ngatata and Wi Ropiha Motutere had been promised a fifty acre section, but later asked for three separate reserves of twenty acres each, plus the right to buy thirty acres each (a total of fifty acres each), which Cooper agreed to. By the time Cooper wrote the report Wi Ropiha had paid all the purchase money for his section, and the other two had paid most of their portions. From this

²³⁹. These figures are given in the Report of a Special Committee of the Provincial Council of New Plymouth on the Purchase of the Waiwakaiho Block, in H.H. Turton, (comp.), An Epitome of Official Documents relative to Native Affairs and Land Purchases in the North Island of New Zealand, D, pp.22-3. They appear to have been taken from the tracing map referred to by Cooper (which has not yet been located). They are much the same as a figure obtained by a rough calculation from Cooper's written description (December 1854) of the various reserves in the block. On the "repurchase" agreement see footnote 243 below.

account Cooper appeared to be taking a flexible approach to the matter of reserves.²⁴⁰

It is instructive therefore to compare Cooper's memorandum with a later report he wrote on the same subject when he was facing substantial criticism. In February 1855 the Superintendent of New Plymouth sent to the Colonial Secretary a Report of a Special Committee of the Provincial Council which strongly condemned the manner in which the Waiwakaiho Block had been purchased. The Report itself is evidence of increasing settler frustration and unwillingness to accommodate Te Ati Awa wishes. The Committee was chaired, we may note, by Robert Parris, who would before long be appointed Land Purchase Commissioner himself. It conducted its own investigation into the deed and the reserves, and concluded:

"that the terms on which that block has been acquired are such as to render the purchase in the highest degree unsatisfactory, and worse than useless to this province."²⁴¹

In particular it was the amount of reserves which came under attack:

"...the land, after being purchased, has been dealt with in such a reckless manner that (including Henare te Whare's claim) [see above] the whole of it for five miles inland has again become Native property, either as reserves or by purchase....that a large sum of money has been spent in buying land without furnishing any useful supply for European settlers; and that the system of paying for blocks of land, and granting reserves the extent and position of which are to be determined at a future time, does but encourage the Natives to ask for larger reserves, thus virtually inducing them to give up their land that they may receive it back again surveyed and apportioned, with the requisite funds to cultivate it; that this kind of arrangement, instead of benefiting this province, tends only to the advantage of the Natives and that of other provinces, and will but make it more

²⁴⁰. Memorandum by Mr Commissioner Cooper, 8 December 1854, encl. in Cooper to McLean, 11 August 1855, *ibid.*, pp. 26-7.

²⁴¹. Report of a Special Committee...*ibid.*, p. 22. The copy of the report in Turton is undated, but it was sent to the Colonial Secretary on 26 February 1855.

difficult to effect satisfactory purchases of land from the aboriginal owners in future."

Clearly the settlers did not see their Maori neighbours as having any contribution to make to the prosperity of the Province of Taranaki; the function of the Maori was to make over the land to the British, who would then see to the future of the province.

A further cause of settler complaint was that in both the Waiwakaiho and Hua Blocks Maori reserves and Maori sections had to be surveyed, thus holding up the survey of land for the settlers. Surveys of Crown land in the Province were badly in arrears, and the Provincial Council decided to send a memorial to the Officer Administering the Government seeking an authorisation for an increase in the staff of the Commissioner of Crown Lands to deal with the problem.²⁴² (From this we gather that the settlers' problem at this time was not necessarily shortage of land, but shortage of surveyed land.)

The Report, having been sent to Auckland, was at the direction of the Officer Administering the Government referred to McLean for comment; McLean, by then Chief Land Purchase Commissioner, passed it on to Cooper in May 1855, and Cooper replied in August. His tone was somewhat defiant. Heading part of his response

"General Reasons why such Liberal Reserves were made"

he dwelt on matters which he knew McLean was well acquainted with: the difficulty of buying land in Taranaki, the great importance of making a start "in any direction and on almost any terms", the Waiwakaiho as less important in itself than as "the key to the Hua Block", and the importance placed at the time on "dealing liberally with the Natives in the matter of reserves" to induce the Mangaoraka, Waiongana and Waitara people to sell

"some of their much-coveted lands, as it was hoped their opposition might become less obstinate when they saw that really nothing more was asked for, or sought to be obtained from them, than those lands which were of no use to themselves or their children."

Having allowed himself this touch of irony, Cooper embarked on a discussion of the "ample" reserves of Hone Ropiha and Wi te Ahoaho and all their relatives - ample indeed, he said, but made so "for the special reason that they had

²⁴². Taranaki Herald, 14 February 1855.

always been told that Government wanted nothing from them but what they could not use themselves." And the two men had after all been instrumental in effecting the sale.

It appears however that the two had not been free to choose the location of their own reserves. Cooper himself had chosen Hone Ropiha's seaward hundred acres, but Ropiha refused to take them, holding out instead for "retaining his fifty-acre section at Purakau"- even at the cost of the other fifty acres to which he was entitled. Cooper wrote:

"This I would not agree to, as the Purakau is one of the best sections in the block; and the question was still at issue between us when you arrived at Taranaki in February, 1854, whereupon it was decided by you in favour of Hone Ropiha, who now holds the land."

Cooper had indeed agreed that each man might buy one hundred acres of his inland block - "as I had been specially instructed by you to encourage as much as possible the purchase of land by Natives under Government regulations."²⁴³ But he had chosen the location of the reserves - no pre-emptive right had been exercised by "these Natives". Cooper purposely picked Hone Ropiha's two hundred acres in the part of the block disputed by Henare Te Puni because that land could not then be offered to settlers, and Cooper expected a good offer for part of the land would induce Ropiha to sell it before long. And, he added (the Provincial Council Committee evidently having got under his skin):

"I could not see why the difference in value between the Government price of 10s. and that which commonly is obtained in New Plymouth should not as well be received by aboriginal

²⁴³. This is a very interesting comment. The reference is to Governor Grey's Land Regulations of 4 March 1853 which lowered the price of rural lands outside Hundreds throughout New Zealand to 10 shillings an acre, or 5 shillings for inferior land. (Compare McLean's instructions to Johnson of 18 May 1854 cited in Appendix 1.) It is not clear from Cooper's report when he received these instructions from McLean - for instance, whether it was before or after the Hua purchase of March 1854. McLean first reported his introduction of the "repurchase" scheme in Taranaki to the Officer Administering the Government at the time of the Hua purchase (see Section 16 below), and this was the first occasion on which such a provision was recorded in a purchase deed (the sellers also secured a pre-emptive right). It may be, therefore, that the process of selection of reserves in the Waiwakaiho Block took place over a number of months, and that after the Hua purchase McLean instructed Cooper to extend the repurchase provisions to the Waiwakaiho block.

natives, who circulate all the money that comes into their hands, and never look forward to hoarding a fortune and quitting the colony, as by European speculators, to whom they are at least not inferior as producers of food and cultivators of the soil which they inherited from their ancestors; and to a share in the benefits arising from the settlement and improvement of which I for one am of opinion that they have a right at least as good as that of any immigrant settler whatsoever."

It is evident from Cooper's other remarks on the reserves that he saw himself as having a fair degree of control over their number and location; he had granted "permission" to some to purchase land - for instance to Poharama, who wanted a fifty-acre reserve for relatives shortly expected to arrive from Nelson. But Cooper at that point having "refused" to make any further reserves, Poharama asked for and received permission to buy the land. ²⁴⁴

Cooper's arrangements about the lands Te Ati Awa were to retain or be Crown-granted within the block were however not completed before he left his post at New Plymouth, and the straightforward agreement he had made with certain chiefs seems to have been lost sight of by the Government. This seems evident from comments made several years later by Parris himself who, as Cooper's successor, found himself in a position to re-tackle the matter of the Waiwakaiho reserves. Writing privately to McLean, Parris referred to the "complicated nature of the arrangement in making those reserves for the Natives, by enlarging them for a nominal payment from the natives" (evidently a reference to the repurchase scheme). He went on:

"There is no definition of what part is reserve or what part has been paid for, but merely the quantities mentioned, and both marked off in one allotment, without any distinction..."

Parris therefore decided it would be best to treat them as reserves, and when Wi Tako made a visit to Taranaki got nine of the allotments conveyed to the Crown; but he wanted McLean's opinion before he gazetted them. He did not believe that the Government had ever expressed an intention to give the owners Crown grants - the arrangement being one of Cooper's (he sniffed), which as far as he could remember McLean was "not pleased with at the time". The Maori could of course acquire Crown grants under the Native

²⁴⁴. Cooper to McLean, 11 August 1855, in Turton (comp.) An Epitome of Official Documents. No.43, pp.24-6

Reserves Act. If McLean agreed however he would gazette the reserves and then lease them in accordance with the wishes of the owners.²⁴⁵

16. THE HUA REPURCHASE SCHEME

The settlers, then, had got little immediate joy from the Waiwakaiho purchase. And their dissatisfaction with Government "machinery for the purchase of land" was evident from their attitude to Cooper. By August 1853 - in the wake of the passing of the Constitution Act of 1852 - the settlers had elected their own Superintendent and Provincial Council, and they began to flex their political muscles. One of their first actions was to chop Cooper's salary as Inspector of Police off the Estimates (in October 1853), and he was even informed that in effect his commission had been cancelled (he protested strenuously against this). Cooper remained, unhappily, in New Plymouth. He was appointed a Sub-Commissioner for the purchase of Native Lands in February 1854, and his salary was charged to the Land Fund of the Province. But the move against him was one way of venting settler frustration with Cooper's failure to secure for them the land they wanted.

At the beginning of 1854 the Council passed an Ordinance authorising the raising of a loan of up to five thousand pounds for the purchase of "Native Lands within the Province". The Ordinance was disallowed by the Officer Administering the Government on the grounds that the central Government could not properly guarantee such a loan, but the Province was also promised that loans to buy Maori land would be made available to it.²⁴⁶

Undeterred, however, the Council tried again and in March 1854 passed a second ordinance "to facilitate the acquisition of Native Lands within the Province of New Plymouth", which allowed individuals to lend money (up to a total of five thousand pounds) to the Commissioner of Crown Lands for this purpose. No security was offered for these loans, but they were to be regarded as loans for the purchase of Crown land, and people might select their land from either existing Crown lands or those to be bought in the future. This ordinance was not disallowed. And the

²⁴⁵. Parris to McLean (Private), 12 December 1859, McLean Papers, MS Papers 32, Folder 9 (14A).

²⁴⁶. NZ Government Gazette for the Province of New Plymouth, 11 February 1854; Sinclair to Superintendent of New Plymouth Province, 21 and 24 February 1854, TP 4/2 (87).

Province followed it up with an ordinance to promote expenditure on immigration.²⁴⁷

Only one more purchase would be made in Taranaki at this time however - the Hua Block, that is, the land adjoining the Waiwakaiho purchase of 1853. In February 1854 - after paying the southern Te Ati Awa for their land - McLean returned to New Plymouth. The expectations of the settlers were great, and the Provincial Council pledged itself to give every assistance to the Land Commissioner. McLean, however, clearly felt that he was on the back foot - or at least that he ought to present himself as being on the back foot.

The first of his reports to Auckland apologised for the amount he had had to pay to the "absentees" in Wellington and the South Island - eight hundred pounds - which he had paid without authorisation. To justify such a large amount (as he saw it) he explained that the alternative would have been the migration to Taranaki of "a large body of troublesome Natives", whose settlement in the province would "effectually check any further purchases of land and create considerable discontent and alarm on the part of the European inhabitants."²⁴⁸

Two weeks later McLean wrote a further apologetic report; no purchase had yet been made, and although he ought to return to Auckland he felt it his duty to stay and assist Mr Cooper. It was in this report that the Government was informed for the first time that difficulties in land purchase were:

"greatly complicated by a league which has been entered into by the Ngatiawa, Taranaki, and Ngatiruanui tribes, by which they have solemnly bound themselves and each other to put a stop to all sales of land to the North of the Bell Block, or South of Tataraimaka; and so much political importance do they attach to this, that, in order to give greater solemnity to the covenant, and by way of rendering it as binding as possible on the parties, a copy of the Scriptures was buried in the earth with many ceremonies, thereby, as it

²⁴⁷. New Zealand Government Gazette for the Province of New Plymouth, 11 March 1854.

²⁴⁸. McLean to Colonial Secretary, 7 February 1854, AJHR, 1861, C No.1, No.38.

were, calling the Deity to witness the inviolability of their compact." ²⁴⁹

It was the first time that Te Ati Awa had been identified in a Government report as being joined in a "league". Despite this, McLean was able to write a more positive report in March, intimating that he and Cooper had bought land - the Hua Block, **estimated at 12-14000 acres "of fine open agricultural country"**. (The northern boundary of this block was the southern boundary of the Bell Block, beginning at Te Whioa, thence running along the Bell boundary to Mangaoraka, and along the Mangaoraka river to its source, and to Taranaki mountain. Over 120 people of both Puketapu and Ngati Te Whiti put their names to the deed **on 3 March 1854**; the first names are those of Raniera Te Ngaere, Matiu, Te Tahana, Rawiri Waiaua, Hone Ropiha Te Kekeu, Te Waka, Poharama Te Whiti.) But McLean still felt it necessary to apologise. "From the decided minority of Natives in favor of a sale" he wrote, "it has become a most difficult matter to acquire any land in this Province" - and he had thus had to pay three thousand pounds for the land. This completed the purchase of the Waiwakaiho and Hua land from Te Ati Awa both at home and further south. Cooper wrote that the total cost was £5745 (£4545 to those in Taranaki, £1200 to "absentees"); the two blocks should be considered as one purchase because "the claims of the sellers" in both "are so mixed up".

The purchases, it may be added - estimated at some 30,000 acres - also completed the purchase of some 60,000 acres for the New Plymouth Settlement - though it was not the same 60,000 acres awarded the Company by Spain. At total of 61,740 acres, according to Cooper, had been bought, at a cost of £7663.14.9d since 1844. Of this amount £6083.14.9d had been paid to 'resident', and £1580 to 'absentee claimants'. The £7663 did not include Hobson's payment to the Waikato chiefs, or New Zealand Company payments made in 1839-40, nor did it include "incidental expenditure" (by which he meant surveys, and presents to chiefs). ²⁵⁰

McLean had also introduced a new provision into the purchase. By the deed, the sellers of the land secured a pre-emptive right over one thousand pounds worth of lands within the block (as well as named reserves totalling 250 acres). They were to use part of the purchase price to buy

²⁴⁹. McLean to Colonial Secretary, 20 February 1854, AJHR, 1861, C No. 1, No.39.

²⁵⁰. Cooper, Draft report to Colonial Secretary, 29 April 1854, McLean Papers, MS Papers 32, Folder 126 (65).

back 2,000 acres within the block at ten shillings an acre which - though it did not say so in the deed - they would hold under individual Crown grants. According to the translation of the deed:

"...the sum of one thousand pounds we leave with Mr Cooper to purchase land for us when this land is surveyed... the regulations under which we shall purchase these lands is to be at the rate of (10) ten shillings per acre it is also agreed to by Mr. McLean and Mr. Cooper that this land shall not be offered to the public until we have made our selections.²⁵¹

McLean had a great deal to say about the benefits of these provisions for the Maori. They would gain security of tenure, they would become qualified to take part in the political institutions of the Colony, they would no longer need to live "in confederate bands in large pas", and their circumstances would thus be much improved. Above all, the new system would:

"lead without much difficulty to the purchase of the whole of the Native Lands in this Province, and to the adoption by the Natives of exchanging [sic] their extensive tracts of country at present lying waste and unproductive for a moderate consideration, which will be chiefly expended by them in repurchasing land from the Crown."²⁵²

²⁵¹. H.H. Turton (comp), Maori deeds of Land Purchases in the North Island of New Zealand, Vol.II, pp.25-8. As has been mentioned above, Grey had lowered the price of colonial rural lands outside Hundreds by his Land Regulations of 4 March 1853 to 10/- an acre, or 5/- for land certified hilly or broken. In effect these regulations applied to rural lands in New Plymouth Province from September 1853. (See Appendix 4) McLean argued that Maori should take advantage of these regulations to buy Crown land. Indeed, he had suggested to Governor Grey as early as 1850 that some legislative measure be introduced to facilitate the repurchase by Maori of land from the Government, to induce them to sell. As he put it, the difficulties of acquiring land had been "greatly augmented from the fear of their not being able at any future period to re-purchase land once sold by them, however necessary it might be for their existence; moreover, they have found in many instances that they could not purchase or retain the most insignificant spots for cultivation, the Government being frequently called upon to insist on their abandoning the precipices where they might have small gardens..." (McLean to Grey, 9 November 1850, AJHR, 1861, C No.1, p.257.)

²⁵². McLean to Colonial Secretary, 7 March 1854, AJHR, 1861, C No.1, No 40. McLean's friend Charles Brown, Superintendent of the Province, assumed that individualisation

McLean's stated aims, then, were to "extinguish the native title" to all land in Taranaki, to ensure that Maori held their land only of the Crown and, indeed - **quite cynically perhaps** - that the profits of their sales were largely consumed in their purchases of land from the Crown.

The Officer Administering the Government approved the new repurchase arrangements, considering that they would "with proper precautions ... lead to results highly conducive to the interests of both races."²⁵³ McLean later instructed his subordinates working north of Auckland, and in the Waikato, to encourage Maori sellers to repurchase individual allotments from the Crown. (See Appendix 1). It is possible however that his agreement that the Puketapu might have first choice of the land was a special concession. The New Plymouth settlers had been enthusiastic about the Waiwakaiho and Hua purchases at first - in theory, after all, the Province had now gained 30,000 more acres of land - but by June 1854 they were confused. Where was the land? The Hua block was being surveyed, it was true (and the Maori were getting their sections first)²⁵⁴, so that it seemed this land would soon

of title would result in sales : "I think the prices natives get at the Hua for their individual pieces, will shake collective titles throughout the Province, all sales of land held individually should be by auction stating terms of credit etc so as to get the owner the tip top"price..." Brown to McLean, 13 June 1854, McLean Papers, MS Papers 32, Folder 178 (6).

²⁵³. Colonial Secretary to McLean, 24 March 1854, IA 4/254, 54/944.

²⁵⁴. A most interesting comment on Te Ati Awa views of the Hua land divisions after the purchase was completed was made by the surveyor Rogan. He wrote to McLean in January 1855 that he was about to start the Hua survey, but thought it would take a long time, "owing principally to the Natives adhering to their respective claims to the land, as it stood originally, and it is in most cases impossible to survey the different allotments so as to make them come to certain Maori land marks." (Rogan to McLean, 19 January 1855, McLean Papers, MS Papers 32, Folder 540.) It seems important to note this remark because it serves as a reminder that Maori expectations when they agreed to a particular proposal (in this case the repurchase scheme) could be quite different from those of the Pakeha who propounded it.

McLean had instructed Rogan on 29 May 1854 to begin the survey of the "Native selections in the block" urgently, "so that the land may be thrown open to the settlers". As hostilities broke out in the area not long afterwards, Rogan had trouble getting

be made available for settlement; but two blocks had been paid for and still neither of them was open.

And, as it happened, neither was to be open for some time to come. Settler impatience, Government pressure, and the resulting tensions among Te Ati Awa were to lead to a decision by Cooper to push ahead with a purchase which he should not have tried to make. The result was bloodshed, and fighting which lasted for many months.

the process underway at first, but by June 1855 reported that the Maori had selected 1676 acres divided into 101 allotments; 124 acres were still to be divided before the "Native selections" were complete. The Crown grants might now be made. (McLean to Rogan, 29 May 1854, and Rogan to McLean, 14 June 1855, AJHR, 1861, C No. 1, pp.153, 206-7.)

It may be added that some years later, in June 1861, Parris reported that "a difficulty has arisen with respect to the issue of 'Crown Grants' from the fact of a number of allotments having no roadway to them." It appeared that the surveyor had meant to take a line of road through the different allotments, which the "Native owners" were opposed to his doing. Parris did not think it a good idea to issue Crown grants before the line of road was laid down. (Parris to McLean, June 1861, MA/MLP/NP 1, pp.258-9).

Parris later supplied a list of names of the "original Grantees who repurchased land of the Government under the arrangements entered into when the Hua block was ceded to the Government; it also shows the allotments chosen and the acreage of each. (MA 15/6). Crown grants for some of these sections were issued in 1867, according to a list prepared by Janine Ford of the Waitangi Tribunal staff.

17. MANAWAPOU

Meanwhile the land protectionist initiatives in the south had gathered momentum. In May 1853 the missionary Richard Taylor had visited Manawapou, and recorded that a large house nearly 90 feet long and 30 feet wide was being erected "to hold a meeting in with the Ngati-raukawa. I told them [he added] I was sorry to see so poor a church whilst they could erect such a large building merely to hold a committee in." ²⁵⁵

A year later Taylor recorded that the house (120 feet long) was called Taiporohenui "or the finishing of the work". A large gathering was held there at the end of April 1854. Taylor, who spoke to Tamihana Te Rauparaha afterwards, wrote that: "The object of it is to get all the tribes to unite and sell no more land to the Europeans." According to this account, 500 Ngati Ruanui were at the gathering, as well as Tamihana Te Rauparaha, Matene Te Whiwhi, and a small number of Ngati Raukawa. His account and that of Cooper (based on two post-Manawapou letters written him by Ngati Ruanui, and a report by Tamati Wiremu Te Ngahuru) both identified the boundaries discussed as Okurukuru and Kai Iwi. Okurukuru was the southern boundary of the Omata block; evidently the iwi shared Cooper's view that once Tataraimaka was settled the land between it and Omata might inevitably follow into Pakeha hands. And perhaps they were aware too of a growing feeling in New Plymouth that the settlement might have to spread south rather than north, at least in the immediate future.

Cooper wrote in his report that Ngati Ruanui had decided, "in conjunction with the other tribes", to sell no more land between the boundaries named. ²⁵⁶ Taylor wrote that "they tried to fix" these boundaries, and "that anyone who shd. try to sell within these boundaries shd. be tomyhawked ... The more influential men were opposed to these violent proceedings and manifested a more kindly spirit towards the Europeans." ²⁵⁷

It is interesting to compare these accounts written after the gathering at Manawapou with Cooper's comments in a long

²⁵⁵. Journal of Rev. Richard Taylor, vol.8, 1852-54, 26 May 1853.

²⁵⁶. Cooper to McLean, 29 May 1854, McLean Papers, MS Papers 32, Folder 227(23).

²⁵⁷. Journal of Rev. Richard Taylor, vol.8, 1852-54, 8 May 1854.

draft report on Taranaki which he was composing at the very time the gathering was taking place. (Cooper was invited to Manawapou but did not go.) Developing the same theme already stated by Donald McLean in February 1854, Cooper wrote that:

"The greatest obstacle to the acquisition of land by Government in this Province, and especially of late years, consists of a regularly organised and sustained opposition, or as it may be called, an 'Anti land selling League.'

This compact has been joined in by the Ngatiruanui, Taranaki, and a considerable portion of the Ngatiawa, tribes: and the league has been ratified and confirmed at several aggregate meetings, with various formulas and solemnities, a copy of the Holy Scriptures having on one occasion been buried in the earth and a cairn of stones erected on the spot in attestation of the inviolability of the oath to oppose the sale of land by every means in their power which was then taken by the confederated chiefs."

The "opposition" or inter-tribal "League" to which Cooper referred, then, had - according to this report - been evident to him for some considerable time before Manawapou. And he ended on an optimistic note, suggesting that the "league" - "as far at least as it affects the Ngatiawa and northern Taranaki tribes" was showing signs of breaking up.²⁵⁸

Professor Sir Keith Sinclair, who made a careful study of the written evidence some years ago, concluded that some Ngati Ruanui and Taranaki Maori did wish to establish a general inter-tribal agreement not to sell land, but that it was questionable whether "anything like an inter-tribal league" had been set up at Manawapou. Indeed, he thought it "intrinsically improbable", given the nature of Maori society at the time, that an enduring or efficient league could have been set up.

The gathering, he considered, was "merely an incident in a long history of Maori opposition to land sales". And he noted that none of the surviving accounts referred to Te Ati Awa participation at the gathering; that it did not

²⁵⁸. G.S. Cooper, Draft Report to Colonial Secretary, 29 April 1854, McLean Papers, MS Papers 32, Folder 126 (65).

seem that Wiremu Kingi went, and that the boundaries spoken of at Manawapou did not include Te Ati Awa territory.²⁵⁹

According to a letter written in London in May 1855 by Hoani Wiremu Hipango to Sir George Grey, the "root of land holding" was in fact Waikanae and Rangitikei ("ko te putake pupuru wenua ko Waikanae, ko Rangitikei"); Tamihana Te Rauparaha had said at Manawapou that "Tararua is the back part of the meeting-house of land-holding! Taranaki is the doorway! ("ko Tararua te tungaroa o te pupuru wenua ko Taranaki te watitoka kia mau, kia mau..."). In his view, then, the movement (which he condemned in his letter) was a southern one; it came from areas where considerable tracts of land had already been purchased by the Government.²⁶⁰ And seen in this light it is not surprising that land protectionism should have taken root among Ngati Ruanui, for if they looked both to the south and to the north (where Te Ati Awa were under such pressure from the land purchase agents), they might indeed have felt their own position to be somewhat precarious.

It is a pity that more of the accounts written of the Manawapou gathering have not apparently survived. Whether Te Ati Awa people went we do not know; but it does not seem that they had any significant presence there. But the gathering must have been talked of all over Taranaki at the time, and doubtless there were few Maori who did not have a fair idea of the kaupapa. It must have increased people's awareness of the significance of land offers, and of the growing view in some communities that a conscious push for unity might help to stem the tide of initiated sales. It may well have strengthened the resolve of the iwi south of New Plymouth - and even north - to co-operate to protect their land. Whether some consensus to this effect was reached among those present at the gathering is difficult to say from the surviving written evidence; Cooper evidently considered that it had.

²⁵⁹. K. Sinclair, "Te Tikanga Pakeke: the Maori Anti-land-selling movement in Taranaki 1849-59", in P. Munz (ed.), The Feel of Truth (Reed, Wellington, 1969).

²⁶⁰. Hoani Wiremu Hipango ki a Kawana Kerei, 31 Mei 1855, Grey Collection of Maori Letters, G 470. Translated by Lyndsay Head.

18. THE ATTEMPTED PURCHASE OF TARURUTANGI

Tarurutangi was a block of about three hundred acres inland of the Bell Block boundary. It was one of several offers made to the Government by Puketapu hapu in the period 1852-54. Iharaira Te Tuke, Parata Te Huia and Parata Paritutu had offered land at Mangaoraka in 1852; Te Tuke offered all the land between the northern Bell Block boundary and the Waiongana River, following the Mangaoraka and Waiongana rivers inland to their sources, in 1853; Ngati Tu (a Puketapu hapu who lived at Waiongana) made a counter offer of the land between the same two rivers in March 1854. Ngati Tu also made it clear that their offer was made in anger at their exclusion from the Hua negotiations; it was a "tangi moni" for the Hua.

All of these offers were bound up with the tension caused by the constant pressure to sell, and in turn exacerbated that tension among the hapu. The strenuous efforts of McLean and Cooper to buy land were having their effect; and their methods of payment from this time also reflected their anxiety to initiate purchases. In March 1854, for instance, McLean made a secret payment to Te Whaitere Katatore of one hundred pounds. And later that month Cooper agreed to accept the Ngati Tu offer and pay them one thousand pounds; he paid an immediate deposit of one hundred pounds which Ngati Tu received; but so little were they interested in the actual cash that they handed it back for him to keep. Clearly the completion of a purchase was still a long way off.

In May 1854 Cooper reported another offer of land from Ihaia and Tamati (i.e. at Waitara), hoping that it might be accepted "on the new terms". He accepted the offer, though he evidently made it clear to them that he did so only on the understanding that opposition to it had disappeared. If it had, he wrote, and if they would point out the boundaries, he would buy it. And he asked McLean if he should pay Ihaia in the same way as he had paid Ngati Tu at Waiongana. ²⁶¹

Tarurutangi, then, came in the wake of other offers. It was put forward initially by Te Whaitere Katatore. The politics of this offer were complex, and it may be that we will never know what Katatore's motives were. According to Katatore himself, speaking after Rawiri's death, he did not offer the land directly to Cooper, but rather offered it to Rawiri Waiaua, that he might offer it to Cooper. Did he actually expect a purchase to result? Had he taken McLean's money with alacrity, or had he taken it quite

²⁶¹. Cooper to McLean, 16 May 1854, McLean Papers, MS Papers 32, Folder 227 (22).

cynically, perhaps agreeing to try and oil the wheels of various sales in return? Did he now wish to be seen to be carrying out his part of the bargain - knowing that in fact the Puketapu would never agree on the sale of certain parts of the land? For it would not be at all surprising that some leaders should have developed defensive mechanisms of their own against the ceaseless pressures of the settlers and the Government purchase agents.

In the case of Tarurutangi, however, the tension quickly escalated. Rawiri and Katatore did not agree about the extent of the land to be offered to the Government, and a dispute erupted between one of Katatore's relatives named Topiha and Rawiri over planting rights to a small piece of the land. Topiha burnt Rawiri's wheat crop, and Rawiri, in anger, went to Cooper and offered the entire Tarurutangi block for sale, extending inland of the Mangaoraka river. Cooper described it as the land between the eastern boundary of the block conveyed by the Wellington deed of January 1854, and the Hua boundary as paid for in March - land which had been excepted from the Hua purchase by agreement between the two men.

And Cooper, thinking perhaps of the Bell Block sale, agreed to buy the land if Rawiri could prove his claim to the land by successfully cutting the eastern boundary of the block. He knew there would be opposition; but perhaps he thought he could initiate a purchase, make a payment to Rawiri's people, and wait for the opponents of the sale to "come round". If so, he completely misread the situation. But, given the tension over land that had developed, and Cooper's own resulting anxieties, it is hardly surprising that at some point he should have made an over-hasty decision.

Cooper arranged with Rawiri that they should meet on the ground on the morning of 3 August 1854. Katatore, learning of the plan, sent a warning to Rawiri: his boundary must not cross the Mangaoraka. He sent a second warning; as he put it later, he "made up [his] mind for death; I then took the gun and spear which I gave to Karipa [his messenger] for Rawiri to shoot me with."²⁶²

Rawiri, however, apparently decided to ignore the warning. Next morning Katatore's party, 28 strong, went out to intercept Rawiri on his way to Mangaoraka; Rawiri arrived at 8 a.m. with 25 men. Katatore fired one barrel of his gun into the air and one into the ground, as a final warning; then fighting broke out. It was over quickly. Four men were

²⁶². Whaitere to the Governor, Sub-encl.5 in encl. 1 in No.24, Cooper to McLean, 8 August 1854, IUP/BPP, Vol.11, pp.282-3.

left dead, and twelve injured. Rawiri and his brother, Paora Te Kopi, were mortally wounded, and both died soon afterwards. They were buried at the scene.

It is not difficult to describe what happened at Mangaoraka. Pakeha observers wrote accounts of the fighting; the Puketapu themselves later wrote or spoke about the fighting. It is much more difficult to draw any conclusions about why this particular disputed offer of land for sale should have ended in bloodshed. Written sources can provide some assistance, but they cannot give all the answers. Even though many of the Te Ati Awa leaders wrote letters at this time, or spoke to Government officers about the land and their disputes, such sources cannot provide a complete picture of what was happening among the people. Many of the letters, for instance, are quite short, and may deal with only one particular matter which the writer was contemplating at the time. Such accounts as the "Memorandum of statements made by Katatore to the Rev. Mr Turton" need to be considered in the context of the situation in which they were produced (in this case Turton, who interfered constantly in Te Ati Awa matters, and had fixed views on the cause of the difficulties, had gone to Kaipakopako to lecture Katatore on his "bad behaviour"). And above all, there would have been a great deal of discussion among the people which was not recorded at all.

All that it is possible to say at this distance is that it is evident from the surviving written sources that Puketapu leaders had much more on their minds than was evident to the casual Pakeha observer. Two important men - Parata Te Huia and Paora Horoatua, Rawiri's father - had died in the same month, in September 1852; the Puketapu chief Toheroa had also died about the same time. There had been talk at the time of offering land for sale to the Government as utu (satisfaction) for the unrecognised claims of Te Huia. Then Te Huia's son died in June 1854, before he had managed to secure any utu. There was talk at that time, too, and again on the morning of the fighting, that the land should be payment for the death of Paora Horoatua.²⁶³

Then again, Rawiri and Katatore were both spoken of by other people at various times as having compromised themselves by taking Government money (Katatore for his claims, in March; Rawiri as an Assessor). How far any of these factors, and others which are simply not known of,

²⁶³. Statement of Hohaia and others, 6 August 1854, encl. in Wynyard to Newcastle, 15 August 1854, IUP/BPP, Vol 11, p.281.

affected the decisions made by the two men in August, and their unwillingness to compromise, is uncertain.

But two things do seem clear. One is that in this period, living as close as they did to the impatient settlers, the matter of land transactions had come to dominate the lives of Te Ati Awa. The other is that the settlers in general knew little or nothing of Te Ati Awa politics and land claims, and their interpretation of such events as the fighting at Tarurutangi reflected their ignorance. Yet the settlers' views were important because the Government listened to them. And in particular, their interpretation of the events of the next few years as a struggle between "land-holders" and "land-sellers" was ultimately to have a decisive impact on Government policy.

In the wake of the confrontation at Tarurutangi, further fighting followed - though not immediately. Ultimately peace would not be made among the Puketapu till 1857.

19. A NEW DISPUTE - IHAIA of OTARAU and NGATI RUANUI

Three months after the confrontation at Mangaoraka, in November 1854, a new dispute erupted, this time at Waitara. The immediate occasion of it was an accusation against Hariata, wife of Ihaia te Kirikumara of Otaraui, that she was having an affair with a young man named Rimene, who was living at Waitara. Hariata did not deny the charge, and Ihaia then went to the house where Rimene was staying, demanding that he be given up. The Pakeha accounts of what happened next differ. It appears that Rimene's friends tried to protect him, at least initially, but that Rimene either came forward himself at that time, or agreed to go later to Ihaia's pa, and was then shot dead by one of Ihaia's relatives.²⁶⁴

On the face of it this dispute had nothing to do with land. Whether the causes of it lay deeper than this we do not know. According to one account, that of the missionary Riemenschneider, Nga Ruahine considered (or had been informed) that Rimene was killed not because of the puremu, but because he associated with Katatore's people:

"and had therefore been shot to be part of payment for Rawiri, slain by Katatore."²⁶⁵

But it is not clear how Ihaia himself viewed these events; at least, he has not left any account that I am aware of.

Apparently, however, he considered that he might well be visited by a taua as a result, because he prepared his pa Kariponia "to the utmost of his means", and threw up two other pa nearby soon after. Rimene, according to one account, came from Keteonetea or Pukeoha; he was of Nga Ruahine. And before long several hundred Ngati Ruanui men arrived, led by Tamati Hone Oraukawa. They surrounded Ihaia's pa, demanding the surrender of Ihaia, which his people refused. In the fighting that followed 11 people were killed (six from Ihaia's party, including a woman Makareta who was among the toa, and five from Ngati Ruanui); and "15 to 20" were badly wounded, about the same number from either side. A substantial party of Puketapu led by Raniera came to Ihaia's assistance during the

²⁶⁴. See H. Halse to McLean, 2 and 16 December 1854, McLean Papers, MS 32, Folder 313.

²⁶⁵. Riemenschneider to McLean, 24 September 1855, encl. in Gore Browne to Russell, 19 October 1855, IUP/BPP, Vol.10, p.444.

battle, and Ihaia subsequently occupied Mahoetahi, a Ngati Tu pa. Ngati Ruanui later went home, taking an inland track rather than the coastal route which would have taken them near the Pakeha settlement.²⁶⁶

By the end of 1854, then, there was considerable tension among the Ati Awa people, and more pa were being fortified south of the Waitara River. But although peace was not made till the beginning of 1857, there were few major engagements during the next two years. The various parties were closely related and inter-married, and it seems clear that even though a great deal of firing went on, care was taken to keep casualties to a minimum. Henry Halse spoke of shots being exchanged at long range.²⁶⁷ Archdeacon Abraham, who visited the area with Bishop Selwyn in August 1855, commented on the fact that there "did not seem to be individual enmity between the followers of Katatore on the one hand, and of Arama Karaka [the chief recognised as leader by Rawiri's people] on the other."²⁶⁸

The main effect of the pakanga was to prevent the people from working in their cultivations with any freedom, because of the risk of being fired on outside the pa.

There were, however, various skirmishes during the period. In January 1855 (during which month Ihaia was also reinstated by his allies in Mamaku pa), eight Puketapu people were wounded in a confrontation; firing went on all day. At the end of June Wiremu Kingi Te Rangitake occupied a "stockade" adjacent to that of Katatore, for the first time. Arama Karaka Mitikakau (who had arrived from the South to lead Rawiri's people, in April) summoned his allies, and after several days' firing an engagement took place at the beginning of July in which one man, Topiha, was killed, and several wounded.²⁶⁹

²⁶⁶. See Thomas Skinner to H. Halse, 15 December 1854, McLean Papers, MS Papers 32, Folder 313, and W.Halse to McLean, 23 December 1854, *ibid*, Folder 318.

²⁶⁷. Halse to McLean, 25 November 1854, McLean Papers, MS Papers 32, Folder 313.

²⁶⁸. C.J. Abraham, Journal of a Walk with the Bishop of New Zealand from Auckland to Taranaki in August 1855 (Society for the Propagation of the Gospel, London, 1856), p.33.

²⁶⁹. Flight to Travers, 4 July 1855, JC-NP, RM Letterbook.

By the middle of the month a taua of 76 men under Te Rei Hanataua which Riemenschneider described as a "small Tangahoe party... from amongst the Ngatiruanui tribe" had arrived to join Katatore, occupying their own pa nearby. (According to Riemenschneider the "bulk" of Ngati Ruanui held aloof at this time.) More skirmishing followed in August; Te Rei's taua departed for home at the end of the month.²⁷⁰ By December the feud was reported to be "gradually dying out".²⁷¹

In April 1856 a Ngati Ruanui taua returned to Puketapu territory, and this time the casualties were heavier. The Ngati Ruanui leader Piripi, eldest son of Te Rei Hanataua, was killed, as well as seven other men. In the wake of his death a much larger Ngati Ruanui party of some 500 men arrived in June; at least one major engagement was fought in July, in which a total of ten men were killed.²⁷² (Soon afterwards, at the beginning of August, Ngati Ruanui destroyed the pa they had thrown up, and went home. It was their last expedition into Te Ati Awa territory; they did not come again to fight.

By October 1856 Te Ati Awa were beginning their own peacemaking. Katatore sent presents to the Hua. Hone Ropiha Te Kekeu, a Puketapu assessor, and elder of Karaka's party, made an unexpected visit to Kaipakopako. Heni, wife of Wiremu Kingi, made a ceremonial visit to Ihaia, who had built a new pa at Ikamoana. In November Kingi and his people visited Kaipakopako pa; and Roka, widow of Rawiri Waiaua, with her son Rameka, was also escorted to Kaipakopako. Arama Karaka, who was very ill, was reported to be anxious for peace; Katatore had raised a white flag at Kaipakopako to indicate that he felt the same way. During December the leaders of the various pa continued to visit one another; but it was not until after the death of Arama Karaka Mitikakau (on 15 January 1857) that peace was concluded between Rawiri's and Katatore's people, on 5

²⁷⁰. Halse to the Superintendent, New Plymouth, 1 September 1855, IUP/BPP, Vol.11, pp.379-380. See also Riemenschneider to McLean, 24 September 1855, encl. in Gore Browne to Russell, 19 October 1855, IUP/BPP, Vol.10, p.445.

²⁷¹. H. Halse to McLean, 8 December 1855, McLean Papers, MS Papers 32, Folder 313.

²⁷². H. Halse to McLean, 11 and 28 July 1856, IUP/BPP, Vol.11, pp.576-578.

February.²⁷³ In March, Katatore's people went to Town for the first time in three years, and were officially welcomed by provincial dignitaries.

Ihaia and Nikorima, however, held aloof from the peace. According to Henry Halse, Karaka had "given" the Ikamoana to Nikorima and his people at the time when the Ngati Ruanui taua arrived, in return for their assistance. Whether Halse had understood matters correctly is not clear. In another letter he wrote that Ihaia was willing to make peace with Katatore "on condition that Ikamoana is surrendered as utu for his tupapakus." And in another again, he reported that Nikorima sought a "cession" of the land for the same reason, before he would make peace.²⁷⁴ In any case, Halse considered that Rawiri's people now wished Ihaia and Nikorima to return to their own places, and to destroy Ikamoana pa, so that the peace would be a general one and the Puketapu (we might infer) could settle their differences about their lands among themselves.²⁷⁵ But at the beginning of 1857 Ihaia and Nikorima were still at Ikamoana.

²⁷³. Murray to the Major of Brigade, 12 February 1857, IUP/BPP, Vol.10, p.705.

²⁷⁴. H. Halse to McLean, 12 and 19 January 1857, Donald McLean Papers, MS Papers 32, Folder 315.

²⁷⁵. H. Halse to McLean, 2 February 1857, McLean Papers, MS Papers 32, Folder 315.

20. PAKEHA REACTIONS TO THE PAKANGA, 1854-57.

Within the Pakeha community two notable reactions to this pakanga emerged. One was the tension evident, at least in the early period, between the provincial and the central Governments over the handling of the feud. The other was the gradual development of the settler view that the "Land League", an inter-tribal league to prevent the sale of land, was at the root of the troubles.

The initial fighting at Tarurutangi took place at a time when there was no Governor in New Zealand, and the Acting Governor, R.H. Wynyard, was concerned above all to prevent the settlers from getting involved, and to avoid the escalation of the conflict - and the possible commitment of British troops - during his caretaker administration.

The quarrel, he assured the Secretary of State for the Colonies, was "entirely a native quarrel", and he sent Donald McLean to New Plymouth at once to try to damp it down.²⁷⁶ By October he was reporting that McLean hoped that his presence would "serve as a check against any further bloodshed".

McLean, however, still identified closely with the Taranaki settlers, and his official report reflected the general settler view of events at Tarurutangi. He spoke of his sadness at the loss of the Government's "most faithful and devoted ally at Taranaki", which deprived the "unprotected European inhabitants... of their mild, yet manly, noble, and disinterested protector...". Katatore's people, on the other hand, were referred to as "the murderers".²⁷⁷ McLean also recommended the construction of a blockhouse and stockade, the training of a settler militia of 500 men, and the enrolment of "intellectual active natives" from all over the country in the local police force, who could be "relied upon" in an emergency, and build roads in the meantime. The settlers, for their part, held two meetings in November 1854 to discuss the formation of a rifle corps; but the Superintendent would not give his approval of the move until he had consulted the acting governor.²⁷⁸

²⁷⁶. Wynyard to Newcastle, 15 August 1854, IUP/BPP, Vol.11, p.279.

²⁷⁷. McLean to Colonial Secretary, 27 October 1854, IUP/BPP, Vol.10, pp.332-3.

²⁷⁸. Taranaki Herald, 29 November 1854.

Wynyard, however, continued to exhort the provincial Government to avoid the least appearance of settler involvement in the feud, and maintained that it would do "more... harm than good" to send in troops, especially if he could only send a token force.²⁷⁹ (This was a view which Donald McLean shared, and had held even before the confrontation at Tarururangi; he thought 500 troops was the minimum which could be sent, if they were to produce the desired effect namely, "to overawe the rebelliously [sic] inclined and inspire confidence in our doubtful friends."²⁸⁰

Instead, Wynyard sent the Native Secretary, Major C.L. Nugent, to report on affairs in Taranaki. Nugent arrived on 28 December 1854, and submitted his report on 25 January 1855. He too, favoured Government abstention from involvement - despite the urgings of Rawiri's relatives, who hoped the Government would provide them with arms. In a prophetic report, he suggested that if the Government got involved in the fighting, it would:

"be fatal to the prosperity of the settlement for some time to come, as the out-settlers would be compelled to concentrate themselves in the town for the protection of their wives and families, and their properties in the meantime would go to ruin."

He was not in favour of the training of a militia, though he considered a stockade should be built to store arms, and for the protection of the Pakeha women and children of the settlement. And he spoke kindly of Wiremu Kingi, who assured him of his intention to remain neutral, though he was fortifying his pa in case he was attacked. Kingi, thought Nugent, had "very little idea of acting in a hostile manner towards the settlers". And he added another comment:

"This man is supposed to be hostile to the Government, for his being opposed to the sale of land; but I think a good deal of his opposition may be attributed to the fact of several men of

²⁷⁹. Colonial Secretary to the Superintendent, New Plymouth, 26 December 1854, TP 4/2 (467).

²⁸⁰. McLean to Cooper, 12 July 1854, Sir D. McLean, Letterbook, Private Correspondence, 1854-57, Turnbull Library.

inferior rank being appointed assessors over his head." ²⁸¹

Nugent was perhaps the only Government official in this period to suggest that chiefly opposition to the sale of Taranaki land might not necessarily be equated with opposition to the Government; and he was the only one too to suggest that more official attention ought to be paid to Kingi's status. (Though Henry Halse, just before the Tarururangi fighting, had suggested that Kingi and Katatore might be considered as Assessors.) ²⁸²

The Executive Council, contemplating Nugent's report, along with various requests from the settlers of New Plymouth for troops to be sent, decided against despatching troops "at present", and suggested instead that the province raise a small force of picked armed police, 30-40 strong; the central Government would share the cost with the province. It would also be prepared to pay for a stockade or blockhouse. ²⁸³

The Province, however, was very anxious for troops, and was even prepared to pay for a force of 400 itself (while considering that the charge should properly fall on the colony). The Taranaki Herald greeted the decision of Wynyard's Executive Council with derision, considering that it exemplified: "the uniform policy of the Government" over many years; namely:

"to leave the settlers to the mercy of a Maori population over which it neither pretended nor attempted to assert any control ... leaving [the settlement] altogether without a proper supply of land for the increase of its population; and deprived of the most ordinary advantages belonging to British rule."

And a public meeting of 200 settlers held in mid-March 1855 passed a series of resolutions, slating the Executive Council proposal for an armed police force as "illusory,

²⁸¹ .Nugent to Colonial Secretary, 25 January 1855, IUP/BPP, Vol.11, pp.310-312.

²⁸² . Halse to McLean, 6 July 1854, McLean Papers, MS Papers 32, Folder 313.

²⁸³ . Extract from the Minutes of the Executive Council, 30 January 1855, IUP/BPP, Vol.11, pp.312-3.

impracticable, and wholly inadequate" and likely to bring the Government "into still greater contempt with the natives". What was needed was a military force, to safeguard the settlers, encourage new ones, encourage Maori "deference" to "constituted authority", and to speed up the acquisition of land:

"as those [Natives] who are now willing to sell are overawed by those who are opposed to any further sale of land." ²⁸⁴

The meeting went on to adopt an address to the Queen of the Superintendent and Provincial Council which sought the presence in Taranaki of a "strong body of Troops", in the wake of "the slaughter of an assessor, Rawiri Waiaua, and his unarmed party" by those who were "inveterately opposed to the extension of our territory". Armed with some artillery, argued the provincial authorities in their petition, the troops: "would have at command all the paha and native cultivations between this and the Waitara, and would thereby afford us the surest guarantee of peace...". The Maori would not risk their property (of which, "for barbarians", they were "singularly fond") in confrontation with British troops. ²⁸⁵

By early 1855, then, the settlers had developed a clear view of the nature of the Tarururangi feud, of the measures which central Government ought to take in response, and of the failure of that Government to protect their interests.

Colonel Wynyard, however, was not noticeably impressed with the complaints of the Taranaki settlers. He had already visited New Plymouth himself, sailing from Auckland on 17 March 1855. And in his report to the Secretary of State - based on his discussions with Maori leaders - a rather different picture emerged. Wynyard accepted Katatore's account of the origins of the dispute, and reported that Rawiri, though cutting a boundary line which was recognised by the Land Purchase Department, was:

"in reality furthering his own views, in the hopes of selling the land, in opposition to Katatore, who possessed an equal right..."

²⁸⁴

. Taranaki Herald, 7 and 14 March 1855.

²⁸⁵. Memorial of the Superintendent and Provincial Council..., 15 March 1855, IUP/BPP, Vol.10, pp.383-5.

but opposed the sale of the land.

The acting governor was clearly impressed with the alacrity with which Katatore responded to his request to give up the disputed land (some 300 acres) to the Crown, so that he might (as he hoped) initiate a peacemaking. (Katatore had already offered the land to the Crown soon after the fighting in August 1854; but Cooper had not dared accept it when tension was running so high).²⁸⁶ Wynyard, it seems, did not entirely understand that his acceptance of the land, unilaterally, from Katatore, put Rawiri's people in a difficult position. More especially, it created difficulties for Arama Karaka Mitikakau, invited to return from the South to lead Rawiri's people. Arama Karaka had been away from home for almost twenty years, and returned to find Wynyard impatiently awaiting an interview. Clearly he did not feel able to give the instant answer the Acting Governor required; "I am a stranger " he said, "I cannot say anything until I go to the people who have been wronged." Wynyard, not appreciating his position, was unimpressed, and condemned the chief and his followers in his report to the Colonial Office for their failure to co-operate, to achieve peace.

But Wynyard did give in to settler pressure on the question of troops, and promised the Superintendent that he would represent to the new Governor and to the commanding officer of the troops "the urgent necessity" of stationing a force at Taranaki, to protect the European inhabitants and "support the British authority."²⁸⁷

He held off for a while, considering that "military occupation will completely change the character of this heretofore quiet and rural settlement"; but in July, after there were casualties in a new outbreak of fighting at Ninia pa, he decided (evidently) that he ought not to hold out longer, or be seen to hold out longer. Acting on the advice of the Executive Council, he ordered 250 troops to Taranaki to garrison the town, protect the settlers, and "strengthen the peaceful relations at present existing between European and native races".²⁸⁸

²⁸⁶. Cooper to McLean, 8 August 1854, McLean Papers, MS Papers 32, Folder 227(28).

²⁸⁷. Wynyard to Sir George Grey, Bart, 18 April 1855, IUP/BPP, Vol. 10, pp.373-383.

²⁸⁸. Wynyard to Sir George Grey, Bart, 28 July 1855, IUP/BPP, Vol.10, pp.401-5.

The first troops, 200 men of the 58th Regiment under the command of Major Nugent, arrived on 19 August 1855; in early September another 200 men of the 65th Regiment arrived from Wellington. Iron barracks, stores and two 24-pounder howitzers were landed, and on 20 August C.W. Richmond recorded in his journal that "the crest of Mount Elliot ... is now ... covered with the round red-topped tents of the soldiery - sentries pacing up and down and triangles of muskets with glittering bayonets."²⁸⁹ The settlers were jubilant. Writing a private letter at the time, C.W. Richmond added:

"Almost everybody here hopes (thought we scarcely expect) that decisive measures will be taken with Katatore and his rascal ally Wiremu Kingi of Waitera, the bad genius of Taranaki..."²⁹⁰

The settlers, then, would not have had much time for the views of Wynyard and Nugent. Their view of the feud and the opposing Maori parties engaged in it was strongly coloured by their beliefs about the willingness or unwillingness of those parties to engage in land sales. There was a general view, for instance, that Rimene had been killed because the Government had failed to intervene in support of Rawiri's people earlier in the year:

"The return of the natives to their old customs may be traced to the General Government having taken no notice of the deaths of Rawiri and his followers when Rawiri was avowedly acting with the concurrence of the officer of the General Government..."²⁹¹

Ihaia's behaviour towards Rimene thus presented local officials with a problem. Josiah Flight, finding that Ihaia refused to "give himself up to be dealt with according to English Law" recommended in December that he be struck off

²⁸⁹. The Richmond-Atkinson Papers, ed.G.H. Scholefield, Vol.1, pp.174-6.

²⁹⁰. C.W.Richmond to T. Richmond, 27 August 1855, *ibid.*, Vol.1, pp.176-7.

²⁹¹. Taranaki Herald, 27 December 1854.

the list of assessors.²⁹² This move was approved by the central Government by the end of the month, but by then Flight was beginning to have second thoughts. While concluding that that was what ought to happen, he thought perhaps it would not be politic to "make him an enemy" and, besides, to "weaken the friendly feeling of others who have been somewhat discontented of late by our refusal to interfere on behalf of Rawiri's family". And he decided to consult further before taking any action. Henry Halse put the matter even more starkly. Ihaia, he wrote, "from the outset...has been our great hope at Waitara; he has always sided with us, and made many enemies in so doing".²⁹³

Alongside this unwillingness to alienate "friendly" Maori, was a readiness to condemn those deemed to be the settlers' opponents. The Wesleyan missionary H. Hanson Turton was implacably hostile to Kingi and Katatore, and by September 1855 his "interference" in the disputes had aroused the concern of both Major Nugent and the Resident Magistrate, Flight. It is interesting to compare Turton's account of some of the major events of 1855 with those of Wynyard and Archdeacon Abraham. Turton was full of praise for Arama Karaka, suggesting that his arrival from the south had greatly reduced the danger to the settlement and, indeed, saved it from destruction. Katatore and Kingi, on the other hand, had in his view deceived the Government and broken their promises, and should not be trusted again. (This was a reference to Kingi's having fortified a pa near Katatore, after he had promised Wynyard that he would do his best to keep the peace.)²⁹⁴

The Archdeacon, however, visiting the Te Ati Awa leaders with Bishop Selwyn a month later, suggested that Kingi had entered the dispute only reluctantly. According to Kingi himself, Karaka had "lately come on some disputed ground nearer Waitera, and he began to be afraid lest he should gradually draw nearer to William King's land at Waitera,

²⁹². Flight to the Colonial Secretary, 1 December 1854, JC-NP, R.M. Letterbook.

²⁹³. Halse to McLean, February 1855, McLean Papers, MS Papers 32.

²⁹⁴. Turton to the Officer Administering the Government, 15 July 1855, Votes and Proceedings of the House of Representatives, 3rd session, 1855.

and sell it to the English." He would withdraw if Karaka would withdraw from the new pa he had erected.²⁹⁵

Arthur Atkinson recorded sardonically in his journal at the time that:

"It seems that Wiremu King & Katatore are churchmen and therefore in the right, though there are heretics in Taranaki who do not think so."²⁹⁶

²⁹⁵. C.J. Abraham, Journal of a walk with the Bishop of New Zealand...London, 1856, p.30.

²⁹⁶. The Richmond-Atkinson Papers, Vol.1, pp.175-6.

21. NGATI RUANUI VIEWS OF THE CONFLICT

If Wiremu Kingi expressed fears about the fate of his land, Ngati Ruanui also expressed fears about the land at the same time to their missionary Riemenschneider. By September 1855 they had heard that a visit from the new governor, Gore Browne, was imminent, and that he might take "active measures" against Kingi and Katatore, capturing them and taking the Waitara land. According to Riemenschneider, these reports created considerable alarm among the people; and they explained to him their own view of the situation in Taranaki.

The Government, they said, had no ground for intervening in the Puketapu quarrels or for taking steps against the two chiefs, who had never interfered with Pakeha rights or properties. Moreover Rawiri Waiaua, though he was an assessor, was still not entitled to alienate lands "which, though owned by himself, still were in some degree property of the tribe, and could, therefore, only be disposed of by common consent of the latter."

Katatore could not be punished because he had been left a long time at liberty, and because he had in any case made the payment for Rawiri's death that the Governor asked of him, namely the land on which Rawiri died. And Wiremu Kingi could be accused of no crime, because "he is on his own land, being the real and true chief of Waitara".

If, then, the new governor did adopt hostile steps against Kingi or Katatore, then this would be seen by the Maori as signalling the start of a general war, as:

" a first step in a general and grand appropriation movement on the part of the Government (Pakeha) to dispossess the natives by physical force of their inherited soil, which, if once permitted by the latter to be successfully entered upon by the former (Pakeha), would most certainly be proceeded with, and be carried out through the whole length and breadth of the island, until every inch of land would have passed away from its native owners into the hands of the Europeans, and the aboriginal inhabitants of the country themselves would have been totally exterminated."

Thus, if any attempt be made to seize either of the two chiefs, all Taranaki and Ngati Ruanui and other iwi as far as Wanganui would rise to their support:

"because (say they) it is not merely for those two individuals the war will be waged, but it will be for the principle which the natives recognize as bound up in those two men as soon as

they are placed between the two different races, the Pakeha and the aborigines." ²⁹⁷

According to Riemenschneider's account, the southern iwi thus saw the Te Ati Awa land struggles, and the Government's handling of them, as being of crucial and general significance; hence their own close interest in what was happening north of New Plymouth. And they already considered that they might have to defend the land by force against the Pakeha.

²⁹⁷. Riemenschneider to McLean, 24 September 1855, IUP/BPP, Vol.10, pp.444-449.

22. SETTLER VIEWS OF A "LAND LEAGUE" IN TARANAKI

In the wake of the Te Ati Awa disputes of 1854-5, the notion of a "Maori Land League" became firmly entrenched among the Pakeha settlers. Cooper might have been optimistic about the "break-up" of the League in April 1854; but the Puketapu "feud", the arrival of Ngati Ruanui to fight Ihaia (widely believed to have been the result of an invitation by Wiremu Kingi), and the apparent merging of the two disputes all seemed to the settlers to stem from the influence of the "Land League". Within a year of the confrontation at Tarururangi this view was being articulated in settler letters. C.W. Richmond wrote to T. Richmond on 27 August 1855:

"Of late there has been formed a League amongst various of the tribes on Cook's Straits for resisting further alienations of land to the Europeans. This is the great bond of union between Wireum Kingi, Katatore and the Ngatiruanui. Rawiri was sacrificed because he had rebelled against the League. You will understand it is a Combination ... not to protect the tribes in the exercise of their admitted right to retain their lands, but to coerce those who are desirous of selling. The Church of England missionaries labour under a strong suspicion of fostering and even originating this Land League... People feel certain [Bishop Selwyn] will do his best to patch up a hollow truce and to shield the murderous Land-Leaguers."

And Richmond added his now notorious line:

"You will see from the paper how indignant the settlers are getting that such encouragement should be afforded to a handful of turbulent and disaffected savages who have for so many years been allowed to play the dog-in-the-manger with the finest district in New Zealand."²⁹⁸

The continuing involvement of Ngati Ruanui in the Te Ati Awa pakanga thus contributed greatly to the settler idea of an inter-tribal land league. Richmond wrote in October that all was quiet among "the Natives", "but the Land League is

²⁹⁸. The Richmond-Atkinson Papers, Vol.1, pp.177-8.

said to be greatly strengthening itself".²⁹⁹ And in December he wrote to a friend that "no lasting peace can be established except by the death or exile of Katatore." ³⁰⁰

(The Government had indeed contemplated shifting Katatore out of the district, in the wake of an apparently frustrated comment by Katatore to Wynyard that he wished to go elsewhere and settle. Wiremu Kingi wrote an alarmed letter to Wynyard in October 1855 asking about the rumours that Katatore might be sent to Waiheke - to the land (he added incredulously) of Ngati Paoa. Wynyard replied that if Katatore wished to go he could settle on Government land at Waiheke or elsewhere in the Auckland area. And he warned Kingi not to listen to rumours. ³⁰¹

The Resident Magistrate at New Plymouth, Josiah Flight - himself an early Taranaki settler - was writing to Donald McLean in a similar vein to Richmond at the same period. In August 1855 (while Te Rei's Ngati Ruanui taua was in occupation of a pa on Puketapu land) Flight suggested to McLean that a "severe chastisement" of the "unruly portion of the Native community" was necessary. So long as the Maori merely refused to sell their land, he said, the Pakeha were "bound" not to interfere:

"but when a sectional part, banded with other tribes, to forcibly prevent those who were disposed to sell, from doing so; and when this combination assumed the form of a league the ramifications of which are widely extending; a league established for the avowed purpose of using violent even deadly means if necessary to prevent any further sale of lands to the Europeans, may we not expect that if that league is not put down, their success will embolden them to take another adverse step, and attempt to dispossess us of what we now hold; thus bringing on that war of races; which the present opportunity if rightly directed may enable us to prevent."

²⁹⁹. C.W. Richmond to T. Richmond, 17 October 1855, *ibid.*, p.180.

³⁰⁰. C.W. Richmond to C.C. Wilson, 23 December 1855, *ibid.*, p.185.

³⁰¹. W.K.Witi to Wynyard and Wynyard to William King, 1 and 2 October 1855, IUP/BPP, Vol.10, p.441.

And Flight went on to suggest that Kingi should be got rid of, that the Waikato should be brought in, and paid, to remove the "turbulent" leaders of the Puketapu and put the settlers in possession of the land Rawiri had wished to sell. The league, he said, must be broken up, and because of the role of Ngati Ruanui in the league they should "be made to share in the punishment". Indeed, he added, they should be prevented from banding together at all, and be located on separate and individual holdings. Such measures would "soon produce many more friendly natives".³⁰²

By the following year Flight had developed his argument further, and wrote to McLean suggesting that the land dispute between Rawiri and Katatore had been only the occasion, not the cause of the Puketapu quarrel. The real cause, he thought, was the ambition of the chiefs, who had quickly seen that their influence would be lessened and destroyed by the sale of their lands; and it was the chiefs who had thus encouraged their tribes to resist the sale of land.

Katatore had killed Rawiri at the instigation of "the Anti Land Sale League, more especially prompted thereto by Wiremu Kingi: this makes the party opposed to him still more determined to sell the land." Yet he thought that both Puketapu parties and their allies were so uneasy about Ngati Ruanui intentions, that they might yet unite to sell their whole district to the Government, in order to "secure their safety".

"I believe with all the well wishers of the Maori race of the feeling; that the foundation of their welfare must be laid in the Government obtaining their land, this is only the means to the end of breaking up the number of petty Governments under Maori chieftains which cannot exist for good in connexion or rather simultaneously with the British Government as Supreme..."³⁰³

Flight, in short, was a total assimilationist. He wanted the abolition of chiefly authority, indeed of the institution of chieftainship, and the replacement of the

³⁰². J. Flight to D. McLean, 19 August 1855, McLean Papers, MS Papers 32, Folder 276 (16).

³⁰³. Josiah Flight to McLean, 27 April 1856, McLean Papers, MS Papers 32, Folder 276 (17).

Maori relationship with the land by a British system of individual land-holding. Maori would sell all their land to the Crown (which would achieve the desirable end of opening most of it for Settlement), and would then receive parts of it back as individual Crown-granted sections. Flight had come to see what he considered an inter-tribal, anti-land selling league as a new and substantial obstacle to these developments, and he was prepared to contemplate the use of force to stamp it out, and even more than that, to "punish" those who participated in it.

Land purchase policy, to Flight, was not merely a means of providing for settler participation in the economy; rather, it was to be wielded by the state as an instrument of social, economic and political change, of social control of Maori communities. And there seems to have been a clear link in the minds of settlers like Flight between the participation of Ngati Ruanui in the Te Ati Awa pakanga, the fear that land sales would cease on both sides of the New Plymouth settlement, and the need (from the settler point of view) to adopt radical solutions to the dilemma which faced them.

Henry Halse, the Sub-Commissioner, expressed the same views clearly, a year later, in July 1856, when he reported the arrival of the Ngati Ruanui taua in the wake of Piripi's death. Ngati Ruanui: "interference in the land disputes of this district" he said:

"is owing to their having married (or made sacred) Kai Iwi, the northern boundary of the Wellington Province, to Waitaka [sic for Waitaha] our eastern boundary. In other words, that the two places shall be a boundary beyond which the Europeans shall not be permitted to extend."

Okurukuru had been "handed over" by the Taranaki people to Ngati Ruanui to safeguard the land between Omata and Tataraimaka. And north of New Plymouth:

"With respect to the purchase of land, so much dread has been instilled by Katatore that the most favourable natives evince no disposition to originate the disposal of any ... and there is little or no prospect of obtaining any in this province so long as the present league holds together."³⁰⁴

³⁰⁴. H. Halse to McLean, 11 July 1856, IUP/BPP, Vol.10, pp.612-3.

Such Pakeha analyses of the difficulties of buying land, and the solutions needed to overcome them were, over the years, to have a considerable impact on Government policy.

23. LAND PURCHASE NEGOTIATIONS AFTER THE PUKETAPU PEACE:
THE IKAMOANA LAND

The peace among the Puketapu, as mentioned above, was concluded on 5 February 1857. And immediately, the minds of the settlers turned to the resumption of land purchase. Henry Halse, then assistant Native Secretary in Taranaki, wrote to McLean a few days earlier that he would go to the meeting, and added:

"After peace is made I believe that land may be purchased." ³⁰⁵

And on 7 February the Superintendent of the Province wrote to the Colonial Treasurer (then the Taranaki settler C.W. Richmond), stating that the Provincial Government proposed to appoint an additional Native Agent in the hope that "the purchase of land" would follow. (Richmond replied that the central Government would not allow a provincial agent to negotiate purchases, but that it could consider the appointment of its own land purchase officer should the Superintendent wish it.³⁰⁶ And indeed, a new District Land Purchase Commissioner, Robert Parris, was appointed "within the Province of New Plymouth" in July. ³⁰⁷

The feud, to the settlers, had signalled an unfortunate interruption to the land purchase programme; now it might be possible to continue. But was land purchase to be handled any differently in the wake of the pakanga at Tarurutangi? Governor Gore Browne, newly arrived in New Zealand at the end of 1855, wrote a memorandum on the affairs of Taranaki for the Colonial Office in November. He had, he said:

"disapproved of Mr. Cooper's conduct in commencing a survey before he was assured that

³⁰⁵. Halse to McLean, 2 February 1857, McLean Papers, MS Papers 32, Folder 315.

³⁰⁶. C.W. Richmond to the Superintendent, 23 February 1857, TP 4/5.

³⁰⁷. New Zealand Government Gazette, 14 July 1857.

all who had even a disputed claim to the land desired it should be sold".³⁰⁸

Henry Halse, contemplating the matter of disputed offers in April and May 1857, considered that the Governor ought to make known to the Maori "his readiness to buy from such of them as may be willing to sell", and ought also to ensure that sufficient funds were sent to New Plymouth. "I would buy up the various interests until the oppositionists dwindled into a miserable minority - they would soon be brushed away and all would be peace and quietness." For there would always be trouble with disputed offers where "rightful owners are wishful to sell", unless the Government would support them. But if his suggestion were followed land could be bought. For whenever there was some dispute or other, one party of "pakeke's" would come into town and sell their claims. (It was not true, he added, evidently unconscious of the irony, that the settlers were teasing the Maori about their land; it was "the natives" who hardly talked of anything else.)³⁰⁹

It is interesting, however, that when the Chief Land Commissioner, McLean, drew up his instructions later in the year for the new district land purchase commissioner at Taranaki, Robert Parris, he was silent on the question of how disputed land offers were to be handled. The instructions themselves were lengthy, and enjoined Parris to study the history and genealogy of the Taranaki tribes with care, to become familiar with the rival claims of the various hapu, including those of "absentees", and to record any offers of land in a notebook, especially offers which might be disputed, McLean went on:

"...great care should be taken not to give too much prominence to that class of claimants who are frequently the first to offer their lands for sale, from the fact of their title being in many instances defective. The actual owner, in contra-distinction to the class to which I have just referred, seldom makes a noisy or boasting demonstration of what his claims really are; it may therefore be inferred from his silent and uncompromising demeanour, that his rights are not to be trifled with, and that without his

³⁰⁸. Gore Browne to Lord John Russell, 19 November 1855, IUP/BPP, Vol.10, p.451.

³⁰⁹. H. Halse to McLean, 27 April 1857, Private, McLean Papers, MS Papers 32, Folder 315.

acquiescence, it will be impossible to make a valid purchase. This class of claimants it will be your duty to search out, as they will be the least likely, from feeling secure in the justice of their cause, to press themselves upon your notice."

Parris, then, was to search out the "silent and uncompromising" owners whose acquiescence in sales might be considered necessary. But how should he proceed if such "owners" did not wish to acquiesce in an offer already made by others? All that McLean added on this point was a hope that Parris's negotiations would "shortly be attended with success":

"and I trust that every due precaution will be used by you to effect purchases in such a manner as to prevent disturbances amongst the Natives. To this point His Excellency the Governor directs particular attention."³¹⁰

C.W Richmond, now minister responsible for Native Affairs, spelt out the point rather more clearly for Parris's benefit: he must not buy a disputed title.

"The Government will not have anything to do with land which it would require an armed force to keep possession of."

But Parris would have to work out his own method of negotiation for land. The minister made only one specific suggestion:

"If you could work by persuading the Natives to individualise their titles, abandoning the surplus to Government in payment for the necessary surveys, I think such a plan would certainly receive the Governor's approval."³¹¹

Halse, meanwhile, had been trying to make progress with the land at Mangaoraka. By March 1857 he had heard rumours that the Ikamoana (bounded by Waitaha and Mangaoraka streams) was to be offered first by Nikorima and Ihaia Kirikumara - though he realised Katatore could not be

³¹⁰. McLean to Parris, 26 August 1857, AJHR, 1861, C. No. 1, pp.211-213.

³¹¹. C.W. Richmond, 6 July 1857, The Richmond-Atkinson Papers, Vol.1, p 282.

ignored in any payment made for this land. Nor would there be any point in asking Katatore "to point out the lands which he really claims [which would only exasperate him], seeing that he arragates [sic] sole authority over the whole district & the Mangaoraka in particular." (A most interesting comment, in light of what was to happen at Waitara later, when Parris attempted to get Kingi to point out his "claims", and Kingi refused.)

"This [the Ikamoana] settled" Halse added optimistically, "the whole of the country as far north as Mimi, the natives tell me and I have it from many influential men, will at once follow." ³¹²

But first he had to deal with the Ikamoana. Various Pakeha gave conflicting advice as to who the "rightful owners" of the land were. The Reverend Mr Whiteley said Ihaia and Nikorima were. Robert Parris (who would soon be appointed the district land purchase agent) said they weren't. But then, wrote Flight to McLean:

"...Mr. Parris is a trader; the natives say that he is owed by Katatori's people some five or six hundred pounds; and we can easily suppose how such an interest may bias the judgement of one who otherwise might come to a different conclusion." ³¹³

Halse wondered at first if he might get round the difficulty by buying Nikorima's "interest" in the Ikamoana without prejudicing the interests of Katatore and of Rawiri's people. But later in March he had decided to ask Katatore to give the land seaward of Mangataranoho (i.e. the Ikamoana) to Karipa (now one of the leading men of Rawiri's people); then to ask Nikorima and Ihaia to abandon the land (without prejudicing their title):

"and thus pave the way for Katatore to come round and make an offer of land which will inevitably lead to the purchase of the whole district."

³¹². H. Halse to McLean, 2 and 6 March 1857, McLean Papers, MS Papers 32, Folder 315.

³¹³. Flight to McLean, 13 March 1857, McLean Papers, MS Papers 32, Folder 276 (23).

Meanwhile he thought the Government ought to offer an assessorship to Karipa, who was working closely with Katatore, in an attempt to undermine the developing partnership between the two Puketapu leaders. And Mahau of Ngati Tu should also be considered; perhaps his services in the interests of land selling could yet be obtained by the Government if things were properly "managed". Halse had also had a discussion with Wiremu Kingi, Katatore and Hapurona, which he likened to a "game of chess". He reported they were making "wild moves"; but he hoped to "checkmate them yet". ³¹⁴

Flight, about the same time, thought that the opposition to Katatore should be "encouraged", perhaps by "raising up amongst the natives a League to oppose the present League thereby fighting it with its own weapons". And he suggested that Henry Halse be given two or three hundred pounds of "secret service money" so that he could for instance pay Stockman (another trader, who had married into Ngati Rahiri), at present exerting himself to obtain the sale of land, "to continue his work without the knowledge of the Maoris." And, since Katatore relied on Ngati Ruanui "for assistance", wrote Flight, he thought the Government could begin to undermine ill-informed Ngati Ruanui views on land sales by sending in among them "some persons ... who without being known to be servants of the Government, would visit them as traders...", mix with the people, and where possible point out "the folly of the Natives in so uselessly holding their lands." ³¹⁵

Then, at the end of April, Ihaia made his move first. He had already, it seems, made a written offer of the Ikamoana to the Government in March. But now he came into town to offer the Ikamoana for sale with a party of over a hundred, and seek a payment. (He knows there is no money here, wrote Halse!) Halse was disappointed: he had been led to believe that more land would be offered at the same time, and that Mahau would come in too to offer Waiongana - but it didn't happen. In a written offer (which Halse considered had been prompted by one of the settlers, Mr Hulke), dated 5 May and addressed to the Provincial Government, Ihaia and Nikorima said that Ikamoana must be settled for first; then they would offer land at Waitara and Turangi.

³¹⁴. Henry Halse to McLean, 24 March 1857, Private, McLean Papers, MS Papers 32, Folder 315.

³¹⁵. Flight to McLean, 13 March and 19 April 1857, McLean Papers, MS Papers 32, Folder 276 (23 and 24).

This move brought forth the support of the Superintendent of the Province, who wrote to the Colonial Treasurer at Auckland. It was true that Ihaia's title to the land was disputed, he said, but he believed Katatore and Karipa would consent to a payment being made to him for his interest in the land. The block was only a small one, but if it could be bought the "anti land sale league" would be disrupted and more land could be acquired. The province would like a land purchase officer with funds who could respond to such offers, particularly as this was a good time to buy land, since the Maori had not been able to sell their produce during the past 18 months.³¹⁶ (Halse also thought land should be bought before produce prices rose again, or "we may have to wait years for additional territory".)³¹⁷

Ihaia repeated his offer to John Rogan, a District Land Purchase Commissioner based at Whaingaroa, at a hui on 20 July at Ikamoana; and on 24 July Rogan also met Mahau, who urged that Ihaia and he be paid for Ikamoana. Then for the first time Mahau publicly stated his intention of offering Waiongana, once Ikamoana was settled. Only Government purchase of the land, he said, would bring about a permanent peace; and then each of the people "could settle down on his individual portion".

Rogan, however, gave no encouragement to either Ihaia or Mahau (and indeed tried to discourage Ihaia from offering the Ikamoana). And in his report to McLean he advised that he considered it would be "injudicious" for the Government to try and buy the Ikamoana from Ihaia and Mahau, because a number of the "real claimants" had taken no part in the offer. These people might join in it at some later date, and until then Ihaia and Mahau should be conciliated. But an attempt to mark out the boundaries now might well end in bloodshed.³¹⁸

Two weeks later, early in August, the Mahoetahi people, headed by Mahau, Aperahama and others, came into New Plymouth to offer the land at Ikamoana and Waiongana to Parris.

³¹⁶. Cutfield to the Colonial Treasurer, 5 May 1857, TP 7/3, pp.279-81.

³¹⁷. H. Halse to McLean, 27 April 1857, Private, McLean Papers, MS Papers 32, Folder 315.

³¹⁸. John Rogan to McLean, 27 July 1857, AJHR, 1861, C.no.1, pp.209-210.

24. THE OFFER OF WHAKANGERENGERE

Then, that same month, there was a new development. Parris secured from Te Whaitere Katatore and his people two letters to the Governor offering land for sale - estimated at some 40,000 acres inland of Ikamoana, stretching back to the mountain. It included the land at Tarurutangi where Rawiri was killed, and which had already been offered by Mahau and Ihaia. Kingi of Waitara was present when the offer was made. Parris described it as "the finest timber land in the Province", and at once tried to beat down Katatore from the price he wanted (3000 pounds) to 2000 pounds, while wondering how he could get Katatore to agree to the sale of Ikamoana at the same time.

Katatore, however, refused to add in Ikamoana, along with Ihaia's people (whose rights there he clearly did not recognise); but promised to consider Ikamoana next himself. This matter aroused considerable dispute among Te Ati Awa, but eventually it was settled after a great meeting at the beginning of October, and all the Puketapu people arrived in New Plymouth soon afterwards to offer the land formally to Parris. Only after that did Parris begin to cut the boundary. He found, however, that he had not yet "secured" the block. Although Katatore was prepared to accept 3000 pounds for the land, some of the other claimants wanted double that amount for it. And there was also opposition from Mahau (of Ngahuinga pa) at the Waiongana boundary, for which Parris felt obliged to give him a "severe reprimand". Parris was prepared however to stop his boundary at the river if the opposition continued, and simply to let the boundary run inland along the river to the mountain.

The purchase, after all, was well under way. And Parris was ready to hail what he described as: "Katatore's surrender of his opposition to the sale of land, and the entire disruption of the League established for that purpose in this Province."³¹⁹

All of a sudden the Government agents were anxious not to offend Katatore. "As long as he is firm" wrote Henry Halse, "we are tolerably sure of land". And William Halse thought "the devil's brat" was now "politically caged".³²⁰ Clearly, Ihaia's occupation of the Ikamoana had put Katatore in a difficult position, given the anxiety of the

³¹⁹. Parris to McLean, 27 August 1857 and 9 September 1857, AJHR, 1861, C.No.1, pp.213-5.

³²⁰. W. Halse to McLean, 20 September 1857, McLean Papers, MS Papers 32, Folder 319.

settlers to secure that land. So anxious were they indeed, that Halse, at Parris's suggestion, offered Ihaia 200 pounds if he would abandon the Ikamoana pa and go back to Waitara. (This greatly irritated Katatore when he heard about it, for he considered such a payment was really utu for Ikamoana. But Halse assured him it would not be, rather it was just a "koanga kautanga" on the part of some of the chief settlers, if Ihaia would destroy the pa.)

Ihaia however turned out to be immune to such a bribe. And Parris felt he had to tread very gently with Ihaia, too - because above all he wanted to start negotiating for the Waitara soon, and to "make good use of Ihaia" when the time was ripe. Small wonder, then, that Katatore told Wiremu Kingi at this time that he dreamt he saw Parris cutting a line of the Waitara land "and that it was no use to suppose I should not have it, for he believed I was sure to get it."³²¹ And by the end of November Henry Halse was able to report a new move at Waitara - a meeting convened by Teira and others who wished to sell land on the south side of the river. But most people at the meeting remained silent, he added, so it was difficult to say "what, if any, advance was made in that direction."³²²

³²¹. H. Halse to McLean, 28 November 1857, postscript dated 1 December, McLean Papers, MS Papers 32, Folder 315.

³²². H. Halse to McLean, 28 November 1857, McLean Papers, MS Papers 32, Folder 315.

25. THE DEATH OF TE WHAITERE KATATORE

At the end of October 1857 Henry Halse spoke jubilantly of the possibility of a reconciliation between Ihaia and Katatore, which would "remove the last obstacle to further land purchases."³²³

In January 1858 Katatore was killed along with his close relation Rawiri Karira as he rode home from New Plymouth, by a party of several men led by Ihaia's brother, Tamati Tiraaurau. Ihaia told Parris that the plans for the ambush were his own. It was Rawiri Karira however who was wounded and killed first, and Katatore had time to dismount from his horse, and led it off down the road while his three companions rode with him. A party from the Ikamoana pa then arrived, and Ihaia himself; and after a haka near Rawiri's body they all returned to the pa. In the meantime three men had followed Katatore, and he was overtaken and killed. At the time, according to the Pakeha who watched the whole episode, Katatore was about 800 yards from the place where Rawiri was killed. Why, one wonders, did he get off his horse?³²⁴

The surprise of the Pakeha officials at what happened serve as a timely reminder that, despite their constant contact with Te Ati Awa, they could totally misread a situation.

What prompted Ihaia to act as he did cannot be answered simply or, obviously, with any certainty. Was he angry because Katatore had captured the attention of the officials? Was he exacting satisfaction for his tupapaku, on whose account he had wished to sell Ikamoana in the first place? Was it a final attempt to whakahe his iwi, because he did not consider he had had satisfaction for his original grievances? According to Ihaia himself he was jealous of the Ikamoana, and he was angry because Katatore's people had been promised ten pounds for cutting down thistles near Tarurutangi (thus, it would seem, recognising their right to cut the thistles.)

And some months after the event, when a Waikato chief Anatipa came to attempt a peacemaking, Ihaia was to draw attention to the fact that Katatore had been killed not far

³²³. Halse to McLean, 26 October 1857, McLean Papers, MS Papers 32, Folder 315.

³²⁴. H. Halse to the Native Secretary, 11 January 1858, AJHR, 1861, C. No. 1, p. 209; Taranaki News, 14 January 1858, Taranaki Herald, 16 January and 5 June 1858.

from where Rawiri Waiaua had met his death. Was Katatore's death not retribution for Rawiri's, he asked? And he suggested that others besides himself had planned the killing of Katatore.³²⁵

The settlers were not much troubled by the death of Katatore Te Whaitere. Harry Atkinson wrote [referring, evidently, to settler feeling]:

"The general feeling as far as I can see upon his death is that of satisfaction, although there is, I am happy to say, a strong opinion prevalent that such things should not be allowed to take place on our land."³²⁶

For some months afterwards there was skirmishing among Te Ati Awa. Pa were thrown up, with the aim of restricting Ihaia's movements out of his own, and numerous shots were exchanged, often at long range. From time to time there was fighting at close quarters, and men were wounded. A few were killed. Ihaia soon withdrew from the Ikamoana and by early February had taken up a position on the east bank of the Waitara river. The Ikamoana pa was fired by his adversaries, and the farm equipment and stock left behind by the people was destroyed or sold off to Pakeha.

The central Government and the provincial Government, once again, stood aloof from the actual fighting. Gore Browne, the Governor, felt he had no alternative. He had fewer than 300 troops, he wrote to C.W. Richmond, and despite his sympathy with the feelings of the settlers their role must be confined to maintaining "the honour of Her Majesty's flag and the Supremacy of English law in the town" and as far beyond it as the Commanding Officer felt he could control. He (Gore Browne) was not prepared to use force, knowing that he had not the means to do so successfully.³²⁷

³²⁵. Taranaki Herald, 8 May 1858; T.H. Smith to McLean, 6 February 1858, McLean Papers, MS 32, Folder 581(8).

³²⁶. H. Atkinson to C.W. Richmond, 8 February 1858, The Richmond-Atkinson Papers, Vol.1, p.346.

³²⁷302. Gore Browne to Richmond, 6 February 1858, *ibid.*, Vol.1, p.344.

Soon after this, however, news reached Auckland that there had been some fighting on settler land in the Bell Block, and a meeting of the Executive Council was held, attended by the Officer Commanding the Troops. And from this meeting there emerged the sort of response the Provincial Council was looking for. The Ministry urged on the Governor that fighting be prohibited within the purchased blocks, and that if the Maori ignored warnings accordingly, "we proposed to make war on them" (in the words of Richmond). "We pointed out that the danger of war in the existing state of things was far greater than it would be if an energetic policy were adopted." The Governor and the Colonel agreed. "If we were ready for war the Governor said he was." What the Governor did not wish to do, Richmond wrote to Harry Atkinson, was to occupy more territory than the troops could hold, to promise to protect outsettlers on their land when it could not be done, and to embark on a war before he was ready. ³²⁸

On 12 February 1858 the Governor issued a proclamation in both Maori and English warning "all persons whosoever who shall lawfully assemble with arms" within certain specified boundaries (Crown land) that they would be "treated as persons in Arms against the Queen's Authority, and active measures will be forthwith taken against them by Her Majesty's Civil Authorities and Military Forces." And the Province was informed that if the Proclamation were defied, the militia would be called out for active service, and the "whole available force" of the Colony would be sent to New Plymouth. ³²⁹

But before the Proclamation had even been received in New Plymouth, the pa east of the Bell Block had been abandoned, and the Taranaki Herald rejoiced that the "Bell people" were now safe, as the Maori had all removed to Waitara, following Ihaia. ³³⁰

Early attempts at mediation - by both Maori and Pakeha - were unsuccessful. Ihaia also turned down the offer of the Government to deport him to the Chatham Islands, to save him from a situation which the Reverend John Whiteley

³²⁸. C.W. Richmond to H.A. Atkinson, 14 February 1858, *ibid.*, Vol.1, pp.349-352.

³²⁹. N.Z. Government Gazette for the Province of New Plymouth, 23 February 1858.

³³⁰. Taranaki Herald, 13 February 1858.

represented as dire. But by June an agreement had been reached, through the assistance, it appears, of Ngati Maniapoto leaders who had come from Mokau. Ihaia and Nikorima both withdrew from Waitara, and went in peace to Urenui. On 25 June Parris reported that he thought the feud might be considered at an end. By July Ihaia's people were building a pa Te Kaweka, close to Mimi, and were getting ready to plant crops.

26. THE PURCHASE OF TARURUTANGI, JANUARY 1859

In the wake of the hostilities the Government was ready to proceed cautiously. Parris was instructed on 29 June 1858 to refrain from "entering in or resuming negotiations" for the Whakangerengere land until the feud was considered to be "absolutely at an end". He was to observe the "utmost caution" in all dealings respecting the land question.³³¹

And when Parris reported on 12 July that the Puketapu wished to renew negotiations for the sale of Katatore's block, he was told to hold back, since any attempt to negotiate actively at that time might be more likely to impede than to facilitate the acquisition of land. The land in any case was of little value, except in so far as it might lead to other purchases. And McLean added:

"The Government has at present under consideration a more general plan for the purchase of land in that Province, the affect [sic] of which it may take some little time to unfold; but as it would be imprudent to make any reference to it at present, I only do so cursorily for your own information."³³²

The Puketapu however evidently felt that Katatore's kaupapa must be taken up again. By October they were holding meetings to discuss the sale, and Henry Halse was urging McLean to buy, as long as the price could be renegotiated to take account of the fact that the inland boundary would not, apparently, extend as far as had originally been thought.³³³

And there were other moves afoot too. In November 1858 Parris reported that Mahau was working for the sale of land beyond the Waiongana River, and that a man named Te Teira

³³¹. McLean to Parris, 29 June and 2 August 1858, AJHR, 1861, C.No.1, p.223.

³³². McLean to Parris, 14 August 1858, AJHR, 1861, C. No.1, p.224.

³³³. H. Halse to McLean, 29 October and 8 November 1858, McLean Papers, MS Papers 32, Folder 316 (11 and 12).

was "working hard" for the sale of Waitara.³³⁴ But still Parris found his path a hard one. In December he reported that two of the Puketapu leaders, Karipa and Te Haeana of Ninia pa, had secretly been approaching Taranaki people "to get support to oppose any land sales"; a move which had aroused indignation among Taranaki and (subsequently) among the Puketapu, he said. And he burst out that he did not think the Puketapu family feuds would ever be brought to an end:

"...for I believe the Puketapus to be a treacherous lot which requires the patience of a Saint to bear with them."³³⁵

In the end, it was the Tarurutangi block which Parris managed to buy first, though it did not include all the land he had hoped for. As the Huirangi people continued to oppose the sale of the land from the Waiongana river to Whakangerengere, Parris advised the Puketapu to sell the undisputed part of the block separately. The block was a long thin one, starting at Tarurutangi, inland of the Bell Block, and running inland to the mountain, bounded by the Waiongana and Mangaoraka Rivers. It contained over 14,000 acres. The Puketapu wanted 2000 pounds, but Parris evidently persuaded them to come down to 1400 pounds. The final negotiations began on 1 January 1859 and went on for over a week; the deed was signed in two stages on 4 and 10 January. Parris wrote a detailed list showing how the payment was distributed; it was shared among all the Puketapu pa.

The Kaipakopako people, however, did not after all keep their share (240 pounds). They had decided that because of the death of Rawiri Waiaua at the time he was trying to sell it, they should - after receiving the money and placing their hands upon it - hand it over to Rawiri's relatives. And they did so the same night, taking the payment to Oropuriri pa. (Parris thought he detected the influence of the tohunga Tamati Te Ito on this decision, and also believed that it was he who tried to get the Kaipakopako people to refuse to sign the deed until Parris

³³⁴. Parris to McLean, 16 and 22 November 1858, MA/MLP/NP 1, pp.193-5.

³³⁵. Parris to McLean, Private, 24 December 1858, McLean Papers, MS Papers 32, Folder 493 (13).

promised in writing not to buy more land - which Parris refused to do!) ³³⁶

The purchase of the block was proclaimed on 25 February and published in the Government Gazette (Province of Taranaki) of 9 April 1859. Surveys started soon afterwards, and nearly 2000 acres were "given out" to the settlers in December. Tarurutangi was the last land the Puketapu would sell before the outbreak of war.

Meanwhile peace negotiations among Te Ati Awa had been continuing; they involved not just Puketapu but the whole iwi. During April the Ngamotu and Puketapu people visited one another, and by the end of May Parris reported that the meetings had gone very well. ³³⁷ Then, in July, Ihaia returned to Waitara, and on 27 August 1859 there was a great runanga at which peace was made between Ihaia, Nikorima and "the men of Waitara and Kaipakopako". Ihaia and Nikorima were now to return to their homes. ³³⁸

Yet the peace at Waitara was to be short-lived. Before long, British troops would march on to Waitara land.

³³⁶. Parris to McLean, 12 January 1859, MA/MLP/NP1, pp.201-2.

³³⁷. Parris to McLean, 7 May and 28 May, 1859, MA/MLP/NP/1, pp. 214-8.

³³⁸. The Maori Messenger, 30 September 1859, Taranaki Herald, 3 September 1859.

27. CONCLUSION

1. The troubles of Nga iwi o Taranaki with British settlers and the Crown began thousands of miles away in England, when a British colonisation company decided on a scheme of colonisation which involved buying Maori land cheaply to resell to settlers at a greatly increased price to pay for the scheme.
2. The Crown, even though its ministers and officials were aware of the dangers to Maori posed by the Company, did not act to protect Maori from the Company's initial land-buying foray.
3. The iwi of central New Zealand who entered into transactions with the New Zealand Company had no way at the time of knowing what impact the transactions would have on their lives. They thus found themselves in a situation which they had never anticipated, of playing host to hundreds of British families determined to take possession of Maori lands which they believed they had bought fairly from the Company.
4. Te Ati Awa, who in the period of upheaval in the 1820s and 30s, had migrated in large numbers to the south (while an unknown number had also been taken away north by Waikato/Ngati Maniapoto taua), now found that their ancestral lands were under threat from the British. It was the misfortune of Te Ati Awa to have their lands selected as the site of a New Zealand Company experiment, on the grounds that they were unoccupied and "waste". Yet some families had always remained on the land to keep it warm, and the people had never envisaged a situation in which they might be prevented from reoccupation of their lands when they chose to do so. From the early 1840s, Te Ati Awa began to return to the land from both north and south.
5. Te Ati Awa, like other iwi, were to find themselves hoist with their New Zealand Company transactions. Had they only realised it, a new British age was about to dawn in their country. Immediately on the heels of Company purchasers, followed the Treaty bearers and the government officials. Within four months of the transaction of the February 1840 deed in Taranaki, New Zealand was proclaimed British territory and a new government was established.
6. Te Ati Awa thus found themselves facing not only the new settlers, but governors and government officials who, to various degrees, supported the cause of the settlers. And over the next two decades, the pressure brought to bear on Te Ati Awa to make their lands available for British settlement would escalate.

7. In June 1844 Commissioner Spain recommended an award of 60,000 acres of land to the New Zealand Company. The strength of his own cultural focus prevented him from seeing anything amiss with his pronouncements on the rights - or lack of rights - of Te Ati Awa to their ancestral lands. Nor does it seem that the Protector of Aborigines was able to represent Te Ati Awa interests in the court by explaining their lack of understanding of the nature and impact of the transaction they had entered into with the Company - and the difficulty they thus found themselves in before the Commissioner. The Spain Award was of immense importance in the history of Taranaki - the settlers never ceased to press for the acquisition of the land referred to in the Award, and the various governors also considered that the land should be acquired for the settlers. As late as 1861, Governor Gore Browne was still thinking along these lines.

8. Governor FitzRoy initially did his best to mediate between Maori and settler by deciding against Spain's recommendation, and by confining the settlers to a small block of several thousand acres at New Plymouth. Even FitzRoy, however, by simultaneously waiving the Crown's right of pre-emption in favour of the Company throughout the "Spain Award", signalled to the Company settlers that he expected they would eventually be able to regain possession of the land, as the Maori offered it for sale.

9. And to those Te Ati Awa with rights in the area where the British had established the town of New Plymouth, FitzRoy sent a particular message : they must accommodate the Pakeha (who clearly were not going to leave). These hapu appear to have accepted this responsibility reluctantly - perhaps because they feared the consequences, not only for themselves, but for all Te Ati Awa, of defying the Governor. They were prepared to allow Pakeha already established to stay, but were not happy at the prospect of accommodating more.

10. In this first Government negotiation with the people of Taranaki (the FitzRoy Block), their wishes as to price and size of reserves were not met. Nor were the wishes of the sellers of the Grey Block met; their demands for reserves were (according to McLean) "extravagant and urgent".

11. Governor Grey took a tougher line than FitzRoy and tried to threaten Te Ati Awa into accepting his "solution" for them. All those south of Waitara (except those settled within the FitzRoy Block) should be moved to the north of the river. All those returning from the south, likewise, must settle there in certain locations, in model villages. The British settlers were to have the land south of the river - in other words, the lands comprising most of the Spain Award. Grey had no regard at all for the

social, spiritual and political realities of Te Ati Awa existence; to him the people were simply a "problem", to be moved out of the way. And he did not scruple to apply great pressure to dissuade the southern Te Ati Awa from returning home at all. Te Ati Awa fought back with the only weapon they had - they ignored Grey. But the early governors thus fuelled the expectations of the settlers that they would "get their lands back" - the coastal lands and the lands by the Waitara River. These were the lands, it should be added, where there had always been many Te Ati Awa settlements.

12. As settler anxiety for land north of New Plymouth was unabated, the Governor decided in 1848 to authorise the New Zealand Company agent to negotiate for a purchase which his own official McLean had not proceeded with because the offer was disputed. Grey had been instructed to keep negotiations for land in his own hands; perhaps he thought that he carried out his instructions by himself delegating authority to Bell, and by making it clear that Bell could not conclude transactions. But the Governor's decision meant that Te Ati Awa were exposed to a negotiator who clearly put the interests of the settlers first. In his agreement with the Puketapu, Bell did not even record the price to be paid them. From the Bell purchase, the Puketapu learned that the Government would not accept their views of the monetary value of the land; they did not get the price they wanted or had expected. And those Puketapu against the sale learned that mere opposition could not stop it: herein lie the origins of the bloodshed of 1854 over another disputed sale (Tarurutangi).

13. By the end of the first decade of British involvement in Taranaki, the fears of the iwi both north and south of New Plymouth were evident. At Waiwakaiho stood a forty foot high pou erected by some of the Puketapu people, to "prevent the Europeans from acquiring more land in that direction". And south of the town Ngati Ruanui concern for their future surfaced in a large meeting held in 1851. The land was already going; how could the Pakeha be prevented from taking more?

14. After 1848 no more purchases were made for some years; and by 1852 Donald McLean, Land Commissioner, was adopting new tactics. In 1852, having paid one group of claimants for land at Araheke, he then paid another group without publicising the fact that he was going to do so - evidently hoping that the tension between the two would lead to an offer of a large block of land in the area. It did - but it did not lead to agreement on the sale. In 1853 therefore, in a further effort to apply pressure to sell, McLean made the first payment for the Waiwakaiho and Hua land not to the people living there, but to those Te Ati Awa in the south, the "absentees". As a result, he got the blocks he wanted - though not perhaps the success he

had hoped for in terms of land which could be made available to the settlers. For the time, Te Ati Awa were able to retain possession of the coastal land in both blocks - though in the Waiwakaiho Block, it was in defiance of the Government, and in the Hua Block, it was on Government terms, with individualised titles.

15. The dilemma of Te Ati Awa and of other iwi in these years, the first years when they faced enormous pressure to sell land, has not always been understood. Though their communities were closely inter-connected, their concern to protect hapu rights was very strong. To some, making the first offer of land for sale was in itself a protection of their rights because it could never be said they had been pre-empted by those with a better claim. To take the first payment, it is clear, was seen as vindication of the rights of those who received it. And although people understood that sale meant that Pakeha would occupy the land, and hold Crown grants, and put up fences - and that they themselves would no longer be able to live or plant there - the question remains, whether they actually saw their own association with the land as ending. This concept, of severing of association because of the process of buying and selling, would perhaps make sense only in a society where land was seen primarily as a commodity.

But in Taranaki, where people's links with the land were so long established, and their history was recorded in the land in so many ways, and their own occupation in the area continued afterwards, the fact of sale cannot be seen as changing overnight the way people saw their association with the land. The sale and taking of payment for the land was part of the history of the land, and of those hapu who entered into the transactions. This is clear, for instance, in the concern of some Puketapu hapu that Mangaoraka be "payment" for the death of Parata Te Huia. It is clear too in the decision of Te Whaitere Katatore to stand his ground against Rawiri Waiaua in 1854 at the cutting of the Mangaoraka boundary. True, it was evidently the only way the sale could be stopped at that time, but Te Whaitere knew that he risked the loss of the land anyway because of the deaths of those who would fall in the confrontation. He himself said later he would give the land into Wynyard's hands. And it is clear in the way in which Te Whaitere's people of Kaipakopako handled their share of the payment for the Tarurutangi block in 1859 - the land at the centre of so much raruraru. They received the payment, and then took it to Rawiri Waiaua's people, because it was the land on which he had met with his death.

Perhaps many people came to think they had no hope of keeping the land anyway, and it was more important to fulfil their various obligations to the living and to those who had passed on.

16. Te Ati Awa were caught in these dilemmas from the beginning because, in the wake of the New Zealand Company transactions, the settlers arrived on the ground so early. It was their land the settlers were so anxious for in the 1840s and 50s - so that in Taranaki, Te Ati Awa faced the pressure first. The Government could only have alleviated that pressure by backing off, by recognising that disputed offers of land epitomised the dilemmas the people were caught in, and adopting a policy of not making payments till all hapu involved came in together to make an offer. But the Government did exactly the opposite, deciding to capitalise on the divisions, to encourage offers, to see how far they could put pressure on opponents of an offer. Once Government adopted such a policy, offers were bound to multiply as people tried to protect their own rights. Few leaders wished to look as if they had no land to offer. It was not surprising that the southern iwi, looking on, were so anxious to prevent land agents getting a foothold in their territory.

17. In the wake of the bloodshed that their own impatience for land had led to, the settlers finally got the troops they had wanted for so long. Te Ati Awa can hardly have been surprised - but they must have concluded, as they watched the soldiers and barracks and guns being landed at New Plymouth, that it would not be long before the British would use the troops against those of them considered hostile to the settlers. They knew the settlers well enough by now - and according to Nugent's account in 1855, many of them read and understood English "and the articles in the papers are freely commented on by them." (IUP, BPP, Vol.10, pp.416-7.)

18. Settler pressure, indeed, intensified during the 1850s. The hostilities that began in 1854 meant that no more land would be bought for several years; settler anger against the Taranaki Maori grew. They saw themselves as beleaguered, cut off on a small island of land, surrounded by hostile Land Leaguers. In the settlers' facile, self-serving interpretation, the League was a dangerous "Combination", which would kill Maori to stop the sale of land. They never stopped to ask how the iwi must have viewed their own periodical meetings complaining about the failure of the Government to buy land. They never contemplated the stresses their own often-expressed impatience was producing for the Maori whose land they wanted. But eventually the Government itself would argue that it had a duty to protect the rights of the settlers against the "League", by force if necessary.

19. The Government did not learn from the events of 1854. Hardly had peace been made among the Puketapu when land agents were contemplating a new round of manoeuvres to achieve land purchases north of New Plymouth. The result was more bloodshed, in the wake of the violent death of Te

Whaitere Katatore in 1858 - though this time Te Ati Awa made their peace more quickly. But this time, too, the Government reaction was more forceful. By now there was a new Governor (as opposed to an Officer Administering the Government, at the time of the first conflict in 1854), and a settler ministry in power (the settlers had achieved responsible government in 1856). A proclamation was issued, warning of military intervention if people were seen on Crown land bearing arms. And, indeed, British military intervention in Taranaki was not very far away.

20. The British arrived in Taranaki with widely shared views of the New Zealand land as largely "waste", "unoccupied", and unprofitable until British labour was applied to it. It was their destiny to "improve", cultivate, and add value to the lands. In the process they would also "civilise the natives" - as was their Christian and humanitarian duty - and lead them to participation in the British social, economic and political order. Such participation however was to be on British terms.

21. The British unwillingness to allow for Maori participation in the new order on their own terms - particularly Maori economic participation - soon became apparent. It was apparent, for instance, in the following ways:

- In the decision of the Government - taken unilaterally, without consultation or Maori consent - that Maori should not be allowed to lease land direct to settlers. Rather they would have to sell land to the Crown, so that the Crown could resell it to settlers at a profit. Leasing would interfere with the process of extinguishing Maori customary title, which was a process deemed absolutely necessary both to British settlement and to the extension of the British frontier, carrying British law and order with it. In a "new country" land titles must be reduced to order, and all land held of the Crown. Maori must be assimilated within the system, or they would remain forever a hindrance to the progress of the Colony. It is suggested that if Te Ati Awa had been free to lease land to the settlers, they would have been in a much better position to regulate their economic future, and a great deal of tension among themselves might have been avoided.

- In the way in which negotiations for land were handled. The people's wishes as to price and, in some cases, reserves, were regarded as negotiable, and officials did not scruple to override them. Governor Grey set such a low purchase price for Taranaki lands that even the New Zealand Company agent had to tell him he would not be able to buy at that price. Governor FitzRoy had written that when selling land, Maori "required the provision of at least a tenth of all lands sold, besides extensive reserves

in addition". Grey's subsequent 1847 instructions that in the making of reserves, the "present and future" needs of the people be attended to, were deliberately vague. The reality was that the interests of the Maori were in general reluctantly attended to, and clearly came second to those of the settlers. Even Cooper, in the Waiwakaiho purchase, did his best to talk people out of land they wanted to keep. But he ended up having to defend himself officially for having made "Generous Reserves", because of intense settler dissatisfaction.

- In Government handling of policy in respect of Maori "reserves" - the land Maori were to keep for themselves. Maori were not offered the option of a legally recognised communal title over this land, or of control of it according to their own procedures and preferences. Under Grey, customary title was extinguished when purchases were made; reserves were "set aside" within the boundary of the purchase, but no steps were taken to safeguard Maori control of the land. By the 1850s Maori were offered only two alternatives: individual Crown titles to land they wished to keep, or accepting the control and management of Commissioners appointed under the Native Reserves Act (1856) over their Reserves. If they held their land under individual title, it was argued, the process of social and economic assimilation would be hastened. And, of course, it would be easier to buy the land.

22. In all these ways the State used its power to suit the wishes and needs of the British, rather than of the Maori.

APPENDIX 1

GOVERNMENT LAND PURCHASE OFFICIALS IN TARANAKI

1. The following note is a brief guide to the officials involved in land purchase in Taranaki, and to some of the instructions issued for their guidance. Unfortunately the records on this matter seem somewhat patchy, though it may be that more will come to light.

2. The first Government official charged with land negotiations in Taranaki was Donald McLean, appointed Protector on 1 April 1844 (see main report).

3.1 When the Protectorate was abolished, McLean was appointed Inspector of Police in April 1846. Richard Hill has shed some light on the significance of this appointment. Governor Grey, newly arrived in New Zealand, had decided on an Armed Police Force, a militarised police, as the spearhead of his "pacification" programme - rejecting the alternative of a settler militia. The new force would occupy an important place on the frontier between Maori and Pakeha. It would both represent the coercive power of the state against Maori inclined to challenge it and, by incorporating Maori in its ranks, accustom them to acceptance of that power. Selected young Maori within the force would both provide information about their own communities, and take an active role in the administration of British law amongst them.

3.2 The first Inspector of Armed Police (appointed early in 1846) was based in the Wellington region, where hostilities were still in progress, and the initial job of the Force there was to operate alongside the troops, to protect settlers, and to acquire information about Maori movements and "habits".

3.3 The Armed Police system was extended soon afterwards to New Plymouth. Hill comments:

"The choice of an APF detachment for this settlement, where warfare was not imminent despite Maori dissatisfaction, and of McLean, indicated definitively that Grey's armed police scheme had no necessary organic connection with militarised suppression of rebellion, but was integral to a wider strategy for control of both pakeha and Maori society." ³³⁹

³³⁹ . R.S. Hill, Policing the Colonial Frontier : The Theory and Practice of Coercive Social and Racial Control in New Zealand, 1767-1867 (Historical Publications/ Department of

McLean, then in his mid-20s, had some qualms about accepting the appointment, having neither police nor military experience, and wondering how the "friendly" Maori might view his new duties. But he did accept, deciding that it would

"add to my influence over them and enable me better to secure them their rights subsequent to their decision to sell."

3.4 The appointment dated, significantly enough, from the day McLean left for Whanganui to continue land purchase negotiations there. McLean's force consisted of 10 constables and a sergeant, and from 1847 Maori constables were enrolled. Henry Halse became the sergeant and the effective day-to-day head of police during McLean's often lengthy absences on land negotiation assignments for the Governor.

3.5 During this period, McLean did not have complete autonomy in land purchase - or even exclusive rights of negotiation. His instructions from Grey of 5 March 1847 "entrusted" him with the conduct of land purchase, but stated that "in all matters of importance he must consult with Capt. King [the Resident Magistrate], and acquaint him with the steps which he proposes to take." And on 1 March 1848 Grey assigned rights of negotiation to the New Zealand Company agent, F. D. Bell. Bell however could not himself complete a purchase; Captain King, on behalf of the Crown, was to conclude any purchases negotiated by Bell, after first ascertaining from McLean that the sale was in order.³⁴⁰ In all the purchase deeds of the late 1840s a clause was inserted to the effect that Henry King, Resident Magistrate of Taranaki, signed his name "in token of the consent of the Governor" to the conditions of the deed.

4.1 On 6 April 1850 McLean's appointment was gazetted as "a Commissioner to treat with the Native Chiefs of New Zealand for the cession of such lands as may be required from time to time for the occupation of settlers resorting to the said colony."³⁴¹

Internal Affairs, Wellington, 1986), Part One, p.246.

³⁴⁰. G. Grey, Memorandum of course to be pursued...5 March 1847, and G. Grey, Memorandum of 1 March 1848, both enclosed in Bell to Wakefield, 8 March 1848, NZC 105/7.

³⁴¹. New Zealand Government Gazette, Province of New Ulster, 6 April 1850.

He was also appointed a Resident Magistrate in 1850, able to operate anywhere in New Munster as well as New Ulster. He was not however formally relieved of his policing duties until 1852.

4.2 G.S. Cooper was appointed Inspector of Police at New Plymouth in May 1852. Cooper also took over responsibility for land purchase negotiations in Taranaki - though McLean visited New Plymouth from time to time and took an active role in negotiations himself. The New Plymouth Provincial Council, however - one of six councils established in New Zealand by the Constitution Act 1852 - decided to make Cooper redundant from the Police Force in October 1853. A Report of the Select Committee on Estimates, 18 October 1853, stated that "it appears from the best information available, that but a small proportion of the duties performed by the gentleman holding this appointment [Inspector of Police] belong to the Police Department. Without, therefore, questioning the necessity of his services as negociator with the Natives for the purchase of land, the committee cannot admit the justice of charging the Province with his salary as Inspector of Police...". It recommended that Cooper's salary be charged upon the Land Fund.³⁴² (In November the Provincial Government appointed Henry Halse as Sub-Inspector, head of the provincial Armed Police Force, which then consisted of 7 privates, 4 Pakeha and 3 Maori. Halse was also appointed Interpreter to the Province. His appointment as Inspector of the Armed Police Force, dating from 1 October 1854, was gazetted on 6 January 1855.)

5.1 During 1854 - the year in which the colonial parliament established by the 1852 Constitution Act first met (in Auckland) - a Native Land Purchase Department was organised. (Clause 73 of the Constitution Act stated that it should "not be lawful for any person other than Her Majesty, her heirs or successors, to purchase or in anywise acquire or accept from the aboriginal natives land of or belonging to or used or occupied by them in common as tribes or communities, or to accept any release or extinguishment of the rights of such aboriginal natives in any such land as aforesaid.... Provided always, that it shall be lawful for her Majesty... by instructions under the Signet and Sign Manual, or signified through one of her Majesty's Principal Secretaries of State, to delegate her powers of accepting such conveyances or agreements releases or relinquishments, to the Governor of New Zealand, or the superintendent of any province within the limits of such

³⁴². NZ Government Gazette for the Province of New Plymouth,
29 October 1853.

province..."³⁴³ It may be added that in Taranaki there were high hopes that powers of purchase might be delegated to the Superintendent. But the powers detailed in the section were formally delegated by the Queen only to Governor Gore Browne.³⁴⁴

5.2 Two "Sub-Commissioners for the purchase of Lands from the Natives" were appointed by the Officer administering the Government in February 1854; one was G.S. Cooper (still based in Taranaki) .

5.3 On 26 April 1854 the Officer Administering the Government "requested" McLean to make Auckland his headquarters until such time as he could "effect the purchase of land in sufficient quantities to meet the probable requirements of this Settlement for some years to come". He was to concentrate on "all the lands north of the Waikato". To this end "the whole management of the purchasing of lands from the Natives will be transferred from the Surveyor-General to you" (the Surveyor-General had until then played a particular role in land purchase in the Auckland region) ; and McLean would have a staff of two and an office.³⁴⁵

5.4 In June 1854 McLean wrote a memorandum on the subject of organising "an efficient department" for the purchase of land according to a "steady and well-regulated system". He recommended that officers be appointed to certain districts,

"whose duty should be to acquire a knowledge of the Native tribes of their district, to ascertain the extent and nature of their claims, and to give their undivided energy and attention to the purchase of land, not only to meet the present requirements of the country, but to prepare their districts, as far as they possibly can, for the introduction of European settlers."

Taranaki was one of the areas singled out as being "more immediately required".

³⁴³. The Statutes: Revised Edition, Vol.XI, 1851-1853 (Eyre and Spottiswoode, London, 1877).

³⁴⁴. See Additional Instructions to Governor Gore Browne under the Royal Sign Manual, dated 14 November 1857, published New Zealand Gazette, 11 February 1858.

³⁴⁵. Colonial Secretary to McLean, 26 April 1854, AJHR, 1861, C No.1, p.105.

5.5 McLean recommended that the staff should consist of a principal commissioner to "instruct and direct the purchasing operations of the district commissioners", a deputy-commissioner, and in addition to the district commissioners a staff of surveyors and parties to mark out the external boundaries of blocks purchased.

He drew attention, too, to the advantages of land purchase:

"It may also be stated that, in the acquisition of every block of land, the Natives residing thereon become virtually incorporated with the European settlers, become amenable to British law, and imperceptibly recognize the control of the Government in their various transactions." ³⁴⁶

5.6 McLean's appointment as Principal Land Purchase Commissioner seems not to have been gazetted. The Appropriation Act 1854 passed by the first Parliament, however, and assented to by the Officer Administering the Government on 16 September 1854, provided for the financing of a Land Purchase Department; and in the Details of Sums to be Voted the salaries of a Principal Commissioner and 2 District Commissioners were listed. (The total provided for the Department from 1 July 1854 - 30 June 1855, was 2373 pounds 15 shillings.) ³⁴⁷

5.7 The Officer Administering the Government, commenting on the Estimates for the Land Purchase Department in a Message to the House of Representatives, stated that it had been proposed to increase the cost of that Department considerably. But, he went on:

"The native mind is disturbed by the extent of territory which has lately been added to the Crown demesne, and the Commissioner is of opinion that these feelings of alarm should be allowed to

³⁴⁶. McLean, Memorandum, 15 June 1854, in H.H. Turton (comp.), An Epitome of Official Documents Relative to Native Affairs and Land Purchases in the North Island of New Zealand (Government Printer, Wellington, 1883), A1, pp.52-3.

³⁴⁷. Appropriation Act 1854, encl. in Wynyard to Grey, 21 October 1854, IUP/BPP, Vol. 10, p.327.

subside by abstaining for a time from active negotiations."³⁴⁸

5.8 Elsewhere in the Message he had noted that "Nothing... could have justified the Government, if it had overlooked the pressing necessity of extinguishing the native title to large tracts of land in the vicinity of our settlements." In the past year, £40,000 had been spent on this "service".

5.9 McLean, it may be noted, went on signing himself "Land Commissioner" well into 1855, but towards the end of 1854 he also began to use the title Principal Commissioner. During 1855 and 1856 he also on occasion used the title Chief Commissioner.

6.1 If McLean wrote any instructions to Cooper at the time he was appointed Sub-Commissioner in 1854, they have not yet come to light. The Colonial Secretary, writing to notify Cooper of his appointment, spoke of his "continuing to conduct the purchases of lands from the Natives". It may be useful, however, to give extracts from McLean's instructions to some of his other subordinates.

6.2 Writing to Sub-Commissioner J.G. Johnson on 18 May 1854, McLean assigned to him "the whole of the country lying North of the portage between the Waitemata and Kaipara", and added:

"I have every confidence that you will use your utmost exertion to acquire from the Natives the whole of their lands within this District, which are not essential for their own welfare, and that are more immediately required for the purposes of colonization."

Johnson was advised that wherever possible, reserves should be sited within natural boundaries, such as rivers, hills, etc. And he was also to make certain that the Maori "fully comprehend" the nature of any negotiations, that the boundaries were carefully inserted, and that they should be read aloud three times in the presence of the people, "whose assent should be unanimously given before appending their signatures to the transfer." (McLean had referred earlier in his letter to the lack of "fidelity" evident among the Maori -evidently he meant in the north- in respect of their land transactions.)

Finally, McLean instructed Johnson to advise the people

³⁴⁸. Message No.5 to the House of Representatives, 4 September 1854, Votes and Proceedings of the House of Representatives, Session II.

"of the advantages of re-purchasing properties for themselves out of the Crown Lands, under the Regulations of the 4th March, 1853, as nothing will more effectually improve their condition, than substituting their present precarious and unsatisfactory tenure for a permanent holding under the Crown, which also extends to them an interest in the political institutions of the Colony from being qualified to vote at elections."³⁴⁹

6.3 This latter point was also stressed in instructions which McLean sent to John Rogan in July 1855 in connection with finalising the purchase of blocks of land at Waikato, Whaingaroa, and Aotea. (Rogan was a surveyor who was appointed a District Land Purchase Commissioner in July 1854; in 1855 he was assigned a district "from the Waikato to the Mokau". "Ample reserves" should be made for Maori, and "every encouragement" given them to repurchase individual allotments of land from the Crown. He should pay prices between 6d and 1/6d per acre, and keep his survey costs (of external boundaries and reserves) as low as possible.³⁵⁰

6.4 Finally we may note a copy of instructions dated 6 November 1854 which McLean left for T. Kemp (his effective deputy in the Auckland Land Commissioner's Office) to guide him during his own absence from Auckland. Kemp was to report to the Colonial Secretary on negotiations for, or purchase of any block of land, to forward to the District Officer sums of money required to complete purchases (drawing on funds in the Union Bank of Australia), and to apply to the Colonial Secretary for further funds should he need them.

Clause 4 stated:

"You will take care that before any sums are paid to the Natives, the lands offered for sale by them are in the first instance surveyed, and the reserves they may require for their own present and future welfare carefully laid off."³⁵¹

³⁴⁹. McLean to Johnson, 18 May 1854, AJHR, 1861, C No.1, pp.52-3.

³⁵⁰. McLean to Rogan, 13 July 1855, AJHR, 1861, C No.1, pp. 153-4.

³⁵¹. Le 1856 1/ 1856/200.

7.1 G.S. Cooper, whose relations with the settler leaders were not good, and had come to dislike his job in Taranaki, was released from New Plymouth during 1855 and transferred to the Wellington area. It will be remembered that at this time there were hostilities among Te Ati Awa, and the Government temporarily suspended its land purchase activities. Nevertheless McLean recommended the appointment of Henry Halse as a District Commissioner in the Land Purchase Department, both to negotiate purchases and to settle reserves and boundaries in blocks already acquired and "even more important, to keep the Government advised of the state of the Natives during the excitement that prevails there."³⁵²

7.2 Halse however was not appointed District Commissioner (a post which carried a salary of 300 pounds). In the estimates of Government expenditure for the year beginning 1 July 1855, provision was made for an Assistant Native Secretary (within the Native Secretary's Department "also Sub-Commissioner for the Purchase of Native Lands" at New Plymouth. Within the Native Secretary Department allocation 100 pounds was set aside for this purpose; and 50 pounds was allocated for the "Sub-Commissioner at New Plymouth" under the Land Purchase Department allocation.³⁵³ For a time, Halse held both appointments.

8.1 A District Land Purchase Commissioner for the province of New Plymouth was not appointed until July 1857 ; he was Robert Parris, who had been active in provincial politics since 1853 and was appointed Provincial Treasurer earlier in the year (a post which he resigned on his new appointment).

8.2 McLean wrote detailed instructions to Parris on 26 August 1857. Some reference to these has been made in the main report, but it is worth referring to them again here. They began with an injunction to Parris to study with great care the history and genealogy of the various Taranaki tribes, from the distant past to the present - including their migrations and inter-marriages with "foreign tribes". Thence he should proceed to " a careful and minute investigation of the rival claims of the several sub-divisions of those tribes in such localities as they are most anxious to cede to the Government..."

³⁵². McLean to Colonial Secretary, 22 May 1854 (surely sic for 1855), AJHR, 1861, C No.1, pp.152-3.

³⁵³. Estimates of expenditure of government for year beginning 1 July 1855, encl. in Gore Browne to Russell, 8 October 1855, IUP/BPP, Vol.10, pp.433-5.

He was to encourage the people to talk about the past - on any topic which might "encourage them to converse freely and without reserve on the Land question" - in this way he would acquire a knowledge of the "state of Native Title" in the district.

8.3 Parris should inquire also into the claims of absentees, but when doing so

"you should not appear to attach much weight to [their] claims, as it may be assumed that they have acquired a vested interest in lands elsewhere, and should not now be considered as having an equal claim with their relatives who remain in actual possession of the soil."

However, absentee claims were to be separately investigated "at the places where they reside", and were to be settled "in proportion to the relative merits of their claims".

8.4 All claims "submitted by the Natives" should be recorded in a book, and especial care should be taken where "conflicting interests have to be dealt with"; the first class of claimants, frequently the first to offer their land for sale, should not be given too much prominence, since often their title was defective.

8.5 Three thousand pounds was to be placed at his disposal at New Plymouth, which he could draw on as needed for land purchase, but he was to keep the Government constantly advised of developments so that there would be no delay should he require a large sum for a purchase.

McLean was at pains to impress on Parris that he would have to use his discretion as to price; the Government wished him to be economical, but had no wish to prevent him acquiring land if he could do so by paying a high price!

"From the great difficulty of obtaining land at New Plymouth, and the numerous claimants that have to be satisfied before any valid purchase is concluded; it will, no doubt, be found necessary to pay a higher price for Waste Lands in your district than in any other part of New Zealand."

He was authorised to pay between 1 shilling and 3 shillings an acre "for land of fair average value"; but it might be that he would on occasion have to pay more than this.

8.6 The clauses relating to reserves are interesting. McLean wrote:

"If you find it necessary to make purchases, subject to the condition of large reserves for the Natives, I should prefer that you should follow the system adopted in the Hua purchase; that, namely, of allowing the Natives...a pre-emptive right over such portions as they may desire to re-purchase; such land to be thenceforward held by them under individual Crown Grants - instead of having large reserves held in common." (Emphasis added)

Those Maori who did not want to hold their land "interspersed with the Europeans" were to be persuaded if possible to select reserves well defined by natural boundaries. But "the young and more intelligent Natives" were to be assisted to acquire land by repurchase from the Crown,

"in order that their present system of communism may be gradually dissolved; and that they may be led to appreciate the great advantage of holding their land under a tenure more defined and more secure for themselves and their posterity than they can possibly enjoy under their present intricate and complicated mode of holding property."

8.7 In conclusion, McLean wished Parris every success in his negotiations, and in fulfilling the "delicate and difficult duties which now devolve upon you."³⁵⁴

³⁵⁴. McLean to Parris, 26 August 1857, AJHR, 1861, C No.1, pp.211-3.

APPENDIX 2
GOVERNMENT POLICY ON THE LEASING
OF MAORI LANDS

Introduction

1.1 The question of Government policy in respect of the direct leasing of Maori lands to settlers is one which has not often been considered. It is however essential to consider the evolution of this policy alongside that of Government purchase policy, because the two were closely related.

1.2 Early in the colonial period the Government unilaterally took certain decisions affecting Maori rights to lease their lands directly to settlers, without any consultation with Maori. Maori did not agree, either in the Treaty, or in any public discussions with the Governor, that they should not exercise a right to lease their lands.

Instead, they found themselves affected without warning by laws which were to have a dramatic effect on their economic development, and their ability to control and manage their own economies.

Initial Instructions to the Governor Relating to Crown Lands and Maori Land in New Zealand

2.1 The development of Government policy on Maori leasing should be understood in the context of policy relating to the British settlement of New Zealand lands, and of certain British assumptions held at the outset of the colonial period about the extent and nature of Maori land rights. It was initially assumed for instance that there were large amounts of "waste land" in New Zealand - land which the Crown would acquire by virtue of its declaration of sovereignty.

2.2 Thus Lord John Russell, Secretary of State for the Colonies, instructed Governor Hobson on 9 December 1840 to separate the "demesne of the Crown ... from the lands of private persons, and from those still retained by the aborigines", and to proceed with the sale and settlement of the Crown demesne according to certain rules.³⁵⁵ These rules, laid down in Hobson's instructions under the Royal Sign Manual, required him to survey "all the lands within

³⁵⁵ Russell to Hobson, 9 December 1840, IUP/BPP, Vol.3, p.152.

our said colony", and to instruct the surveyor-general to divide the whole country into counties, subdivided into hundreds and again into parishes. The surveyor-general was to report on suitable lands for public purposes in each county, hundred and parish; and such lands were not to be granted or occupied by private persons. All "waste and uncleared lands within our said colony, belonging to and vested in us" remaining after making the public reserves, were to be sold at a uniform price per acre.³⁵⁶

2.3 The Charter for erecting the Colony of New Zealand empowered the Governor to issue proclamations dividing the country into districts, counties, hundreds, towns etc, and to make "grants of waste land ... to private persons ... or to any persons, bodies politic or corporate, in trust for the public uses of our subjects there resident".

2.4 But the Charter went on to specify:

"Provided always, that nothing in these our letters patent contained shall effect or be construed to effect the rights of any aboriginal natives of the said colony of New Zealand, to the actual occupation or enjoyment in their own persons, or in the persons of their descendants, of any lands in the said colony now actually occupied or enjoyed by such natives."³⁵⁷

2.5 Thus the Crown stated its intention of protecting Maori rights of "actual occupation or enjoyment" of their lands. But - though it was suggested the "aborigines" might make useful labourers, the economic development of New Zealand would take place on other lands: Crown lands granted to colonists, as the progress of settlement spread across the country.

2.6 Lord John Russell sent Governor Hobson additional instructions relating to the protection of the "aborigines of New Zealand" on 28 January 1841. These reiterated that the "territorial rights of the natives, as owners of the soil" were to be recognised and respected. But they also stated that Maori lands were to be precisely defined on maps and surveys of the colony. The surveyor-general should report from time to time "what particular tract of land it would be desirable that the natives should permanently retain for their own use and occupation". The Protector was to be consulted, and such tracts were to be

³⁵⁶ Victoria R, Instructions to William Hobson, 5 December 1840, encl. in Russell to Hobson, 9 December 1840, IUP/BPP, Vol.3, pp.156-164.

³⁵⁷ Charter for erecting the Colony of New Zealand ... 16 November 1840, encl. in Russell to Hobson, 9 December 1840, IUP/BPP, Vol.3, pp.153-5.

"regarded as inalienable" once the Governor had ratified and approved the surveyor-general's reports.

2.7 Such instructions (though I am not aware that they were carried out) were designed to be protective - but were also intrusive. They assumed that "Maori lands" were limited in extent, and that Maori could be confined to certain "tracts".

2.8 At the same time Russell also instructed Hobson that "a law should be enacted declaring the absolute invalidity of any conveyance, or contract, or will, for the disposal of land by any native chief or chiefs, or by any individual native, when the object of that contract or conveyance, or will, is to transfer to any person of European birth or descent the land itself, except as thereafter excepted. The law should also forbid the taking in execution of any such land, or interest in land, at the suit of any person of European birth or descent." (The Governor, however, might authorise exceptions.)³⁵⁸

Governor Hobson Seeks Advice on the Practice of Direct Leasing of Maori Land

3.1 Governor Hobson had however been bothered by the practice of direct settler leasing from Maori as early as 1840. On 25 October 1840 he wrote to Sir George Gipps, Governor of New South Wales, about the "practice of taking land on fictitious leases from the natives for long terms". Reminding Gipps that he had already raised the matter with him on an earlier occasion, he asked for a legal opinion as to how he could put a stop to the practice "which, if allowed to be persevered in, may produce most mischievous consequences". Since arriving in the Thames, he had found the practice "almost universal" there. (Maori, clearly, as well as settlers, were obviously willing to enter into such arrangements.)

3.2 Gipps referred the matter to his Attorney General, who advised that "unauthorised occupants of Crown land" might be ejected by common law proceeding, viz. "information of intrusion filed by the Attorney-general".

3.3 Hobson replied however, on 17 February 1841, that the Attorney General's opinion did not meet the case. And he went on: "If the lands held on lease from the aborigines of New Zealand could be deemed Crown lands, the course to be adopted is plain and obvious; but those lands are the property of tribes, and the parties holding them ... continue to occupy and cultivate them as tenants under the

³⁵⁸ Russell to Hobson, 28 January 1841, IUP/BPP, Vol.3, pp.173-4.

chief. The question is, How are such persons to be dealt with?"

3.4 Gipps agreed with Hobson that the Attorney General's opinion did not meet the case "unless by some previous operation the lands can be made to bear the character of Crown lands: this, however, they may be made to do by purchase or cession from the natives..." But it might be necessary to pass an ordinance "to stop the evil".

"Such an enactment must be based upon the principle that uncivilised tribes, not having an individual right of property in the soil, but only a right analogous to that of commonage, cannot, either by a sale or lease, impart to others an individual interest in it, or, in any words, that they cannot give to others that which they do not themselves possess."

3.5 Gipps was aware however that such a proposition (which he had argued when the New South Wales ordinance 4 Vict No. 7 relating to investigation of land claims in New Zealand was under consideration) had not yet been approved by Her Majesty's Government. He therefore advised Hobson not to introduce an ordinance restraining the granting of leases until such time as the principle should have been approved.

3.6 Gipps sent the entire correspondence between Hobson and himself to Lord John Russell on 5 March 1841. This despatch produced an instant reaction from Russell. On 3 August 1841 he wrote to Hobson ordering him to introduce immediately into the legislature an act "declaring the invalidity of those leases from the natives, and of every other alienation of their lands (in whatever form, or subject to whatever conditions, or for whatever time such alienation may have been made by them) in favour of any individuals since the proclamation of Her Majesty's sovereignty in New Zealand".³⁵⁹

The Land Claims Ordinance, 1841

4.1 But by the time Russell's despatch arrived in New Zealand, Hobson had already acted. He had already received the charter, his commission and instructions. And the wording of the New Zealand Land Claims Ordinance 1841 thus comes as no surprise. Clause 2 enacted "That all unappropriated lands within the said Colony of New Zealand, subject however to the rightful and necessary occupation and use thereof by the aboriginal inhabitants of the said Colony, are and remain Crown or Domain Lands of Her Majesty ... and that the sole and absolute right of pre-emption

³⁵⁹ See Gipps to Russell, 5 March 1841 and Enclosures; and Russell to Hobson, 3 August 1841, IUP/BPP, Vol. 3, pp.438-440.

from the said aboriginal inhabitants vests in and can only be exercised by Her said Majesty...".

4.2 Then it stated: "that all titles to land in the said Colony of New Zealand which are held or claimed by virtue of purchases or pretended purchases gifts or pretended gifts conveyances or pretended conveyances leases or pretended leases agreements or other titles, either mediately or immediately from the chiefs or other individuals or individual of the aboriginal tribes inhabiting the said Colony, and which are not or may not hereafter be allowed by Her Majesty ... are and the same shall be absolutely null and void...".³⁶⁰

4.3 By this Ordinance, then, leases entered into between Maori and settlers were "absolutely null and void" - unless allowed by the Queen. Hobson noted, when transmitting the Ordinance to the Colonial Office, that he had inserted in the clause the words "leases or pretended leases" in order to "dispel an erroneous idea, which had obtained considerable weight, that the occupation of lands under leases was not prohibited in express terms by the New South Wales Act" (4 Vict No 7).³⁶¹ Thus by 1841 the Secretary of State for the Colonies and the Governor of New Zealand had reached the same conclusion: Maori should not be allowed to lease their lands to settlers. And a New Zealand ordinance embodied the first attempt to limit Maori rights to use their lands to raise an income in the new colony.

The Native Land Purchase Ordinance, 1846

5.1 The next step taken by Government against Maori leasing of their lands came with the passing of the Native Land Purchase Ordinance in November 1846. Its full title was 'An Ordinance to provide for the Prevention, by Summary Proceeding, of Unauthorized Purchases and Leases of Land'.³⁶² The Ordinance (passed in the wake of FitzRoy's 1844 waiver proclamations) restated the Crown's right of pre-emption, and provided a "speedy and effectual remedy" for the "evils" of persons entering into contracts "for the purchase use or occupation of lands" without the sanction of the Crown.

³⁶⁰ Land Claims Ordinance, 4 Vict, Sess. 1, No. 2, NSW Act 4 Vict, No. 7 repealed, 9 June 1841, The Ordinances of the Legislative Council of New Zealand, 1841 to 1853 (Government Printer, Wellington, 1871).

³⁶¹ Hobson to Secretary of State, 27 July 1841, IUP/BPP, Vol.3, p.465.

³⁶² The Ordinances of the Legislative Council of New Zealand ... 1841 to 1853.

5.2 The Ordinance made it an offence for any person to "purchase or by writing or otherwise agree to purchase any estate or interest in land from any person of the Native race, or...by writing or otherwise agree with any such person for the purchase of the right of cutting timber or other trees, or of the right of mining, or of the right of pasturage, or for the use or occupation of land."

"And also if any person who shall not hold a license from the Government for that purpose shall after the passing of this Ordinance be found using or occupying any land not comprised within a grant from the Crown, either by depasturing any sheep or cattle thereon, or by residing thereon, or by erecting any house or building thereon, or by clearing enclosing or cultivating any part thereof, or who shall be found without such license aforesaid to have cut timber or other trees thereon or to have gotten any mineral thereon." On conviction, an offender was to be fined between £5 and £100 for the first and every subsequent offence.

5.3 Governor Grey enclosed the Ordinance for the Queen's assent in a despatch to the Colonial Office of 27 November 1846. He noted that the purchases and leases of land which the Ordinance was designed to prevent had been illegal since the establishment of the Colony, but that people had continued to make "pretended purchases" and take "pretended leases from Native chiefs, whose title to such lands was often fictitious". (One wonders what basis Grey had for this statement; it was a habit of his to sprinkle his despatches with such phrases, without providing any supporting evidence.) The Ordinance, he said, would "prevent the growth of any more of these irregular claims, which have hitherto been the bane of the Colony."

5.4 The object of the enactment against depasturing stock etc. without a Government license, Grey explained, was to "prevent irregular squatting". But the Government did not intend to dispossess people already in possession of depasturing or timber stations; rather to recognise their right arising from pre-occupancy. It would also assist with acquiring new stations, taking care that "equitable arrangements are entered into with the true native owners". The advantages of the new law would thus be that the Government would be able to "introduce a regular system for the occupation of waste lands for depasturing purposes", and establish regulations to assist settlers wanting pasturage. Such regulation of the leasing of "waste lands" would require a great influence over the Maori. Grey saw the Government "refusing to permit any lands to be occupied by Europeans, until the question of native title

has been amicably arranged ... and until the claims to such lands have been duly ascertained and registered."³⁶³

Thus the Government would control the process of leasing, and use it to gain the co-operation of Maori in registering their claims, recording them in Government files - so that ultimately, the purchase of those lands would be facilitated.

Grey's Instructions of 1846 and Reactions to Them

6.1 Meantime the British Government had also been considering the matter of British settlement of the "waste lands" of New Zealand. In 1844 Lord Howick was Chairman of the Select Committee of the House of Commons which reported on the State of the Colony of New Zealand (July 1844). One of the Resolutions of the Committee (which was hostile to the Treaty) was:

"That the acknowledgement by the local authorities of a right of property on the part of the Natives of New Zealand, in all wild lands in those Islands, after the sovereignty had been assumed by Her Majesty, was not essential to the true construction of the Treaty of Waitangi, and was an error which has been productive of very injurious consequences."³⁶⁴

6.2 And the sixth Resolution of the Committee was:

"That means ought to be forthwith adopted for establishing the exclusive title of the Crown to all land not actually occupied and enjoyed by Natives, or held under grants from the Crown..."

6.3 Lord Stanley, then Secretary of State, was not enthusiastic about the Report, and decided not to instruct FitzRoy to act in accordance with the sixth Resolution.

6.4 By 1846, however, Howick (now Earl Grey) was himself Secretary of State for the Colonies. It is not surprising therefore to find him issuing rather different instructions on the matter to the new Governor, George Grey. In a despatch to Governor Grey enclosing a new constitution for the government of New Zealand in 1846, Earl Grey instructed Governor Grey on the subject of the respective rights of the Crown and Maori to land. In a classic statement of views current in some imperialist circles, he argued that only the expenditure of labour could bestow rights to land.

³⁶³ Grey to Gladstone, 27 November 1846, CO 209/46, pp.340-348.

³⁶⁴. IUP/BPP, Vol.2, p.13.

Maori should never have been recognised as the proprietors of vast tracts of waste land, and from the time of Annexation, "all lands not actually occupied in the sense in which alone occupation can give a right of possession, ought to have been considered as the property of the Crown in its capacity of trustee for the whole community..."

6.5. Earl Grey admitted that it might not now be possible to act on such principles, though he made it clear that even if Grey had to depart from them, he expected him "to look to them as the foundation of the policy which, so far as it is in your power, you are to pursue". He inferred, from various despatches from New Zealand, that "the right of the Crown could not now be asserted to large tracts of waste land which particular tribes have been taught to regard as their own." But Grey was instructed to ascertain the ownership of all land in the colony, with a view to defining individual and corporate property, and the property of native tribes, so that the rest of the territory could be declared royal demesne.

6.6 In the accompanying Royal Instructions under the Sign Manual and Signet, Chapter XIII dealt with the "Settlement of the Waste Lands of the Crown". Maori land claims - along with those of Pakeha - were to be recorded on charts, and provisionally registered in district land registries. Lands not claimed or provisionally registered within a certain time were to be considered as constituting the "demesne lands of us in right of our Crown" in New Zealand.

6.7 It was specifically stated that "No conveyance, or agreement for the conveyance, of any of the lands of, or belonging to, any of the aboriginal natives, in common as tribes or as communities, whether in perpetuity or for any definite period, whether absolutely or conditionally, whether in property or by way of lease or occupancy, which may be henceforth made, shall be of any validity or effect, unless the same be so made to or entered into with us, our heirs and successors". (But these prohibitions did not apply to conveyances entered into by Maori in respect of lands held under any title or tenure known to the law of England.)³⁶⁵ Maori were not to be permitted to lease lands directly to settlers.

6.8 The new constitution and the accompanying Royal Instructions gave rise to protests from chiefs, from the Wesleyan Missionary Society in London and from leading Auckland colonists (among them the Bishop and the Chief

³⁶⁵ Grey to Grey, 23 December 1846 and enclosures, IUP/BPP, Vol.5, pp.520-543.

Justice).³⁶⁶ The instructions to Grey, it was argued, were at variance with the guarantees of the Treaty. Every acre of the country (stated the Auckland petition) was claimed by the "aborigines": "consequently ... there is, properly speaking, no waste land in this colony that can be appropriated to the Crown without purchase".³⁶⁷

6.9 In response to these representations Earl Grey stated "that no intention has ever existed on the part of Her Majesty's Government to interfere with any rights secured to the natives of New Zealand by the treaty of Waitangi."³⁶⁸ What this actually meant, of course, was open to interpretation. But the Colonial Office reply to the Wesleyan Missionary Society indicated the path Earl Grey was prepared to take out of a difficult political situation: "if the exclusive right of the Crown to purchase land from the natives is enforced, it is of little practical importance whether the title to unoccupied land is considered to reside in the natives or in the Crown, since, admitting it to belong to the former, the surrender of their rights can easily be obtained for a mere nominal consideration; and if the Crown is regarded as the proprietor, it is so merely in the character of guardian of the interest of its subjects, and especially of those of the native race whose want of knowledge causes them to stand peculiarly in want of protection."³⁶⁹

6.10 Governor Grey allowed time to pass, and the objections of others to reach London, before he finally commented himself on Earl Grey's instructions in respect of Maori lands. On 15 May 1848, in a despatch to Grey, he echoed the Secretary of State's own views that the land could in any case be bought cheaply. The "natives", he suggested, would resist the enforcement of principles which limited recognition of their rights to lands which they occupied, and on which they expended labour. But they would cheerfully recognise the Crown's right of pre-

³⁶⁶. In fact, after Grey had expressed apprehension about the introduction of a representative legislature, the Colonial Office decided by the end of 1847 to take steps to suspend for 5 years those parts of the charter relating to the establishment of representative legislatures in New Zealand.

³⁶⁷. See Petition to the Queen, encl. in Grey to Grey, 9 March 1848, Further Papers relative to the Affairs of New Zealand, 1848, IUP/BPP, Vol.6, pp.79-80.

³⁶⁸. Grey to Grey, 27 July 1848, Further Papers Relative to the Affairs of New Zealand, 1848 IUP/BPP, Vol.6, p.179. .

³⁶⁹ Merivale to Beecham, 13 April 1848, encl. in Grey to Grey, 3 May 1848, Further Papers Relative to the Affairs of New Zealand, 1848, IUP/BPP, Vol.6, p.155.

emption, and in nearly all cases would "for a merely nominal consideration", dispose of lands not actually required for their own subsistence. The Governor himself believed that there were "very large tracts of land claimed by contending tribes to which neither of them has a strictly valid right", to which claims would cheerfully be given up to settlers. But in the meantime he thought it best not to endanger the peace of the colony by calling on the tribes to register their claims to land - such a move would arouse disputes, and excite Maori suspicions of Government intentions. "Many of the distant chiefs would also probably deem a compliance with such a demand as a virtual renunciation of their power and rights, and would therefore refuse to comply with it ..."

6.11 In effect, then, Grey argued for setting aside the procedures outlined in Ch.XIII of the Royal Instructions.

He would not try to define and register Maori lands throughout the country; he would not at once proclaim a Crown demesne. Instead, the same result would be achieved by different means. Already, instead, he was buying land ahead of the needs of settlers because this way he could buy it as cheaply as possible from the Maori. The Crown was already acquiring extensive lands by purchase, extinguishing customary title throughout the country. And in effect it was already "registering" the claims of Maori - to the reserves that remained the only recognised Maori claims in areas where purchase took place.³⁷⁰

6.12 The Colonial Office accepted this argument. Earl Grey decided that he did not need to alter the Instructions, because "it appears to me that as they now stand they fully warrant the practice which you at present pursue, of registering the portions reserved for natives when land purchases are made for them..." And he approved Grey's course of action.³⁷¹

6.13 The Colonial Office thus tacitly accepted that it would have to buy all the land needed for British settlement. But as Peter Adams has pointed out, it was realised that this could be done cheaply because of the right of pre-emption to which Maori had agreed in the Treaty. "If the pre-emption monopoly was used extensively and rigorously, it would effectively neutralize the wide recognition of Maori land rights."³⁷²

³⁷⁰ Grey to Grey, 15 May 1848. Further Papers Relative to the Affairs of New Zealand, 1848. IUP/BPP, Vol.6, pp.22-26.

³⁷¹ Grey to Grey, 27 January 1849, Further Papers Relative to the Affairs of New Zealand (1849), IUP/BPP, Vol.6, p.120.

³⁷² Adams, Fatal Necessity, p.209.

Government Policy Relating to Leasing of Maori Land 1846-1854

7.1 This pragmatic approach to the question of purchase was echoed in the Government's approach to Maori leasing. Although Grey did not say so explicitly, he appears to have abandoned his 1846 plan of Government regulation of leasing along with the plan of encouraging Maori registration of titles. Instead, the Government turned a blind eye to direct leasing in some areas where it was practised - until such time as it was able to buy the land it wanted. As late as mid-1853 Grey was still signalling his approval of settlers' establishment of homesteads on "native lands", by arrangement with the owners. Evidently he saw this as a "softening-up" of the Maori owners. Then, "when the Government, in the course of purchasing, came up to these homesteads, a right of purchasing them should (with a reasonable quantity of land around them) be given to the proprietors."

7.2 Wynyard, the Officer Administering the Government, finally gave a contrary opinion in October 1854, considering "that for the future the Govt. should firmly resist the occupation of Native Lands by Europeans before the Native Title has been extinguished..."³⁷³

7.3 Section 73 of the Constitution Act 1852 enacted: "It shall not be lawful for any person other than her Majesty .. to purchase or in anywise acquire or accept from the aboriginal natives land of or belonging to or used or occupied by them in common as tribes or communities, or to accept any release or extinguishment of the rights of such aboriginal natives in any such land as aforesaid; and no conveyance or transfer, or agreement for the conveyance or transfer of any such land, either in perpetuity or for any term or period, either absolutely or conditionally, and either in property or by way of lease or occupancy, and no such release or extinguishment as aforesaid, shall be of any validity or effect, unless the same be made to, or entered into with, and accepted by her Majesty..."³⁷⁴

7.4 The reason for Government determination to prevent direct leases seems clear enough. As McLean wrote in 1854: "This system of leasing lands from the Natives was threatening to entail a most serious evil on the prospects of the Colony, as they would not of course alienate any of

³⁷³. See Taranaki Herald, 15 June 1853; and Colonial Secretary to Commissioner of Crown Lands, Auckland, 28 October 1854, 1A 4/255, p.93.

³⁷⁴. An Act to grant a Representative Constitution to the Colony of New Zealand, 30 June 1852, The Statutes: Revised Edition, Vol.X1, 1851-1853 (Eyre and Spottiswoode, London, 1877).

their lands to the Crown if such a system was permitted to exist... To put an end to this system, without inflicting any serious injury on the European settlers who were holding land from the Natives, was an object of continual solicitude on the part of the Government..."

7.5 Indeed, as McLean noted, in the Wairarapa, Maori had been collecting annual rents amounting to £1200 from stockholders before the Government went in to buy up the land in 1853. But it was the Crown's duty, evidently, according to McLean - to ensure that one group of its subjects - Maori - did not become "idle" while living on the proceeds of rents.³⁷⁵

Government Policy on Leasing of Native Reserves, 1850s

8.1 McLean's concern about leasing was reiterated in a different context at about the same time. In Taranaki the Superintendent of the Province, Charles Brown, raised the question of the legality of leases of Native Reserves.

8.2 According to Cooper, the Land Purchase Sub-Commissioner, his concern was to "bar any claim upon the Provincial Govt. on the part of the lessees to maintain them in possession..."³⁷⁶ The Superintendent therefore drafted a Public Notice stating that "Agreements for the purchase or leasing of Native Reserves, being the property of tribes or communities, are illegal and void" under the 1852 Constitution Act. "Parties entering into agreements, or pretended agreements, are hereby warned that they cannot be protected in possession", and were liable to penalties under the Native Lands Purchase Ordinance.³⁷⁷

8.3 Cooper - to whom Brown sent a copy of the draft notice - wrote to McLean in agitation, mentioning several Pakeha lessees who were in occupation of Native Reserves. He asked for McLean's support in securing possession for such occupants, just in case the Attorney General should agree with the Superintendent's interpretation of the Act. He did not think the Maori involved would surrender their leases, either. Cooper was in fact taken completely by surprise by Brown's decision to challenge the leases; his own interpretation of the law was quite different.

³⁷⁵. McLean to the Colonial Secretary, 6 February 1854, AJHR, 1861, C No.1, p.264.

³⁷⁶. Cooper to McLean, 19 June 1854, McLean Papers, MS Papers 32, Folder 227.

³⁷⁷. I take it from the mid-1854 correspondence that this was the draft of the Notice eventually published in the New Zealand Government Gazette for the Province of New Plymouth, 4 November 1854.

8.4 McLean's reply to Cooper, of 12 July 1854, is most interesting. He expressed great regret that Cooper had sanctioned the leasing of Native Reserves, "as it implicates the Government in transactions that I have strenuously opposed in all parts of the Island ... we may abandon the idea of getting any good land in future from the Natives, if we allow them to lease their reserves...". If the Auckland authorities had not "resisted such proceedings" there, the Government would not have acquired the valuable Orakei lands it had just purchased. And McLean asked Cooper to report on the extent of leasing, and to notify which leases he had concurred in and which had been "taken by individuals on their own responsibility". He did not, however, instruct Cooper to prevent leases.³⁷⁸

8.5 Cooper wrote to the Colonial Secretary asking for instructions. And the answer of the Officer Administering the Government was more decisive than McLean's. The Superintendent was informed that "as measures are now before the General Assembly for regulating the disposal of the Waste Lands, and for prescribing the powers of the Superintendent of the Provinces, Mr Cooper has been instructed not to be a party, for the present, to any further leases of Native Reserves".³⁷⁹ Native Reserves, then, were taken to be part of the Waste Lands of the Crown.

8.6 The Superintendent, as has been noted, published his notice in the Gazette in November 1854. And in April 1855 a test case came before the Resident Magistrate's Court in New Plymouth. Henry Halse, Inspector of Police, laid an information against Richard Brown under the Native Land Purchase Ordinance for depasturing sheep on a Native Reserve at Moturoa. The Provincial Solicitor conducted the prosecution, arguing that Native Reserves equally with other native lands came within the Ordinance: "the name imported portions of native land within the external boundary of purchased blocks kept back by the natives with the concurrence of the Government for their own use...". The ordinance guarded the Crown's right of pre-emption; the object of which (in his view) was to prevent disputes with the Maori. The "common occupancy" of the natives was at the root of disputes, "and this collective title subsisted unaltered in the Reserves." The agreement was in any case void, by the 73rd section of the Constitution Act. Neither the Constitution Act nor the 1846 Ordinance however, made any distinction between reserves and other

³⁷⁸. McLean to Cooper, 12 July 1854, Donald McLean, Letterbook, Private Correspondence, 1854-57.

³⁷⁹. Colonial Secretary to the Superintendent of New Plymouth, 4 July 1854, TP 4/2 (184).

native lands - "the evil was the same, the offence the same, of meddling with either."

8.7 Brown the defendant conducted his own case, arguing that a penalty under the Ordinance could not be imposed because the native title to the land (the Grey Block) had been extinguished and the land was "virtually comprised" in a Crown grant. The Maori were unanimous in their agreement on the lease, and there was no possibility of a disturbance - unless doubt were thrown on their title by questioning their right to lease.

8.8 The prosecution replied that it was immaterial whether the lands were Crown - granted. Even if there had been a grant to a tribe, there would still be a "common property" in the land, and the Ordinance had been passed to prevent "mischiefs" arising from dealings in land held under such title.

8.9 The Magistrate fined the defendant the lowest penalty under the Act, £5, regretting that it wasn't less. "The Court he said was debarred from entering into the question of title. The land was shown to be in common occupancy, and on this point the Court decided against the defendant."³⁸⁰

8.10 This Taranaki case, and McLean's remarkable lack of direction to Cooper on the matter of the legality of Native Reserve leases, underline the Government's lack of attention in the 1840s to the question of the legal status of Native Reserves. Grey took care that customary title to all the land comprised in a purchase was extinguished. But he did not concern himself with the nature of Maori title thereafter to the lands which were called "reserves" in English, within the boundaries of purchased blocks. The Maori were given (or were supposed to be given) plans of the reserves and certified statements, which documents were "somewhat in the nature of a Crown title to the lands specified in them".³⁸¹ Presumably because such lands were for "subsistence", and presumably because his main concern was simply to "extinguish native title" this vagueness did not seem to Grey to matter. And that meant that later on, when some Maori did wish to lease such lands, their right to do so could be challenged. Maori control of their reserves had not been safeguarded. No thought had been given to a legally recognised communal title.

Native Reserves Act, 1856

³⁸⁰. Proceedings in the Resident Magistrate's Court on 20 and 24 April, reported in Taranaki Herald on 2 May and 16 May 1855.

³⁸¹. Grey to Grey, 15 May 1848. Further Papers Relative to the Affairs of New Zealand, 1849, IUP/BPP, Vol.6, p.25.

9.1 It was not in fact until after the settler parliament met that some steps were taken by the Government to "regulate the management" of Native Reserves. The vulnerability of Maori control over their reserves then became very obvious. The Native Reserves Act 1856 ("An Act for the management of Lands set apart for the benefit of the Aboriginal Inhabitants of New Zealand") empowered the Governor to appoint Commissioners of Native Reserves. And by Section 6, these Commissioners were to "have and exercise ... full power of management and disposition" over lands within their jurisdiction reserved for Maori "over which ... the Native title shall have been extinguished". Subject to the provisions of the Act, the Commissioners might exchange absolutely, sell lease or otherwise dispose of such lands in such manner as they in their discretion shall think fit, with a view to the benefit of the aboriginal inhabitants for whom the same may have been set apart." If the lease were for more than 21 years, the Governor had to give his written consent. The Commissioners were also given control over moneys which might come to their hands under the provisions of the Act.³⁸²

9.2 The question whether Maori Reserves might be leased had thus been decided by a settler parliament. Without Maori consent being sought, it had been decided to place their Reserves in the hands of Commissioners appointed by the Government. Commissioners might lease them, or even sell them. (Only in the case of Reserves or lands excepted from a sale, where the native title had not been extinguished, was there provision for gaining Maori consent for their lands to be subject to the provisions of the Act. Section 14. This interpretation is based on legal advice.)

Conclusion

10.1 Government policy relating to Maori leasing of their lands was established at the outset of the colonial period, without Maori consent being sought. However it was justified - whether as an administrative or protective necessity - the reality was that Maori were prevented by the Government from leasing, because it was recognised that if they derived an income from rents, the sale of land would not be an attractive alternative. The Government, therefore, would not be able to profit from the sale of land to settlers. Maori, therefore, were deprived of the incomes - both present and future - that they might have made by leasing, and deprived of the right to decide whether to sell or lease their land. The Government imposed a policy which was to have a profound detrimental

³⁸². The New Zealand Native Reserves Act 1856, The Statutes of New Zealand. The Commissioners were also given other powers, which are not detailed here.

effect on Maori economies, and thus on the future of hapu
and of iwi.

APPENDIX 3

THE WAIVER OF THE CROWN'S RIGHT OF PRE-EMPTION, 1844

1.1 At the hearing at Waitara in June 1991 at which this report was presented, the Tribunal asked me to supply further information in connection with FitzRoy's decision to waive the Crown's right of pre-emption in favour of the New Zealand Company throughout the whole of the block already surveyed at Taranaki.

1.2 This decision, made in November 1844, came in the wake of Governor FitzRoy's rather better known decisions to waive the Crown's right of pre-emption earlier in the year. In February he had decided on a waiver in favour of the New Zealand Company, on certain conditions, of "not more than 150,000 acres" in the Wairarapa, of "not more than 250,000 acres...in other places within the limits claimed by the New Zealand Company under Mr. Pennington's award", and of "not more than 150,000 acres" in New Munster (the South Island).³⁸³

1.3 In addition, the Governor had in March 1844 issued his Waiver Proclamation, which allowed applications for waiver over a "certain number of acres" in a specified place to be made by "a certain person, or his assignee" to the Governor. The Governor would decide each application on its merits, after consideration of the "public welfare", and of the disposition and needs of the "neighbouring and resident natives", and after consultation with the Protector of Aborigines.³⁸⁴

2.1 I have suggested elsewhere that these decisions ought not to be considered simply as responses to situations encountered by FitzRoy when he reached New Zealand at the end of December 1843.³⁸⁵ Before he left London, FitzRoy sought guidance from the Colonial Office on a number of matters; one of them was :

³⁸³. See Hamilton to Wakefield, 27 February 1844, and enclosures, encl. in FitzRoy to Stanley, 10 December 1844, IUP/BPP, Vol.4, pp.437-8.

³⁸⁴. Encl. P in FitzRoy to Stanley, 15 April 1844, IUP/BPP, Vol.4, pp.199-200.

³⁸⁵. See #R35, Further Evidence of Ann Rosemary Parsonson In Respect of the Otakou Tenths, Wai 27, pp.71-77.

"May the Crown's right of pre-emption be waived in certain cases?"

From his own discussion of this topic, it is clear that FitzRoy was aware of some of the difficulties the Government was experiencing in respect of land purchase in New Zealand. He spoke of obviating "existing and threatening difficulties...by a cautious use of such a power as that of allowing individuals or companies to purchase land from the aborigines." And he went on:

"And among threatening difficulties, are, the cases of aborigines who will not sell land to Government at a low valuation, seeing, as they do, that it is re-sold for a high price, and being themselves desirous of acquiring the large sum from the real occupier or last purchaser.

Some powerful tribes are said to have already combined to refuse to sell land to the Government, and such combination is likely to be extended while the aborigines look upon the Government as opposed to their interest, seeking only its own advantage.

Companies or individuals willing to give not less than the fixed upset price (say one pound an acre) to aboriginal landowners, might in certain cases only be permitted to buy direct from the aborigines; always providing that every such transaction should be not only authorized by the Governor, but inquired into, witnessed and registered by a Government officer.

The reason for not allowing any land to be sold for less than one pound an acre to private purchasers may be readily explained to the natives. A chartered company might be allowed to purchase in the same manner as the local Government, but under guarantee of employing 75 per cent. of the upset selling or rather re-

selling price, in conveying labour and capital to the colony..."³⁸⁶

And he noted that he did not think it disadvantageous if such a scheme were to encourage Maori to sell to private parties rather than the Government.

³⁸⁶. FitzRoy to Stanley, 16 May 1843, IUP/BPP, Vol. 2, Appendix No. 13 to Report from Select Committee on New Zealand, pp. 387-8.

2.2 Clearly FitzRoy had some knowledge of the concerns already voiced by the Chief Protector George Clarke as to the inconsistency of his duties as Protector with his obligation to buy land. As a result of his representations, Clarke had already been relieved of his land purchase duties by the Officer Administering the Government from 31 December 1842, and instructed that henceforth land purchase should be conducted by an Agent for the Purchase of Land from the Aborigines. (Thomas Forsaith, a clerk in the Protector's Office, was chosen. He was instructed, on 29 December 1842, to try to buy land only in compact blocks of not less than 10,000 acres, to pay not more than 3d an acre for arable land - and nothing at all for unsuitable land, though it was to be purchased - and to make payment in cattle, clothes and agricultural implements, with a proportion in specie if the sellers insisted on it.)³⁸⁷

2.3 When FitzRoy's despatch reached the Colonial Office, it was referred to the Colonial Land and Emigration Commissioners (who reviewed most official colonial correspondence relating to land) for comment. And the Commissioners were clearly opposed to a waiver of the Crown's right of pre-emption. Their opinion is worth quoting at length:

"This right is one of the Conditions of the solemn Treaty with the Natives on assuming the Sovereignty of N. Zealand, a compact which it would seem undesirable to depart from unless on some very strong reason. It might possibly admit of a question whether it could be departed from, consistently with good faith. At any rate any deviation from it must greatly enhance the responsibility of Govt. for any unforeseen ill-consequences to the Natives.

2ndly. This stipulation of the Treaty is believed to be in consonance with the mode of dealing with the Aboriginal owners or claimants of Lands in analagous cases in other parts of the world: it falls into a broad current of Precedent.

3rdly. The same danger which probably prompted the condition - of the Natives' being cheated by European Purchasers, will remain, with the addition that Govt. will be more or less involved in the responsibility for their proceedings. Captn. FitzRoy shows

³⁸⁷. Colonial Secretary to Thomas Forsaith, 29 December 1842, IA 4/271 (Outwards Letterbooks, Protector of Aborigines).

that the bargain would not be ratified till payment had been actually made. But there would have been previous negotiations, and conditions which might not immediately come to light.- It may be permissible, therefore, without coming under the charge of over-anxiety, to feel some fears of the effect of Government's becoming mixed up with any dealings of European Land-Jobbers with people emerging from the condition of savages.

4thly. No sufficient practical motive is alleged for the change...it would hardly remove the [Maori] unwillingness at present said to have arisen... to sell to the Crown, but on the contrary by the hopes it would excite, must be likely to do the reverse. A better remedy for this would seem to be to announce to them firmly that the Govt. would abide by the terms of the Treaty on the right of pre-emption...[and explain why] more should be obtained for Land by a Govt. which acted as Trustee for various beneficial purposes, than by Individual Sellers, in the condition of the Natives."³⁸⁸

2.4 In #R35, Wai 27, I note that no hint of these opinions was conveyed to FitzRoy in Lord Stanley's written replies to his propositions. One must assume, therefore, that Stanley himself did not agree with the opinions of the Commissioners. I quote now from the #R35 evidence (with some additions in square brackets):

"In his own minute on the matter Stanley was worried only about the price FitzRoy suggested the Maori be paid.

If they got the whole 20 shillings, he said, there would be nothing to spend on emigration or "local objects". "But I should see no objection to permitting Natives to sell, at not less than (say) 5 s. an acre; while the purchaser should pay the rest (say 15 shillings) to the Government

"such balance to be applicable to the same purposes as money raised under the Land

³⁸⁸. Unsigned minute on FitzRoy to Stanley, 16 May 1843, marked "recd. from Mr Elliot June 23(?) / 43 G.W.H[oep]", CO209/24, pp.137-8b. (Elliot was one of the Commissioners.)

Sales act."³⁸⁹

2.5 James Stephen [the permanent under-secretary], drafting the reply to go to FitzRoy, followed Stanley rather than the Commissioners.[His draft began by stating that it was not possible to give a definite answer to the question posed by FitzRoy, but " I admit that cases may arise in which it wd. be inexpedient to adhere inflexibly to the Rule that The Crown is to be the only Purchaser from the Natives."] But Stephen added a number of touches of his own designed to protect the [interests of the Crown, and of the Maori] ,including a provision that the purchaser should pay 20 shillings an acre and that one-fourth of this should be paid

"to the use of the Aborigines to the satisfaction of the Protector..."³⁹⁰

[The remaining three-quarters of the purchase money were to be credited to the Land Fund.]

2.6 Hope [Stanley's parliamentary under-secretary], however, crossed out Stephen's version, and it was his [substituted] answer which was conveyed to FitzRoy [in Stanley's reply] of 26 June 1843. [Hope had evidently discussed the Commissioners' views with Stanley, and Stanley had made one concession to them, namely " to leave the answer indefinite" until FitzRoy should report back from New Zealand. In the final despatch, then, Stanley] suggested that it would be better to wait until FitzRoy actually got to New Zealand and reported back before he himself made a decision on a waiver. But if FitzRoy then made any suggestions as to what course should be followed, he should especially remember two objects:

"the one, to prevent land coming into the possession of Europeans at a cheaper rate, if bought from the natives, than if bought from Government - the other, the ensuring a contribution, on such purchases being made, from the purchaser to the Emigration Fund..."³⁹¹

³⁸⁹. Stanley, undated minute on FitzRoy to Stanley, 18 May 1843, CO 209/24, p.136.

³⁹⁰. Stephen, draft reply, 26 June 1843, CO 209/24, p.141b.

³⁹¹. Stanley to FitzRoy, 26 June 1843, IUP/BPP, Vol.2, Appendix No.13 to Report from Select Committee on New Zealand, pp.389-390.

2.7 Why, then, did Stanley appear to attach so little weight to the Commissioners' [views]? Clearly, he had hardly given his [written] assent to FitzRoy's proposition; but clearly also it did not disturb him on the same grounds as it did the Commissioners. Perhaps he felt he had a better grasp, on this occasion, of the practical difficulties facing the new Governor in respect of land purchase. Perhaps he felt that if the Maori were dissatisfied with the system (and the Protector of Aborigines had argued forcefully that the Government should not be associated with land purchase) it might be better to change it than to adhere to the Treaty on principle. As far as the Company was concerned, Stanley had moreover already sanctioned Hobson's waiver of pre-emption in its favour in certain areas...on 12 May 1842, and had made no other comments about the arrangement at all. "

2.8 In #R 35 I go on to suggest that another argument which may have weighed with Stanley in his response to FitzRoy's proposition was that of James Stephen (put forward in a different context, but at the same time, in answer to another of FitzRoy's queries) which dwelt on the nature of the Crown title to land in New Zealand. Stephen suggested that if the original Company purchases turned out to be faulty, the Company might turn to the Crown for land to satisfy its obligations to its settlers. But what, asked Stephen, if the Crown had no such "waste" or "wild" or unsettled" lands, "of which The Queen is Proprietor in right of the Crown", which it could make over to the Company? Waste land he defined as "Land which costs the Crown nothing". Surely the Crown was under no obligation to buy land for the Company - which would only be possible if a local tax were raised, of which Company settlers themselves would end up bearing the greater burden.³⁹²

2.9 In any case, it may be concluded that Stanley chose not to pass on to FitzRoy, on paper, a set of cogent reasons from the Commissioners as to why the Crown's right of pre-emption should not be waived. While FitzRoy exceeded his written instructions, it is possible that he did so without any fear of an explosion from the Colonial Office.

3.1 It is clear, however, that FitzRoy himself did not consider that waivers of the Crown's right of pre-emption would compromise the Crown's capacity to protect Maori interests. On the contrary, he considered that they would increase the Crown's capacity.

³⁹². See #R35, Wai 27, Further Evidence of Parsonson, pp.77-80. On British discussions about "waste lands of the Crown" in the early 1840s, see Appendix 2.

3.2 On the very day of his public landing in Auckland - 26 December 1843- when Ngati Whatua and Waikato chiefs were introduced to him and presented addresses which included complaints about Crown pre-emption, the Governor (through the Chief Protector) stated in reply that:

"he was happy to tell them that their protectors were no longer to purchase any lands from them on account of Government, they would act as their protectors solely, and he could wish that even the Government itself should not purchase any land from the Natives; he had been instructed to enquire into the working of the system of Pre-emption, which had been originated solely with a view to their benefit, and that, if upon enquiry it was found to be to their disadvantage, it should be discontinued, but this however could not immediately be accomplished, it required some time and some consideration to form the necessary arrangements."³⁹³

3.3 Whether FitzRoy would have had time to discuss matters such as land purchase with New Zealand officials before this meeting is not clear. But it should be noted that the Acting Governor, Willoughby Shortland, had written a despatch in October 1843 which dealt at length with the subject of Crown pre-emption and the "obstacles" he perceived to the satisfactory functioning of the system. Firstly, he noted that the Government,

"by becoming a purchaser of land, is placed in a position which tends to weaken its influence and lower its dignity in the eyes of the natives generally; and the high situation of Her Majesty's representative is classed in their minds with that of any other buyer of land..."

Secondly it was impossible to buy large continuous tracts of land from the Maori, and expensive to buy small pieces as they were offered, which might include inferior land, useless for settlement in the foreseeable future. And thirdly, to buy land in advance of the establishment of a settlement was costly.

Shortland therefore suggested that individuals ought to be allowed to buy "country lands" direct from the Maori in certain districts which the Government would proclaim from time to time. The Government would at the same time lay out

³⁹³. This was the version of his reply given in the Southern Cross, 30 December 1843; he also supplied written replies, which were briefer.

the chief towns of the district and sell the town land by auction. Direct buyers would have to prove their title to the Government in order to gain a Crown grant.

The protectorate, he considered, should be separated from the control of the executive and united with the trust for native reserves, under the control of the trustees.³⁹⁴

3.4 In the first years after the British annexation of New Zealand, then, policy-makers in Britain and in New Zealand were grappling with issues which arose from their various commitments - to protect Maori rights, to encourage British settlement in New Zealand and to buy enough land for new colonists, and to accommodate the New Zealand Company and its settlers. If, as Stephen in England, and Shortland in New Zealand were arguing, the Crown had acquired no demesne lands by virtue of the declaration of sovereignty over New Zealand, but merely the right of pre-emption over Maori land, how then did the Crown reconcile its guarantees of protection for Maori land and resources with its duty as the sole purchaser of land for the British?

3.5 The Chief Protector of Aborigines was the first to say that it could not be done; certainly he, as Protector, should not buy the land. In 1843 he advised Shortland that the Maori were

"not only not willing, but cannot by any means be induced to part with their paternal possessions, which are generally the best lands, both for soil and situation, the country contains..."

Taking Ngapuhi as an example, he went on to argue that by the time the needs of each hapu of an iwi for cultivable lands and for extensive pig runs were met, each would have only a small block of desirable land left which it might sell. (There were at least 100 hapu of Ngapuhi.) Nor should the Government buy large areas from them, for

"as their independence is only to be maintained by holding possession of their lands, I think it would not only be difficult but very injurious to them to purchase large blocks of

³⁹⁴. Shortland to Stanley, 30 October 1843, IUP/BPP, Vol.2, Appendix No. 9 to Report from Select Committee on New Zealand, pp.340-1.

land, even if offered."³⁹⁵

3.6 And Governor FitzRoy took the view that the Crown should distance itself from the process of land purchase. Henceforth its role was to be a supervisory one - authorizing and scrutinizing the purchases of others, to see fair play. The protective aims of pre-emption, as Lord Normanby had enunciated them in his instructions to Captain Hobson of August 1839, remained the same - as is clear from various clauses of FitzRoy's March 1844 Waiver Proclamation ; but FitzRoy's methods of achieving them were different.

4.1 To conclude briefly an account of FitzRoy's waiver policy, several points may be made:

4.2 The policy itself was a short-lived one. Stanley approved the March proclamation (and it is interesting that in doing so he referred for the first time in this context to the Treaty of Waitangi, noting that FitzRoy had taken

"the serious responsibility of waiving, on the part of the Crown, an important stipulation of the original treaty, and of permitting the direct sale, by natives, of portions of their land."³⁹⁶

4.3 Ultimately, however, Stanley's primary concern was whether the new policy would still yield sufficient funds for Government purposes, and for emigration. And when FitzRoy went further, in October 1844, and reduced fees payable by direct purchasers on the issue of a Crown grant from 6 shillings to 1 penny an acre, Stanley had had enough. He had in fact already decided to recall FitzRoy, for a variety of reasons ; and he wrote to the new Governor, George Grey, in June 1845 to urge on him that such purchases not be allowed in future.

4.4 With a new Secretary of State, Earl Grey, and a new Governor, George Grey, the waiver policy was abandoned. By February 1847 the Colonial Office had decided that both

³⁹⁵. G. Clarke to Colonial Secretary, 1 November 1843, encl. in Shortland to Stanley, 30 October 1843, Appendix No.9 to Report from Select Committee on New Zealand, IUP/BPP, Vol.2, p.360.

³⁹⁶. Stanley to FitzRoy, 30 November 1844, IUP/BPP, Vol.4, p.209.

proclamations should be disallowed and annulled by the Queen, though acts done under them were saved.³⁹⁷

4.5 And although Governor Grey had in February 1846 issued a proclamation waiving the Crown's right of pre-emption in favour of the New Zealand Company within the "Company's districts", he was instructed in June 1847, in a despatch relating to the future relations between the Government and the Company, to "continue to retain in your own hands the exclusive management of all negotiations with the natives for the sale of their lands".³⁹⁸

5.1 What general conclusions may be reached on FitzRoy's decision to waive Crown pre-emption in favour of the New Zealand Company in Taranaki?

5.2 Practically speaking, it may have been of no great consequence in the short term. The Company did not make any purchases under the waiver. But the long-term impact of FitzRoy's decision to waive pre-emption in favour only of the Company :

"throughout the whole extent of the large block of land already surveyed by the Company, and said to contain about 60,000 acres"

cannot be dismissed lightly. It is true that it should be seen in the context of FitzRoy's general policy of waiving pre-emption in favour of the Company - and indeed, of distancing his Government from direct purchase of Maori land. He considered that over time, the interests of Te Ati Awa and of the settlers could be reconciled, and the Company would be able to buy the land it needed - doubtless, as he would have envisaged it, under careful Government supervision. But Te Ati Awa were more tenacious of their rights than he had allowed for, and within a few years their numbers increased further as they returned home. What protection did FitzRoy's waiver offer them?

5.3 What FitzRoy had done, in fact, was to afford Crown support for the Company assumption that it had certain rights over the original 60,000 acres of the settlement - that it might expect to get most of that land back for its settlers. To that extent he accepted Spain's view that the Company settlers, once established, had to be accommodated. He played his part in fuelling Company expectations at New Plymouth - and thus in fuelling the immense pressure to

³⁹⁷. New Zealand Government Gazette, 10 August 1847.

³⁹⁸. Grey to Grey, 19 June 1847, IUP/BPP, Vol.5, pp.663-5.

sell land which Te Ati Awa were to be subject to henceforth. In this context the broad concern of the Colonial Land and Emigration Commissioners that waiving the Crown's right of pre-emption might lead to "unforeseen ill-consequences to the natives" may be seen to be justified.

5.4 Governor Grey, of course, stated his views on the Company's right to the New Plymouth lands much more forcefully than FitzRoy. He stated that the land awarded the Company by Spain must be "resumed". As it happened, in fact, his Government had to try and buy it.³⁹⁹

5.5 Finally, it may be noted that Governor Grey embarked, in his inimitable fashion, on a campaign against the pre-emption certificates issued under FitzRoy's waiver proclamations. (He was anxious that their legality be tested in the courts; hence the well-known case The Queen v. Symonds.) Among the grounds on which Grey condemned FitzRoy's waivers in favour of individuals, was the following:

"That I consider the proceedings taken by the representative of the Crown in this Colony to be so contrary to the Treaty of Waitangi, and so injurious to the interests of the natives, that it is incumbent upon the Government to discharge the duty it owes to these people by itself taking the initiative in setting aside the unjust claims which have arisen, and by procuring a decision of the Courts of the country upon this most important subject, to prevent the possibility of the native race being ever hereafter subjected to such a violation of their rights and privileges."⁴⁰⁰

5.6 One must ask whether this was fair. FitzRoy did set aside the pre-emption clause of the Treaty, it is true; but in doing so he was motivated by exactly the same concern to protect the honour of the Crown, and Maori interests, that led the Colonial Land and Emigration Commissioners to argue for the retention of pre-emption. Whether the same can be said of Governor Grey must be doubted. As the pressure to acquire land for settlement

³⁹⁹. See main Report.

⁴⁰⁰. G. Grey, Memorandum, 20 April 1847, encl. in Grey to Grey, 19 April 1847, IUP/BPP, Vol. 6, Correspondence and Papers Relating to Native Inhabitants... 1847-50, p. 34.

increased from that time on, it would become evident that Crown pre-emption hardly guaranteed the protection of Maori rights .

APPENDIX 4

LAND SALES IN TARANAKI

1. In response to a question from the Tribunal, this section provides some information on the prices at which land bought from the Maori was re-sold to settlers.

2.1 NEW ZEALAND COMPANY PRICES

Figures compiled by the Company to April 1844 show that 12,611 acres had been sold in the New Plymouth Settlement, in England, plus 1,336 acres sold in the settlement in New Zealand. (One might note that these sales were well below the acreage awarded the Company by Spain.)

2.2 A Statement of the sums received as proceeds of the sale of lands in the settlement of New Plymouth, to April 1844, was given as follows:

		Acres in each	ACRES		POUNDS
Town sections (separate)	{851	{1/4	212 3/4 at		8510
	= { 1000	{	£10 per		
	{	{	section		
Ditto (with rural)	{149	{1/4	37 1/4		
			{149 }		
			allotmts.}		11175
			at £75 }		
			each }		
Rural sections (with town)	149	50	7450 }		
				PER ACRE	POUNDS
Suburban sections, viz.	40}	{50	2000 at 20s.		2000
	1}	{50	50 at 36s.		90
	7}	{50	350 at 40s.		700
	6}	{50	300 at 45s.		675
	54				3465
Town sections (with rural)	38	1/4	9 1/2}		
			}		
Rural sections (with town)	38	50	1900 }		
			(38 Allotmts.		
			at £75		2850
			each)}		
		TOTAL:	12309 1/2		£26000
			acres		
Deposits on purchases not yet completed					560
					26560

In addition, New Plymouth lands sold in the colony (25 town sections, 23 suburban sections, and 4 rural), had raised £3880 3s.9d.

2.3 The Company also supplied figures showing the Appropriation of Proceeds of land sales. In New Plymouth these were as follows:

	£	s	d
Emigration (TOTAL) (incl. additional amt. expended of £8827)	23815	1	7
Cost of the land, and Profit on the Co's capital (after deducting amt stipulated for emigration)	11012	10	-
Deduct, expended on additional emigration, as above	<u>8827</u>	<u>11</u>	<u>7</u>
Balance available and appropriated as below (Church Soc of NZ and Co general purposes)	2184	18	5
TOTAL	26000	-	-
Deposits to be accounted for when the purchases are completed	<u>560</u>	-	-
	26560	-	-

2.4 The Company further discussed Prices of Land in its several settlements, and wrote of New Plymouth as follows:

"The allotment has heretofore comprised a town section of a quarter acre, a suburban section of 50 acres, and a rural section of 50 acres; but those now remaining for sale in England consist only of the town and rural sections. The price of the allotment of 50 1/4 acres, if sold in England, is £75, or (say) 30 s. an acre, to actual colonists only.

If sold in the colony, the several sections must be put up separately to auction at prices not less than the following, namely: -

Town section	1/4 acre at £12 10s. the section, or £50 an acre
Suburban section	50 acres at £112.10s. the section, or 45 s. an acre, and

Rural section 50 acres at £62.10s. the
section, or 25 s. an acre.

2.5 The Company added figures showing the appropriation of the sums received for land in its settlements. In New Plymouth every £100 received was appropriated as follows:

	£	s	d	
Emigration, two-thirds	66	13	4	
The Company, for cost of land				
and profit on capital, one-third	33	6	8	
	100	-	-	401

3.1 An indication of the price of land in the post- Company years (the Company surrendered its Charters in 1850) comes from an Auction notice issued by the Crown Lands Office, New Plymouth, in May 1854.

3.2 Various town sections were advertised, of 1 rood each; the upset price (or lowest acceptable selling price) per lot varied between £8 and £15; the average price appears to be £12.10s.

3.3 From 15 September 1853, Section 3 of Grey's General Land Regulations (of 4 March 1853) applied to Crown rural lands in the Hundreds of the Province of New Plymouth. In effect this meant that Crown rural lands in the Province were sold henceforth at a fixed price of 10 shillings per acre, though lands certified to be of poorer quality were to be auctioned at 5 shillings per acre. (Grey's Regulations reduced the price of rural lands outside Hundreds throughout New Zealand, but in the Province of New Plymouth in 1853 all the waste lands of the Crown were within proclaimed Hundreds, and a petition had to be got up to the Governor before he gave notice that henceforth Section 3 should apply to Crown lands within Hundreds. From September 1853, therefore, a 200 acre block sold for £100, and a 50 acre block for £25. ⁴⁰²

⁴⁰¹. (These figures are all taken from Appendix No. 14 to Report of the Select Committee on New Zealand, IUP/BPP, Vol.2, pp.397 -402.)

⁴⁰². New Zealand Government Gazette for the Province of New Plymouth, 8 April 1854. See also Notice issued by the Commissioner of Crown Lands published in the Taranaki Herald, 10 August 1853; and Grey's Land Regulations in New Zealand Government Gazette, 10 March 1853.

4.1 Regulations for the Sale and Disposal of the Waste Lands of the Crown within the Province of New Plymouth were recommended by the Superintendent and Provincial Council and proclaimed by the Governor in accordance with the provisions of The Waste Lands Act 1854 on 20 October 1855. They were published in the Gazette on 1 December and came into force one month later.

4.2 According to these regulations rural land and town land were to be sold periodically by public auction. The upset price for rural land was 10 shillings per acre. The upset price or prices for town land was to be a sum appointed for each sale and town site by the Superintendent, which should be specified in the notice of sale.⁴⁰³

4.3 (Profits from the sale of land were subject to various deductions, e.g. to pay off the New Zealand Company debt, survey costs, and Land Department costs. The balance was then divided between paying for emigration, and the provincial treasuries.)

4.4 By way of contrast with these prices, some purchase prices paid to the Maori may be noted. In the mid 1840s, the total cost of the 3500 acre FitzRoy Block (including payments to "absentees") was £507.6.9d. The Bell Block of 1400 acres (Cooper's figure) was bought in 1848 for £354 (including payments to "absentees"). The Waiwakaiho and Hua Blocks (estimated to contain some 30,000 acres) cost the Government a total of £5745. Cooper estimated in 1854 that 61,740 acres had been bought for £7663.14.9d since 1844.⁴⁰⁴

⁴⁰³. New Zealand Government Gazette for the Province of New Plymouth, 1 December 1855.

⁴⁰⁴. Cooper, Draft report to Colonial Secretary, 29 April 1854, McLean Papers, MS Papers 32, Folder 126(65).

APPENDIX 5

MCLEAN'S NOTES ON HAPU OF TE ATI AWA

1.1 As the Tribunal wished to know Donald McLean's views on the composition of Te Ati Awa, some indication of the results of his investigations during the 1840s is provided here. McLean attempted to discover as much as he could about this matter from the time of his arrival in New Plymouth in 1844. It is evident from his notes that he felt some people co-operated with him in providing the sort of information he sought, and others did not. It is emphasised that the notes he made were based on his own attempts to understand the partial information available to him. They do seem to point to the fact that the people distinguished a large number of hapu in this period - though McLean has little to say about the relationships between the various hapu.

2.1 McLean initially differentiated, in a report to the Chief Protector of Aborigines, between "the natives of the Taniwha and Waitara" who occupied the "northern portion of the land claimed by the New Zealand Company" in Taranaki; the "Puketapu tribe" living at Mangaoraka and the Hua; and the "Ngamotu" tribe, whose claims "extend from the Waiwakaio river on the north, to the Sugar Loaves on the south".⁴⁰⁵

3.1 In October 1847 McLean compiled a census of Te Ati Awa, recording the name of each person (adult and child) by "tribe". It is interesting that he refers to "tribes" rather than hapu. The general impression one gains from this list is that McLean had a number of uncertainties about the identity of the "tribes" he discusses. His summary list, for instance, is headed: "Name of Tribe or Pah". Under "Waitara River" he lists two "tribes": "Otaraua Tribe" (Te Mamaku pa and Te Kuikui pa); and "Manukorihi Tribe" (Mahoi pa, Pukerangiora pa, Taniwha, Titirangi). He does not give hapu (or tribal) names in detail as he does for the Puketapu.

3.2 McLean gives the names of eleven "tribes" listed under the heading "Pukatapu Pah", adding a note that the Puketapu tribes resided between the Waiongana and Waiwakaiho rivers. The names are :

Ngati Huetu
Ngati Hine rauhuia
Ngati Tanewai
Ngati Rangi

⁴⁰⁵. McLean to Chief Protector, 17 December 1844, encl. in FitzRoy to Stanley, 22 February 1845, IUP/BPP, Vol.5, pp.151-3.

Ngati Tu
 Ngati Potakatanewa
 Ngati Tawiki (elsewhere given as Tawake)
 Ngati Tama
 Ngati Puhoromanga
 Ngati Remetoru
 Ngati Hine

3.3 He lists Ngati Tawirikura separately, living at Waiwakaiho and Henui, and concludes his list with Ngati Tuparekino and Ngati Puhoromanga (both "Town Pah") - though Ngati Puhoromanga were also at Hua - and Ngati Te Witi (Moturoa).

3.4 From his lists McLean compiled a figure of 729 for Te Ati Awa. (This was before the return of Kingi's heke.) The Pakeha population for the same year was 1132. The Maori adult population however was 579, compared with 562 Pakeha adults. The great disparity was in the number of children in the area : 570 Pakeha (under 14), compared with 150 Maori.⁴⁰⁶

4.1 In one of his diaries (1847) McLean gives a list of "Names of the Ngamotu Hapus or Families who were paid for land in Capt FitzRoys time Novr. 1844". (It is interesting that he here equates hapu with "families").

The "hapu" names that he gives are:

1. Ngati kaituaroa
2. Ngati tamateakuru
3. Ngati uenuku
4. Ngati tirahiri
5. Ngati tewiti
6. Ngati tawirikura
7. Ngati amawahine
8. Ngati tuparekino
9. Ngati potaka
10. Ngati tonga-roa [or tangaroa]
11. Ngati rangiwakapu
12. Ngati [niorauhuta]? - illegible
13. Ngati [timuorangi]?
14. Hamua
15. Ngati tamawaka
16. Ngati rakiurua
17. Ngati manau
18. Ngati rangiapitirua
19. Ngati hikiatu

⁴⁰⁶. Papers relating to Provincial Affairs, Taranaki - Census Returns (for Maori and Pakeha), 1845-50, McLean Papers, MS Papers 32, Folder 127. See "Return of the Native Population for the District of New Plymouth 1847", and attached lists of the various "tribes". Returns of the Pakeha population are filed in the same folder.

20. Ngatitu

McLean also gave what is evidently the name of a "family head" beside each "hapu" name - in some cases two names are given for one hapu, and in other cases the same name is listed beside two hapu. Thus Poharama's name is given beside both Ngati kaituaroa and Ngatiuenuku.⁴⁰⁷

4.2 It will be noticed that although McLean refers here to "Ngamotu hapu" at least two of his hapu names are listed in the 1847 census lists as Puketapu (Ngatipotaka and Ngatitu; whether Ngati rangiapitirua was the same as Ngati rangi is not clear).

⁴⁰⁷. D. McLean, Diary and Notebooks, Box 1, Notes (1847): Maori census/Maori reserves.

APPENDIX 6TARANAKI CLAIM (Wai 143)PARSONSON REPORTS - RESPONSE FROM CHIEF JUDGE DURIE'PURCHASE OF MAORI LAND IN TARANAKI 1839-1859

(Attached to the Chief Judge's "Memorandum on the Examination of Reports" dated 31 July 1990)

QUESTIONS

1. Can you provide further information on the Taranaki v Waikato wars of the 1820s? What was the cause, what Taranaki tribes were involved, were the Taranaki tribes vanquished, were they taken to Waikato, did some flee south, was the conquest followed by occupations or was it a 'hit and run' etc? Who held the customary manawhenua following the war?
2. See pages 20, 39 and 42 and references to 'cutting a survey line'. What does it mean? Was it practice to delineate a boundary on the ground by clearing, digging or ploughing and even in respect of blocks that were measured in miles? Is there a text on early survey practice in NZ?

Do you know whether Maori marked their boundaries as a matter of pre European practice?
3. See page 23. What was the significance of the NZ Co. being granted a charter? Was it important in those days and if so, why?
4. See 3rd para, page 27. Why was Spain convinced his decision was fair?
5. See 2nd para, page 31. What was the size of the "small block about the town" that FitzRoy secured for the Company?
6. (a) I note the point that transactions between Maori and the Company might be seen as voidable, at best, for want of mutuality of understanding but, having regard to their experience by 1844 - did Maori understand the nature of the land transactions from 1844 (see p.31 on)? (I also note that the post 1844 sales remain suspect for other reasons - undue pressure and unequal bargaining power etc but were they understood?)

- (b) Am I correct in concluding that no land grants resulted from the Company's transactions, apart from "the small block about the town", and that accordingly, any extinguishment of Maori customary title by purchase, arose from purchases effected post November 1844?
7. It would assist to have a dossier of land blocks sold pre 1859 name of block, size, date(s) of sale, consideration, and location by depiction on a map - also of the consequential reserves created, name, date created, size and location. Do you have the database handy to compile such a dossier or should I refer this matter to Marr/Addis?
 8. Similarly, it would assist to have a map, on same scale as in (6) above, showing tribal boundaries (if indeed there were defined boundaries) to determine the groups most affected by the business of the time. Do you have one or should I refer this matter to Marr/Addis?
 9. See p.39. What was Grey's decision on reserves announced in 1847?
 10. See p.57, 3rd para. Why were Ngati Te Whiti and Ngati Tawhirikura angry about the Puketapu sale of land and why did this prompt Puketapu to sell more land (as referred to in the next para)?
 11. See p.61. Can you explain further McLean's buy-back scheme?

THEMES

12. These themes seem to emerge from your report
 - (a) That the confiscations, for which some compensation was given, is but a part of those things that impacted on various tribal groupings. The effect of prior land sales, for example, has also to be considered.
 - (b) That the NZ Land Co. purchases were not in fact the source of title for the Taranaki settlers for (with one exception) substitutionary purchases were effected. The transactions of the NZ Co. nonetheless placed pressure on the Crown to complete purchases and fuelled the wars of the 1860s.

- (c) That there was an inordinate pressure on Maori to sell.
- (d) That there was a distinctive Pakeha attitude to the land transactions based upon their own preconceptions and expectations (arising especially from the opinions and practices of the NZ Land Co), and -

a distinctive Maori attitude to those transactions based upon their own (cultural) preconceptions and what they expected to gain from pakeha settlement - to the extent that the degree of contractual consensus must be questioned.

Do you agree that those themes arise? Are there others? It seems (d) may require further analysis. Do you agree?

ISSUES

13. For me, the main thrusts of the report are

- (a) to provide the necessary context for the conflagration about to follow, and
- (b) to explain land purchase policies and practices and itemise the land transactions to 1859.

Do you share that assessment?

If so, I presume item (a) should be revisited after reading your 2nd report.

Item (b), it seems to me, raises some issues -

- were the land purchases up to 1859 consistent with the Crown's treaty obligations and were sufficient reserves made for the affected hapu? (This foreshadows a further issue, to be dealt with later, of whether such reserves as were made were adequately reserved and protected?

Do you agree with that assessment of the issues? Would you contend for any others?

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