

CHAPTER 8

CONCLUSION

8.1 INTRODUCTION

This report was intended to provide an historical overview of land alienation in the Poverty Bay (Turanganui a Kiwa) district. Some complex issues have been discussed within this overview, and many questions remain to be answered on the basis of further research. Parts of this report have relied on key secondary sources for their substance, and consequently some conclusions or analyses of material have been based on those given by other researchers and historians. There are a number of conclusions given within this report which the existing evidence supports, while other hypotheses proffered may require further research in order to confirm or deny them. These conclusions and hypotheses, as well as points needing further attention, are outlined below.

Most problematic, within the story related in the body of the text, has been any attempt to categorically state Maori attitudes or to give an explanation for their actions at any given time. Official records have provided the basis for much of this report and for most of the secondary sources used in its research. Maori actions and reactions are therefore explained via the commentary and opinions of Europeans, whose objectivity may often have been affected by personal or political agendas. The absence of a strong Maori voice within this report is regrettable, but it is to be hoped that with the help of submissions on this work by Maori claimants and through the work of claimant researchers with access to Maori sources, the balance can be redressed. Despite these acknowledged limitations, in defence of the research presented here, an effort has been made to provide as balanced an overview as possible of the events related within this report.

8.2 THE TANGATA WHENUA

The tribal histories of this region, that are broadly related in the course of chapter 1, are extremely complex, and it is perhaps something of a distortion to amalgamate all group and sub-group identities into discussion of the three main tribes or even simply 'Maori of Poverty Bay'. It has often been difficult to differentiate between groups, however, and many of the effects of land alienation as well as the methods of alienation have been similar for all Maori in the district. It is envisaged, though that claimant research and evidence will involve a breakdown of the main groups into hapu and whanau, allowing a deeper analysis of the effects of many of the

events discussed in the text of this report. For the most part, claims registered with the Waitangi Tribunal from this district have been on behalf of one or more of the three iwi given in this report as tangata whenua at 1840. These were Te Aitanga a Mahaki, Rongowhakaata, and Ngai Tamanuhiri (Ngai Tahupo). Te Aitanga a Hauiti, although not specifically dealt with in this report, also had rights in the Uawa district from Titirangi northwards, and there is some crossover of interests in land and intermarriage between the constituent hapu of all these groups. Nevertheless, the three iwi primarily dealt with in this report were tangata whenua in 1840 and continue to be acknowledged as such today.

8.3 EARLY EUROPEAN SETTLEMENT

In the early period of European settlement, the Poverty Bay region was a Maori domain. European whalers and traders resided in the area only through the patronage of certain chiefs, who saw the presence of these Europeans in the community as a useful means of trading, as well as a matter of some prestige. These traders essentially had no rights other than those which the chiefs bestowed on them, and they lived in the Maori community according to its rules and social norms. It is evident from some of the statements made by European residents even at this early stage that their perception of their rights and relative importance was somewhat different than that of the Maori with whom they resided.

By the 1850s, when concern over the sale of land had begun to increase perceptively, the situation had altered. Although Poverty Bay was still a Maori domain, the Christianity brought to the region by missionaries had affected both the spiritual and social lives of the district's inhabitants. One of these effects was a development of Maori numeracy and literacy (sometimes in English, though usually in Maori). This soon led to active participation in the European economy, with local Maori becoming involved in trading and whaling, and sailing their own schooners full of produce to the markets in Auckland. This was a period of some hope and prosperity for Maori then, marked by a positive response to the challenges they faced through the process of colonisation.

Maori understandings of land alienation and of the Treaty of Waitangi are not easy to pin down during this period. Nevertheless, as Maori from this region travelled extensively, they would have been well aware of developments in Hawke's Bay, and concern over land sale had begun to increase, leading to the complete repudiation of all previous transactions in land before the land claims commissioner in 1859. These repudiations may indicate that Maori had never understood these early alienations (that formed the basis of old land claims by European settlers) to be absolute or permanent. Letters written during the 1850s certainly expressed such an understanding of the situation. Nevertheless, that local Maori understood the permanent nature of land sale by the 1840s is demonstrated

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by their reaction to the attempts of W B Rhodes and others to purchase large areas of the district.

The missionary William Williams also impressed the danger of such sales on local Maori and probably encouraged them to sign the Treaty of Waitangi as a way of protecting their lands against such European speculators. Although support for the document was slight (only 41 signatures being attached for the whole area) there was no active protest against it.

There was a deterioration of relations between Maori and European during the 1850s and early 1860s when settlers began to attempt the purchase of land on a large scale, turning from whaling and trading to farming. They also sought the validation, under European law, of personal land transactions formerly undertaken between certain settlers and their Maori patrons. Maori were concerned to retain control over their land and resources, which led to the local runanga charging for the use of waterways, grazing rights, and other resources. There were numerous discussions on the issue of European residence in the area and a desire to throw all Europeans out of the rohe was sometimes expressed. Maori were at this time becoming more economically successful in their own right, and their own schooners regularly took local produce to the markets in Auckland. This was a time of growing prosperity for Poverty Bay Maori associated with their entry into the colonial market. This entry was marked by its initiative, its enthusiasm, its profitability and success.

Europeans in the district felt their position to be unstable at this time, especially as they wanted to buy land but Maori would not sell. They applied in earnest to the Government to purchase land in the area, and McLean visited with this purpose in mind, only to be rejected. Although Maori in the district were wary of land sale they were prepared to enter into arrangements for informal leases with private individuals. They were much more concerned to avoid the acquisition of their land by the Government, and their distrust of the Government's motives extended to suspicion of the missionaries in the area. The first Government agent to be placed in the area, Mr H Wardell, was actively repelled by local Maori, who challenged the Government's right to send him there, and expressed the belief that because the Crown had acquired no land in the area it had no authority over them. The power in the region still resided in the runanga. This was clearly demonstrated by that body's levying of payment for grazing rights and the use of local roads by settlers. It was confirmed by the complete repudiation of all old land claims before Commissioner Bell in 1859.

These old land claims were repudiated by Maori and also disallowed by the commission on the basis that they had mostly been carried out in contravention of the pre-emptive right of the Crown after 1840. They would be heard again in 1869 though, and due to the much changed circumstances by that time, local Maori had effectively lost the power to repudiate the purchases as the 'right' was by that time transferred to Europeans in the area rather than Maori (due to their rebel status). The claims were all awarded and Crown grants were issued to the settlers. The legitimacy and fairness of such grants must be regarded as doubtful under the circumstances.

8.4 WAR AND CONFISCATION: A TURNING POINT IN MAORI FORTUNES

It can be seen that Poverty Bay Maori remained staunchly independent up to and during the 1860s, when disturbances had begun to break out in other areas of the North Island. When Pai Marire came to the area, Te Aitanga a Mahaki converted almost en masse but Rongowhakaata in the main stayed aloof from the movement. It was manipulation of the situation by Ngati Porou chiefs, when Pai Marire from the fighting on the East Coast fled to Poverty Bay, rather than any active rebellion on the part of Maori in Turanga, which led to the siege at Waerenga a Hika. This was a turning point in the fortunes of Poverty Bay Maori, the Government drawing up legislation to deal with the confiscation of large areas of the best land on the Coast. Nothing had been done by 1869 when Te Kooti returned from the Chatham Islands and attacked Poverty Bay but these events forced the hand of local chiefs who were pressed into a 'cession' of the entire district from which the Government would retain a portion in payment for the costs of repressing the 'rebellion'.

It is evident from maps drawn up in 1868, and discussions at the time, that it was the Te Aitanga a Mahaki group of 'rebels' who were primarily to be punished for their 'rebellion' in the form of land confiscation. Te Kooti's activities of November 1869 changed the emphasis to punishment of Rongowhakaata, or at the very least ensured that their 'loyalty' to the Government during 1865 was overlooked. There was no new legislation to specifically cover the new set of 'rebellious' activities though, and it is also arguable that most of those punished with the loss of their land for Te Kooti's raids were actually prisoners of Te Kooti's party rather than active participants in the hostilities. Excessive pressure from Government agents such as Atkinson, and the threat of the withdrawal of military protection for the inhabitants of the district, led Poverty Bay chiefs to cede all their lands to the Government, with the agreement that all would be returned to them in Crown granted title, except for 15,000 acres which the Crown would retain in three blocks (Patutahi, Muhunga, and Te Arai).

The Poverty Bay Commission sat in 1869 with the primary purpose of dividing out the Government's share. This share ended up as 56,161 acres, a significant increase from that which Maori claimed to have promised. The fact that the agreement for the Crown's share was made out of court before the commission sat and was a verbal understanding makes it extremely difficult to ascertain the degree to which the Crown agents acted with duplicity in confiscating the much larger area. At any rate, through a number of different manoeuvres, they managed to get another 20,000 acres added to the Government's portion of the Patutahi block on survey. This explains some of the discrepancy from the original figure quoted, but more research is required if this difficult issue is ever to be fully explained.

The portions retained by the Government were to come primarily out of the lands of Rongowhakaata, only 5000 acres being retained from Te Aitanga a Mahaki, who made up the majority of the original 'rebels'. Additionally, the lands which the Government kept were the most valuable of Rongowhakaata's lands, and came out of a smaller tribal estate than that of Te Aitanga a Mahaki. It is easy to see that Rongowhakaata bore an unreasonably large burden for the troubles of the previous

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years in the loss of so much of their land. The Poverty Bay tribes, including those members who had been loyalists, also lost their political autonomy, as the Government refused henceforth to actively consult Poverty Bay chiefs on matters directly concerning their people and their lands, preferring to discuss the affairs of the Poverty Bay tribes with Government allies from Ngati Porou and Ngati Kahungunu. This state of affairs was galling to the Poverty Bay chiefs, who were consistently told that this situation had arisen because they were 'rebels', that their chiefs were traditionally of no importance, and that the Government did not regard their complaints as legitimate. Ngati Porou and Ngati Kahungunu, to make matters worse, had been granted lands out of the Patutahi block as reward for their allegiance to the Government in the recent troubles. These tribes agreed to take money from the Crown as compensation for the lands, which the Government retained, paying the two tribes £5000 each. Loyalists from within the Poverty Bay tribes were not similarly rewarded despite promises to this effect having been made to them by Government agents on a number of occasions.

From this time onwards, Turanganui, the previous Maori settlement, was known as Gisborne; the Government having purchased it shortly before Te Kooti's return under circumstances which place the 'purchase' quite clearly in the category of a 'forced cession'. Although money was paid for the lands it is evident that pressure in the form of the threat of confiscation was the primary reason Poverty Bay Maori agreed to sell some land for a European settlement – something that they had previously refused to do. The title to this land was never properly ascertained because it was purchased before the arrangements surrounding confiscation. Therefore, important details about the history of the land, the location of urupa and wahi tapu, were never recorded and this information was lost to descendants of the original Maori owners.

8.5 THE NATIVE LAND COURT PROCESS

The name change of the township reveals much about the way in which the tide had turned for Maori in the area. The Native Land Court now moved in to complete the process of individualisation of tenure, to destroy traditional tribal structures and social frameworks, to cause impoverishment and eventual landlessness. If Maori were crushed by the confiscation of their land, the process that followed was almost completely debilitating. Land returned by the 1869 sitting of the Poverty Bay Commission had been returned in joint tenancy, allowing it to be sold off rapidly to European speculators. The majority of this land had been permanently alienated by the 1890s. It is significant that this also impacted most seriously on Rongowhakaata, whose lands were the first to be returned by the commission. All their prime arable land on the flood plains was taken up by settlers. The rest of the lands were returned to Maori in tribal blocks by the 1873 commission, who were faced with insurmountable problems in ascertaining individual title, and were plagued by the activities of those Maori who protested against the commission and repudiated the cession of land to the Crown.

In the 1870s, the Native Land Court was to ascertain ownership of most Poverty Bay blocks, and award these lands in individual and undivided shares. The process then began which was to result in the district's complete notoriety in the next couple of decades as an area where title to land was so confused, and the litigation over disputes so continuous, fierce, and expensive that it was unwise for Europeans to attempt the purchase of Maori land there. In later years there would be a number of different stop-gap measures introduced by the Liberal Government to validate European titles and award these lands to them. In short, the effects of the land court on Maori in this area followed a similar pattern to that in other districts. Poverty, debt, the persuasion of individual and lesser owners in land to sell their shares, led to the continuous subdivision of blocks into smaller and smaller holdings in order to separate out the shares of the European purchaser.

The Government had itself operated in the same manner as private purchasers in paying sums of money to those who claimed to be principal owners in land prior to its passage through the Native Land Court. The land purchase officers then exerted pressure on those listed as owners of blocks to sell their undivided interests, until such time as enough shares had been purchased to make a subdivision of the block a necessity. Through these methods, the Crown acquired over 200,000 acres of land in Poverty Bay from 1876 to 1884. Partitioning of further Crown interests in Poverty Bay blocks continued into the twentieth century. Although the Government acted in the same manner as private speculators and used the same methods, it also used the provisions of the Immigration and Public Works Acts to stop European individuals from purchasing interests in blocks for which the Crown was negotiating. This amounted to a mild form of pre-emption, as it prevented Maori from getting a better price for their land from private speculators once they were locked in to a sale to the Crown by the initial payment of money by the land purchase officer.

There are various issues associated with this period of land alienation in Poverty Bay that require further investigation, such as the removal of restrictions on alienation of Maori land. Many purchases in this district were made in violation of restrictions and these purchases were later validated. The fact that no Maori reserved land was safe from purchase activity and that these illegal purchases were later approved must be seen as highly questionable. The activities of the Validation Court are similarly an area requiring more research and analysis not only into the particulars of cases brought before the court but also into the lack of emphasis put on Maori opposition to these validations. The onus was put on Maori objectors to validations of European titles to prove to the court that the purchases in question had not been made in a manner both equitable and 'in good conscience'. If Maori did not appear in court, which they often did not for a variety of reasons, the transactions were automatically validated without requirement of proof of the bona fides by the European claimant. The stipulation that the transactions must have been made in 'equity and good conscience' was irresponsibly vague and open to a wide variety of interpretations by presiding Judges, as the dubious nature of validations of title to blocks awarded to the Carroll-Wi Pere Trust attests.

8.6 THE TWENTIETH CENTURY

By the twentieth century, less than 25 percent of the original tribal estate remained, much of this either leased or tied up with the East Coast Trust, and out of the control of the Maori owners. For all they knew these lands could have been permanently alienated at any time, as the earlier New Zealand Native Land Settlement Company and Carroll-Wi Pere Trust had allowed Poverty Bay blocks to be sold in mortgagee sales by the Bank of New Zealand. There were already many Maori in the area who were completely landless and reliant on the proceeds from waged labour for the support of themselves and their families. The social impact of the large-scale sale of land both to the Crown and to private interests cannot be under-estimated in its importance. Maori whose land was later incorporated, although they may have remained owners, were owners among hundreds who could not farm or occupy the land. Receiving only very small dividends, these beneficial owners were essentially landless, and often resided in the city of Gisborne or elsewhere. This continues to be the case, but more contemporary social research is required into these matters.

Oliver and Thomson in their book *Challenge and Response*, summed up the general effect of European settlement on Poverty Bay Maori in the broad statement that in the 1850s the monopoly of Captain Read stood for a significant transfer of economic power, followed by a transfer of military power in the 1860s, and of political power in the 1870s. It seems clear though that the transfer of power, both economically and in a political sense, from Maori to Pakeha was inextricably linked to the transfer of land. The turning point for this transfer came with the confiscation of Poverty Bay lands in 1869. Although it was officially referred to as a 'cession' of Poverty Bay lands to the Crown, it can only be seen as a confiscation of those lands by the Government. It was referred to as such by politicians and Government officers at the time, and it was known as such by both Maori and settlers in the district. Although this occurred under separate legislation than confiscations in other areas of the North Island, it was carried out with reference to section 5 of the New Zealand Settlements Act in terms of the definition of rebellion. It was also instituted by the Government with the same purposes in mind as in other confiscations. These were the punishment of rebels, the reparation of costs incurred in the wars, and the appropriation of land for military settlers. After the confiscation of a large area of good land which was to be sold to settlers, and the purchase of land for the establishment of a European township, the nucleus of increased settlement was established in the former Maori domain of Poverty Bay. The tide of land sale and settlement could not be stopped from this time onwards. The individualisation of tenure carried out through the Native Land Court process must be seen as having had appalling consequences for Poverty Bay Maori who were no longer equipped with the resources necessary to control the rapid alienation of individual shares in land. That confusion reigned in the matter of land laws and land matters in the district is evident, and that this confusion was far more detrimental to Maori land owners than to European purchasers is similarly evident.

Various instances outlined in the course of this report show that successive governments were similarly negligent in their duty to protect Poverty Bay Maori from the perpetration of injustices on them and the excessive loss of their land and

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resources. That Government agents often ran rough-shod over the Maori right to tino rangatiratanga has also been demonstrated. The confiscation of land in Poverty Bay was without doubt the single most tragic and damaging event in the history of Maori in this district and it led, in the fashion of falling dominoes, to the subsequent alienation of the greater part of their tribal estate, leaving many landless and impoverished.