THE CROWN'S ACQUISITION

OF THE

WAIMARINO BLOCK

MARAMA LAURENSON

DRAFT COPY ONLY of preliminary report - 28 June 1991

MIHI

Tu tonu au i te taku tai

O Taku awa e rere nei

Ko Whanganui

Kia whakarongo ake ki nga ia

E Haruru mai nei

Me He Wharauroa e tani haere awa

Tuparara te maru o te tangata

Kawhaka hoki atu ki te Pureirei

Tanga ka huri mai ai

Ka tangi haere uta

Aue aue tuhaehae a te

Taku manu korero

Purutia i muri nei

Ko te puha o te kupu

Pai heretia

Ki te hono o te mea ngaro

Ake ake kei ngaro i te ao ...

(Matiu Mareikura)

THE REPORT

Twenty-two generations ago were Tamakehu and Ruaka. Their three children: Tamaupoko, Hinengakau and Tupoho now define the three regions of Atihaunui a Paparangi of the Wanganui River. Hinengakau in the north; Tamaupoko in the middle; Tupoho at the bottom. North of Tupoho is the area referred to as the Upper River. The claimants of Wai 48 are of Tamaupoko and Hinengakau: the upper river region that falls within the Waimarino Block.

As with the many descendant of Tamaupoko I have grown up with an oral tradition relating the deeds of all the tupuna who existed at the time of the Waimarino purchase. Many of them are mentioned in this report - Hau Hau and Kupapa alike - as they occur in the documents of reference. It has not been for me to do that first. We, today, are an amalgam of all those people; and the different responses they had to the Crown's policy of land acquisition. It is hoped that by open discussion about them, we may learn from their experiences - and not repeat the mistakes of the past.

Without resistance the present day distinction of 'tribe' might not have been so clear. Without collaboration the expansion of state would not have been so rapid, so uncompromising. The kupapa response is coopted into the process of colonisation - then as now. 'Meetings with the

Natives' are still going on a century after the purchase - in direct negotiations with the Crown, and in judicial hearings - and the pattern of response has not changed. How then will the result in 1991 be different from the outcome in 1887?

This report was commissioned by the Waitangi Tribunal in respect of claims registered under WAI 48. I would like to acknowledge the contribution of oral discussion and papers from Patrick O'Sullivan and Tui Houpapa. They have each spent some years researching the Waimarino purchase and are perhaps 'the experts' on the subject. Their generosity is much appreciated.

I have attempted to use the material to support a view of why the purchase occurred as it did. No amount of research will ever alter the fact of Crown conquest and the grievance that has arisen because of it. And the Crown still has the resources and the skill to maintain its power by exploiting the internal divisions of an object group.

History shapes the philosophy of a nation. It is the philosophy of this country, and the manner it adopts towards the allocation of power that an analysis of our history must question. If that question is ever answered, then perhaps reports like this will not be a waste of time.

MARAMA LAURENSON

27 June 1991

The author does not consider this report to be complete as there are some other areas to be investigated and it is presently being re written.

CONTENTS

CHRONOLOGY

1840 **THE TREATY OF WAITANGI**

This document gave the Crown 'exclusive right of pre-emption over such land as the proprietors thereof may be disposed to alienate at such prices as may be agreed upon between the respective proprietors and persons appointed by Her Majesty to treat with them on her behalf...'

History demonstrates that the Crown has exercised this right since the signing of the document.

1865 **Native Rights Act**

This was FitzGerald's attempt at translating the principles of the Treaty into law.

Native Land Court set up - certificates of title issued to no more than ten owners.

'In the minds of a few far-sighted men the idea of a Main Trunk line to Wellington does not seem a monstrous impossibility.'

(from an Auckland newspaper, quoted in Fletcher, R. S., *Single Track*, p. 211, (Auckland: Collins: 1978))

1866 **Native Lands Act Amendments Act**

To take note of Maori needs for future use.

If necessary to recommend restrictions on alienation; reserves alienable by 21 year lease unless otherwise brought by state intervention.

1867 **Native Land Act**

All owners to be registered eventhough only ten names on certificate of title. Ten nominated owners could not alienate reserves except by 21 year lease without the intervention of Governor in Council.

1872 Donald McLean considered that the proposed **Native Councils Bill** would give Maori greater control of their own land and hinder land purchasing.

1873 **Native Land Act**

Government surveyors employed under the Native Department. Mortgages could not be made against undivided interests in Maori land.
(This meant that Maori could not raise a mortgage against their land to capitalise it for development. [oral information - Te Tau family, ki Wairarapa])
Multiple ownership established whereby every member of a hapu entered into a memorial of ownership.

1878 **Interpretation Act**

Section 16 (8) provided that anything commenced under any repealed act may be continued under it.

The Tuhua Natives appealed to the Government for

assistance in building roads to connect the Upper Whanganui with Tongariro and the Murimotu lands.

(Wanganui County Council Minutes, p. 14)

Waimarino Block - Gazette Notice. Rangihuatau made application to the Native Land Court regarding Waimarino.

Keepa Te Rangihiwinui protests outside the Foxton Native Land Court re Mair's survey of Murimotu.

First of meetings between Natives of Upper Whanganui and government with implications for Waimarino.

Butler began inquiries into the purchase of the Waimarino Block.

1879

1. land bought by Europeans 60 miles up the Wanganui River.
2. a bridle track cut from Ranana and Hiruharama to Murimotu - 25 miles, £400 of government money spent on it.

(Wanganui County Council Minutes, p. 11)

Meeting between the Kingites and Mair at Te Kopua

Rewi Maniapoto: '...you are now free to take the land to the government.'

1880 Keepa Te Rangihiwinui held meetings to advise the Whanganui to not sell any more land; to form a trust; to use the land or lease it in large blocks; and, to withdraw from putting the land through the Native Land Court.

(AJHR, Vol. II, G-4, Woon's Report)

Government began clearing Wanganui River of snags. Steamer, 'Moutoa', making trips to Pipiriki.

(Smart, H. J. G. & Bates, A. P., The Whanganui Story, p. 243, (Wanganui: Wanganui Newspapers: 1972))

Hui at Ranana. Boundaries of Keepa's Land Trust set. First aukati pole at Kawarapaoa.

(MA Special Files, Series 13/14 - Kemp's Land Trust)

Native Land Court Act

Moffatt - a Pakeha-Maori, gold prospector - killed at Tuhua.

1881 The Supreme Court ruled that it did not give Maori customary rights in land the force of a legal title, in the case Mangakahia v. New Zealand Timber Coy.

(2 NZLR (1881-2) SC 345)

1883 **Native Committees Empowering Act**

This Act gave regional committees authority to discuss disputed land claims and advise the Native Land Court, and to arbitrate between Maori disputants in a variety of questions if the contending parties had given prior agreement to accept such arbitration. Bryce as Native Minister, had in mind only seven or eight committees for the whole North Island.

(Ward, A., A Show of Justice, p. 290, (Auckland: OUP: 1978))

The Aotea Agreement

Made certain blocks in the King Country available for survey - agreed between Natives and government. Regarding the cost of survey with Rewi Maniapoto - £1600.

Rohe Potae Agreement

Ngati Maniapoto abandoned Tawhiao to have independent negotiations with the Native Minister for the protection of their King Country lands. Boundary markers set of blocks permitted for survey - to counter petitions - Wahanui's boundary set.

Memorial (Petition) of chiefs - Tawhiao, Wiremu

Te Wheoro, Patara Te Tuhi, Topia Turoa, Hori Ropihana.

(Parsonson, A., 'The Pursuit of Mana' in Oliver, W. H., (Ed.), *Oxford History of New Zealand*, pp. 156-166, (Wellington: OUP: 1981))

Rochfort told at Karioi he would be shot if he returned.

(Fletcher, R. S., *Single Track*, p. 116, (Collins: Auckland: 1978))

Meeting between Rochfort and Wanganui Maori at which a list of 'obstructionists' was drawn up.

At Pipiriki, Wikitoria turned the locals to support Rochfort's survey. Topia Turoa was also involved. This was the turning point pivoting on the determination of Peehi Turoa and Bryce.

Maungatautari Block put through Native Land Court. By Ngati Haua and Ngati Tama.

1884 Ballance - Native Minister.
He negotiated with Ngti Maniapoto that large areas be taken on perpetual lease. Parliament voted £1,500,000 for the railway and expected a substantial return on freehold. A start was made on the railway.

(Ward, A., ibid, p. 296)

Native Land Alienation Restriction Act

This Act prevented the Maori owners or any other person from negotiating the acquisition of land within a specified area, which included the whole of the Waimarino Block.

Section 7 of the Act provided that:

'...nothing in this Act contained shall be held to preclude the Governor from negotiating with the Native owners of any land (land held under title or in any manner whatsoever) within the territory aforesaid for the purchase or other acquisition by Her Majesty of any such land they wish to dispose of, upon such terms and conditions as may be agreed upon between the Governor and such owners.'

This Act would override any order of the Native Land Court restricting the inalienability of Maori land.

(quoted in Cayless, DOSLI 1983, SO 28656 re Section 2 Block 1 Ruapehu Survey District)

Keepa's Trust had been defeated by the bribing of individual Maori to allow surveyors in. He now supported the establishment of the Main Trunk Railway.

(Young R. J., Wanganui River Claim, p. 5, (Wellington: Manatu Maori: 1990))

18 January - Editorial in Wanganui Chronicle on railway route.

2 February - Editorial in Wanganui Chronicle on native survey.

1885 **Native Land Act**

Ballance meets Upper Whanganui at Ranana.

(AJHR, Vol. II, G-1, pp. 1-10)

1886 **Native Lands Administration Act**

This Act repealed the **Native Land Alienation Restriction Act 1884.**

It provided that the Crown leased or sold land as agent for the Maori; and, tribal title and tribal dealing should be preserved by the incorporation of owners of a block as one legal entity.

(Ward, A., op. cit., p. 297)

North Island Main Trunk Railway Loan Application Act

This Act gave authority for the Crown to borrow money for the construction of the North Island Main Trunk Railway and established the criteria by which the money may be used. Criteria 5 being:

'The cost, to an amount not exceeding one hundred thousand pounds, of acquiring Native or other lands lying within the boundaries described in the Schedule to the Native Land Alienation Restriction Act 1884.'

(DOSLI, op. cit.; and AJHR 1888 G-2A 'Lands Purchased and Leased from Natives in the North Island')

The Native Land Court commenced an investigation

into the **Maori ownership of the Waimarino Block** on 1 March, with the ownership being 'established' by Court order on 16 March that title be issued to owners listed 'once a proper survey had been done' and that the 'land (was) made inalienable except by lease.'

(Wanganui Land Court Minute Book 9-11)

Wellington Deed 659

The Crown acquired shares from individual owners of the Waimarino Block on 5 April.

'I would not like Mr Cussen to have anything to do with the Court survey (of the Waimarino) because in the case of any opposition it would immediately endanger the triangulation. He is pressing on to the work by end of June. His topo plans are not in that part. Please note the amended boundary ...'

(CS 2446/5, 20 April)

Native Land Court Act

This Act came into operation on 1 October.
It made provision for proceedings commenced under any repealed Acts to be completed at the discretion of the Court in terms of the repealed Acts.

Tracing map of the Waimarino Block - signed by Lawrence Cussen - 26 October.

(CS 2446/11)

1887 **Native Lands Administration Act**

Maori not interested in putting land under Government Commissioners for the purposes of alienation by auction. Tribal leaders did not have the mandate of the people to do that, and at a Tiriti o Waitangi hui:

'...it appears to them as an instrument working solely for the benefit of the governmnet, against the interests and the very independence of the Maori race...whilst professing to put an end to the Land Sharking it virtually creates the Native Department into the most dangerous and greatest land Shark that ever existed in New Zealand...'

(Ward, A., op. cit., p. 297)

Native Land Court completed surveys of Raetihi and Ngapakihi Blocks on the proposed railway line.

(AJHR, G-1, Butler's Report)

Native Land Court - the Waimarino Block purchased - fronts the proposed railway route for 35 miles. Large areas of land were acquired by the Crown

'...the most important being the Waimarino Block.'

(AJHR 1887, VOL. I, 2nd Session, G-1, p. 15)

Sketch plan of the Waimarino Block approved 20 January - WD 776.

On 5 April the Crown's interests determined by the Native Land Court awarding Waimarino 1 containing 417,500 acres to the Crown and in doing so the Court

ratified the purchase deed. The Court also awarded Waimarino 2 to 8 to the Maori owners who were not willing to sell their shares.

(Wanganui Native Land Court Minute Book 13)

Proclamation of the Waimarino Block as Crown land in terms of The Land Act 1885, S. 247.

(NZ Gazette, May, No. 33, pp. 675,677,678)

Kumeroa signed National Park (Tongariro) deed on receiving £100 and a promise in writing to recommend the government grant him 100 acres in the Waimarino Block.

(MA NLP 87/250 [87/248] a NLP minute from W. H. Grace - 22 July 1887)

1888 **The Native Land Act**

This Act restored the system of direct purchase. Restrictions on alienation could now be removed by the Native Land Court on the simple application of a majority of owners - proof that vendors had other land for subsistance and consent of the Native Minister were no longer required.

1889 **The North Island Main Trunk Railway Loan Application Amendment Act.**

This Act provided that 95% of the land acquired in

terms of the **1886 Act** (see paragraph 4) were to form an endowment for the railway and be leased, etc., under the provisions of **The Land Act 1885** and was deemed to have been in operation since the passing of the **1886 Act**.

1890 The first freehold purchase made in the King Country - by Ngati Maniapoto.

(MA 13/78, NLP 90/76, quoted in Ward, A., op. cit., p. 299)

1891 '...the thousands of names appearing in... certificates as owners are, for the most part, not owners. The judges got into the way...of asking for a list of names. This the Maoris made out and the Court accepted without much inquiry.'

(AJHR 1891 Vol. II, G-1 - Fenton)

1892 Wanganui River Trust Board, re grant of land to the Board in the Waimarino Block.

(Wanganui Chronicle, 20 January)

Te Kere turned back a boatload of photographers travelling on the Wanganui River, for fear they were spying out land for purchase.

(MA 1/21, 92/2211 Pardy to Comm of Police 28 December 1892)

The Native Department dismantled.

1893 Certain alterations given in the boundaries of the 10,000 acre endowment block of the Waimarino to the

Wanganui River Trust.

(LS 68/1, LS 68/5 Minutes of the Trust, p.17)

Magistrates Court Act repealed the **Resident Magistrates Act 1867** whereby Maori became amenable to the ordinary legal machinery of the land.

1895 **The Crown set aside Wamarino Reserves A to F to the sellers of the Waimarino Block, in terms of the conditions set out in the deed of sale.**

(Kahiti, 1895, p. 181)

1896 **The Native Townships Act**

1898 **Native Reserves of Waimarino Block surveyed out - 16 April.**

(CS 2446/35)

Viz., A to F for the sellers

2 to 8 for the non-sellers.

1900 **Waimarino Block plan, 22 February - WD 1591**

Subdivision of Waimarino 1 began.

Parts of the Waimarino Block set aside for State Forest.

(NZ Gazette)

The clearances of villages in the Waimarino Block - thereafter occupants confined to reserves, 'like concentration camps', and the timber merchants moved in. Paranui and Manganui a Te Ao not cleared. Tawata and Kirikiriroa vanished.

1901 Sheridan visited Te Kere at Tawata in May. He offered to recommend to government to reserve 1500 acres of the Waimarino Block to Te Kere - and his family and followers - after investigation of the 1886 NLC case which showed that natives had been left out of the Waimarino Block because Te Kere refused to participate in the NLC process by submitting names or making an appearance.

1904 **The Maori Land Claims Adjustment Act and Land Laws Amendment Act .**
Section 8 of this Act provided for the Tawata block to be reserved for such natives as 'have been for several years past residing thereon, and are more or less landless.'

1906 Native Department recreated.

1907 **Stout-Ngata Commission**
The settlers arguments regarding leases in the

Waimarino were that if the Maoris did not lease the land the government would muru or take the land compulsorily.

(AJHR 1907 Vol. III, G-1A, p. 5)

The Native Land Act

The Native Land Laws Amendment Act

1908 The Native owners of Waimarino E (4,000 acres) wish to sell the timber and lease the land. All the owners live in Taupo.

(MA Letter from J. E. Grace to Stout)

The Native Rights Act re-enacted.

The North Island Main Trunk Railway completed.

1909 **The Native Land Act**

Section 84 specifically stated that Maori customary title was not to prevail against the Crown.

(Von Haast, H. F. (Ed), 'The effect of the Treaty of Waitangi on subsequent legislation' in The New Zealand Law Journal, Vol. X, 1934)

1911-1916 The Crown acquired further portions within the Waimarino Block under -

The Public Works Act 1908

Wanganui River Trust Act 1891

1920 Families of Tawata and Tieke - in the Waimarino - petitioning families with no means of attention.

1922 22 November - Waimarino 4A5 passed from Native owners to private purchaser, Edmund Crowe.

The result of Te Kere's petition re his exclusion from settlement of the Waimarino was an award of 1492 acres to his family and followers under The Maori Land Claims Adjustment Act and The Land Laws Amendment Act 1904, S 8.

(Tokaanu Minute Book 15:379)

1924 Of Waimarino Block set apart as Permanent Forest.

(NZ Gazette)

1934 ibid

1941 ibid

1953 Adding Waimarino lands to the Tongariro National Park.

(NZ Gazette)

1982 Certain portions that fell within the region of the Waimarino Block and coincided with the proposed area for a Whanganui National Park were exchanged from private ownership to the Crown.

(Crown Land Acquisitions (DOSLI: 1983))

1984 Adding Waimarino lands to the Tongariro National Park.

(NZ Gazette)

1985 Classification of Waimarino lands as Reserve.

(NZ Gazette)

1986 The establishment of the Whanganui River National Park - 60% of which includes the Waimarino Block.

INTRODUCTION

I

The hinterland of the Rohe Potae, which included the Waimarino Block, was alienated by Crown purchase forty-seven years after the Treaty of Waitangi. The relationship between the occupants and the government reflected the pattern of settlement which ignored the Treaty of Waitangi.

Throughout the country, the principles of partnership and tino rangatiratanga had been negated since the signing of the document - by legislation, the land wars, the expansion of settlement and a modern industrial economy which did not have to account for them - apart from diplomatic hui to deal with local obstruction.1 The rights and privileges of British citizenship were of theoretic benefit only. Inadequate communication and the interface of different world views exacerbated the collision between the land use of a tribal society, and the incoming individualisation of the new regime. The insoluble issue was, and remains, the matter of ownership where the local view of it was 'primitive

1 In June 1886, Te Heu Heu, Hipango, Metekingi and Takarangi met with the government to devise a collaborative arrangement to facilitate the alienation of land, and to preserve their own status of Maori leadership in the process. TO BE SOURCED.

communualism' contradicting and representing the greatest obstacle to the rapid development of any capitalist economy characteristic of British Imperialism at the time. This raises the question of what constitutes a property relationship.2 That was not, and has never been, resolved by an imposed British citizenship where the indigenous society continues to struggle for the recognition of its concept of a property relationship as opposed to that of the government.

The development of this new economy was contingent on the establishment of the North Island Main Trunk Railway. Survey investigations for its construction began some six years before the Native Land Court orders for the purchase of the Waimarino Block in 1886-87.3

Throughout the process tribal leaders were set against one another as they sought the best response to the government's intention to use and alienate the land. They disagreed about allowing the survey; the 'ownership' of the block; and, whether or not the development of a railway would be

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2 'At first sight it may appear like a simple relationship between individual people and the things they are said to own. This first impression, however, is an illusion. A property relationship is not simply between a person and the thing he is said to own, but a relationship between that person and the rest of society. To say that an individual "owns" something and is "entitled" to do as he wills with it merely means that according to the rules of his society he has certain rights to control and enjoy part of the wealth produced in that society. The mere relationship of a person to an object - such as having it in his possession and using it - gives him no rights unless they are specifically recognised by society. This can be illustrated by the case of the possession of an object that has been obtained by what the rules of society define as fraud or theft. Property relations, then, are complex relations between people in society, not simple relations between people and the things they are said to own.'Waddington, K., *Outlines of Marxist Philosophy*, p. 74, (London: Lawrence & Wishart: 1974)

3 Browne, C. R., *Maori Witchery*, discusses the killing of Moffatt within the same year of his own survey trip, setting it at 1880. (London: Dent: 1929)

beneficial to them.

From 1900, when the Crown began subdividing the block to admit timber merchants, the inhabitants were confined to reserves in places like Tawata, Paranui (Tieke) and Manganui a Te Ao; and, in the northern most portion, away from traditional occupation and food gathering places.4 Removed from their turangawaewae, they were forced into finding new sources of subsistence supplemented by waged work, when and if employment was available.5 This pattern of economic exclusion has not changed throughout the one hundred years since the purchase of the Waimarino.

II

After the land wars, an aukati continued to operate in the Rohe Potae with the limited action of obstructing survey. It persisted in this way until 1883 when Ngati Maniapoto abandoned Tawhiao to have independent negotiations with the Native Minister for the protection of their King Country lands.6 This agreement was recorded in a memorial of the

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4 Patrick O'Sullivan - "They more or less gave up and hit the booze in what became impoverished and demoralised concentration camps."

5 "...while (Maori were) disrupted through the land-purchase system, little encouragement was being given to ... participation in a wide spectrum of ... vocations. Opportunities for skilled employment had not improved over a generation. Despite pleas from Resident Magistrates to apprentice promising Maori boys in boat-building, carpentry or saddlery, only one was having his fees paid in 1889. Maori cadets were not welcome in white-collar occupations, even in the Public Service. The newly-organised labour unions, whose votes the Liberals needed, checked the government from giving the privileges to Maori labour on road and railway contracts that McLean had given. *PD*, 1886, vol. LIV, pp. 354, quoted in Ward, A., A Show of Justice, p. 305, (Auckland: OUP: 1978)

6 Whereas the Rohe Potae Agreement was pertaining to funds for survey, the Aotea Agreement of 1883 was pertaining to the setting of boundaries of blocks to be made available for survey.

chiefs, Tawhiao, Wiremu Te Wheoro, Patara Te Tuhi, Topia Turoa, Hori Ropihana.7 It allowed the railway line to enter the Rohe Potae, and the lands were put before the Native Land Court preparatory to government purchase.8

> 'The Court decided in the Rohe Potae case in 1888 that the King and his Waikato tribe had no claim to land in the King Country since they had taken up occupation after 1840, the cut-off date which the Court applied for establishing title.'9

Tribal control was maintained in the area against freehold purchase, as distinct from Crown purchase, until 1890.10 This was successful to the extent that the colonial government was economically weak after the war expenditure. Therefore penetration of this hinterland was stalled until the Vogel loans of the 1870's allowed the purchase of land to resume.11

Surveyors experienced local obstruction throughout the 1880's. Thereafter their movement into the area, preparatory to the laying of the railway, indicated the inevitability of

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7 Parsonson, A., 'The Pursuit of Mana', in Oliver, W. H. (Ed.) The Oxford History of New Zealand, p. 156-166, (Wellington: OUP: 1981)

8 Oral information - Kevin Amohia: "Revi Maniapoto was disillusioned with the Waikato alliance, but never realised the extent to which the regio would be vulnerable to alienation as a consequence of the 1883 agreement.

9 Sorrenson, M. P. K., 'Maori and Pakeha', in Oliver, W. H. (Ed.) The Oxford History of New Zealand, p. 187.

10 MA Series 13/78 - Crown purchased 2 shares in the Manganika Block, '...came at night for fear of detection ... land selling ... chose to bank cheque at Te Awamutu rather than cash it at the store ...' Letter, Levis to Wilkinson in Otorahanga.

11 Sorrenson, M. P. K., 'Maori and Pakeha', in Oliver, W. H., Op. cit., p. 186.

settlement to the local occupants.

III

The contemporary history of the Waimarino was one of resistance according to the tenets of the Hau hau and Kingite movements. This as much as the impenetrable terrain made it a hinterland, outside the control of the central government.

The enmity between Turoa, of the Waimarino Plains, and Ngatai, of Tuhua, was a more immediate concern in a tribal region under tribal control.12 The intrusion of surveyors and land purchasing agents heightened existing local tensions and was perceived variously as either an omen of land loss or opportunity for economic development.

Moffatt, a gold prospecting Pakeha-Maori, who lived within the area, made the mistake of serving the interests of the locals and the government at once.13 Therefore he spent some months in gaol; and, when he returned to Tuhua he was killed.14

Rochfort entered the area to conduct a survey for the railway in 1883, but:

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12 Te Kere was a nephew of Ngavai.

13 He taught Maori how to manufacture gun powder, and forged their signatures on sale documents. He was imprisoned for three months before he returned to Tuhua.

14 Browne, C. R., Maori Witchery, pp. 8-9, (London: Dent: 1929)

'... he did not accomplish this without serious opposition from the Maoris. He first met them at Turangarere some sixty miles north of Marton and they were unwilling to let him pass until a general meeting took place. He described the opposition as feeble and went on. However, at Karioi, some twenty miles further north he was told quite firmly that he would be shot if he continued.'15

Subsequently he met with a group of locals at Ranana and succeeded in persuading a group of leaders against 'obstructionism'.16

Rochfort's story is reflected in a published account under the name of C. R. Browne, in 1929. As Browne does not appear in the documents as a surveyor in the area at the time, I deduce that this publication is the work of Rochfort.

In 1880, Browne17 made a flying survey of about 100 miles of proposed railway before he reached the Manganui a Te Ao River, which runs through the Waimarino Plains. He came upon the village, Ruakaka, of the Patutokotoko tribe and encountered a:

'...fierce looking crowd filled with hatred and astonishment. They hated us because we were white men and therefore had no right in New Zealand, and they were astonished at our daring to enter their territory, especially with the intention of putting a railway through it.'18

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15 Fletcher, R. S., Single Track: The Construction of the Main Trunk Railway, p. 115, (Auckland: Collins: 1978)

16 MA file to be sourced. However a copy of Rochfort's report of a meeting at Ranana in 1883 is enclosed at the back of this report.

17 This account is in fact of Rochfort. No one by the name C. F. Browne surveyed in the area at the time. The charming account in this 1929 publication fits Rochfort like a glove.

18 Browne, C. R., op. cit., p. 51.

He was captured by Tuatini and eventually escorted back to Wanganui, but not before he had told the locals that:

> '...if they killed me, another man would take my place, as the New Zealand Government was determined to complete its work.'19

However, Pehi Turoa was not so inclined to resist the railway and took a more moderate view of the intrusion:

> '...we are only like a little dog barking at a big one which can swallow us without difficulty. That is all I have to say, O men of Manganui a Te Ao.'

To which Tuatini responded:

> 'The little dog can seize the big dog by the throat and bite deep until he dies ... Anyhow, it is better to die fighting than be swallowed alive.'20

The pattern of different responses those tupuna made - to resist or collaborate - has persisted.21 In tribal hui and communications with the state they are still expressed.22 The effect today is the same as in the past - the persistent alienation of land. If that were not the case, Browne's anecdotal account of his surveying in the district would be merely a nostalgic curio.

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19 Ibid, p. 51.

20 Ibid, p. 72.

21 The factor of miscegenation has also to be accounted for. McDonnell, Grace and Fredrick Cribb, for example joined the ranks of our tupuna - they were all implicated in alienation.

22 I witnessed a repetition of this pattern at the Morikaunui Incorporation AGM, 1986; and when the locals failed to argue against the conversion of 80,000 hectares to the Whanganui National Park, in a meeting with the Minister of Lands (Wetere at the time) at Taumarunui.

IV

The variability of a resistant stance, according to the vagaries of feudal-tribal politics saw the phenomenon of state co-opted into efforts at autonomy as both a passive and an active component: passive in that it was a means of gaining material benefits, political power and mana; and, active, in that it represented an independent force which had to be contained by some defensive strategy.23

Irrespective of the local dynamic and its inability to withstand land alienation and settlement, the government was dependent on collaboration to conduct cases in the Native Land Court; to guide surveyors; and, to assist purchasing agents. If immediate advantages were seen in such arrangements the longer view was still relevant where:

> 'It was not found easy to make even a savage comprehend that it was for his advantage that he should be deprived of nine tenths of his property.'24

The purchase of the Waimarino did not occur without a difficulty that is still rumoured to have involved murder, poisoning, bribery and double dealing that left an alienated people depopulated and demoralised in the land they had

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23 Bishop, C., 'Collaboration in Wanganui 1840-1880: A Strategy of Autonomy', p. 47. Unpublished research essay. (Wellington: VUW: 1988)

24 Taylor, R., 'Te Ika a Maui', p. 10, in Willis (Ed.) Interesting Chapters from the Early History of Wanganui, 1847, and Wanganui in 1856 (Wanganui: 1887, 1902)

occupied since Te Korekore. Some believe that the historical evidence of this is too terrible to investigate.25

The entire population of the village, Kirikiriroa, mysteriously disappeared by about 1920, yet a short time earlier it was known to be bustling with life.26 Oral information refers to the delivery of poisoned flour, the use of noxious gases and indeed makutu as weapons against those who resisted the purchase.27 However, while the oral tradition of local genocide persists, documented evidence has still to be produced to prove that it happened.28

Taylor, records the existence of noxious gases in the Wanganui region. 29 Yet other possibilities may be taken into account, like seasonal food gathering, and the fact that:

> '...hundreds of us were killed at the different fights, at Moutoa and other places...'30

Wilson, a doctor in Taranaki, makes reference to a startling decline in the population of the Aotea district - from 25,000

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25 Therefore, some believe that to research the Waimarino Block i to invite evil consequences.

26 Oral information from Ohakune, October, 1989.

27 Some informants have documented evidence of this, but decline to reveal it.

28 An outbreak of typhoid at Wainamaku sav the deliberte withholding of medical attendance with devastating results. (oral information).

29 Poole, TO BE SOURCED.

30 AJHR, 1885 G-1, p. 9: Kaeoroto speaking to Ballance at Pipiriki, 9 January 1885.

to 3,000 in the space of two years, from 1872-1874.31

Richard Taylor's census in 1843 puts the average population of a village at 100. The Native Land Court Minute Books of 1886-87 record the attendance of representatives from about 20 villages to lay claims to the Waimarino Block.32 An estimate of the population in the area at the time of purchase would be 3,000.33 If that is correct then only a third of the potential 'ownership' of the block was registered in the court, 16 March 1886.

Whatever the dealings of the time might have been, the fact remains that there was division in the local tribal body politic that compounded susceptibility to the seductive and coercive ways of the land-purchasing system.34

V

Local support for the purchase meant that resistance was fragmented - and that issues of ownership and payment gave rise to a series of petitions that have continued to the

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31 British Parliamentary Papers, TO BE SOURCED, indicated by Joe Allen of Taumarunui, who has made a specialty of researching the population of Aotea and the King Country.

32 The Wanganui Minute Books acknowledge 30 hapu in the settlement of reserves.

33 Quoted in, Young, D. C., Supplementary Evidence Before the Planning Tribunal, 1990, p. 2.

34 Large payments were made to those who facilitated the purchase - the largest being to John Stevens - nearly £2000 - the subject of debate in the H of R's - SOURCE IT.

present day. They document a history of protest that has not prevented alienation in a system that is intent on expropriation in spite of the Treaty of Waitangi. Certainly a few families have survived the individualisation of state socialisation.35 But, that has more to do with the consequence of their continuous collaboration with the Crown than a peculiar level of skill and adaptation.36

For example, the Rohe Potae agreement had less to do with capitulation than it had to do with the competition of tribal factions for control in their respective rohe. Like the Treaty of Waitangi, it is significant for the pragmatism of signatories pursuing their own interests in power with the benefits it could provide;37 and recognising the solidarity of the force of colonialism as being greater than their own. Accordingly, ad hoc tribal alliances and collaborative arrangements with the government were struck. While such arrangements existed between certain government officials and chiefs, they were variously resisted and upheld according to the fluctuations in power and disillusionment of those who dealt directly with the government of the day.38

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35 Here I refer to the protagonists of Maori leadership at the time, viz., Metekingi, Hipango, Te Heu Heu, Turoa, and their descendants.

36 Hipango was educated at Eton - SOURCE.

37 The leaders agreed to the survey of external boundaries with the conditions that only a chain on either side of the railway line and minimal acreage for related buildings be taken; that local labour would be employed; that fences would be constructed on the edge of the railway line area to protect cattle from the train. MA Series 13/43

38 Pehi Turoa, for example, fought with the Hau Hau in the Battle of Moutoa, yet supported the development of the railway and the sale of the Waimarino Block twenty years later.

A series of hui were held between government agents and officers and local leaders of the Wanganui River region.39 They articulated the basis for collaboration, viz., the affirmation of local leadership in the national power structure; and, therefore, inclusion in the new economy. The two most significant of these were in 1883, 20 September, with Rochfort,40 and in 1885, 7 January, with Ballance.41The latter assented the purchase of the Waimarino by approving the individualising of land titles, the establishment of the North Island Main Trunk Railway, the building of a road from Manganui a Te Ao to Murimotu and the establishment of a steam boat service on the Wanganui River to Pipiriki.

The collaborators Keepa Te Rangihiwinui and Metekingi, and at different times Pehi Turoa and Winiata sought to treat with the government as a bid to maintain a hold on the tribal occupation of the land where:

> '...even the menace of white domination could not produce unity in the ranks of the Maoris(sic).'42

Although these and others, like Rangihuatau of Ngati Tamakana, facilitated the purchase of the block their participation in

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39 AJHR 1885, G-1, p. 11.

40 At this meeting a list of 'obstructionists' was drawn up to identify the support for survey and railway development. National Archives MA

41 AJHR 1886, G-1, p.11.

42 Harrop, A. J., England and the Maori Wars, p. 15 (London: 1937)

the process bore no significant advantage.43 After all, Keepa, for example, supported the Kotahitanga and its links to the Repudiation Movement in the 1890's.44 He may have been once the collaborating war lord who fought alongside Lt Col. Thomas McDonnell but by 1878 he opposed the government outside the Native Land Court at Foxton.45

> 'When I found that Mair was surveying all the country without my consent, I did say that I would shoot him because I found I was being deceived, and that my land was being taken for Moorehouse & Company.'46

In 1880 he set up the Wanganui River Trust Board, whose aukati boundaries were marked by four carved poles.47 But by 1884 the government had undermined it by bribing individual Maori to allow surveyors into the region.48

VI

Until 1883, the Waimarino Block had been held in an autonomy that was maintained by the Rohe Potae aukati; and the

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43 Rangihuatau conducted the Waimarino case through the Native Land Court.

44 Orange, C., The Treaty of Waitangi, pp. 190-191. (Wellington: Allen & Unwin: 1987)

45 AJHR 1881, G-4, Woon's Report to the Native Department, pp. 13-17.

46 Mair was conducting surveys there for Studholme and Moorehouse. See Bryce v. Rusden, March 1886, p. 570, quoted in Bishop, C., op. cit., p. 18.

47 Smart, M. J. G. and Bates, A. P., The Whanganui Story, p. 221, (Wanganui Newspapers: 1972)

48 Wanganui Chronicle, 18 February 1884, 'Report of Coal at Tangarakau'.

collaborative arrangements of Keepa and Te Heu Heu.49 Clearly, by the time of purchase, the rim of protection had broken down. Thereby:

> 'In the whole history of the colony there has never been any purchase so extensive in any district, or one completed with such expedition.'50

In acquiring the Waimarino Block the Crown ignored all opposition, whether it was voiced locally, in the Native Land Court or in subsequent petitions. In the process it created, manipulated and exploited disunity by the very determination of its purpose to take the largest piece in one stroke in the 'whole history of the colony'.

A feudal-tribal society was no match for the complex national organisation colonial settlement brought to New Zealand. Given the historical evidence of laws to ratify the consequences of that, the Treaty of Waitangi was a notably absent consideration throughout the country in general and the Waimarino in particular.

Force and the law of the administration were on the side of the Crown to such a degree that the process of purchase was permitted to manifest an inconsistency between 'accepted

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49 Here the rim of resistance was broken by the establishment of the Tongariro National Park, which eventually included part of the Waimarino Block from the skirts to the peak of the mountain. See The Tongariro National Park Act, 1894 and Order in Council, October 1907 in NZ Gazette, No. 7, p. 815.

50 AJHR 1907, Vol. 3., G-1a, 'The Stout-Ngata Interim Report on Native Lands in the Whanganui District,' p. 5.

practices'51and the literal expectation of law. This perceived inconsistency is the basis of claims presently awaiting the consideration of the Waitangi Tribunal. So it is that the descendants of an economically weakened and politically vulnerable occupation intend to bring a case that the purchase of the block was invalid; and, that the power relationship with the state be adjusted to redress the economic and social consequences of the purchase in 1991.

The current rhetoric of miscarried justice and the moral failure of an agreement signed in 1840 does not acknowledge the singular reason of power whose military, economic and legislative force has carved present day conditions.

In the Waimarino, as elsewhere in the country, the indigenous view of autonomy has never been realised since alienation. Nor is it likely to be without radical change to an economic system that strives to expropriate without any profitable reason to consider the expropriated.

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51 Peter Wylie of DOSLI tells me that a signed sketch map and a Land Court minute suffice in the absence of a completed survey and a certificate of title. The survey was not completed until about thirty years later; and a certificate of title was never issued despite a court order for its production. Oral information, September 1990.

'MEETINGS WITH THE NATIVES'

- against obstruction.

'... ka tona e ia te iho o Tangariro ki te wai.'52

I

After the land wars diplomacy in the form of 'meetings with the natives' sought to offset the prospect of 'engagements' and 'ambuscades', and to achieve a viable collaboration, before the inevitable spread of settlement. The Waimarino was no exception to this pattern; in fact, given its location on the proposed course of the North Island Main Trunk Railway line, it was a typical example of the way both government and tribal leaders responded when faced with an issue that was to have a crucial effect on the economy in which they were both to participate. However, obstruction within the block was largely eroded by the arrangements made in the Rohe Potae before the purchase of the Waimarino in 1886.

In 1883 the Aotea Agreement made certain blocks in the Rohe Potae available for survey and set the cost of survey at

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52 Tawhiao quoted in a letter from Hoani Paiaka of Kawhaiki. That Tawhiao 'will bury the peak of Tongariro in the waters', meaning that he reserves unto himself the right to open the lands to the European for the purpose of roads and railways. (From R. A. Ward, R. M., Wanganui to T. W. Lewis, Under Secretary of the Native Department, 1 September 1883) MA Series 13/43.

£1600.53 In 1891 Wahanui wrote to the Native Minister offering 10,000 acres for sale at 3/6 an acre. By that time he had already cut off portions of the Taorua and Waiaraia Blocks, and the Kopua Block was surveyed and subdivided.54

Preparatory to purchase there were six 'meetings with natives' from 1878 to June of 1886. At the same time similar hui were being held with Waikato, Ngati Maniapoto, and Ngati Raukawa around the Waimarino. These hui were held to deal with the 'obstructionists',55 settle the amount of land required adjacent to the railway line and the opportunities for local labour on its construction;56 and to ensure that the disposal of land was confined to the processes of the Native Land Court for alienation by the Crown instead of prospecting settlers in the first instance.57 Without the competition of private prospectors the price of land could be held low, enabling the government to meet survey costs within a certain limit, and acquire the necessary area.

Without the influence of Keepa Te Rangihiwinui, Wahanui, Rewi Maniapoto, and Utiku Potaka, the local inhabitants would not have been so easily presented as supportive of the railway

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53 Parsonson, op. cit.

54 MA Series 13/78

55 Obstruction to survey was still occurring in the 1890's.

56 MA Series 13/43

57 A certain Captain Arthur attempted to negotiate with Ngati Maniapoto in towards Taumarunui in his own interests. MA Series 13/78.

line. This was done most significantly at Te Kopua on 7 January 1885 and at Kihi Kihi on 16 February 1885 under the leadership of Wahanui.58 At the latter, neither Whanganui nor Tuwharetoa were represented.59 Paiaka Te Pikikotuhu and Paori Kuramate of Whanganui thereafter objected to Wahanui's arrangement of their lands for disposal after the meeting at Ranana with Ballance on 8 January 1885 60:

> '...that the lands through which the central line of railway was to run were to be sold commencing at Kihi Kihi, thence on to Te Rerenga o Toa Kohunu with the boundaries of Whanganui...'61

Whereas the Kingite factor took an objectionable account of Whanganui, Keepa Te Rangihiwinui raised the same response from Utiku Potaka:

> '... Meiha Keepa and his council can control their own land not mine ...'62

- concerning land over which the railway was to run in Taraketi, Rangitikei, Ohingaiti, Otairi Te Whakaue, Hautapu and on to Patea. Yet after a meeting at Te Waotu, Utiku Potaka and 58 others wrote of the support of Ngati Raukawa for the railway in preparation for the Kihi Kihi meeting.63

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58 MA Series 13/43

59 '... of those who were interested to sell...' - Te Rangituatea to Ballance, 28 February 1885, ibid.

60 AJHR, Vol. II, G-1, pp 1-10.

61 Op. cit., 7 March 1885.

62 Ibid, Utiku Potaka to Ballance, 19 January 1885.

63 Ibid, Utiku Potaka to Ballance, 13 February 1885.

II RANANA - 20 September 1883

Between Whanganui and Rochfort, surveyor. Keepa Te Rangihiwinui opened it thus:

> 'The reason of calling this meeting is for further explanation of this Railway Survey through your lands, you (the Patutokotoko) said your reason for obstructing was that the surveyor went through the back of the house and not through the front; my house has only one door which is at the front, that is the way Mr Rochfort went out with my letters which I addressed to several of you not to obstruct him ...'64

Rochfort reported that meeting thus:

> '... the meeting at Ranana on the 20th inst. passed off well, about 150 being present, five from Papatupu (Manganui a te Ao); neither Taumata nor Ngatai were present, but four came from Tieke. Major Kemp spoke well and many others. An awkward question was then asked by Te Pehi: had I brought back the letters I was to bring from Te Wahanui and Tawhiao; it was replied to by Kemp, that you had come up with me instead, and told him that, in the north, Wahanui and all the great chiefs were promoting the Railway. After that Te Aurere got up and spoke on the part of the Patutokotoko, and said it was enough, light had come to them now, but he could only answer for those present with him. After much further talk, during which Kemp related a dream he had just had that he saw the Wanganui River all lined with tall trees, presently the trees all fell down and left a clear straight line, and then he knew that the Railway would be made and through his influence, because the tall trees were the obstructionists, and they all in his dream fell down before him ... It was finally settled that a number of influential chiefs should accompany me as far as Waimarino to ensure my getting through; another meeting will be held at Papatupu as we go up, to discuss the question with the Patutokotoko who were not present. It is said four canoes will go up with me and a great number of Natives, perhaps forty; amongst them are Paoro Patapu, Winiata Te Kakai, Ekeho Te Nau, Tauta, Ihaka and his wife Wikitoria;

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64 Archivaldocument supplied by Tui Noupapa- minutes of the meeting enclosed in a report by John Rochfort to the Native Minister from Ranana 22 September 1883.

> the latter seems to possess gret influence, being the daughter of the late Te Karu Kainga of Okiriau - a man of great note - It is not yet decided about the rest, but Walker (Kemp's secretary and interpreter) will be sent with me ... On my arrival at Waimarino, where I expect another meeting will take place, I purpose visiting Topia and delivering your letter to secure his influence; it will probably be two or three weeks before I reach there. The Patutokotoko say that Te Karu has gone to confer with the natives at Waimarino; I regret he did not attend the meeting here as we have his mother Wikitoria with us, and she is a strong ally ... Major Kemp said at the meeting that he should go on soon after us, and follow the Wanganui River up to Taumarunui, and discuss the Railway question with Taumata and Ngatai, and seems confident of success; he says if Taumata will not consent he will stop at his place till he does or else consume all his provisions and starve him into compliance. Paoro Kurimate, Kemp's cousin and Chairman of the Council, tells me they propose trying to get Takerau (Moffatt's murderer) out, by holding out to him an inducement of pardon on the ground that he is the real obstruction and would be entitled to reward if he came out willingly ... A large general meeting re the railway question is to be held at Topia's place on 20 March, of which doubtless you will receive notice: all the great chiefs are expected to be there ... You asked me on the journey up from Wellington if many natives had left the River Wanganui to join Te Whiti; I am now able to answer it better. A number have left from nearly all the kainga's up the river as far as Pipiriki, but very few above that point except from far up the Tanarakau, the remainder having other allegiance towards Topia and Wahanui and Tawhiao ...'65

In the minutes of this meeting, signed by Poari Kuramate, chairman of Kemp's Council, it is noted in the margin beside the names of certain speakers - 'Obstructionist'. On this occasion, except for Te Peehi Teopetina who did not speak, they capitulated to support the railway. The obstructionists were of the Patutokotoko from Manganui a Te Ao, whose whole people were not at the meeting.

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65 ibid.

To effectively obstruct the railway would have meant more war, from which the local people were tired and too depleted in numbers to engage in again. They knew from bitter experience the consequence of defeat. Keepa stated his reasons for fighting on the side of the European during the 1860's:

> '...it was through my uncle that I went to war against the natives, because he said he would protect the Europeans of Whanganui ... I am not going to bring the Whanganui natives to war anymore, but to try by better means to get good out of your lands ...'66

The rhetoric of promise was spoken by several present; most succinctly by Poari Kuramate:

> '... do not consider that you lose anything by allowing (the railway) to go through ... we become rich instead; the blind, the lame, the orphan and the widow will reap benefit; this is the milk and the honey that is flowing on the land, that will be sufficient for both races; by this Europeans become rich, by vessels on the sea and by railways on the land to convey goods from town to town. So I say to you, take this, and put it on our land. Do not listen to the chiefs who would mislead you. Waikato, Taranaki and other places in the colony have been confiscated through false misrepresentations by the chiefs, and they will never get those lands back again. You have heard the Waikato and Wahanui have petitioned Parliament this year, therefore I say to you - Do not turn away, but assist to carry this railway through to Te Awamutu. The chiefs of Ngatimaniapoto have agreed for it to go through their lands; I do not think you are able to stop it ...'67

At that time Ranana was the threshold to the upper Whanganui river region that included the Waimarino block - the dominion of aukati once held by erstwhile Hau Hau and Kingite allies.

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66 ibid.

67 ibid.

From the bottom of the river up to Ranana was the rohe of kupapa.68 The division of political allegiance - to resist or collaborate had already been demonstrated in the battle at Moutoa in 1865.

> '... It was I that saved the Whanganui's from going to war with the Europeans, and had I been at Ranana, the battle of Moutoa would not have occurred ...'69

The consequences of that engagement, and the vacillating alliances during the decade of land wars, were a depopulated and demoralised people in the region of Waimarino.

Three months after this meeting Rochfort met Ngatai and others in Taumarunui. Among them was the man who had killed Moffatt. Further along he met eighteen Maniapoto who told him he needed a permit from Wahanui to pass through.70 However during the same period Topia Turoa allowed him to proceed with his work.71

Rochfort as the surveyor for the central portion of the North Island Main Trunk railway line moved between the local people and his government work on a daily basis. He urged the Native Department to meet with the Natives and keep them informed of the developments of construction. He afterall had to communicate directly to them himself and maintain a sense of

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68 Oral information from Wiremu Te Rangiheuea Wright a descendant of Matene Rangitauira.

69 Ibid, Kemp speaking.

70 MA Series 13/43.

71 Ibid.

obligation:

> 'To the people of Rangitaua, to te Pira Rahui and all his friends - this is a notification of mine to let you know that it has been agreed that the railway is to go by Ohakune, From me, Te Rotipane.'72

III RANANA - 7 January 1885

Between Ballance, Native Minister, and the Whanganui. The meeting had been sponsored by the work of Keepa Te Rangihiwinui and Pehi Turoa - onetime Hau Hau. It made reference to the benefits of 'progress' - the individualisation of land title, the benefits of a railway line to the region, to the failure and the residual promise of the Treaty of Waitangi in spite of recent contemporary history.

In his opening address Keep welcomed Ballance as a descendant of those who last came in battle so far up the river:

> 'Your predecessors came to us in the darkness of the night, in the days that have gone by.'73

By contrast he acknowledged the peaceful circumstances of this visit, optimistic that the outcom would be beneficial for the local inhabitants:

> 'You have come in peace, your garments shining as the snow on the mountain - a symbol that the white hawk of the sky and the beast of the earth will dwell together in harmony. We, your servants, are pleased that you have come, borne upon the waves, in order that the halt, the lame, and the blind may see

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72 On 11 November 1884, MA Series 13/43

73 AJHR 1886, p.3.

you.'74

As to the issues raised at the meeting - the introduction of steamboats, roads and railway line, the structure of Maori committees and the individualisation of land title - they did not receive unanimous support from the natives:

> 'Despite the pleasant tone of Ballance's meeting with Maori at Ranana in 1885 not all Maori welcomed the riverboats ...'75

Keepa went on to acknowledge the government and the monarch whom Ballance represented:

> 'We welcome you also, Mr Ballance, as one of the Ministers administering the Government of Her Majesty the Queen of Great Britain and Ireland under whose shelter we live...'76

He then states the position adopted by native chiefs in 1840. The manner in which this is mentioned, forty-five years later, indicates a maintenance of the belief that the agreement of the Treaty of Waitangi may still be fulfilled:

> 'Submission was made by the chiefs and all the hapus who assembled at Waitangi on 6 October, 1840, as well as by all the other chiefs of New Zealand, and by which submission we are still bound.'77

Once inside the runanga house Keepa acknowledged Ballance as the first Minister of the Crown to accept an invitation to come up the river. In preparation for the occasion the local people had a written submission on eight issues. Keepa set

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74 ibid.

75 David Young - evidence before the Planning Council in 1990.

76 Op. cit. p. 3.

77 ibid.

the tone for discussion:

> 'I have always taught the people of Wanganui to aim at the ends sought by rich Europeans, but now I have changed my opinions, and I think it is best that the people should only act in accordance with the law. I think that all the lands should be subdivided and the title of each person ascertained; not that I wish to prevent sales or leases of land, but I think that if it is intended to sell the land it should be cut into small blocks and sold to private individuals, because it is population that will bring prosperity to this island.'

His view was that the sale by previous governments of large blocks of land, some ten or twenty thousand acres each depletes the benefit from their area towards absentee landlords, without any advantage to the local people who are left landless. This had been the pattern when dealing with companies and compared to them transactions through the government were preferable, as guardians of all!.78 He continued:

> '... (the practice of the previous Native Minister) ... has been for him to confine his attention to the towns, and if the natives wished to see him they had to go to him; and he was always too much engaged to give his attention to the Maoris, so we invited you to come here to see us.'79

Paori Kurimate, put the take of the hui to Ballance:

> '1. there is the exterior boundary of the property of the Wanganui people; they are the boundaries of our ancestors, and have descended to us, and our desire is that the Parliament will confirm to us the land within these boundaries. You, however, will be aware of these boundries, because they were made known to you by the committee in 1880 ...
>
> '2. that we wish the Native Committee to be confined to the Wanganui District only.

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78 No doubt Keepa Te Rangihivinui's experience with Studholme and Moorehouse in the Murimotu block informed this opinion.

79 Ibid.

'3. we have agreed to allow a steamer to be put on the Wanganui River; this will be dealt with by the committees ...

'4. the committees will also deal with surveys of land belonging to the people ...

'5. the sales by the people of their lands will also be dealt with by the committees ...

'6. the leases intended to be executed by the people are to be dealt with by the committees ...

'7. the committees are also to deal with the question of the railway where it goes through land held under Maori title ...

'8. the committees are to deal with the question of surveys within the boundaries of their tribes ...

'... the earnest request of the people is that these matters that have been brought before you today should be sanctioned by Parliament. (A schedule of boundaries was then read over.)80

Ballance's first response was:

'...the question of supreme importance is how to get the land disposed of, that the greatest number of people may live by it and on it ... Now I should like to say, with regard to our own views upon the land question, that we desire that the people themselves should join with the Government in administering their lands for the welfare of both races ...'81

He declared that the judicial power of the government was endorsed to oversee and sanction the decisions of the Native Committees and went on to discuss the relationship between the Native Land Court and the committees.

'... as to the relations between the committee and the Native Land Court, I should like to make these as clear as possible. It may sometimes happen that the committee, in ascertaining the title to land, may themselves ... be interested in have the title ascertained in a given direction. It is right, therefore, that there should be appeal to a body

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80 Ibid.

81 Ibid.

> above suspicion, who will have no interest in the question of title. Therefore ... after the committee has ascertained the title, there should always be an appeal to the Land Court; and then it will be necessary, of course, that the court should give legal sanction to the decisions of the committee. You ought therefore to recognise that the Land Court still remains to decide ultimately the question of title amongst you ...'82

He mentioned the proposal of land boards to sit above the committees of land owners especially to oversee the disposal of land for railway development. And speaking to the North Island Main Trunk Railway Line Bill to be introduced into the next session of Parliament:

> 'What the government have done is this: they have taken in all the land that is likely to be increased in value by the railways in the schedule to the Act. The whole of the King Country is taken in along the line of the Wanganui River, through lake Taupo and Rangitikei. The extent of land in the schedule to the Act is 4,500,00 acres. Now what has been done by the Bill is this: the Bill says that no private individual shall touch the land. The Bill does no more than that it saves the land to the owners. That land is absolutely the property of the Maoris and more so than it was before ...'83

The government proposed that regarding land selected for the railway that committees of owners be elected with a revolving tenure of 2 years only. And whereas a committee would be sufficient in smaller districts, in large districts Boards would be formed comprising a government appointed commissioner, a member elected by the committee and a member elected by the people. Thus two natives to one government agent. Where the vote was split in any decision the agent had the casting vote to decide the matter. This was an attempt at

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82 Ibid.

83 ibid.

making it seem as though owners had control over the disposal of their lands. It was an inducement alongwith the prospect of payment for sale of land and work contracts on the railway:

> 'I feel sure you will all feel greatly satisfied that it is the intention of the government to give you the opportunity of assisting to build this railway, which will lead, of course, to a large expenditure of money amongst you.'84

Driving the point home:

> 'He must be a very ignorant person who would object to a railway or a road being taken through his land ... I have heard there are two or three obstructionists - wild men - who are opposed to the passing of the railway through this country. ... no people can expect to succeed or prosper who break the law ...'85

Accordingly he referred to the constraints that were placed on Te Whiti whose resistance had given rise to the Peace Preservation Act which prevented natives from moving about in large bodies and gave government large powers. He balances this to restore the confidence of the hui:

> 'A law of repression, which prevents people from going about and pleasing themselves in their own way, is an act of tyranny if there is not the inclination on the part of the people themselves to break the law ... I think, of course, myself, that Te Whiti is very foolish in spending the money of the people in the way that he is doing; but that is his business, not mine.'86

Ballance then denigrated Tawhiao's petition to Lord Derby, the Colonial Secretary, regarding the Crown's breach, of the Treaty of Waitangi. As to the confiscation of lands for 'rebellion' he relegates the responsibility of that to the

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84 Ibid, Ballance, p. 4.

85 Ibid.

86 Ibid.

British government not the colonial one and that:

> '... the provisions of the Treaty of Waitangi are being kept by the government and the Parliament of the colony, for not a single acre of land can be taken from the people unless they wish to sell it themselves.'87

He goes on to affirm the sovereignty of Parliament as superior to Tawhiao's petition for the people to have a government of their own:

> '... there cannot be two powers and two authorities in the same country ...'88

Having Maori in the House of Representatives was an indication of good faith on the part of the government regarding the Treaty.

> 'It is not my business to refer to that part of Tawhiao's visit in which he was feasted and treated with great kindness by the people of England. There are some chiefs that would not like to be treated in that way, it destroys somewhat of their independence, but this is no affair of mine.'89

And to neutralise the part of the government in the land wars:

> '...the Government was not the cause of the fight at Moutoa ...'90

- as a bid to clear the political path for the peaceful construction of the railway, the clearing of the river for navigation, the construction of roads from Murimotu to Ranana and from Waimarino to Manganui a Te Ao.

At this hui Te Peehi and Winiata undertook to remove native

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87 Ibid.

88 Ibid.

89 Ibid.

90 Ibid. Keepa at a previous meeting, op. cit., and here, Ballance, imply that the people were engaged in a quarrel that was their concern alone.

resistance to the construction of the railway by meeting with the people in the Waimarino, whereupon Ballance said:

> 'I hope they will not lose any time, as our desire is to hasten the construction of the railway in every possible and conceivable way.'91

After this visit to Ranana, Ballance went further up river to Pipiriki. There he was told that:

> 'It is out of love for you that your friends have sent an invitation to you to come here, that you might benefit the poor and the indigent.'92

and,

> 'These two who have just spoken are the only remaining ones of my relations. All the rest were killed during the war; they were Hau Haus ... it was an assurance from Kemp that he would restore to us all our land that induced us to leave the Hau Haus and give in our submission to the Queen ... You see here all that remain of us; hundreds of us were killed at the different fights, at Moutoa and other places. Other tribes are coming and surveying our lands, and we ask you to defend us from them ...'93

To which Ballance replied:

> '... you are few in numbers; but for the war you might have been strong today. There is time yet to strengthen your position by living in friendship with the government. The government is strong enough to insure justice to all, and will take care in the matter of the Maoris to see that justice is done ...'94

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91 Ibid, p. 8.

92 Ibid, p. 9 Rangitauira speaking.

93 Ibid, Kaeroto speaking.

94 Ibid, p. 10.

IV

The 'meetings with the natives' had an important function for the alienation of the Waimarino Block.

Leaders who believed they had a mandate from from their tribes and sub tribes regarding local issues were inclined, by their exposure to the the power structure of government, to vacillate and collaborate.

It was the government's affirmation that endorsed this leadership. It is small wonder, then, that the meetings with the natives fulfilled the agenda by laying a smooth political path for the railway into the Waimarino,

The capitulation of such leaders the government sought and won - in spite of local politics. Transactions of land to the Crown had nothing to do with popular approval. It had everything to do with competing iwi, hapu and individuals to whom the concept of 'ownership' according to judicial documents and maps was a phenomenon that was barely sixty years old.

> 'The talk is now concluded ... If any person breaks his pledge (sells land) no matter who he is he will get into trouble (or will be punished) ...'95

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95 AJHR, 1882, G-8, p. 5, Wahanui at Hikurangi, in Hairs report to the Native Department, 28 May 1881.

'Kanuta Te Akamutua: I live at Paikaka. My hapu on this land is Ngati Pare. I have a claim on this land through my ancestor Puku; he does not descend from Tamakana. I will trace my genealogy from

Tuhurakia
Puku

Hingaia

Pango
Ngaoko
Kapu Te Henia
Te Akamutua
Kanuta Te Akamutua.'121

The minutes record the conflict that arose when members of a tribal society were required to identify themselves individually and take part in a registration process that recalled local history - length of occupation, migrations and conquests - and whakapapa. Whereas their collective occupation had always been a fact the documentary process of the court gave a new focus for the possibility of inclusion and exclusion of competing claimants that had nothing to do with the practices of contemporary occupation.122 Claimants were set against each other to justify their occupation and existence based on whakapapa in a way that diverted attention from the purpose of the court - to alienate the land.

'The natives went out of court to see if they could arrange matters.'123

'Many natives came forward and stated that for various reasons they were not ready with their list

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121 ibid, p. 281.

122 In the case of Ngati Kaponga where occupation had been established by conquest their exclusion from the list could been seen as a settlement of an old score.

123 Wanganui Minute Book, p. 257.

THE ILLUSION OF OWNERSHIP

Deductions made from the Minute Books of the Native Land Court.

Land occupation was determined by the way resources were exploited - by hunter-gathering and cultivation. It was carried out by a kinship based social organisation in a federal system of hapu. The economic relations arising out of this were perpetuated by kinship links, as the basis of a larger tribal organisation. These were a result of inherited practice rather than self-conscious construction. It involved seasonal mobility and, therefore, was not always confined to particular locations for particular hapu. Before alienation this pattern of occupation had existed for generations: 'Since the fires of Paerangi were lit!'96

The rat snaring forest at Opare, and the cultivations at Manganui a Te Ao, for example, were a resource for many hapu and not Ngati Kaponga and Patutokotoko alone. Pa tuna were maintained by individual hapu on river banks and were not always geographically continuous with their place of habitation. It was usual for the location of cultivations and natural resources to spread the social and economic activity of a hapu right across an area like the Waimarino Block - from the Wanganui River towards Mount Ruapehu.

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96 Matiu Mareikura - at Ohakune, October 1989.

It took the Native Land Court 16 days to register a list of owners and order the issue of a title for the Waimarino Block.

> 'In the whole history of the colony there has never been any purchase so extensive in any district, or one completed with such expedition.'97

It was the culmination of investigations towards Crown purchase that began with Rochfort in 1878. The court case was a formality the occupants of the Waimarino had no means to reverse. Claimants quoted descent, length of occupation and boundaries to justify their inclusion on the registered list of 'owners'. The court heard counterclaims for 'ownership', made some adjustments to accommodate them, or otherwise, and did nothing to reverse the Crown purchase in 1887. This was in spite of the statements claimants made when Butler applied for the Crown to subdivide Waimarino 1 on 30 March 1887.

> 'Butler: In stating the case for the Crown there were 1006 original names of which eighty five (85) were duplicates and 78 of those have sold to the Crown and 7 have not sold, the Crown has therefore acquired all the interest except 101. I have a list prepared of these persons arranged under their respective hapus ... I have opened a prima facie case for the Crown and I think the non-sellers should prove their claims ...

- thereafter on 31 March 1887

> 'Hori Pukehika: I wish to speak to the Court about our application, we the people who have suffered by the way this block has been treated with ... I now ask the court if it would not be better to adjourn this case, to allow us time to consider our case, as this block is not in the same position as other lands, give our present request your serious consideration, and be pleased to adjourn our case; I with others asked Judge O'Brien to reopen the case so that we who have been left out of the land might

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97 AJHR 1907, Vol III, G1-A, 'The Stout-Ngata Interim Report on Native Lands in the Whanganui District', p. 5.

be put in. He declined, saying that we must speak to the Chief Judge.

Chief Judge: So far as the persons who have been left out they made an application for rehearing on the ground of their being absent but as the claim had been duly gazetted, and notice no doubt sent to all, and after all the requirements of the law had been fulfilled the case was proceeded with and this court has no other action now in respect to that matter, but to accept the work of the court upon the original investigation.

Topia Turoa: I asked yesterday for an adjournment of this case. We had a talk and I then gave the boundaries of the lands to be given to the Crown for their purchase, but Mr Butler would not consent to take the portion I offered so that nothing was finished.

Memo: The court proceeded to call the non sellers and found that only No. 50 Tarihira Kereti, No. 91 Taituha Te Uhi and No. 100 Tarewa Heremaia were present (No. 76 Mata Ihaka sick at Putiki).

Tarihira Kereti: I am unable to point out my hapu boundaries on this block nor can I call any witness as all my people have returned home to this land.

Taituha Te Uhi: I can point out my claim upon this land.

Kiripine Atiria: My name does not appear among those who have not sold. I am an owner and have not sold

5 April 1887

The court proceeded to deliver the following judgement in the matter of the above block, viz., the Crown's claim for division.

'Mr W. J. Butler appeared on behalf of the applicant he stated that in the order of the court there were 1006 names of whom 101 had not sold to the Crown - one sold afterwards leaving 100 - by direction of the court he then read out the names of the non-sellers. The deeds of sale were produced and Mr Butler asked the court to award to the Crown the interests of the persons who had sold.

'Major Topia applied for an adjournment to enable the parties to come to an arrangement.

'On the court resuming it was informed that the

adjournment had been fruitless.

'The court then called the non-sellers of whom only three, i.e., Tarihira Kereti, Taituha Te Uhi and Tarewa Heremaia were present in court.

'Taituha Te Uhi brought evidence to show where his right lay but it was not of a satisfactory nature. Evidence was also called on behalf of Tarewa Heremaia.

'Tarihira called no evidence.

'The Crown Agent in reply called witnesses to prove where the interests of the various hapus to which the non-sellers and sellers belonged were situated.

'The witnesses, excepting Wiremu Kiriwehi were very reluctant in giving reliable evidence indeed it soon became apparent to the court that there was a wide spred conspiracy to defeat the application of the Crown in which the sellers both chiefs and people were implicated.

'As it appeared impossible to get reliable evidence in the face of the strong opposition manifested by Major Topia, himself a seller, a statutory declaration was made by Rangihuatau as to the various hapu boundaries which was produced to the court and received as evidence and admitted to witness.

'In remarking on the attitude assumed by the sellers who were present we may say that it has not been our bad fortune on any previous occasion to find a whole people and their chiefs take up so reprehensible a position as that assumed by the sellers of Waimarino. They appear to have bonded themselves together to give false evidence before the court in fact to use the words of the Maori proverb, they have gone back and swallowed their own spittle.

'The court has considered the question submitted to it and has come to the following conclusion, that the interests of the non-sellers amounts to 41,000 acres and that the residue 417,500 acres belongs to the Crown.

'The interests of the non-sellers as awarded by the court are as under (20 hapu and two individuals follow, see appendix ?)

'The court will proceed tomorrow to allocate the several awards now made and it will be the non-sellers own fault if they are located on the precipices and pinnacles.

The court adjourned

Crown's claim for division

The requirement, for boundaries to be marked on a sketch map, contradicted the fluctuation from mobile and static activity in a pattern of cooperative and overlapping occupation. Boundaries were not fixed according to individual ownership in terms of property relations in the settler economy. The court's documentation of particular 'owners' for registration fixed occupation, for the first time, towards a process of individualisation beginning at the hapu level. The two perspectives of 'ownership' - tribal and government - did not fit, and according to the court they were not required to.

> 'my mother (lived) on this land at, Mangapapapapa and Hematuke; this latter is a permanent pah, not an eel weir; my mother also lived at Kaiwaka, Mikotapu, Pourere. These are cultivations near the pa's. There are other plantations near the mountains, but these I have named are on the banks of the river. My boundary begins at the place named Whakarewa at Kauea o Te Whare, thence easterly to Tihinu on to Onuku on to Pohonui; thence to Rongo o Te Riri on to Pukemakomako on to Haehae on to Omahurangi thence it turns to the Whanganui River to Ohuira, then to Otumapo then down the river to starting point. I cannot point out my boundaries on the map. I know the land I have lived on it. ... Kaponga's principal pa on this block was at Mangapapapa and he also occupied Hemotuke: both places are on this block. I don't know the mountain marked on the plan called Whirinake ... I did not know the boundaries of my claim before I saw them in the gazette. I cannot trace or mark out my claims on the map.'98

The name and the location 'Waimarino Block' was imposed on an area of 490,000 acres that included 88,000 acres of the Aotea

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98 Wanganui Minute Book 9, the evidence of Aneta Te Wheoro, pp. 287-288.

Block, in the north-western corner.99 Thirty hapu were acknowledged by the court as occupants.

The name was not readily identified as a reference to the area.

> '...I know now for the first (time) that the whole of the block is called Waimarino...'100

A gazette notice was the first indication some had that the boundaries of the block included their habitation.

> 'I did not know the boundaries of my claim before I saw them in the gazette. I cannot trace or mark out my claim on the map.'101

The places some claimants cited in the court as boundary markers for their hapu did not appear on the sketch map,

> 'I cannot point out my boundaries on the map ... I cannot trace or mark out my claims on the map...'102

> 'I cannot describe my boundaries...'103

The Waimarino Case was brought before the Native Land Court in Wanganui to establish 'ownership' preparatory to Crown purchase. It set claimants in conflict with one another as to who had sole or shared rights in the land. Yet for at least six years beforehand surveyors had been in the district

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99 According to a note on the NLC minute - 1 March 1886.

100 Wanganui Minute Book 9, Paeura examined by Rangihuatau, p. 285.

101 Wanganui Minute Book 9, 16 March 1886, p. 288

102 ibid, Aneta Te Wheoro, pp 287-288.

103 ibid, Pauira, p. 288.

sufficient for them to know, first hand, exactly who occupied regions of the block, to record them and ensure that they knew when the case was to be heard.104 Further, if it had not been for Topine Te Mamaku's attendance at court on another matter, only those who were supportive of the purchase would have been aware that it was on at all.105

These circumstances created conditions for selective communication failure that resulted in the misrepresentation of adults and minors alike on the list of owners and the exclusion of people whose occupation was the result of generations of habit. In other words, the final list of was a travesty that expedited the alienation of the block to the Crown.106 For example:

> '...Number 27, Hori Maaka, was not 3 years old, but an adult at this date.'107

Also some names were duplicated and attempts were made to eliminate them.

The degree of exclusion can be estimated at two thirds, given the contemporary evidence that the population of the block was 3000.108 The final number on the deed of sale was 1001.

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104 Oral information from Ohakune, 1989.

105 Oral information from Tui Houpapa, January 1991.

106 This is the perception of descendants - as a result of explicit oral transmission.

107 O'Sullivan paper, p. 3.

108 Taylor, Poole, Young, D. C., op. cit.

And, inasmuchas the names of minors were included at all, the names of the entire population of the block should have appeared on it. The lack of precision in the list brings into question the validity of the purchase - a matter which gave rise to 29 petitions from 1886 to 1943.

The earlier petitions were left in abeyance beyond the six month period allowed for their consideration. They were all dismissed - with the exception of two. That the government would not reconsider the purchase after 1886, was made legitimate by The Native Land Act 1909 which specifically stated that Maori customary title was not to prevail against the Crown.

The requirement to attend the court did not allow for disruption to the social and economic life of claimants, nor for the major journey by canoe and foot to Wanganui, eventhough their traditional livelihood was at stake.

> 'I was at Murimotu attending to my visitors and cultivations.'109

> 'I would ask the court to adjourn for 2 months if it grants any adjournment as there is great trouble and work amongst the natives and we require a long time to gather in our crops.'110

> 'I apply to the court for an adjournment until 6th April as I and many other natives would be engaged in preparing for the big native meeting to be held on the 18th March.'111

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109 Wanganui Minute Book 9, Kanuta Te Akamutua, p. 281.

110 Wanganui Minute Book 9, Wiari Topia, pp. 279-280.

111 ibid, Meiha Keepa (Te Rangihiwinui), p. 279.

The Judge's refusal to grant an adjournment in a case involving such a large block indicates the Crown's haste. This also meant that many prospective claimants could not attend:

> 'The names of Tiaki Ngatara, and Ngapera Ruihi were called, and no one being present to support the names - they being objected to by Hamuera Kaioroto - they were struck off the list.'112

Further the conditions of court attendance amounted to an endurance test with sometimes mortal results:

> 'Serious complaints have been made by (the Natives) of the want of accommodation while attending Court in support of their claims to land, and with some reason, for no doubt they are subjected to hardships on these occasions when they are compelled, in their own interests, to be in attendance for a great length of time, which they would not perhaps feel so severely if sittings of the Court were held at shorter intervals, and were not so protracted as they are at present...During the lat sitting of the Court ... the death rate among them was seriously large: they were all living in tents, some of which were old and of inferior quality, affording little shelter in bad weather. The mortality was principally among children who caught cold from exposure, and invalids suffering from serious complaints who were brought down from the settlements, there being no one to attend them there. There were also several deaths from measles, which might possibly have been prevented by the medical treatment applied, if the patients had been better housed.113

RANGIHUATAU - CONDUCTOR

On 5 September 1885, Rangihuatau and 15 others applied to the Native Land Court for a hearing on the Waimarino Block. The

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112 Wanganui Minute Book 9, memo by the court, p. 290.

113 AJHR 1887 Vol. I, 2nd Session, G-1 Butler to Under Secretary of Native Affairs, 18 May 1887, p. 15.

usual practice was to publish notification of an application in the NZ Gazette for the benefit of others whose interests may be affected. If that was done, it was not sufficient to alert all would be claimants to attend the case in court.

The function of Rangihuatau in this proceeding is explained by earlier involvements he had with the alienation of land, for example:

> 'early in January 1879, Rangihuatau and others from the upper Whanganui came to offer Raoraomouku No. 1 Block - an area of 7000 acres - for sale. They had hitherto been Hau Haus and opposed to all land transactions ... in charge of the aukati to prevent surveyors and others going up the river ... The price agreed to was 7/6 an acre and a payment of £1100 was demanded. I then paid Pitama Rangimarukai, Rangihuatau and others £100, all the money I had in hand ... the natives deputed Mete Kingi to represent them before the Native Minister and to 'tohe' for the £1000 which I had not yet promised them ... the £100 I had paid, which was done on 13th February ... was paid to Rangihuatau, Te Rangiwhakarurua, Tahuparae Wiki Kari Rangiwhakarurua, Te Hikaka Te Rangihuatau, Te Aonui, Te Whakaraukura, Tahuaio, Mokene, Huatare, Poari Pakau ... My instructions were to secure a large estate in the district for the Crown.'114

In accordance with his role as 'conductor of the case' and his working relationship with the government's land purchasing officer, Butler, Rangihuatau's function throughout the proceeding was to facilitate the Crown's purchase. In the process he was well placed to protect his own interests against those of others in the matter of 'ownership'; and ensure the power ascribed to him as a collaborator.

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114 MA MLP 1/21/86/134 - James Booth to R. J. Gill, US Native Affairs, 27/4/80

On 1 March 1886, Te Rangihuatau of Tieke - Ngati Tamakana commenced the case. He stated that Tamakana alone had the right to the land proposed to lay under the area termed the 'Waimarino Block'. Yet, today, Rangihuatau cannot be identified by whakapapa as belonging to the region at all.115

Throughout the minutes it can been seen that he, primarily, was heeded by the Court as to who were rightful claimants to parts of the block.

> 'List (of owners) read and many names objected to by Rangihuatau and many others he as conductor of the case consented to...'116
>
> 'I have heard the evidence of Pauira and it is utterly false...'117
>
> 'We are unanimously of the opinion that the claim of Pauira Rangikatatu on behalf of Ngati Kaponga is bad and therefore the list for that hapu cannot be received by the court.'118

Witnesses objected to Rangihuatau's claim of exclusive right to the ownership of the Waimarino Block, e.g., Kiritahana, Pata Hineuru, Tauirere.119 After an adjournment of three hours their names were included as 'owners'.120 Further:

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115 Oral information from Kevin Amohia, 1990 and Matiu Mareikura, 1991. However, Rena Tio, a tupuna of Pipiriki, had links to Ngati Tamakana (Matiu Mareikura). An informant from Ngati Apa states that the rohe of Ngati Tamakana lies in the area of Taihape!

116 Wanganui Minute Book 9, p. 279.

117 ibid, Rangihuatau, p. 289.

118 ibid, ruling of the court, p. 290.

119 ibid, p. 200, .

120 Ibid, pp 199-200

of names.'124

'Kiritahanga: I claim in this block at Raetihi, it lies between Makotuku and Mangawhero.
Harauera Kaioroto: I object to Kiritahanga having any claim on this land.'125

At the conclusion of the case on 16 March 1886 the list of 'owners' was registered and the Judge ruled that a certificate of title be issued at the completion of survey and that the block was 'inalienable except by lease'. His stated restriction on its inalienability was a nullity of which any member of the judiciary at the time had to be aware. The Native Land Alienation Restriction Act 1884 overrode any order ot the Native Land Court restricting the inalienability of Maori land. This adds focus to the persistent perception of the original occupants and their descendants that a legal fraud perpetuated an illusion of ownership. A certificate of title was never issued.

The settlement of reserves on sellers, or the protection of certain individual interests, or the promise of cash payments were put up as incentives for occupants to facilitate the purchase of the Waimarino Block. Yet on reading the documents it can be seen that these were not always fulfilled. In other sections of this report this failure on the part of government agents will be referred to in more detail. In dealing with the Native Land Court minute books here it is sufficient to

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124 ibid.

125 ibid, p. 277.

note that the acreage that was settled as reserve for the sellers was in fact less than that which was settled on the non-sellers.

In 1886-87 the following hapu appeared as claimants in the Native Land Court of Wanganui in respect of the Waimarino case:

Ngati Matakana

Ngati Ngaronoa

Ngati Rangi

Ngati Atamira

Ngati Tamakana

Ngati Tara

Ngati Maringi

Ngati Wairehe

Ngati Pare

Ngati Kahukurapango

Ngati Tamahuatahi

Ngati Kuratangueharau

Ngati Kahukurapane

Ngati Matakaha

Ngati Poumua

Ngati Tukaiora

Ngati Ruakopiri

Ngati Kaponga

Ngati Hinewai

A signed sketch plan of the block was available as an exhibit to identify boundaries.126 The product of deductions from trig stations, it lacked the accuracy of a ground survey - a task that was completed over the next twenty years with some difficulty.

Given the procedure prescribed by legislation - that land was first to be surveyed, then registered in the Native Land Court before alienation could be effected - the alienation of the Waimarino Block did not occur in accordance with that procedure. Registration and purchase was carried out decades before the survey was completed. According to the descendants of the original occupants this failure to comply with legal procedure is a basis for the claim that the purchase was illegal and therefore invalid.

Having commenced on 1 March 1886, the case concluded on 16 March 1886. Reserves 2-8 for the non-sellers - 41,000 acres; (reserves A-F for the sellers - 33,000 acres) after investigation of title in the court on 30 March 1887. The Crown acquired Waimarino No. 1 - 417,750 acres.

In conclusion, then, one can deduce the following points from

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126 According to Peter Wylie of DOSLI a signed sketch map devised from trig points was considered sufficient for the purpose of the Native Land Court. Inasmuchas it was a common practice it was acceptable to the court.

a reading of the minute books:

1. Rangihuatau was employed, without the mandate of the original occupants, to proffer a version of whakapapa that did not account accurately for the true interests of all the occupants of the Waimarino Block.

2. The registered list of owners - sellers and non-sellers - is not accurate. It includes people whose ownership cannot be authenticated. It excludes people whose ownership has yet to be authenticated.

3. All those with interests in the Waimarino Block - either by occupation and or inheritance - were not informed of the block's passage through the Native Land Court.

4. Claimants who came before the Native Land Court did not have the linguistic or legal skill to counteract its purpose of alienation. This was exacerbated by the employment of kupapa like Rangihuatau.

5. The reciting of whakapapa by various individuals reflects the common practice of citing an aspect of any account that reveals a person's particular interest but not the whole population's history of inheritance.

6. When claimants changed their mind regarding the sale, or

expressed resistance to it, they were not heeded by the court.

7. The procedure for alienation was irregular where the judge stated 'inalienable except by lease' when according to the Native Land Alienation Restriction Act 1884, he had no jurisdiction to rule that. This served to delude the claimants.

8. A certificate of title was never issued. That being so how could a legal transaction have taken place?127

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127 This fact is confirmed by Peter Wylie of DOSLI, Patrick O'Sullivan and Tui Houpapa, all of whom have done some research on the Waimarino Block.

BOUNDARIES

I

The Native Lands Act 1862 established courts for the investigation of title to Maori land and required a survey of land to be made by a licensed surveyor before the issue of a certificate of title by the court. Brief regulations for surveys under the Native Lands Act 1865 were issued by Chief Judge J. D. Fenton. The Native Land Act 1867 allowed survey costs to be debited against the land as security. Until 1873 private surveyors had carried out the work. After that the government carried it out.

The Trigonometrical stations and Survey Marks Act 1868 followed the appointment of Theophilus Heale as the inspector of surveys, under the Native Lands Act 1867. It gave authority for a government surveyor to enter upon land to place survey marks, after notice in writing of his intention, and provided a penalty for their removal, which provisions were later incorporated into the successive Land Acts.

Heale established his office in Auckland and began observation of a triangulation net for the control of surveys of Maori land extending across the Provinces of Auckland, Hawkes Bay

and Wellington.

Regulations for survey s under the Native Lands Acts were issued by Fenton and Heale in 1867. Revised regulations by Heale in 1875 dealt with the approval of the surveyor's equipment, connection of the survey to the triangulaton, types of boundary marks, keeping of the field book, and the preparation of the plan.128

II

To facilitate settlement boundaries had to be drawn: between settler and tribe, between tribe and hapu.

The Waimarino Block falls within the rohe of Tamaupoko, in the middle region of the Wanganui River. Tamaupoko, Hinengakau (upper region) and Tupoho (lower region) are the three rohe of Atihaunui a Paparangi. At the time of survey it also fell within the districts of Auckland, Taranaki and Wellington.

The boundaries of Tamaupoko are from south of Matahiwi, across to Kuratahi, Mataroa to south east Ruapehu, to Paretetaitonga (the peak of the mountain) then to the Wanganui river and up to Wakahoro, to south of Ohura, then along a boundary of the

128 Auckland Provincial Gazette, 1865, pp.53-54, 1866 pp. 232-233 quoted in The Surveyor and the Law, 4.2.3.- 1/2/83. (Wellington: NZ Inst of Surveyors).

ridges Rakautangi to Rakautotara back to Matahiwi.129 It is one of the largest areas in the Waimarino.

Yet in none of the documents relating to the Waimarino transaction are there any references to the iwi divisions of Tamaupoko, Hinengakau, Tupoho; nor are their parents Tamakehu and Ruaka apparent outside the oral tradition of the people.

The fluidity of boundaries and the names within them reflects current political purposes at any given moment. At the time of the preparations for the Waimarino purchase Tuhua (Hinengakau), Patutokotoko (Tamaupoko), Whanganui (Tupoho) were the more likely divisions of the region's tribal political organisation.

This gives rise to the questions: what is a boundary, and what were the perceptions of a boundary at the time of the purchase in 1886?

According to the official record, the Waimarino Block is the land in the Auckland and Wellington Provincial Districts containing about 458,500 acres, less 41,000 acres unsold interest and native reserves. The boundaries are the Wanganui River in the north from the northwest angle of the Kirikau Block to its confluence with the Whakapapa River, then towards the Whakamangahuia Stream on a line to the Paraetetaitonga

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129 Oral information from Matiu Mareikura, October 1989 .

Trig station, to the Ruapehu Trig station, south by the Huriwera Block, the Raetihi Block, by unsurveyed land to Ngaporo Block to the Wanganui River. Then to the west by the Wanganui River to it's confluence with the Orapa Stream by the Popotea Block, by the Wanganui River to the western angle of the Retaruke Block, the Kirikau Block to the beginning.130

The physical environment of the tribal society did not change but the advancement of government control changed the relationship in a new political and economic environment. Then the first and perhaps continuing problem was economic survival.131

The many hapu who came through the Native Land Court during the Waimarino case quoted boundaries that did not accord with the present day version of Tamaupoko, one of the claimant groups before the Waitangi Tribunal.

For the most part Native Land Court claimants in 1886-87 were unable to comprehend their boundaries on a graphic map. The conception of a boundary, as such, was structured by the physical features of hills, streams, rivers, trees, lakes ...

Since the 1870's surveyors had been in the area of the Waimarino investigating the best possible route for the North

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130 NZ Gazette, 26 May 1886, p. 678.

131 Epstein, A. L., Ethos and Identity, p. 62, London: Aldine: 1978.

Island Main Trunk Railway line.

The process took several stages and years to complete:

exploratory survey

trig survey

ground survey or 'proper' survey .

Rarely was the 'proper' survey complete at the time of a Native Land Court award for a certificate of title. In the case of the Waimarino Block it was not. A signed sketch map devised by trig readings was the very thing that local claimants had for unfamiliar reference; and which the court used as an official survey map, eventhough it was a temporary document.

The Surveyors engaged on a practical task, with little more than an assistant or two and their own wit and endurance, advanced into tribal land and discovered not only routes and boundaries on the ground, but in the relationship with the inhabitants as well. Rochfort conducted a statesmanlike concern for the inhabitants against the inevitability of settlement that he was instrumental in advancing.

Whether or not a surveyor was obstructed in his work, was the measure the government had as to the timing and expense of such works as the railway. The phenomenon of obstruction was an occupational hazard, and its occurrence would dictate the speed of the survey.

'... they did mean to maintain their separate nationality ...'132

On 16 March 1886 the Native Land Court in Whanganui ordered that a title be issued for the Waimarino Block 'once a proper survey has been done' in accordance with the Native Land Court Act 1880 thus:

'Section 33 - As soon as the time for an application for a rehearing as provided for by Section 47 has expired, and no hearing is applied for, or if an application has been made and is refused, the court shall then order a certificate of title in pursuance of th order of the court made at the original hearing.'

III

On 13 January 1886 a telegram was sent from Wanganui to Wellington requesting a tracing of the:

'boundaries and adjacent country commencing at the summit of Ruapehu mountain, thence down Mangahuia stream ...

and in reply

'I enclose a tracing of the country between Ruapehu and Whanganui River as asked for, and I am sorry that I cannot give you information as to the name you mention principally because this county is the only part of the King Country Block remaining untriangulated, tho' Mr Cussen is now doing it... please let me know the name of your block for record purposes...'

then

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132 CO 209/141, Browne to Labouchere, 9 May 1857, quoted in Ward, op. cit., p. 104.

'...The name of the block is Waimarino'133

It is interesting to note that while Mr Cussen was the surveyor engaged to perform the triangulations the Surveyor-General requested that the Native Land Purchasing officer, Butler, assist in the task by pointing out where the boundaries ought to be:

> '... does his (Butler's) topographical plan give such details as would suffice to mark a boundary unknown to the Natives.'134

The significance of these documents is the dates on which they were written: after the court order in March of the same year. In order that the boundaries of the Waimarino Block could be clarified the boundaries of adjacent blocks were to be dealt with at the same time, e.g., the Taupo-nui-a-tia Block and a piece of land south of Okahukura:

> '... to be surveyed in about two months and if Mr Cussen could give the topographies of ten miles on the western side of this boundary it would materially help the survey which is considered by (sic) Minister as very important reply as early as you can ascertain ...'135

By 4 May 1886:

> '... a tracing from Mr Cussen's topographical work between Lake Taupo and the Whanganui River; together with that derived from ... survey of the Aotea Block boundary ... as it is urgently required.'136

Cussen despatched the tracing on 26 October 1886. Marchant,

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133 Communications between Chief Surveyor Wellington and ASG Auckland. CS 2446, 1-3.

134 Ibid. 2 October 1898.

135 Ibid. 5 - 22 April 1886.

136 Ibid. 7.

the Surveyor General based in Wellington required the survey to be approved by 23 January 1887, it was completed by 8 January. And the adjoining blocks were by then adjudicated on by the Native land Court in Taupo.

Quite apart from the government's haste to validate its purchase, pressure from settlers to occupy the area sharpened its purpose. An incomplete survey forestalled settlement. Charles McDonnell, who finally settled in Karioi, could not make landfall as:

> '... the Waimarino Block has not ... been proclaimed Crown land...'137

- though it had been proclaimed Waste Lands of the Crown.138

Quite apart from the outer boundaries of the block the native reserves had still to be cut out as late as 1901. Because of this the Houston Brothers, sawmillers of Brookby, Manurewa, interested in the totara bush in Waimarino 5, were reluctant to settle.

> '... native title is not quite extinguished ...'139

According to a communication within Lands and Survey this remained the case until 16 April 1898.

The foregoing raises the consideration of the survival and

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137 Ibid. 22.

138 NZ Gazette, May 1887, No. 33.

139 Ibid. 26.

location of the original occupants for whom the reserves were set aside.

The final survey absorbed a portion of the Aotea Block, 88,000 acres.140

IV The O'Sullivan paper - a summary.

Patrick O'Sullivan raises the following points for consideration:

1. POPOTEA

In the south west corner of the Waimarino Block Popotea is variously included in the boundary survey - an inconsistency that ceases in 1900 - WD 1591. It is included in WD 776, the topographical map prepared by Cussen and signed by Marchant on 20 January 1887. Yet claimants had come before the Native Land Court to clarify the case of Popotea for exclusion from the block. O'Sullivan's point is that such inconsistency has to invalidate the survey upon which the validity of the alienation to the Crown depended.

2. THE RESERVES

An internal request in October 1894, within the Lands and Survey Department pointed to the need to survey Reserves C and D, and the Native Land Court subdivisions of 6 and 7.141

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140 Ibid. A telegram from the Assistant Surveyor General in Auckland on 18 January 1886.

141 Ibid. 32.

Earlier in March of the same year the Land Purchase Officer:

> '... urges that the survey of the Reserves in the Waimarino purchase should be completed. It appears that a Reserve marked "E" was set aside for the Natives, and they are now asking the Government for the right to select other land; but the department is powerless until the survey of the reserves is completed ...'142

Annotations on this memorandum indicate that there was still no survey plan for this reserve.

3. TITLE

The issue of title depended on a completed and 'proper survey' to be presented to the Native Land Court. Survey was not completed until 1935. A title was never issued. Yet the court awarded the freehold of Waimarino 1 to the Crown on 16 March 1887.

V The Maps

1. Sketch Map - W102

Of the Wanganui District shewing (sic) land purchased and under negotiation under the Immigration and Public Works Acts, 1870 and 1873.

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142 Ibid. 30.

2. Map - W87 - 1876.143

A 'rough sketch showing approximately the position of native blocks surveyed in the district of Wanganui'. The portion that includes the Waimarino has no trig stations - they are heavily marked in the adjacent blocks of Retaruke and Kirikau in the north west, Murimotu in the east, Mangaporae and Ranana in the south. The name 'Waimarino' appears nowhere on this early map of the area.

3. Map - W772 - 1886.

This is dated 16 March 1886 and signed by the presiding judge of the Native Land Court, Chief Judge O'Brien. It was presented to the court for the purpose of registration of title.

4. Map - WD776 - 1887

Dated 20 January 1887 and signed by Marchant, Chief Surveyor. The first topographical map of the Waimarino block.

5. Map - WD1591 - 1900

Dated and signed 22 February 1900 'for the purposes of the Native Land Court'. Showing clearly the reserves for sellers: A to D - 33,140 acres; and non sellers: 2 to 8 41,000.

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143 This map was kindly supplied by Tui Houpapa.

ASPECTS OF PURCHASE

'if the Maoris did not lease the Government would muru or take the land compulsorily ...'144

I

The mandate for government expenditure related to the purchase of the Waimarino block was incorporated in legislation enacted to facilitate the alienation, viz., The North Island Main Trunk Railway Loan Application Act 1886, Section 4 (5):

> 'The following shall be deemed to be included in the cost of the construction of the said railway to which any money of the said loan shall be deemed to be applicable:
>
> (5) The cost to an amount not exceeding one hundred thousand pounds, of acquiring Native or other lands lying within the boundaries described in the schedule to The Native Land Alienation Restriction Act 1884.

and Section 3 of the same Act:

> All monies borrowed under the authority of the said Act shall be carried to a separate account in the Public Works Fund, and shall from time to time be applied to the construction of the said railway, in such amounts and within such periods only as shall be provided by any Act or Acts to be passed by the General Assembly apropriating the said monies ...

The difficulty with this section is the absence of checks on which statutes may be invoked.

From 1881-1907 the total area purchased was 1,273,000 at a cost of £273,340. Nearly half of this area lies within the boundaries of the North Island Main Trunk Railway loan system

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144 AJHR 1907 - Vol. 3 G1-A - Stout-Ngata Commission.

of blocks and was acquired in conjunction with that undertaking. The amount paid to owners did not amount to more than 4/- an acre.

> 'The Maoris knew that they were parting with their lands at an absurdly low price but the restrictions aginst private dealings left them no alternative. They had to sell to the Crown at the latter's price for, among other things, court fees, agents costs and survey charges had to be met, and in litigation, in order to substantiate claims to one block a whole tribe would recklessly throw away land it had already won.'145

In 1889 the Act was amended to endow 95% of the acquired land to the railway. The government's intention was to subdivide land not needed for the railway and repay the loan for its construction.

Petitions, cited later in this report, are evidence that the original occupants were critical of this policy. After all, near to half a million acres is a large acquisition for a mere 35 miles of railway frontage.

II

The purchasing agents, Butler and Stevens, began negotiations for the Waimarino Block in 1878. These were gazetted under the Government Native Land Purchase Act 1877 on 7 February 1878.146 Further, the monopoly of Crown control was

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145 AJHR 1907 Vol. 3, G1A, Stout-Ngata Commission p. 5.

146 AJHR 1886, Vol. 1 C-5.

secured against private purchase in accordance with the Native Land Alienation Restriction Act 1884. It prevented dealings in the lands around the railway line and in the Rohe Potae except with the government.

Before the Native Land Court proceeding of 1886-87 Butler and Stevens had already purchased 200,000 acres for £14,030 and estimated the cost of the remainder to be £36,000.147

This was a 'first stage' of the purchasing process made legitimate by The Public Works Amendment Act 1871:

> '...it shall be lawful for the Crown to enter into arrangements for such purpose as the acquisition of land for railways, special settlement and mining previous to the land passing through the Native Land Court ... but subsequent to such arrangements, the land shall be passed through the Native Land Court and a certificate of title of the person entering into such arrangements with the Government obtained.'

Payments for the purchase of the Waimarino block were made as as early as 1884.148 These are recorded in the Journals of Accounts of the Native Land Purchase office. However, none of the entries are signed by the recipients, and there is no documentary evidence that payments were made at all. A one sided entry system is not sufficient to prove the point. Another area of concern is the fate of payments to minors made over to the Public Trustee, e.g., £675 to Mere Wakatahurangi

147 Houpapa papers.

148 O'Sullivan paper.

on 25 May 1886.149

The actual amount of the transaction settles at £35,000 among the slightly different figures that appear in the different documents. According to T. W. Downes - a dubious source - it took place at Tieke. Yet it is clear from the Journals that if payment occurred it was episodic over a period of years. The average payment to sellers was £35 as shares were not equalised - a matter of some concern to the some occupants.150 This amount varied according to the 'shareholding'. Added to the cost of the purchase were the commissions of government purchasing agents, to the persuasive supporters of purchase among the local occupants and the accommodation and travel expenses of those making the administrative and practical arrangements for the formality of the court hearing and ongoing purchase.151 For example:

Tohiora Pirato	- services re purchase of Waimarino -	£1
John Stevens	- on account of commission on purchase of Waimarino -	£200
Tutaua Tanira	- services re purchase of Waimarino -	£2
Butler	- tent and fly supply -	£2-17
Butler	- various expenses -	£12-10
Tutaua Tanira	- attending Native Affairs committee re Waimarino petition -	£3
Neri Poutini	- canoeing on the Wanganui River for nine days -	£3
Wanganui River Steamboat Coy	- charter of steamer to obtain signatures for the Waimarino Block -	£45

149 MA MLP Series 6/6

150 MLP Department Record Book 1872-1888: 87/141 - on 10 May 1887 - letter from Paiaka Te Papongo, Wanganui, objecting to the manner money for the Waimarino Block was distributed and urging a sitting of the Native Land Court to carefully deal with the question.

151 MA MLP 6/6 - excerpts from the Journal of Accounts - May to November of 1886.

Related expenses and account of commission in the purchase of the Waimarino -		£1000
	- services in acquiring -	£100
T. McDonnell	- train, coach fare and buggy hire -	£2-4
C. D. Litchfield	- interpreting Waimarino Deed to Te Rehine Watene -	£2-2
Travelling expenses -		£30-6

The purchasing agents in the Tuwharetoa and Maniapoto rohe, Grace and Wilkinson respectively assisted in the transaction.152

> 'William Grace has £2,500 imprested to him to make payments on Waimarino and other blocks ...'153

Grace was also concerned with the disposal of Waimarino E - 4,000 acres - in 1908.154

On 9 April 1886, Stevens wrote offering to put his purchasing of land on commission.155 His employment and excessive wages were a subject of debate in Parliament. The issue came to nothing given the result of the Waimarino purchase:

> '...Waimarino Block contained 490,000 acres and 30 different hapu. As the Crown had made a general arrangement to purchase the land, it was not considered necessary to put the owners to the expense of dividing it. About 40,000 acres were cut out for unsold interests - Waimarino 2-8, and about 50,000 for reserves. The balance that passes through court available for purchase by the Crown was about 405,000 acres ... the purchasing officer

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152 Native Land Purchase Department Record Book 1873-88 - 86/440, 86/388: 25 October 1886, Wilkinson requesting additional remuneration as a consequence of his being called upon to assist in the purchase of the Waimarino Block - 86/3577.

153 MA MLP 1/19: 86/389 - Note from Lewis US Native Department to the Native Minister - 6 October 1886.

154 A letter to the Stout Ngata Commission, enclosed in the documents at the back of this report.

155 MLP Department Record Book, op. cit., 86/123; and MA/MLP 3/5 23 April 1887 - Stevens forwarding a statement of his claim for commission on Waimarino Block.

had instructions that the price was not to exceed £50,000, the grantees numbering a little over 1000. It was clearly explained by the purchasing agent to each seller that when he signed the deed the money covered all demands.'156

III

It is in the activity of purchase that the path of collaboration is most evident. Peehi Turoa, for example, once cited in official documents as one of seven Hau Hau leaders in the Wanganui River region, assisted Keepa Te Rangihiwinui to remove resistance and obstruction to the survey and railway development in the Waimarino. Peehi Turoa is the first signatory on the Deed of sale.

Several occupants of the block also received pensions and substantial payments for their assistance, for example:157

> Topia Turoa claimed £1000 for services in connection with the purchase of the Waimarino Block.
>
> Potatau Rangiwaiata and others from Pipiriki forwarded a copy of a promise by Butler to pay them £100 if they assisted him in the purchase of the Waimarino Block ...
>
> Ngatai Te Mamaku received a telegram informing him of a gratuity of £50 authorised by the Native Minister.
>
> Piripi Tuhaia from Taumarunui asked for further particulars respecting a pension alleged to have been promised him.
>
> It was recommended that Te Rangihuatau and Topia

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156 AJHR 1886, Vol. 4, I-2, p. 20.

157 MLP Department Record Book, op. cit.

Turoa get a pension of £50.

Hokopakaka and Tamai Te Huri claimed 500 acres in the Waimarino Block in fulfilment of an agreement made with Mr Butler.

IV

Butler was granted a bonus of £150 for services regarding Waimarino.

PRAYER AND APPLICATION

'... it was clearly explained by the purchasing agent to each seller that when he signed the deed the money covered all demands ...'158

I

The insoluble issue of the Waimarino transaction, where legal title and customary occupation do not meet, is demonstrated by the petitions and applications for investigation that followed. The descendants of the original occupants who participated in the deal have continued to face the fact of being counter claimed by their kinsmen, overlooked by the process of registration, of being under paid or not paid at all by the Crown and of reserves either not being settled or disposed of by the government. This means that the case of the Waimarino Block is not closed - one hundred and four years after its passage through the Native Land Court.

Alienation may be an official fact but the motive, the process and the implications of it have never allowed prayers,

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158 AJHR 1886, Vol. 4, I-2, p. 28.

applications and claims for redress to rest. The haste and the determination of the Crown and its collaborators have left a bitter legacy which is bound to undermine any rhetoric of Treaty inspired 'partnership'.

The collaboration that was instrumental in effecting the purchase within the process of the law, however, did not account for the wilful non participation of certain occupants; nor the persistent call for the redress of grievances.

So it is that the judicial arena has become the venue for the examination of internal tribal politics; and the power relationship with the government.

The Stout-Ngata Commission 1907

In its interim report this commission recorded the status of the Waimarino Block. It cited the acreage as 452,196 acres. By August 1887 the Crown had purchased 7/9 of the area. Reserves A-F - 33,115 for the sellers; reserves 2-8 - 41,000 acres for the 115 non-sellers. Reserve 7 had since been sold to the Crown.

The commission made recommendations regarding Waimarino, e.g:

> Waimarino E - application pending for approval to lease for 50 years - 20 years at £203 per annum at one shilling an acre; 10 years at £304-10; 10 years at £406; and, 10 years at £507-10.
>
> Waimarino 2 - to be leased for 9d an acre for a 50 year term. The first year free - 12 years at 6d an acre; 12 years at 9d an acre; and, 25 years at 5%

on the then unimproved value

> ...the terms do not appear to us to compare favourably with those at which the adjoining trust block has been leased. The lesee is one of the Craig family ... already secured leases for large areas of Native lands ... and are negotiating for still larger areas. Recommendation - dealings suspended pending Parliamentary consideration of such deals.159

II Te Kere - the persistent prayer.

A petition regarding the purchase of the Waimarino Block was filed by Te Kere in 1887: that it was sold without his knowledge or consent.160 After reading the memo of the Land Purchase Officer, the committee had no recommendation to make.

Te Kere was considered to be a prophet by his followers. He had close links with Ngati Maniapoto, and Tawhiao, often staying with him and attending hui all over the country. The aukati of the Rohe Potae extended into the Waimarino Block to the boundary above Tawata.

His descendant, Hikaia Amohia, one of the claimants presently before the Waitangi Tribunal, alleges that the block was the tribal property of Hauaroa and Hekewai, and that the court made the award, in their absence, to other tribes. Koro Hikaia presented a claim to the Waitangi Tribunal for 364,360

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159 Stout Ngata Commission - AJHR op. cit.

160 The first petition came from Te Aurere of Patutokotoko of Manganui a Te Ao - noted as an obstructionist in the minutes of the 1883 meeting with Rochfort at Ranana.

acres of the Waimarino Block, in accordance with Te Kere's kaupapa.

As a committed Hau Hau, Te Kere had refused to submit to the processes of the Native Land Court and thereby participate in the alienation of the block. In 1892 he turned back a boatload of photographers travelling on the Wanganui River, for fear they were spying out land for purchase.161

In May of 1901, Sheridan visited Te Kere at Tawata. He offered to recommend to government to reserve 1500 acres of the Waimarino Block to him, his family and his followers, after an investigation of the Native Land Court case which showed that natives had been left out.

The Maori Land Claims Adjustment Act and Land Laws Amendment Act 1904, Section 8, provided for Tawata Block to be reserved for such natives 'as have been for several years past residing thereon, and are more or less landless'. Yet in 1920 families of Tawata and Tieke were still petitioning 'with no means of attention'.

In 1922 the result of Te Kere's petition was an award of 1492 acres to his family and followers under the Act.162

Altogether Te Kere and his family have made five petitions

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161 MA 1/21, 92/2211 - Pardy to Commissioner of Police, 28 December 1892.

162 Tokaanu Minute Book 15, p. 379

regarding the block.

III The Petitions

1885	Te Aurere and others included in reports of petitions.163
1886	Petition 1 Tapa Paroto, Te Aurere and others Petition 2 Tapa Paroto, Te Aurere and others both 25 May - regarding payments for Waimarino Block.164 Nos 50, 51, 70. Tapa Paroto, Te Aurere and others - regarding payments for

163 AJHR 1885

164 AJHR 1886 Vol. 4, I-2

Waimarino Block.165

Piki Kotuku and others.
21 July. 166

Te Heu Heu Tukino - for a rehearing of claim to investigate the title.
Dismissed.
14 October167

Neta Te Wheoro - for a claim to investigate title.
Dismissed.
20 October168

1887

Petition 127
Te Kere - Waimarino land sold without knowledge and consent.
- no rcommendation after Land Purchasing Officer sent memo to the committee.169

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165 AJHR, Vol. 4, I-2, p. 28.

166 AJHR 1886, p. 214-5.

167 Native Land Court

168 Ibid.

169 AJHR 1887, Session I.

Petition 153

Te Kere - re Opatu Block.

Through NLC January 1886.

Did not approve its inclusion in sale of the Waimarino.170

re payment of acres from Waimarino Block 171

Te Rangihuatau, Ngaitai Te Mamaku.

A claim for investigation of title to land...known as Waimarino. Held, claim dismissed.

1 February. 172

No. 140

Pauro Tutawha and others

- concerning the damage done

170 AJHR 1887, Vol. II, I-2

171 AJHR 1887, Vol. II, S-2A

172 NZ Gazette 1887, p. 227.

to fisheries and eel weirs.
7 June. 173

No. 127
Te Kere and others - who claim the block was sold 'without their knowledge and consent'.
21 August. 174

1891

Petition 80
Te Rangitutangatanga
Claims an interest in Waimarino Block.
His name appeared on a deed yet he never signed a deed of sale. He never received a share of the purchase money.
No evidence given therefore no recommendation made.175

1894

No 143
Tamai Te Huri and Hokopakeke - request that grants of 500 acres

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173 AJHR 1887 I-2

174 AJHR 1888, Vol. 3, I-3, p. 31.

175 AJHR 1891, Vol. II, G-1

be awarded to each of them.

No recommendation.

7 August. 176

1895

Paraone Ropiha

- relief to owners whose names through ignorance on the part of the head of the hapu were witheld from the court at the time of the hearing.177

1918

Petition 90/17

Hohepa Kawana and19 others

re the Waimarino Block.178

No. 187 - as above.

1922

Descendants of Rora Kupa -

of Waimarino and Raetihi Blocks

- inquiry for inclusion to succeed.

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176 AJHR 1894, I-3, p. 3.

177 AJHR 1896, I-3, p. 11.

178 AJHR 1918, Vol. 2, I-3, p. 12.

26 September. 179

1923

Petition 96/23/II

R. J. Loughnan

Waimarino Blocks 9 and 10 E

- regarding the selling of them.180

1924

Petition 93/23/II

Paraone Ropiha and 9 others

Praying for an award of a portion of Waimarino.181

1924

Petition 19/24

Inia Ranginui and 7 others

Inquiry re inclusion of Oruarangi Island in the Crown purchase of the Waimarino Block.

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179 AJHR 1922, I-3, p. 11.

180 AJHR 1923, Vol. 2, I-3, p. 10.

181 AJHR 1924, Vol. 3, B-1, p. 14.

10 October. 182

1924

Petition 118/22
Ata Tamihana Turoa Kupa and another.

13 September.183

Parlt Paper No. 187/21 for a report and recommendation.

1928

Petition 58/1928
Karanga Te Kere
re fishing in Lake Pohoare.184

1937

Re: Lake Pohoare/Lake Hawkes
Memo from US Lands to US NA:
'...no mention of Lake Pohoare in Waimarino Block purchase therefore no grounds for

182 AJHR 1924, Vol. 3, I-3, p. 28.

183 AJHR 1924, Vol. 3, I-3, p. 17.

184 MA 5/13/107

petition hearing.185

1937	Petition 59/1937 Karanga Te Kere 30 September 1937
1941	Petition 64/41 Hare Matene Te Wano re Waimarino Block
1943	Petition 41/1942 Hare Matene Te Wano and others of Raetihi. Re Waimarino 3N 1A Block. Under The Maori Purposes Act 1943.

185 NZ Gazette 1887, pp 677-678.

TOOLS OF ALIENATION

'... my great desire now is that a great many evils shall not come upon the land and the people; because the work which has been done in this House will be known hereafter.'186

I

In spite of the Treaty of Waitangi the colonial government produced statutes to make legal the alienation of native land.

Acts were passed to legitimate the survey and acquisition of land in the Waimarino Block, ostensibly for the railway alone.

These statutes were presented to the occupants of tribal areas as an explanation of a new reality in which they could participate - with no hint of the manner in which they would be economically and politically excluded from it in the future.

> 'A series of Acts have been passed which have gone all in one direction - to give greater facility in acquisition of lands to the promoters of these Acts. The natives have never been considered at all. I have, unfortunately, had occasion to look through those Acts too often, and find that there is no intention to benefit the natives by them. In the Land Court difficulties arose from time to time in completing purchases which were of a character that I do not care to describe, and immediately the aid

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186 NZ Parliamentary Debates, 1884, 23 October - 10 November, Wi Pere, addressing the House of Representatives, p. 482.

of Parliament was invoked to remove those difficulties, not for the benefit of the natives, but to facilitate the purchase of land.'187

The kupapa rangatira of the day were clearly enthusiastic about the progress the railway represented and the prospect that it would increase their power and the well being of the people for whom they spoke. Further, it seemed after the wars that to not accommodate the venture would disadvantage them more against the inevitable. Evenso, with the conclusions that were reached at the successive 'meetings with the natives' and especially the Rohe Potae and Aotea agreements, it was expected that the conditions put down would be fulfilled; and that rangatira would collaborate on their own terms.

Until the emergence of the Repudiation Movement litigation had not arisen as a deliberate response to the legality of alienation. Apart from the Native Land Court, hui were still the arena for the resolution of land issues related to settlement - between tribes, and between government and tribes. This was the status quo at the time a statutory scheme was put together to cover the government's actions regarding the development of the North Island Main Trunk Railway Line.

The Waimarino Block was specified in statutes whose schedules

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187 Ibid, The Hon. Mr Wilson, speaking in the Legislative Council chamber.

included it alongwith related lands in other areas. This was backed up by statutes that referred to the tool of the Native Land Court, the administration and the alienation of native lands. The statutory scheme responded to every contingency of the policy of the government to acquire, settle and exploit the land as a commodity and for its timber, mineral and primary produce resources.

II Some policy ... and responses ...

In respect of the Native Land Settlement Bill 1884, after a petition to the House of Representatives from 'Meiha Keepa Rangihiwiwnui, Atanatiu Te Kaihangi and 18 others', Wahanui made the following address before the House:

> 'Mr Speaker, salutations to you. To all the honourable members of this House, salutations. It was my great desire to speak before this House on behalf of my people. That brought me here. There are two subjects for which I was sent here. My first reason was to explain to you my sentiments; my second, that I might look upon the works that are being done in this House. I will now speak the wishes and the words of my tribe. The first subject on which I shall speak concerns our lands - the ancestral lands of my self and my people. I say that we wish to have the sole administration of those lands. Secondly, I do not wish the action of the Native Land Court to be brought into force over those lands. The reason of this request is, that the lands that I speak of are ancestral lands, and the hands of the Europeans have never touched them. No white man's foot has trodden upon those lands, nor has any European obtained authority over them, either by lease or otherwise. This is the reason why I say that we should have the administration of those lands; but afterwards I will ask this house to help me to devise a law for administering them. I have already mentioned my ideas o this subject to the Native Minister. His word to me was, "Your ideas are good". After I had been in this place

some time, I saw the proposed Bill. When I saw this Bill I found that it had great sharp teeth from the head to the mouth, and there was a sting also in its tail. I saw that its teeth were very sharp and were designed to swallow up the people, and that the sting also will destroy the land. When I saw those sharp teeth I thought in this way: This watch which I hold in my hand is mine; and, if it require repairs, let me take it to the watchmaker and have it repaired. I will explain to the watchmaker what requires to be done to it, and then he can repair it according to my directions. Then, when he has repaired it it, he returns it to me, and I pay him for it, and then it is mine to do what I please with. I apply this idea to my land, and I think it is a parallel case to my land. I hope that the House will duly consider my words. Do not let the House be carried away with a desire to obtain lands, but rather let the House consider that which is just and right. These are my ideas on the subject, and since I have seen the Bill I asked the Native Minister if he would consent to my inserting some provisions. At present thee is no embarrassment with regard to my land; the title to it is undisputed. But I am actuated by a fear that trouble will come upon it. That is why I come here now. The object of Tawhiao's visit to England was lest the laws passed in this House should injuriously affect this land, and it has been the head of the Government in England that has told Tawhiao to come back to New Zealand. Therefore, I ask this House to pass just laws with regard to my land. I hope, also, that this House will carefully consider, carry out, and give effect to the laws of that great lady who lives in England - I mean the Queen - so that the laws for both races, the Natives and Europeans, may be carefully administered. Do not let such laws as some of the clauses in this proposed Bill be affirmed. They appear to have been drafted, or designed, without due consideration. These are my words to this House: I claim the consideration of this House, and ask it to give effect to my wish and the wish of my people, and that the authority over our lands may be vested in our Committee. Another request I have to make is that the sale of spirits within our district shall be stopped absolutely. I do not want that great evil brought upon our people. That is all I have to say, and I can only add that it is my great desire and wish that you pass just laws with respect to my land and my people.'188

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188 NZ Parliamentary Debates, Vol. L, 23 October - 10 November, Appendix, pp 555-556.

Excerpts from the debate in the Legislative Council Chamber after Wahanui's address, in relation to the Native land Alienation Restriction Bill:

> 'The Hon. Mr P. A. Buckley: ...I have here a plan showing a very large area of land which may be affected directly or indirectly, by the railway; and although it contains a much greater area than may be necessary, still it has been deemed desirable to get as large an area as possibly can be got, with the view of protecting the interests which I have described. The Bill contains nothing except that, and, although it restricts purchase by private individuals, it does not restrict purchase by the Government, and for this reason: It may be found necessary, in constructing the railway, for the Government to acquire land through which the railway may pass. With tht object only in view this Bill has been introduced. I move, That it be now read a second time.
>
> 'The Hon. Dr Pollen: ... The Bill as it stands does now give to the Government the power of dealing - not as my honourable friend the Colonial Secretary has told the Council, with land for the line of railway, but for the whole of the land included within these boundaries, estimated to contain about three and a half million acres of land.
>
> 'The Hon. Mr Mantell: ... The very lifeblood of the Government - at any rate as regards its influence in the North Island - is the acquiring of Native lands, on the good old system which prevailed formerly, namely, the getting of the largest possible amount of land for the least possible price ... I understand the object ... is to enable the Government to acquire a strip of two chains or so in width right through this block, with a view to the formation of the North Island Trunk Railway. Well of course the Government may treat with the Natives for that, and the Natives may either consent to sell or not. Now, I think the more distinctly the Government states the modest nature of its requirements the more likely they are to be able to conduct negotiations satisfactorily with the Native owners. As to the more vague expression "Native owners" here, without any definition of what constitutes a "native owner, or what the Government will regard as such, I feel it is very objectionable...
>
> 'The Hon. Mr Wilson: ...It is a great mistake to imagine that this Native Land Court was intended for the benefit of the Natives. It was established on

the hypocritical pretext that the natives required it. It was nothing of the kind. 189

'Sir G. Grey: ... When we entered New Zealand ... we undertook that every Native should be preserved inthe possession of the property he held at the time. That was giving the Natives a very great advantage indeed. It was giving them in point of fact, security of tenure. The, we asked, in part return for that, that they should grant the Crown the right of pre-emption We promised, further, to give great value to their land - a much greater value than they could get for their lands in their former state - by introducing a large European popultion into the colony, and by constructing public works of various kinds; and the condition was that in recognition of our entering into these engagements, the Natives would give the Crown the right of pre-emption. The Crown bought for the public good, and a large quantity of lands was so bought exactly under the system which it is now proposed to introduce into this Bill ... We have a perfect right to revert to a system which the Crown followed for years, and which takes from the Crown, I believe, no power whatever.

'The Hon. Mr P. A. Buckley: ... The whole scope and object of this Bill, was to prevent the alienation of land by the natives within the territory through which the proposed railway will pass...

'The Hon. Dr Pollen: ... We are all agreed that, when a work of the magnitude of the North Island Railway is about to be made, the action of all other persons excepting the Government whould be prevented in that district; that no person, in the first instance, at any rate, until the policy of the Government in dealing with the land had been matured, should be authorized to deal with the land within the prescribed district ... the feeling of the Natives is becoming so strong and so general with respect to the mode of dealing with their land that it would be prudent of the Government to consent to recognize the fact ... we have heard of land leagues in the colony before now, and, although the consequences of such a league may not be of the magnitude they assumed on a former occasion, yet we must recognize tht it is quite possible that the Natives have still the facility for combination sufficiently strong amongst them to form another land league which would absolutely stop the Government from getting an acre of land within the prescribed limits ... a land league will be formed

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189 Ibid, 6 November, pp 431-438.

in the whole district ... if the railway has to go through - and it will have to do so - it seems to me that it will have to be pushed through at the point of the bayonet; and that is a contingency which, I am sure, no one would like.

'The Hon. Mr J. C. Richmond: ... I humbly venture to express the opinion tht we shall be doing the best work possible for carrying out the object of this Bill - that is for carrying the railway through this tract of land, and obtainingsome reasonable concessions of land towards the maintenance of it - by organising the land title; and generally organizing the population of the district by these amendments will very clearly assist in that way ... I venture to say we shall have no difficulty in connection with making the proposed line ... I believe the Natives will give their assistance to the Government in making this line, and they ought to make a concession of a large block of land in consideration of the large value the making of the line will give their land.

'The Hon. Mr G. R. Johnson: ... an understanding seemed to have been arrived at between Wahanui and us tht we should not interfere with the country within this particular district, and that we should leave to the chiefs of the tribes the entire control over it, until such time as the natives ask for legislation regarding it.190

III The Legislation ...

The following is a list of legislation that was applied to the alienation of the Waimarino Block directly and indirectly. The research for this section is not complete. To conduct a proper discussion of the legislation one needs to read the Parliamentary debates preceding its enactment to deduce the policy of the Government; to analyse the statutes themselves; to study cases where the statutes were applied. It is a task for a legal academic. Yet it is a task which would further

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190 Ibid.

confine the issue of alienation to the framework of the law - and the solution to alienation - redress - is not likely to be a legal one, rather a political one.

Native Lands Act 1862

This Act established courts for the investigation of title to Maori land and required a survey of land to be made by a licensed surveyor before the issue of a certificate of title by the court.

The Native Rights Act 1865

This was FitzGerald's attempt at translating the principles of the Treaty into law. It set up the Native Land Court and provided that certificates of title be issued to no more than ten owners.

Native Lands Act Amendments Act 1866

To take note of Maori needs for future use. If necessary to recommend restrictions on alienation; reserves alienable by 21 year lease unless otherwise brought by state intervention.

Native Land Act 1867

All owners to be registered eventhough only ten names on the certificate of title. Ten nominated owners could not alienate

reserves except by 21 year lease without the intervention of Governor in Council.

Public Works Amendment Act 1871

> '... it shall be lawful for the Crown to enter into arrangements for such purpose as the acquisition of land for railways, special settlement and mining previous to the land passing through the Native Land Court ... but subsequent to such arrangements, the land shall be passed through the Native Land Court and a certificate of title of the person entering into such arrangements with the Government obtained.'

Native Land Act 1873

Government surveyors employed under the Native Department. Mortgtes could not be made against undivided interests in Maori land. Multiple ownership established wheeby evry member of a hapu entered into a memorial of ownership.

Government Native Land Purchase Act 1877

Interpretation Act 1878

Section 16 (8) provided that anything commenced under any repealed act may be continued under it.

Native Land Court Act 1880

Native Committees Empowering Act 1883

This Act gave regional committees authority to discuss disputed land claims and advise the Native Land Court, and to arbitrate between Maori disputants in a variety of questions

if the contending parties had given prior agreement to accept such arbitration. Bryce as Native Minister, had in mind only seven or eight committees for the whole North Island.191

Native Land Alienation Restriction Act 1884

This Act prevented the Maori owners or any other person from negotiating the acquisition of land within a specified area, which included the whole of the Waimarino Block.

Section 7 of the Act provided that:

> '...nothing in this Act contained shall be held to preclude the Governor from negotiating with the Native owners of any land (land held under title or in any manner whatsoever) within the territory aforesaid for the purchase or other acquisition by Her Majesty of any such land they wish to dispose of, upon such terms and conditions as may be agreed upon between the Governor and such owners.'

This Act would override any order of the Native Land Court restricting the inalienability of Maori land.

Native Land Act 1885

Native Lands Administration Act 1886

This Act repealed the Native Land Alienation Restriction Act 1884. It provided that the Crown leased or sold land as agent for the Maori; and, tribal title and tribal dealing should be preserved by the incorporation of owners of a block as one legal entity.192

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191 Ward: 1978

192 Ward, op. cit., p. 297.

North Island Main Trunk Railway Loan Application Act 1886

This Act gave authority for the Crown to borrow money for the construction of the North Island main Trunk Railway and established the criteria by which the money may be used - Criteria 5 being:

> 'The cost, to an amount not exceeding one hundred thousand pounds, of acquiring Native or other lands lying within the boundaries described in the Schedule to the Native Land Alienation Restriction Act 1884.'193

Native Land Court Act 1886

This Act came into operation on 1 October. It made provision for proceedings commenced under any repealed Acts to be completed at the discretion of the Court in terms of the repealed Acts.

Native Lands Administration Act 1887

Maori not interested in putting land under Government Commissioners for the purposes of alienation by auction. Tribal leaders did not have the mandate of the people to do that, and at a Tiriti o Waitangi hui:

> '... it appears to them as an instrument working solely for the benefit of the government, against the interests and the very independence of the Maori race ... whilst professing to put an end to the Land Sharking it virtually creates the Native Department into the most dangerous and grtest land Shark that ever existed in New Zealand.'194

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193 AJHR 1888, G-2A 'Lands Purchased and Leased from Natives in the North Island.

194 Ibid

Native Land Act 1888

This Act restored the system of direct purchase. Restrictions on alienation could now be removed by the Native Land Court on the simple application of a majority of owners - proof that vendors had other land for subsistance and consent of the Native Minister were no longer required.

The North Island Main Trunk Railway Loan Application Amendment Act 1889

This Act provided that 95% of the land acquired in terms of the 1886 Act were to form an endowment for the railway and be leased, etc., under the provisions of the Land Act 1885 and was deemed to have been in operation since the passing of the 1886 Act.

Wanganui River Trust Act 1891

Magistrates Court Act 1893

This Act repealed the Resident Magistrates Act 1867 whereby Maori became amenable to the ordinary legal machinery of the land.

The Tongariro National Park Act 1894

The Native Townships Act 1896

Maori Land Claims Adjustment Act and Land Laws Amendment Act 1904

Section 8 of this Act provided for the Tawata Block to be reserved for such natives as 'have been for several years past residing thereon, and are more or left landless'.

Native Land Act 1907

Native Land Laws Amendment Act 1907

Native Rights Act re-enacted - 1908

Public Works Act 1908

Native Land Act 1909

Section 84 specifically stated that Maori customary title was not to prevail against the Crown.195

195 Von Haast, op. cit.

THE GRIEVANCE

'...Our desire is to hasten the construction of the railway in every possible and conceivable way ...'196

I

History demonstrates that the Treaty of Waitangi was a political device to clear the way for settlement. Treaties were an established strategy of the process of colonisation. The consequences of history prove that despite the declared intentions of the Privy Council in Wi Parata v. The Bishop of Wellington, and the obiter dictum of Cooke in the Tainui case, 1989, that the government will not be bound by perceived obligations of the Treaty of Waitangi.

The rhetoric of 'partnership' has given rise to an expensive government funded 'Treaty industry'. Claims to the Tribunal, the High Court, the Court of Appeal, have engaged growing phalanx of judges, barristers, revisionist historians, academics, anthropoligists, and researchers at bureacratic and iwi levels. Accommodation, travel, computers, publications, administration all add to the tax payers' bill.

One would value the industry if its kaupapa was productive of a solution that quenched the philosophic aridity of the nation state here in Aotearoa - but it does not. Either the

196 AJHR 1890, G-1 - Ballance at Ranana, 1885.

'experts' genuinely believe that the negotiation or the judicial process can produce a solution to redress - or they are either self-aggrandising or gullible.

The solution to grievance is a reallocation of power - that dynamic that is never given away ... Maintaining the status quo we have a bureaucracy that is not progressive where it assents the rule of power. This amounts to an institutional dishonesty that prates 'Treaty principles' while we not only reap the sour harvest of last century's dealings but new crops continue to be sown in such things as the coercion towards direct negotiation with the Crown as opposed to Tribunal hearings where the evidence of history is ventilated for public scrutiny. In these conditions the collective assenting of the rule of power is not likely to decrease.

The Crown's acquisition of the Waimarino Block occurred in this country. So confident were the administration of the rightness of their purpose that documentary evidence was published, and held in archives leaving clear foot prints of the course of alienation. This direction has implications not only for indigenous claimants but for the citizenship of the country as a whole.

The seeds of grievance regarding the Waimarino Block have germinated and produced a forest of contempt for the Crown. It's acquisition is an essential example of the way the Crown has breached the Treaty of Waitangi.

It may be true that the government consulted with the people. But in this case consultation was a rhetorical exercise where the undertakings of the Crown were not fulfilled - either here or in the conditions agreed to in the Rohe Potae.

> '...I would like just now to remove a wrong impression that has prevailed in the minds of some of you as to what we have done respecting this land. It has been said we have taken land along each side of the railway five miles in extent. We have done nothing of the kind. What the Government has done is taken all the land that is likely to be increased in value by the railways in the schedule to the Act. The whole of the King Country is taken in along the line of the Wanganui River, through Lake Taupo and Rangitikei. The extent of land in the schedule to the Act is 4,500,000 acres. Now what has been done by the Bill is this: the Bill says that no private individual shall touch the land. The Bill does no more than that it saves the land to the owners. That land is absolutely the property of the Maori, and more so than it was before.'197

II The Particulars ...

ONE

The government did not act in good faith. The nature and the consequence of the transaction was not reasonable given that the whole block was alienated and reserves that were awarded by the Native Land Court were not settled satisfactorily for the occupation and the disposal of the occupants. Adequate provision was not made to compensate for the loss of

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197 AJHR 1890, G-1, p. 65.

livelihood and lifestyle sufficient to equip the local population to participate in the modern economy. They were excluded from it.

TWO

For over a hundred years the Government has failed to provide redress for the grievance of the occupants regarding the 'purchase' - despite the many petitions and applications for rehearing and investigation.

THREE

The National Archives have Journals of Accounts regarding Maori Land Purchase. They are filled with entries recording treasury vouchers for payments to individual 'owners'. These book entries are not supported with the documentary evidence of receipts - nor are they accompanied with signatures of the recipients. The onus is on the Crown to prove that the money was paid to the sellers of the Waimarino Block.

FOUR

Successful colonisation does not occur without the essential element of collaboration. Kupapa fulfilled this function - as much in the purchase of the Waimarino Block, as they had in the Battle of Moutoa in 1865. The kupapa dynamic was deliberately exploited by the Crown. Where ever possible the occupants of the block were seduced with bribes of land and

money, status as collaborators, and the prospect of equal participation in the modern economy. This served to destroy the political solidarity of the tribal relationships with disastrous effect to the present day. A special impact report by a government funded economist is not required to demonstrate the inability of the descendants of the Waimarino Block to offset the ravages of dislocated economy, an inadequate access to education, housing, health and employment in the region.

FIVE

The Crown acquired 490,000 acres to accommodate 35 miles of railway frontage. It did not abide by the agreement with nga rangatira of Rohe Potae to take only a chain's width on either side of the line alongwith the minimal acreage necessary for buildings related to the railway.

SIX

The Rohe Potae agreement was for the survey of external boundaries only.

> 'Since the commencement of the sitting of the Natie Land Court in July 1886 for the investigation of title to land within the Rohe Potae Block or King Country the total area that has been adjudicated upon has been close upon 1,000,000 acres, represented by 136 separate blocks. The work of subdividing the large blocks is still going on, and it is to be hoped that, looking at the matter from the point of view of settlement of country by Europeans, before long the area and ownership of most of the blocks will be reduced to such dimensions as to make them easily attainable by transfer from the Native owners whenevr the latter

are will to part with them.'198

SEVEN

The Crown had no intention of abiding by such agreements. It borrowed British money to build the railway. It required the excess land to subdivide in order to furnish that loan. The North Island Main Trunk Railway Loan Application Act 1886 gave authority for the Crown to borrow money for the construction of the railway. This is proved by The North Island Main Trunk Railway Loan Application Act 1889 which provided that 95% of the land acquired in terms of the 1886 Act were to form an endowment for the railway and be leased, etc., under the provisions of the Land Act 1885 and was deemed to have been in operation since the passing of the 1886 Act.

EIGHT

The machinations of the Native Land Court made play with the integrity of whakapapa - the structure that defined social control and patterns of occupation - by encouraging kupapa response to misrepresent the status of occupation for many inhabitants of the block. Consequently the list of 'owners' is not correct. That being so, in large part the mandate for survey, title and purchase was not legally founded. Therefore the alienation of the block was invalid.

The Court did not accommodate the expressed wish of the occupants to halt the sale of the block, when they were

198 AJHR 1890, G-2, p.3 - Wilkinson, purchasing officer at Alexandra - report to the Native Department - 19 June 1890.

entitled to do so. Those who resisted the sale were accused of conspiracy and relegated to the 'pinnacles and precipices' by the presiding Judge. The function of the Native Land Court was coercive and brutal in its determination to alienate the block.

The Court never issued a certificate of title. That is required for a transaction to have taken place.

NINE

The expected procedure for alienation was not met - survey, registration, issue of title, alienation - this was made legal by the Native Land Alienation Restriction Act 1884 which overruled the jurisdiction of the Native Land Court. The reversal of this procedure by statute demonstrates the Crown's intention to abuse the power of Parliamentary sovereignty whenever it is necessary to take land and livelihood from original occupants.

TEN

It is alleged that genocide took place on the Waimarino Block to facilitate the purchase. It was common knowledge the Pakeha medical fraternity that it occurred. More research needs to be done on this subject. Affidavits can be produced to record the memory of a certain medical practitioner in Te Kuiti at the turn of the century.

DEDICATION

This report is presented with regard to Hikaia Amohia whose commitment to the retrieval of tribal land has no comparison. Koro Hik's light burned bright until the end, and will be carried for generations to come.

Uncle - arohanui ki a koe, forever ...

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