

CHAPTER 3

THE NGATI MANIAPOTO ‘COMPACT’ WITH THE GOVERNMENT, 1882–83

3.1 THE SPLIT WITH TAWHIAO

As the King movement began to abandon isolationism in the Rohe Potae, discussions within the movement began to focus on how the opening up of the district might be controlled. By about 1880, there appeared to be a strong consensus within the movement that the aukati should be withdrawn. There was also widespread support for seeking economic opportunities through leasing, rather than selling land. The major issue of the next few years was to be how to achieve a controlled opening of the Rohe Potae. It is clear that there was a strong determination to maintain significant Maori control over the process while at the same time avoiding the most destructive features associated with increased interaction with Pakeha.

Government officers reported on policy discussions taking place within the King movement at this time. W G Mair reported in May 1881 for example, that the King movement was looking to some way by which the land could be preserved and the people saved from poverty. The Kingites were opposed to selling any more land but were not opposed to leasing.¹ The King movement also made conciliatory gestures to the Government. In August 1881, Tawhiao rode into Alexandra and laid guns before W G Mair in confirmation of peace. He also indicated a willingness to accept rents for Waikato lands at Mangere. Ward also points to the Kingite decision to lift the aukati by mid 1882. The Government provided further encouragement with an Amnesty Act in 1882, giving full pardon to those still sheltering from European law in the King Country. This was, as Ward has noted, in striking contrast to the Government’s treatment of Te Whiti of Parihaka.²

Kingitanga leaders recognised that they needed to negotiate a more equitable system of determining land title and of managing their own land than was currently available through land legislation and the operations of the Native Land Court. However, as already seen, there was already strong pressure to invite the Native Land Court in. There was relatively little time before the Land Court threatened to engulf the district and pave the way for the land sales that seemed to inevitably follow the court process. At the Whatiwhatihoe meeting in 1882, Tawhiao proposed:

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1. Mair report, 27–28 May 1881, AJHR, 1881, G-8, pp 4–6
 2. Alan Ward, *A Show of Justice: Racial Amalgamation in Nineteenth Century New Zealand*, Auckland, Auckland University Press, 1974, p 286

Rohe Potae

Let the work of surveys, let leasing, let sales, let the making of roads, and the Native Land Court in the district which belongs to me and the people of my tribes, be stopped for the present. Shortly they may be commenced, when the Parliament and the chiefs of our people have agreed upon some mutual basis of settlement between the Europeans and those people who, under me, are called the King party.

Secondly, I say let a Parliament meet in Auckland, so that when they assemble for their work they may be close to us, and that we may enter that Parliament ourselves and quietly discuss all matters in difference between us and the Europeans.³

Tawhiao also referred to his concern at Government encroachments at the edges of the Rohe Potae, in the Kawhia and Mokau districts. He wanted the outstanding questions regarding the basis of settlement discussed and settled before further developments took place. However, he made it clear that he would allow some European settlement as long as it was on a controlled basis. Tawhiao's proposals were discussed and agreed to by the meeting, and eventually conveyed to Parliament by Te Wheoro. However, the settler Government was not willing to discuss matters on a partnership basis and the requests were ignored.

At about this time a 'split' occurred in the King movement, largely over tactics rather than ultimate aims. The reasons for this require more research. It seems clear for example, that Ngati Maniapoto were becoming concerned over the extent of real authority Tawhiao might want to extend over their customary lands. However, the major rift appeared to be over how, and at what point, the King movement leaders should engage with the Government. Tawhiao and his followers were convinced that they had to achieve an acceptable agreement with the settler Government over retaining some autonomy and having an effective political voice before the district was opened up. They objected to any developments such as the railway surveys going ahead before this happened because they believed Maori interests would then be ignored. In pursuit of this policy, they eventually decided to take a petition to Britain to have the Rohe Potae established as a self-governing Maori district under clause 71 of the Constitution Act 1852. Their petition was simply referred back to the New Zealand Government which rejected it. After this rebuff, they moved towards involvement in the Kotahitanga movement and demands for a separate Maori parliament in New Zealand.⁴

Other iwi leaders in the Rohe Potae appeared to be under greater internal pressure. Waikato iwi did not have customary claims to the Rohe Potae that the Native Land Court would recognise. As early as 1879, Judge Munro had made it clear that the Native Land Court would not recognise the authority of Tawhiao or the King movement over the Rohe Potae lands the Waikato Kingites were now living on.⁵ They therefore had little to lose if they continued to boycott the court. However, the situation was very different for iwi whose customary rights were likely to be recognised by the court. They were under great pressure to allow the

3. Alan Ward, 'Whanganui ki Maniapoto', report commissioned by the Waitangi Tribunal, 1985, 1992 (Wai 48, doc A20), pp 33–34; AJHR, 1882, G-4

4. Ward, *A Show of Justice*, p 292

5. Waitangi Tribunal, *The Pouakani Report 1993*, Wellington, Brookers Ltd, 1993, p 213; David 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, pp 313–315

court in to protect their land. According to David Williams, the Native Land Court judges used the '1840 rule', knowing it would encourage a rift in the King movement. He quotes Judge Fenton in 1891 as claiming that the use of the rule 'was one of the great reasons of the break-up of the coalition'.⁶

The pressure to use the Native Land Court for non-Waikato iwi in the Rohe Potae was already evident in the Mokau Mohakatino block already referred to, where both Ngati Maniapoto and Ngati Tama claimed land interests. Tawhiao's proposals were accepted by those Maori attending the Whatiwhatihoe meeting in 1882. However even then, some Ngati Maniapoto chiefs felt obliged to persist with the Native Land Court hearings on the block. The chiefs Rewi Maniapoto and Wetere Te Rerenga insisted that they had to go on with the hearings because they believed Ngati Tama was taking money from the Government for the land they claimed. They argued that the only option they had to secure title to the land, that the Government would recognise, was to take it through the Native Land Court.⁷ In the end, the Native Land Court did find in favour of Ngati Maniapoto claims.

Although the Native Land Court posed serious problems for Maori owners, it is clear that there was still a great incentive to use it. It was the only option available for providing legally recognised and settled title, both to protect land interests and to enable them to be used in enterprises such as leasing. There was really no alternative. If the court was boycotted, the land would almost certainly be awarded to others and therefore lost. Up until the early 1880s, the court had only operated around the edges of the district. It could not practically operate inside the Rohe Potae while the majority of chiefs opposed its presence and its determinations were likely to provoke violence. However, as pressure to apply for hearings built, iwi leaders recognised that they risked losing control of the process unless they took the initiative in some way. It appears as though a significant number of leaders of iwi with traditional claims to Rohe Potae lands therefore decided to begin negotiations with the Government as soon as possible. This new group was apparently led by a significant number of powerful Ngati Maniapoto chiefs such as Wahanui, Taonui, and Rewi Maniapoto. These chiefs had been significant leaders within the Kingitanga movement and they now formed a new powerful group with whom the Government could negotiate.

The Government for its part appeared delighted to have a new group of leaders to negotiate with. From this point, the Government virtually ignored Tawhiao and instead made every effort to encourage negotiations with Wahanui, Rewi, and other Ngati Maniapoto leaders. The Government and newspapers of the day tended to perceive the split as evidence of the decline of the Kingitanga and its policies. However, this was a misrepresentation. The split was over tactics rather than ultimate aims. Although the new group tended to be represented in negotiations by Ngati Maniapoto chiefs such as Wahanui, it also had strong support among leaders of other iwi with land interests in the district. A new confederation of these iwi was in fact being developed for this purpose. Rohe Potae chiefs still wielded

6. Williams, p 315

7. AJHR, 1882, G-4a

considerable power within the district and there was as yet no decline in their ability to prevent Government activity in the district if they wished.

The Government also practically needed to negotiate and win the cooperation of a significant section of Rohe Potae leaders before progress could be made in opening the district, including extending the operations of the Native Land Court. The same applications for court hearings that were forcing the chiefs to take the initiative, were also causing some problems for the Government. Although in some parts of the district hearings were possible, there were many areas where Land Court activities would certainly be violently resisted. The Government had therefore apparently delayed many applications until it could gain more significant support from chiefs.⁸ Although the Government preferred to regard the King movement as a spent force, in practical terms it could not proceed further without the cooperation of a significant section of leadership in the district.

3.2 THE OPENING OF KAWHIA HARBOUR

The opening of Kawhia harbour involved one of the very rare shows of force by the Government in the Rohe Potae district. The harbour was reopened but the show of force apparently produced inconclusive results. After this the Government returned to concentrating on negotiations as the major means of opening the Rohe Potae.

Attempts to re-open the harbour began in the early 1880s. The closure of ‘perhaps the best port on the West Coast of the North Island’ had rankled with settlers and Government for some years.⁹ The Government already had a policy of trying to eat away at the edges of the Rohe Potae through, for example, public works programmes and Land Court operations. The attempt to reopen Kawhia harbour was another effort to work away at the edge of the district. The Government initially sought to reopen Kawhia harbour ‘quietly’ by apparently taking advantage of an early land purchase near the harbour. The site of about 44 acres had been Crown-granted, presumably before the wars as the result of an early purchase. In about 1880, the then Premier purchased the site at auction. It was a suitable site for a township and provided access to the harbour. In February 1882, according to Bryce, the Government ‘quietly’ laid out township sections on the site ready for sale. In about 1883, construction was begun on the road from Kawhia to Alexandra. There was some Kingite opposition to the road but this was largely a protest at a lack of consultation and was not enough to stop progress. The Government stopped work on the road itself in about September 1883 because of general cost-cutting due to the continuing recession.¹⁰

However, Government officials continued with work in the harbour, erecting buoys and then on about 17 September 1883, beacons were erected to guide shipping. The beacons were apparently attached to posts set in land around the harbour. King supporters again protested against these actions. Within two days of

8. *Waikato Times*, 1 December 1883

9. Bryce’s report on the opening of Kawhia harbour, AJHR, 1884, G-1

10. *Waikato Times*, 15 September 1883

the beacons being erected, they were removed by two Kingite chiefs, on Tawhiao's orders. There were apparently also threats made against any Europeans who might try to occupy the new township lots.¹¹

The Native Minister by this time was John Bryce. He belonged to a Government that prided itself on taking a much 'firmer' policy on Maori matters and administration than had been the case under Donald McLean. Bryce had already made determined efforts to clean up what he regarded as the worst features of the old system of native administration and legislation. He was, however, much more austere and authoritarian in his approach to Maori issues generally.¹² He imposed rating and compulsory public works measures more extensively. He was also much more intolerant of Maori resistance, as seen in his assault on Parihaka in 1882.

Settlers and their newspapers naturally expected a show of 'firmness' from Bryce at what was described as the 'outrage' at Kawhia. Bryce appears to have believed that the recent split between Tawhiao and Ngati Maniapoto leaders provided an opportunity to use a show of force against Tawhiao. Bryce and some 112 armed constabulary men landed at Kawhia on 3 October 1883. The force encamped on Maori land near the township and a constabulary post was established. Tawhiao had already left the district by this time, but returned to discuss matters with Bryce. Tawhiao explained that he had ordered the posts the beacons were attached to pulled down as they were on his land and he believed he had a right to do this on his own property.¹³ He explained that he had not had the posts destroyed, merely removed. He had done this as he knew that Bryce would then come and explain matters to him. He reminded Bryce that the Treaty of Waitangi guaranteed Maori title to their land. He asked Bryce to explain matters clearly and to 'not treat us as inferior beings'.

In replying to Tawhiao, Bryce was careful to explain that the harbour beacons and indeed the encampment, were not intended as claims to land. The harbour beacons were there solely to prevent accidents to shipping. Bryce claimed the Crown had a right to place such beacons as part of the right of sovereignty granted to the Crown under the Treaty. He also insisted that while 'I have never asked you to sell land', Maori land titles should be fixed up 'so as not to hinder the occupation of your lands, and to prevent further trouble'. Bryce explained that making roads 'is not taking land. Roads confer a benefit on all, but more especially upon the Maoris, it opens up their lands'. Bryce also assured Tawhiao that the armed constabulary camp was not evidence of a claim to land. He promised that when the land was no longer required for the camp, it would revert to its proper owners.

In response to these assurances, Tawhiao claimed that now he understood about the beacons he would support their re-erection. He was also concerned about the road-making because he had not been consulted about it – a right he felt he was guaranteed by the Treaty of Waitangi. Tawhiao also indicated that he would like to have further talks concerning leasing land and that he intended to visit Wellington.¹⁴

11. *Waikato Times*, 22 September 1883

12. Ward, *A Show of Justice*, pp 281–284

13. *Waikato Times*, 9 October 1883

14. *Ibid*; Bryce's report, AJHR, 1884, G-1

After these discussions, it became clear that the constabulary force was unlikely to meet resistance. The early purchase was not actively challenged and Tawhiao also did not object to the beacons once their purpose had been explained. Bryce subsequently reported that, in fact, many of the chiefs of the area were friendly towards him and even Tawhiao seemed well disposed although concerned. Many of the Ngati Maniapoto people living in the area even seemed well disposed to the presence of the armed constabulary. According to Bryce, they apparently believed the force was likely to put ‘an end to the unsatisfactory state of doubt and uncertainty in which they have been living for years’.¹⁵ As Ward has noted, it may have been that the success of the landing and the establishment of the constabulary post owed as much to Maori acquiescence as to Bryce’s ‘firm’ handling of the situation. Ngati Maniapoto for instance, appeared to regard the force as a safeguard for their own land interests in the area.¹⁶ Tawhiao had also by this time adopted a policy of more engagement with the Government. More research is required into the significance of this incident for Maori-Government relations. However it seems that this show of force was an exception. From this time on, negotiations with Ngati Maniapoto leaders became the most important instrument of Government policy, in efforts to ‘open up’ the Rohe Potae.

3.3 THE MAJOR ELEMENTS OF THE ‘COMPACT’

Iwi leaders and the Government took part in a series of understandings or agreements during 1882 and 1883 which in total have been described as the Ngati Maniapoto ‘compact’ or the Aotea agreement. Even a brief investigation reveals that one of the most striking features of the compact appears to have been the very different interpretations placed on it by Ngati Maniapoto leaders and the Government. Even the whole idea of an overall ‘compact’ or ‘agreement’ as understood by Ngati Maniapoto leaders, appears to have been viewed quite differently by Government. It seems clear for example, that Ngati Maniapoto regarded each of the agreements as being closely linked to each other to form an overall ‘compact’. The Government however, appeared to have very limited objectives in mind for each agreement, and does not appear to have recognised or accepted the concept of a consistent, overall agreement. The compact itself and the varying interpretations of it, appear to be crucial in understanding how the Rohe Potae was opened up and in determining the extent of integrity and good faith shown by the Crown towards Maori in this process.

3.4 THE RAILWAY SURVEY AND THE 1883 PETITION

Negotiations began with a series of discussions in 1882 about Government surveys of a possible main trunk railway route through the Rohe Potae. Ngati Maniapoto

15. ‘The opening of Kawhia Harbour’, AJHR, 1884, G-1

16. Ward, *A Show of Justice*, p 287

negotiators agreed to give permission for such surveys. Their cooperation was vital to the Government as there was still a great deal of support for Tawhiao in the district and intense suspicion of any kind of Government presence. In return, Wahanui sought Government agreement to proposals agreed upon by major Rohe Potae iwi. Iwi wanted a secure external boundary established around the district that would be legally recognised by Government and settlers. Within this boundary they wanted the Native Land Court excluded and to be able to determine title themselves. They then wanted some way of having this determination legally recognised. Once title was settled they then intended to set about a controlled opening of the district, mainly through leasing. They were agreeable to allow works to go ahead in the district, such as roads. They wanted to retain enough land for their own needs and for those of future generations. They also wanted to be able to develop and use their land to ensure future economic prosperity. Along with European settlers, they were most interested in the possibilities of sheep farming at this time. They intended to encourage small settlements to provide markets, and service centres.

At a hui in 1885, Wahanui outlined the 'compact' that he and other leaders had made with John Bryce in 1882:

When Mr Bryce took office he made a compact with me, which was signed, that a search for the railway was to be made, and, if a suitable line were found, he was to return and let me know. There were five of the Ngatimaniapoto present when this contract was made, but they are not here now. I spoke to the five who were there, and I said, 'How shall we do in the absence of the majority of the people?' They said, 'It cannot be helped, we must act for them as they are not here.' They said, 'We will agree to what Mr Bryce asks.' It was then agreed, on the understanding that it was only to be an investigation to find out the best route for the railway, and after it was found they were to return and let the Maoris know before doing anything else. I then said to Mr Bryce, 'What you wish for has been agreed to; now I want you to agree to my request.' Mr Bryce asked me 'What do you want?' I then said, 'I am going to send a petition to the House, and I want you and your Cabinet to back it up.' I went on with the petition at once, but you know yourselves what it is.¹⁷

The *Pouakani Report* cites the description given by the new Government native agent for the Rohe Potae, G T Wilkinson, of discussions among Ngati Maniapoto at the time:

It is an all absorbing topic with them now and they have requested that all surveys and public works be postponed in their district until they shall have come to a decision amongst themselves as to the way in which they can best throw their lands open to the public with advantage to themselves. They have carefully noted the unsatisfactory way in which the Natives who are now attending the Cambridge Native Land Court are dispossessed of their lands, partly through expensive litigation and partly through the unsatisfactory system of land purchase now in vogue. They propose after due deliberation amongst themselves as to the best way in which to dispose of their land, to petition Parliament to have a new Land Act passed, which

17. AJHR, 1885, G-1, p 13

will embody as far as possible the scheme they have to propose. Should this be found practicable, and effect be given to it, there will then be no objection on their part to the throwing open of their country for settlement . . . they wish the new state of affairs to be put on a proper basis first, and the opening of the country to follow.¹⁸

The petition from Rohe Potae iwi was presented to Parliament in June 1883. It was signed by Wahanui, Taonui, Rewi Maniapoto, and 412 others. It expressed the wishes of Ngati Maniapoto, Ngati Raukawa, Ngati Tuwharetoa, and Whanganui iwi. By late 1883, a fifth iwi, Ngati Hikairo, had also decided to support the petition.¹⁹ The full text of the petition in Maori and English is reproduced as appendix 6 to the *Pouakani Report*.²⁰

In brief, the petitioners eloquently invoked the Treaty of Waitangi and the rights they were guaranteed under the second and third articles, ‘which confirmed to us the exclusive and undisturbed possession of our lands’. They believed those rights were threatened by current land legislation and the operations of the Native Land Court. The petitioners complained of the way they were persuaded to allow the court to adjudicate on their land ‘so that our lands might be secured to us’, but how from ignorance of the law and court procedures and the practices of lawyers they inevitably ended up with only the shadow of the land while the substance went to speculators (land swallows).

The petitioners condemned the ‘outrageous practices’ and temptations that beset them on every side as they were decoyed into the ‘nets of the companies’. Yet when they tried to avoid the problems associated with the court, they were told that their only remedy was to go to the court themselves. While they were trying to hold on to their lands they were aware that the Government was trying to open up their country by making roads, surveys, and railways and thereby clearing the way for all these evils to be practised in connection with their lands before they had made satisfactory future arrangements:

What possible benefit would we derive from roads, railways, and Land Courts if they became the means of depriving us of our lands? We can live as we are situated at present, without roads, railways, or Courts, but we could not live without our lands.

We are not oblivious of the advantages to be derived from roads, railways, and other desirable works of the Europeans. We are fully alive to these advantages, but our lands are preferable to them all.

The petition went on to request:

It is our wish that we may be relieved from the entanglements incidental to employing the Native Land Court to determine our titles to the land, also to prevent fraud, drunkenness, demoralization, and all other objectionable results attending sittings of the Land Court.

That Parliament will pass a law to secure our lands to us and our descendants for ever, making them absolutely inalienable by sale.

18. *Pouakani Report*, citing Wilkinson report, pp 95–96

19. Ward, ‘Whanganui ki Maniapoto’, p 42

20. *Pouakani Report*, app 6; AJHR, 1883, J-1

That we may ourselves be allowed to fix the boundaries of the four tribes before mentioned, the hapu boundaries in each tribe, and the proportionate claim of each individual within the boundaries as set forth in this petition.²¹

When these arrangements relating to land claims are completed, let the Government appoint some persons vested with power to confirm our arrangements and decisions in accordance with law.

If after any individual shall have had the extent of his claim ascertained, he should desire to lease, it should not be legal for him to do so privately . . . [so that] the public may attend the sale of such lease.

The petition concluded by affirming that it was not intended to keep the lands within the boundaries described locked up to Europeans, or to prevent leasing, or the making of roads or other public works, but they did want the 'present practices that are being carried on at the Land Courts' abolished. If the Government accepted the petition then the petitioners promised to work strenuously to benefit the whole island.

Ward has described how there was a counter-petition from Waikato members of the Kingitanga and some Ngati Maniapoto signed by 481 of Tawhiao's supporters. This disapproved of Wahanui's initiative and reasserted Tawhiao's authority, but the Government could now afford to ignore it.²²

Ngati Maniapoto and Upper Whanganui chiefs then showed their sincerity by using their influence to allow the surveys for a railway route to go ahead. Surveyors carried a letter from Bryce written in Maori to chiefs in the district asking for their assistance to help with the surveys. The letter, dated September 1883, appealed to the chiefs to assist the surveyors because the railway would bring great advantage to both races, but especially 'to you whose lands will be particularly benefited'.²³ However, there was still considerable distrust of Government in the district and the survey parties did meet with opposition in spite of Bryce's letter. It seems that it was only through the intervention of chiefs such as Wahanui that the surveys were enabled to continue.²⁴

The Government apparently regarded the agreement as simply one to allow railway surveys to begin and did not feel obliged to meet the requests outlined in the 1883 petition. However, the Government did want to continue making progress in the district and did make some efforts to persuade Rohe Potae leaders that their wishes were being taken seriously. A series of legislative measures were passed that were described by the Government as meeting some of the leaders' requests. The Native Committees Act 1883 made some concessions to Maori concerns. The committees were elected and able to adjudicate on disputes where the cause was below a certain amount in value. The committees were also given some powers to investigate matters relating to land title and report to the Land Court on them. This was generally welcomed by Maori and among Ngati Maniapoto, the Kawhia Native Committee, chaired by John Ormsby, was very active from 1884. However, Maori

21. The boundaries of the district were then described in some detail, see figure 1

22. Ward, 'Whanganui ki Maniapoto', p 41

23. *Pouakani Report*, p 91

24. *Ibid*

confidence in the committees soon evaporated. It became clear, for example, that the districts they had to cover were too large and often cut across major iwi interests. The committees themselves also proved to have little real authority. John Ormsby was a leading figure in the Kawhia committee but found the system inherently flawed. He explained in 1885 that the committees did not have the authority they needed, 'It was only a shadow when we came to take hold of it to work it – it was not substantial'. Instead he wanted the committees placed 'in the position of the Native Land Court'.²⁵

Other measures that partly met Maori concerns are briefly described in the *Pouakani Report*.²⁶ These included the Native Land Laws Amendment Act 1883 which made land dealings void prior to title being awarded. For a while lawyers were also banned from appearing before the Native Land Court. The sale of liquor was prohibited within the Rohe Potae by proclamation of a 'Kawhia Licensing Area' in December 1884. The upper Whanganui area was similarly gazetted in 1887 and various boundary changes to the areas made in 1892 and 1894.

It seems clear however, that the Government was no more willing to seriously accept a confederation of Rohe Potae iwi than it had been to recognise the Kingitanga. The Government appears to have simply ignored the idea of a confederation as much as possible. European settlers were also generally hostile. The petition's supporters were immediately criticised by some commentators as having appended invalid signatures, vastly inflating the petition's real support. The newspapers of the time tended to be derogatory and dismissive of the possibility of iwi being able to work together as a confederation. Newspapers gleefully, if incoherently, reported any signs of opposition from hapu within the Rohe Potae. They appeared to misunderstand the consensus style of chiefly leadership, expecting more rigid despotic control, and misunderstood debate among hapu as unruly rebellion. Even so there was still some opposition to the petition within the district. However, this was often from those loyal to Tawhiao and therefore even less likely to support settler aims. Other concerns often expressed at hui that were reported by the press included the issue of whether the pan-iwi nature of the petition might threaten direct hapu authority over particular areas of land. There were also considerable discussions over the actual boundaries of the district to be included in the petition, as some hapu simply resented any 'interference' in their land.²⁷

3.5 THE AGREEMENT TO SURVEY THE EXTERNAL BOUNDARY OF ROHE POTAE LANDS

The 1883 petition was followed by another series of meetings between Rohe Potae negotiators and the Government. This time the meetings concerned the possible survey of Rohe Potae lands and the operations of the Native Land Court. Again there appear to have been vastly different interpretations placed on these meetings

25. AJHR, 1885, G-1, pp 14–15

26. *Pouakani Report*, p 111

27. For example, see reports of meetings in *Waikato Times*, 7, 21 August 1883

and agreements. A great deal more research seems necessary before anything other than very tentative conclusions can be drawn about them.

It seems that Rohe Potae leaders were still acting as a confederation at these meetings, although the Government ignored this as much as possible and insisted on acting as though it was dealing only with Ngati Maniapoto. The most important of these meetings appear to have taken place on 30 November and 1 December 1883. The *Waikato Times* reported on the meeting held at Kihikihi on 30 November. It reported that Bryce had encouraged the Ngati Maniapoto leaders present to apply for a Native Land Court survey and investigation. He claimed that as far as possible the concerns of the 1883 petition had been met and that, 'All difficulties are now removed'. He explained that the Land Court had been improved and simplified, lawyers and agents had been excluded, and means for establishing native committees had been set up. The Government had also agreed to pay money for surveys, and the law now stopped land being bought before adjudication. Bryce argued that the meeting was representative of Ngati Maniapoto and there was no better time for sending in an application:

for hearing for the whole of your territory. I advise you not to sell all the land; sell a small portion, and invest the proceeds; lease large blocks, and keep sufficient for yourselves to live on.²⁸

Bryce promised to send two judges to the district, for two years if necessary, to move about from place to place. Bryce also warned that if an approach could not be agreed on, then he could not hold back the court any longer as applications had been made and it would be unreasonable to delay them further.²⁹

In reply, Wahanui was reported as agreeing to Bryce's request but he wanted only one survey and when that was finished then subdivision surveys could be made so that each might know his own piece, 'Let the survey be an external one. That is all'. Rewi agreed with Wahanui. He wanted the external boundaries fixed and then internal subdivisions could be made. Another chief, Hopa Te Rangianini stated that he now also supported Wahanui. Otherwise, for the sake of his children, he would have gone ahead and had his own land surveyed. He asked for European and Maori to act together under the principles of the Treaty of Waitangi. With regard to the separate application Ngati Hikairo had already made, Wahanui and Rewi asked Bryce to ignore it and have one survey made of the whole country. Taonui also spoke in favour of one survey, 'No other survey should take place till authorised by the natives. A committee will arrange all these matters'. Another chief who had links to Hikairo felt that Ngati Hikairo would agree to the approach proposed by Wahanui.³⁰

Bryce believed the boundaries between Ngati Hikairo and Ngati Maniapoto would be decided by the court:

28. *Waikato Times*, 1 December 1883

29. *Ibid*

30. *Ibid*

The application of the Ngatimaniapotos will be simultaneous with the Ngatihikairoas [sic]. There need be no difficulty in the matter . . . It does not matter by which application the boundary is fixed; we want such an application as will enable us to decide the Ngatimaniapoto boundary.

In response to various chiefs stating they wanted one external boundary only, Bryce was reported as continuing to state his own understanding, 'I understand there is one thing now to do, that is to ascertain the boundary of the Ngatimaniapoto . . . the subdivisions among hapus can be left till another day'. He went on to state that the petition to Parliament would not be considered a sufficient application. A formal application on the proper court form was required. However, it would not be necessary for the whole tribe to sign it, just three or four chiefs. He advised sending an application in 'yourselves' and forms of application could also be sent to other tribes.³¹

According to the *Waikato Times*, there was another meeting the following day, on 1 December.³² At this meeting John Ormsby read out the reasons why the chiefs had decided to sign the application. According to the *Times*, in summary these were that they were fully satisfied with Mr Bryce's proposals and with the provisions of the new Land Act. W H Grace then read out the boundaries 'which embrace the whole of the King Country'. The line began on the southern side of the Puniu, on to Taupo, down to the Whanganui River, across to Parininihi, up to Kawhia and to the mouth of the Puniu River, and then to the starting point. The *Times* also reported that 30 leading chiefs representing Ngati Maniapoto, Ngati Raukawa, Ngati Hikairo, and Ngati Tuwharetoa allowed their names to be inserted in the body of the application, signifying their agreement on behalf of their tribes for the survey to proceed. At the foot of the form were the names of Rewi, Hitiri Te Paerata, Taonui, and Hopa Te Ranganini. Wahanui added his signature after the meeting. At the end of the meeting, Bryce referred to the native committee already set up and promised to assist with legal recognition for it under the Native Committees Act as soon as he returned to Auckland.

The *New Zealand Herald* also reported that Bryce's proposals had been accepted by the 'Ngatimaniapoto' and the 'other tribes of the Kingites'.³³ The application to the Native Land Court for determination of title had been made, signed by Rewi, Hitiri te Paerata, Taonui, and Hopa. The application represented four tribes. The *Herald* described those who had signed as 'the great chiefs and the great landowners'. Taonui and Hopa were described as the principal landowners 'of the district which in all probability will first be dealt with'. The *Herald* believed the signing of the application meant that the 'native difficulty is now practically at an end'. Bryce was reported as being 'highly pleased' and the 'natives express the fullest confidence in him'. The paper noted however that, 'All exhibit a disposition not to sell their land'.³⁴

31. *Waikato Times*, 1 December 1883

32. *Ibid*, 4 December 1883

33. *New Zealand Herald*, 3 December 1883

34. *Ibid*

G T Wilkinson, Government native agent, attended the Kihikihi meetings and also reported:

At a large public meeting which the Hon Native Minister subsequently had with them in November last (1883), at which nearly all the Ngatimaniapoto chiefs and representative men were present, it was unanimously agreed that they also should send in an application to the Court for the investigation of their claim to the large area of country extending from Aotea (Harbour), on the West Coast, to Maungatautari (nearly) on the East; thence to Lake Taupo; thence to the summit of Ruapehu Mountain, thence to the sea, coming out on the West Coast at a creek known as Waipingao; and thence along the coastline to the point of commencement at Aotea. The area of this block is something like 3,500,000 acres, the whole of which it is proposed to put through the Native Land Court as soon as the survey of same is complete. This large block however does not wholly belong to Ngatimaniapoto. They admit that the Whanganui, Ngatiraukawa and Ngatituwharetoa have claims to portions of it and representatives from each of these tribes were present at the meeting and signed the application to Court as representing their people . . .

Subsequently another meeting was held by these Natives with Mr Percy Smith, Assistant Surveyor-General, at which it was agreed that the survey should be proceeded with at once by the Government, with the sanction of all the tribes represented by the applicants, and that the cost of such a survey – unless opposed and consequently prolonged by Native obstruction – should not exceed £1600. (Previous to this some of the Natives had commenced negotiations with private parties for this survey, which had they been completed, would have cost them more than £20,000).

It was also decided that, in conjunction with this survey of the boundaries of the large block, the Government trig. survey was also to be carried on, as well as the prospecting surveys for the main trunk railway-line (which were already in progress) and within one month from that date all those surveys were in full swing. The Natives however made a proviso that no prospecting for gold should be allowed until the land had passed the Court.³⁵

Reports of the time reveal that, right from the beginning, there appear to have been quite fundamental conflicts of understanding regarding the application for the survey. One of the most crucial of these was that while Rohe Potae leaders intended to have a confederation of iwi for the district, with their representatives and negotiators being Ngati Maniapoto chiefs, Bryce on the other hand, was concerned to achieve a means by which Ngati Maniapoto territory could be dealt with separately (and by implication the territory of other iwi in the district would be dealt with separately as well). There were also quite different understandings over the external boundary. Rohe Potae chiefs intended the boundary to cover the whole district of the 1883 petition. Bryce however, appeared to be primarily concerned to have an application that would enable the Land Court to determine a 'Ngatimaniapoto boundary'. This implied that he also intended that other internal iwi boundaries within the district would be determined by the Native Land Court. He appears to have assumed that the agreement was simply one of how the court would proceed; that is, with the external boundaries first and then moving on to

35. AJHR, 1884, C-1, sess 2,

internal divisions. Another fundamental difference was over how the internal boundaries would be determined. Rohe Potae leaders intended the Native Land Court to be kept out and to have determinations made by native committees. Bryce acknowledged the demand for native committees and agreed to assist in establishing them. However, he also intended that the Native Land Court would retain its importance. As the *Times* reported, he promised ‘to send two judges to the district for two years if necessary to move about from place to place’. The chiefs may have believed this was to confirm their determinations but Bryce was also anticipating court operations within the district.

It seems that Bryce fully intended that the application for a survey would lead to the Native Land Court operating within the district and therefore determination of internal boundaries between iwi. The application for a survey was an integral part of the Native Land Court process. A survey was required before the court could make an investigation and determination. Bryce had persuaded the Ngati Maniapoto chiefs to sign the standard application form for a survey. The signatures of other iwi leaders of the district were included in the body of the form showing, from a Maori point of view, pan-iwi support for the application. However, the end signatures on the form were only those of Ngati Maniapoto chiefs. This was at Government persuasion, but the legal effect was that Ngati Maniapoto had signed an application for a survey of their own territory, not for the whole district as they believed. Bryce was not interested in recognising any confederation of iwi within the district. He treated pan-iwi support for the application as largely irrelevant. Certainly no importance was given to it in official documents of the time. The Government simply chose to treat all iwi of the district as separate and to act as though there was no confederation to deal with. The application was viewed as one from Ngati Maniapoto that included a very large territory. However, this was not a matter of concern as the Land Court could be left to determine what the ‘real’ boundaries of Ngati Maniapoto territory were. Iwi attempts to create a confederation within the district were therefore ignored. Wilkinson, for example, reported that the Ngati Maniapoto chiefs wanted the ‘whole’ block (meaning the whole Rohe Potae district) put through the court as soon as the survey was complete. He reported that the chiefs did, however, ‘admit’ other iwi had claims in the district. This completely misrepresented the confederated approach to the application from the major iwi of the Rohe Potae district, including Ngati Maniapoto.

These fundamental differences turned out to be crucial in deciding how determinations of Maori title within the Rohe Potae would be controlled. Nevertheless they appear to have been glossed over during the meeting. This raises issues of how much Government negotiators misled Rohe Potae leaders into a false understanding of what the application really meant, and raises questions of good faith on the part of the Crown.

It seems that from a Government view, the most important objective was to obtain a valid application for an investigation and survey of Ngati Maniapoto lands. As reported in the *Waikato Times*, Bryce wanted ‘such an application as will enable us to decide the Ngatimaniapoto boundary’. Equally important, the application needed to have the significant public support of powerful sections of the Ngati

Maniapoto leadership. The extra signatures representing other iwi in the body of the form were also helpful in this. Bryce needed powerful support in order to have any chance of carrying out successful surveys on the ground.

The *New Zealand Herald* shrewdly picked this up:

Applications for surveys in the King country have been lodged for some considerable time, but in respect to those Mr Bryce has taken no action. He considered, we suppose, that there was a risk in commencing any survey without the express and public sanction of all the great chiefs and landowners. If a survey had been begun on any less formal authorisation than has now been given, it might have been interrupted by the natives, and great trouble would have arisen . . . the fact that the survey is that of Rewi and Wahanui will make it almost impossible for any native to interfere.³⁶

Later, when it was evident that there was still considerable opposition to the agreement among some hapu, the *Herald* commented that this showed how unfair critics had been to complain that Bryce had not moved quickly enough. The *Herald* believed it had been shown that the time was ripe, but no more. It was clear the survey would still meet opposition and considerable patience and tact would be required to overcome the remaining difficulties.³⁷

Bryce telegraphed Rolleston on the same day to report the 'very satisfactory' meeting on 1 December with nearly all the principal men of the 'Ngatimaniapoto tribe'. He reported that they had made an application that day to the Native Land Court for a 'survey and investigation of the land known as the King Country'.³⁸ Significantly Bryce referred only to Ngati Maniapoto and made no mention of an external boundary survey only.

In contrast, it seems that when the chiefs agreed to Bryce's request to make the application, they apparently did so believing they had set very firm limits on what this would mean. As the reports show, they wanted one survey of only the external boundaries of the whole Rohe Potae district, as described in the 1883 petition. In effect, they wanted a protective and legally recognised cordon around the whole district. Later, in 1889, Ngati Maniapoto explained that they expected that when the external boundary was surveyed there would be one court hearing to settle the overall ownership of the whole district.³⁹ After this, they would make internal title settlements themselves.

The chiefs recognised that title would still have to be settled and defined further inside the boundary in order to protect the land and use it to economic advantage. However, they wished this process to be controlled by Maori without interference from the Native Land Court, at least as it presently operated. However, they realised that such a process would require legal recognition, and relied on the Government to assist with this, much as they had requested in the 1883 petition. They appear to have favoured a system of much improved native committees to achieve this.

36. *New Zealand Herald*, 3 December 1883

37. *Ibid*, 19 December 1883

38. Bryce to Rolleston, telegram, 1 December 1883, MA series 13/93, NO 83/3749 attached to NO 84/132

39. Ward, 'Whanganui ki Maniapoto', p 42

For example, in 1884, when speaking to the Legislative Council, Wahanui outlined the powers he wanted for native committees. He did not entirely rule out a reformed Native Land Court for the future, but asked that it not be given jurisdiction over King Country lands ‘at present’:

I do not say always, but for the present, so that we may have time to consult with the Government and to make satisfactory arrangements; and, when the law is agreed to, then we can discuss prospects for the future . . . the Native Committee – should be empowered, so that all dealings and transactions within that proclaimed district should be left in the hands of that Committee.⁴⁰

The chiefs also placed considerable significance on the agreement they had achieved with other iwi of the Rohe Potae district. They had effectively created a confederation of iwi with land interests in the district, in order to have a united approach to protecting the whole area. Ngati Maniapoto leaders were not just making a huge claim to land they knew other iwi claimed.

John Ormsby took part in the meetings as a member of Ngati Maniapoto and later described how they had discussed ways of protecting the whole district and limiting the Native Land Court from operating within it. According to Ormsby, in answer to concerns about preventing minor applications and surveys, Bryce had suggested that each tribe should send in an application for the whole block. According to Ormsby, ‘We discussed this and finally agreed to send in one application for the whole block’.⁴¹ It seems from this that they may have believed that if they sent in one application, the Government could use this to override any other individual applications concerning the district.

It seems that it took a great deal of persuasion to get the chiefs to agree to, as they understood it, even an external boundary survey of the whole district. The persuasion all seems to have been focussed on the increased protections such an investigation would mean for their land. Bryce had repeatedly assured them that the Native Land Court had been improved and simplified. He assured them that the new Land Act and other legislative improvements had effectively shut out speculators and land sharks and would allow title to be settled more quickly and effectively. He had also assured them on a number of occasions that he was not interested in placing pressure on them to sell land. Instead, he advised them to lease land and retain large portions for themselves and their future needs.⁴² Even the settler newspapers apparently believed the legislative reforms were significant and would enable Maori to retain land they wanted to keep. The *Waikato Times* for example, echoing the arguments of the meeting, welcomed the new Land Act for ending land sharkism and the wholesale alienation of native land with the associated evils of cheating and temptation. In this, the *Times* was apparently recognising the flaws in previous legislation that had fostered false claims and practices such as bribery. The *Times* also expected that under the reforms, the Maori

40. NZPD, 1884, vol 50, p 427

41. Ward, ‘Whanganui ki Maniapoto’, p 42

42. *Waikato Times*, 9 September 1883; Bryce’s report in AJHR, 1884, G-1; for Bryce’s assurances to Tawhiao in 1883 and further assurances at Kihikihi meetings, *Waikato Times*, 1 December 1883

owners of the district would sell some land, lease some on long terms, and retain enough for their own future prosperity.⁴³

Rohe Potae chiefs were also under considerable pressure to act to protect their land for the sake of their children and for future generations. The fear of what might happen if they did not make the application was very real. W H Grace was involved in the meeting, explaining matters and encouraging the chiefs to agree to the external boundary survey. He argued that if the chiefs delayed making the application they were risking the future of their children. As the old men died their knowledge died with them and their children would be in confusion not knowing anything about their claims:

There are now hawks flying about, and when a hawk sees a living animal he will not attack, but if he sees a carcass he will feed on it. If you do not agree to Mr Bryce's proposals your children, when you die, will be as carcasses. The hawks will pounce on them and devour them as food.⁴⁴

The efforts of W H Grace in assisting Mr Bryce 'in every possible way' were particularly noted by the newspapers. The *Waikato Times* reported that:

He possesses a great deal of influence with the natives, and this influence he used to assist Mr Bryce in opening the country. They listened to his arguments and persuasions with the respect they merited, and agreed with him that it was desirable to come to terms without delay.⁴⁵

The *Herald* reported in similar vein that W H Grace assisted:

very materially in bringing the natives to a proper understanding of Mr Bryce's proposals . . . at their private meetings he combated their arguments and explained to them the benefits which would accrue to them by the opening up of the country. His arguments were so conclusive that the natives could not fail to agree with him as to the desirability of coming to terms without delay.⁴⁶

It seems unlikely that W H Grace singlehandedly managed to persuade the chiefs to make the application. However the reports do show that a good deal of 'advising', 'promising', and 'explaining' was going on, from interested parties. This makes it even more difficult to determine what kinds of guarantees and understandings the chiefs may have thought they had achieved when they agreed to make the application for an external boundary survey. More research may be required on this issue.

43. *Waikato Times*, 4 December 1883

44. *Ibid*, 1 December 1883

45. *Ibid*

46. *New Zealand Herald*, 4 December 1883

Figure 2: Old land claims around Kawhia harbour