

CHAPTER 2

THE DECISION TO ‘OPEN UP’ THE ROHE POTAE

2.1 THE ROHE POTAE ‘STATE’

By the 1850s it is clear that many iwi were becoming increasingly concerned about the implications of continued land sales to European settlers. Although still relatively untouched by land sales, interior North Island iwi shared this concern. Iwi discussed the issue in a series of hui held from about 1853. These resulted in the creation of a pan-iwi alliance determined to resist continued sales and to protect iwi and hapu autonomy. This movement had widespread Maori support throughout the central North Island from Taranaki to the East Coast.¹ Potatau Te Wherowhero of Ngati Mahuta of Waikato was elected as the first Maori King in 1858. By this time the interior North Island iwi had become the backbone of the Kingitanga and supported the policy of resisting any further land sales. The settler Government regarded the King movement as an intolerable challenge and in the early 1860s responded with warfare in an attempt to impose political dominance and to enforce measures designed to open up North Island lands to European settlement.²

The New Zealand wars have been covered in detail elsewhere.³ It is clear that interior Kingite iwi, including Ngati Maniapoto, took part in fighting in Taranaki and Waikato. There were major battles in the mid 1860s in the central North Island. As a result, the Maori King and his Waikato followers retreated south of the Puniu River into largely Ngati Maniapoto territory, where they were given refuge by their Ngati Maniapoto allies. The Government was unable to impose military force on this interior district and the Rohe Potae, or what became known as the King Country, survived the wars as a semi autonomous state.

For over a decade after the wars, the central King Country remained largely autonomous, controlled by the King movement. In the north of the district an ancient aukati, that had once apparently regulated movement between Te Arawa and Waikato across the Patetere plains, was revived and extended.⁴ Europeans were denied access to the district without first obtaining what were effectively visas,

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1. Waitangi Tribunal, *Pouakani Report 1993*, Wellington, Brookers Ltd, 1993, p 49
 2. For example, compulsory public works provisions were extended to Maori land shortly after the wars began, see Cathy Marr, ‘Public Works Takings of Maori Land 1840–1981’, report commissioned by the Treaty of Waitangi Policy Unit, 1994
 3. For example, James Belich, *The New Zealand Wars and the Victorian Interpretation of Racial Conflict*, Auckland, Auckland University Press, 1986
 4. AJHR, 1873, G-1, p 15

issued under the authority of the Maori King. There was some Government diplomatic entry into the district but the authority of the settler state did not extend into it.

The Kingitanga iwi had taken a battering in the wars but were by no means beaten. It is clear that throughout the 1870s the Kingitanga was still a strong and cohesive force with widespread support from its members. The King Country became a refuge for leaders such as Te Kooti and for those Maori who had committed crimes in districts outside the aukati line. Settlers inside the district could not rely on state authority. The King movement controlled European entry and activities within the region and could refuse state forces entry if it chose. In 1871, Kingites expelled some traders who wanted to open a store at Kawhia and a Maori mission teacher sent to Aotea. Several Europeans were also killed for what was regarded as flouting Kingite authority. A fencer Lyon, and a surveyor Todd, were killed in the early 1870s. In 1873, a labourer named Sullivan was also killed while working on land within the aukati that was leased to two Europeans. A hapu of Ngati Haua had strong claims to the land but following King policy had boycotted the Native Land Court hearing. As a result, the land was awarded to other claimants and they leased it to Europeans. The lessees ignored warnings not to trespass on the land and Sullivan was killed. In spite of settler rage, there was no armed pursuit by Government forces into the region, of those believed responsible for the killing. The Kingites were at times open to persuasion, such as when European police were allowed across the aukati in 1873 in pursuit of a Pakeha fugitive. However, the region was clearly under Kingite control. Authority was refused for pursuit of a Maori fugitive in 1876. Pakeha who flouted King movement authority could still be killed as late as 1880, as seen in the killing of the Pakeha trader and opportunist, Moffat, near Taumarunui in that year.⁵

2.2 THE DECISION TO ‘OPEN UP’ THE ROHE POTAE

By the late 1870s, the Rohe Potae district was still closed to Government authority. The Government was very keen to have the district ‘opened up’ both for European settlement and to assert state authority over the area. The Government had confiscated large areas of land to the north and south of the Rohe Potae. In the north as a result of the Waikato confiscations, Waikato iwi lost most of their land, totalling over one million acres. To the south there were also large confiscations in Taranaki. There were no confiscations within the Rohe Potae itself, however, and the Government was not in a position to impose any.⁶ There was considerable settler pressure to open up the district as soon as possible but in the short term the Government could only rely on diplomacy. However, up until the end of the 1870s, diplomatic efforts were demonstrably unsuccessful. As late as 1878 to 1879,

5. Alan Ward, ‘Whanganui ki Maniapoto’, report commissioned by the Waitangi Tribunal, 1992 (Wai 48, doc A20), p 30 and *A Show of Justice: Racial Amalgamation in Nineteenth Century New Zealand*, Auckland, Auckland University Press, 1974, pp 234–235

6. Belich, pp 197–200

diplomatic efforts by Sheehan and Grey to negotiate the opening of the district failed miserably.

Nevertheless, by at least 1880 it had become clear that the Rohe Potae district would become more open. This decision was made within the King movement. It seems to have been a response to pressures within the movement to replace continued isolation behind the aukati with more open engagement in the wider economy, and some form of dialogue with Government.⁷

The reasons for this change in policy on the part of the King movement appear to have been complex – a combination of a desire to participate in new economic opportunities and a realisation that outside pressures would eventually prove destructive unless some effort was made to modify and control them. It is clear that new economic opportunities were becoming available through, for example, leasing land and developing land for activities such as sheep farming.⁸ These opportunities provided ways of participating more actively in the economy and seemed to offer potential for securing future prosperity. Even with the risk of Pakeha interference, they seem to have appeared increasingly attractive when compared to certain future poverty in continuing isolation. The most significant outside pressures appear to have been the vast programme of public works being extended all around the district, and the operations of the Native Land Court which were beginning to whittle away at the outer edges of the district.

Even in the years of isolation there had been trading between the King Country and outside districts. King Country Maori had continued to visit and trade in the frontier towns. From the early 1870s, there was considerable trade in crops, livestock and other goods across the aukati.⁹ However, the greatest economic opportunities for sustainable future prosperity lay in being able to use land in the new economy. In particular, by this time, leasing rather than selling seemed to offer the best chance of obtaining a sustainable income, as well as the cash and experience required for developing land to ensure future prosperity. Ward has shown how the preference for leasing was later reinforced by the example of Rotorua. In that district the Government was to ban private land purchasing, and initially at least, the sale of leases attracted high prices.¹⁰ Rohe Potae leaders ultimately relied on the support of their people and increasingly many within the King Country wanted the chance to participate in the economic opportunities they saw developing around the district.

In the 1870s, the interior lands of the King Country still remained closed to Government public works projects. Leaders could see the economic benefits of the projects but remained suspicious of associated Government and settler interference. The Government refused to recognise the King movement as a rival political power. However, officials were posted in sensitive areas with duties to not only report intelligence but to persuade local chiefs of the benefits of peaceful cooperation with Government through, for example, public works projects. In 1871, W G Mair was appointed to Alexandra to handle relations with the Kingites.

7. W G Mair to Under-Secretary, 27–28 May 1881, AJHR, 1881, G-8, pp 4–6

8. Ward, 'Whanganui ki Maniapoto', p 36

9. Ward, *A Show of Justice*, p 265

10. Ward, 'Whanganui ki Maniapoto', p 33

As part of his duties, he attempted to persuade Kingite leaders of the ‘mutual benefits’ of public works. The *Pouakani Report* cites an official report from Mair in 1872, where he quoted the response of one Kingite chief:

you need not tell me what I know quite well, but we oppose you in this direction because these things benefit you in a much greater degree than they do the Maori, and each mile of road or telegraph that you construct makes you so much stronger than us!¹¹

Nevertheless, the desire to have such projects within the district and to participate in them was becoming more powerful, so long as they could be controlled. Throughout the 1870s, as a result of the Government’s careful policies, King movement iwi on the outer edges of the district began allowing public works construction over their lands. Roads were being constructed in the Taupo district for example from the 1870s.¹² The reasons were clear. Construction of public works invigorated local economies, at least temporarily, as cash was spent on wages, supplies, and materials. There was also a widespread belief, shared by Maori and Pakeha, that the works themselves would lead to continued economic progress and future prosperity. Roading and railways for example, provided better access to markets and encouraged settlement ensuring future markets. The Government made every effort in the North Island, to coopt Maori into working on projects such as roads and railways¹³. Maori were often keen to take on the work in order to earn cash to rebuild after the wars. The *Pouakani Report* cites evidence of this from an official 1872 report on works programmes in the Taupo district. That report noted how poor the Maori of the interior district appeared after the wars and officials hoped that employment on the projects would provide a ‘civilising’ influence on Maori by teaching regular work habits. However, the report also noted that Maori intended to use the cash to purchase the necessities required for cultivating and developing their own land.¹⁴

There was however, a down side to public works construction for the Maori workers. Essential supplies such as foodstuffs were priced so highly that wages were often consumed in paying for them. In many cases, supplies were also of poor quality or even a serious health risk. Workers were also encouraged to spend their wages on high priced grog, not only consuming more of the cash but undermining community discipline.¹⁵ Nevertheless, the lure of such projects remained powerful because they provided cash that could be used to develop land and enterprises such as sheep farming. By the late 1870s, there appeared to be powerful pressures on King movement leaders to allow more public works projects in the district as long as they could be properly controlled.

There was also increasing pressure within the King movement to have land title settled and legally recognised so that land could not only be protected but used for economic gain. There was clearly a strong desire not to sell. Nevertheless, settled,

11. *Pouakani Report*, citing report of W G Mair, 1872, p 57

12. *Ibid*, ch 4,5

13. Ward, *A Show of Justice*, pp 231–239

14. *Pouakani Report*, pp 57–58

15. *Ibid*, quoting T Grace, 1871, pp 58–59

recognised title was also required for leasing land and there was strong pressure to engage in this. The only means of achieving this at the time was through the Native Land Court. However, it was clear to Rohe Potae leaders, that the Land Court itself was a direct threat to chiefly and hapu authority over land. The record of the court in other districts was also closely associated with the loss of Maori land and destruction of Maori communities.

Many King Country iwi had interests in other districts and were able to see how the courts operated. It was simply not possible to ignore the Native Land Court process. If the court was boycotted and a claim not made or defended, as was Kingite policy, then the land was simply awarded to someone else who would get the chance to reap its economic possibilities. Individual settlers were always willing to gain a foothold into the area by offering to lease land, but viable leasing also required secure title. The pressure for supporters of the King movement to enter this economy and use their land for economic opportunity was becoming irresistible. People simply could not stand back and watch their interests and economic opportunities being awarded to someone else.

By the 1870s, the Native Land Court was operating around the edges of the King Country district and by the early 1880s was gradually whittling away the outer boundaries. Courts were sitting in the Waikato district to the north, in the Taupo area in the east, and in Whanganui to the south. As always, the extension of Native Land Court operations seemed to be inevitably bound up with purchases of Maori land. In fact, as David Williams and others have argued, by this time settler society expected the Native Land Court to be more effective in crushing remaining Maori political and economic independence than previous military attempts had been.¹⁶

It seems clear that even by 1880, the King movement had responded to some of the internal pressure to engage more directly with the settler community, especially in terms of economic opportunities. This was largely in the direction of leasing land. Ward cites examples where Tawhiao had given permission for settlers to occupy and lease land. Some settlers were allowed to occupy land around Maungatautari, and to return to Kawhia, for example. Some leasing to settlers was also permitted in the Taupo area.¹⁷ However, this was not enough, and by the late 1870s and early 1880s it seems clear that some applications were made to the Native Land Court from within the King Country, although these still seem to have been mainly concerned with land around the outer edges of the district.

In 1882, the Native Land Court sat at Waitara to determine title to land in the south of the King Country district, between the Taranaki confiscation boundary and the Mokau River. The court investigated titles to the Mokau Mohakatino and Mohakatino Parininihi blocks, and two other blocks inland of the confiscation line.¹⁸ In 1882, Whanganui land in the Murimoto block in the south of the district also went through the court. In the north, large blocks bordering the Rohe Potae district were also going through the court. These included the Patetere and

16. D V Williams, 'The Use of Law in the Process of Colonization: An Historical and Comparative Study, with Particular Reference to Tanzania (Mainland) and to New Zealand', Phd thesis, Dar es Salaam, 1983, p 312

17. Ward, 'Whanganui ki Maniapoto', p 34

18. *Pouakani Report*, pp 256–257

Maungatautari blocks. By 1883, Ngati Hikairo, whose claims were mainly to the north of the district but who also claimed interests in Kawhia harbour, had made an application to the Native Land Court. In the east, in the Taupo district, the Native Land Court had begun sitting in 1867 and continued to sit through the 1870s and 1880s.¹⁹

There was a great deal of pressure within the King movement to continue making applications to the court. Leaders were faced with simply standing by until this pressure became uncontrollable, or taking the initiative to find some way in which their people could take advantage of their land interests without losing control of the whole process, and in such a way that the obvious problems associated with the Native Land Court process could be avoided. Even though there was pressure to have title settled by the court, the ultimate aim was to engage in leasing rather than selling land.

2.3 THE MOKAU MOHAKATINO BLOCK – JOSHUA JONES’S LEASE

The most well known of these early attempts at securing title through the Native Land Court in order to lease, turned out to be a major disappointment for the Maori owners and a source of long standing problems, eventually resulting in the loss of the land. In 1878, Wetere Te Rerenga and 99 others signed a lease agreement with Joshua Jones or ‘Mokau Jones’ for about 56,000 acres in the Mokau Mohakatino block. The history of the lease has been covered in more detail in reports by Evelyn Stokes and Giselle Byrnes.²⁰

The whole history of the lease appears to have been surrounded by controversy. Jones was apparently interested in leasing not only the land but the possibilities of coal and timber extraction. He had previously worked as a mine manager in Australia. He apparently sought and won high level Government support for his venture because it suited Government aims of the time in finding ways to open up the Rohe Potae.

Stokes cites claims that the original signing of the lease was apparently carried out in dubious circumstances. Jones landed several barrels of beer on the beach at the time the lease was signed. Several witnesses claimed he managed to get the signatories drunk before they signed, while he claimed the drinking only started afterwards. Owners also claimed that they were offered money to sign and did so for the money without understanding what was taking place. Others claimed that they were never paid money that they were promised. Others also claimed that they had been assured that the lease was for timber and mineral rights only, and not the land. There were also apparently two versions of the lease, one which was read to the Maori owners and another different version which they were given to sign.²¹

19. *Pouakani Report*, p 67

20. Evelyn Stokes, ‘Mokau: Maori Cultural and Historical Perspectives’, report commissioned by the Ministry of Energy, 1988, pp 141–148; and Giselle Byrnes, ‘Ngati Tama Ancillary Claims’, report commissioned by the Waitangi Tribunal, 1995 (Wai 143, doc M21)

21. Stokes, p 143

There were complaints later from Jones's European partners in the lease who found out that their names had all been left off the lease document when it was signed and the lease made out to Jones alone.

In 1882 the block was passed through the Native Land Court at Waitara so that legal title could be established and the lease legally secured. Ngati Maniapoto chiefs with interests in the area supported the application. This was one of the first instances where the Kingitanga boycott of the Land Court in the Rohe Potae district was broken. Rewi Maniapoto and Wetere Rerenga supported the application in order to secure title, and therefore income from the lease, for Ngati Maniapoto interests against Ngati Tama claims.

However, the owners, quickly became concerned about the lease. They objected to Jones's interpretation of it, and to further efforts he made to secure backing for coal mining ventures. Jones himself became heavily involved in trying to secure financial backing and legal validity for his lease. As described in more detail by Stokes and Byrnes, Jones managed to gain special exemptions from a number of legislative provisions that were intended to provide some protection for the interests of Maori owners in land dealings in the district. The Native Land Alienation Restriction Act 1884 for example, restricted land dealings by private individuals in the Rohe Potae and made previous such agreements invalid. Jones obtained a special exemption from these provisions, through special provisions in the Special Powers and Contracts Act 1885. These allowed him to 'complete negotiations' with the Maori owners in the block. The Native Land Administration Act 1886 also required unanimity of owners before a title could be granted. Jones did not have this but again he pleaded a special case and in response obtained special legislation in the form of the Mokau Mohakatino Act 1888.²²

In 1888, surveyors began working on the part of the block the 1882 hearing had indicated was the Jones lease. By this time it had become clear that the Maori owners had serious problems with the lease. The surveyors followed the straight lines indicated by the court, instead of following the Maori boundaries of what the owners had indicated they had agreed to lease. As a result, the surveyors cut straight through cultivations and areas that the local owners had always presumed were outside the area of the lease. In 1889, there was a further court hearing for a subdivision of part of the block outside the lease area. At this hearing, many of the problems with the lease were raised. Jones was allowed to speak and complained of his own problems. For example, owners also complained that the boundaries had resulted in the loss of burial areas, that were always meant to be excluded. There were also complaints that the lease was supposed to be for mining only. Arguments were raised over the rights of owners and hapu who had not signed and those whose interests had been excluded altogether. There was also concern about the implications for hapu rights in certain areas, coastal areas for example, when court partitions were made that excluded some owners from those rights.

Jones's efforts to establish his lease resulted in years of legal wrangling and financial exhaustion. He was forced to remortgage his lease and the validity of the lease was the subject of a number of later investigations. There was a commission

22. See Stokes 'Mokau' report and Byrnes 'Ngati Tama Ancillary Claims' report for more detail

of inquiry in 1907 and a further Government investigation in 1911.²³ Eventually the leased block was sold to interests other than Jones.

More research is required but it seems that even on the evidence available, serious issues have been raised about the lease. In fact Stokes has observed that:

It is probably fair comment that not only the circumstances of signing the original lease agreement but also the protracted wrangling, wheeling and dealing over many years over the Mokau Mohakatino block constitutes one of the most dubious of any transactions involving Maori land in the nineteenth century.²⁴

23. AJHR, 1907, G-1B; AJHR, 1911, G-1, G13a

24. Stokes, p 148