

CHAPTER 3

RAUPATU

3.1 THE EAST COAST LAND TITLES INVESTIGATION ACT

In the aftermath of the wars J C Richmond, the Native Minister in 1867, wanted to plant colonies of military settlers or of Ngati Porou and Ngati Kahungunu kupapa among the Pai Marire. McLean, however, was by now sceptical of the effect of confiscation but agreed to a cession of land from the Wairoa and Poverty Bay Maori, which amounted to much the same thing. The land was to be taken under the East Coast Land Titles Investigation Act 1866.¹

This Act and its 1867 amendment Act, provided for the compulsory investigation of titles to all the land between Lottin Point and Lake Waikaremoana by the Native Land Court. All land which the court certified to be the property of ‘rebels’ would from the date of the certificate be deemed to be lands of the Crown while individual ‘loyal’ Maori would be issued a Crown grant (s 4, 5). Provision was made for setting apart lands for the use and maintenance of those who had been in rebellion (the New Zealand Settlements Act had made no provision for rebels) (s 6), for selling or leasing forfeited lands (s 8), and for the appropriation of all moneys arising from the sale or disposal of such lands to meet the expenses incurred in suppressing the rebellion (s 9).

The Act appears to have been passed in the context of a long standing dispute between the colonial Ministers and the Governor. The colonial ministers were keen to wrest further power from the Governor especially in Native Affairs, and the wars and confiscations inevitably became part of this power struggle. Under the New Zealand Settlements Act, the Governor had the power to decide how much land was to be confiscated. A particularly bitter dispute developed between Ministers and the Governor in 1864 over many of the crucial details of implementation.² The imperial Government had advised that the Governor was to personally agree to confiscation and to have the power to prevent it unless he was satisfied that it was just and moderate.³ The Ministers insisted on their right to take whatever land they thought was necessary.⁴ Accordingly, Richmond advised the House that the East Coast Land Titles Investigation Act 1866 was passed in order ‘to avoid the most vexatious

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1. This chapter has been taken from my report ‘Raupatu in Hawke’s Bay’ (report commissioned by the Waitangi Tribunal, 1993), with some additions. It should be read in conjunction with Vincent O’Malley’s, ‘Report for the Crown Forestry Rental Trust on the East Coast Confiscation Legislation and its Implementation’, report commissioned by the Crown Forestry Rental Trust, 1994.
 2. See AJHR, 1864, E-2, E-2a, E-2c, E3; AJHR, 1865, A-1
 3. Dispatch from Cardwell to Grey, 26 April 1864, AJHR, 1864, E-2
 4. AJHR, 1864, E-2

part of the New Zealand Settlements Act'.⁵ That is, the confiscation was to be made directly by the House of Representatives, as opposed to the Governor, and only in the case of Maori who had been in rebellion.⁶

The Act was also probably passed with an eye to meeting some of the Imperial Government's concerns about the Government's implementation of confiscation. On the introduction of the New Zealand Settlements Act 1863, the Secretary of State had been alarmed at the extent of territory the colonial ministry was proposing to confiscate and the manner in which it proposed to go about this.⁷ This act was an attempt to partly answer these concerns by confining confiscation to such land as was mentioned in the Schedule.

The Act rested on the assumption that it was possible to identify rebel from loyal. But as Williams says, 'it was one thing to pass the legislation . . . another thing to implement it'.⁸ Biggs, the local military commander and resident magistrate, reported in January 1867:

The claims of loyal and rebel Natives are so mixed up that it is next to impossible to point out a single spot that belongs exclusively to either; and when it is remembered that in the war on the East Coast the nearest relatives were fighting one against the other, it must be evident that the difficulty of separating loyalist from rebels' land will be very great, if indeed to be accomplished at all.⁹

For this purpose a hui was held in Wairoa, in early April 1867, to discuss the cession. At the hui McLean explained the Government wanted a piece of land 'conveniently situated in the midst of the district' for the settlement of the soldiers who had been engaged in the war. Hapimana insisted that the land the Government proposed confiscating belonged mainly to 'Government natives', in particular, himself and Mere Karaka, the wife of Te Kopu. Tamihana Te Huata implored the Government to stop hunting the Pai Marire and cease pressing for land, arguing that if they were prepared to forgive their hauhau relatives, the Government had no cause to interfere further. He thought they were being made to pay twice for the war and pointed out that some of their relatives had either been slain in cold blood, or imprisoned for 'rebellion', and still their land was being confiscated. Richmond ignored their pleas and Biggs was instructed to enter into an arrangement (on behalf of the Crown) with the Wairoa Maori.¹⁰

5. NZPD, 1867, p 693

6. Ibid

7. See J Hippolite, *Raupatu in Hawke's Bay*, p 20

8. 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, University of Dar Es Salaam, 1983, p 250

9. Williams, p 250; AJHR 1921–22, G-5, p 14

10. Alan Ward, *A Show of Justice*, p 225; *Wellington Independent*, 20 April 1867 and *Hawke's Bay Herald*, 23 and 27 April 1867 in MA, 24/26 (RDB 89:34375,34390, 34396)

3.2 WAIROA DEED OF CESSION

On 5 April 1867 by a ‘deed of cession’, the ‘Chiefs and Natives’ of the Wairoa district ‘agreed’ to give up their rights to a block of land lying between the Wairoa and Waiau Rivers, and between the Mangapoiki and Kauhauroa Streams, on the left bank of the Wairoa River. Reserves were to be made to them of a block of approximately 500 acres at Pakowhai and 20 sections of 50 acres each between the the Kauhouroa and Wairoa Rivers. In return the Crown withdrew its claim to rebel interest outside the block ceded. This meant that the block which the Maori ‘agreed’ to give up (later called the Kauhouroa block) was taken to represent the ‘rebel’ interests in the whole area, and it was confiscated instead of everyone going through with the Native Land Court hearings to determine title to all the lands.¹¹ The terms ‘ceded’ and ‘confiscated’ were used interchangeably but officials were quite clear that the land was confiscated.¹²

A payment of £800 was made to the Wairoa Maori in liquidation of their claims to that block, the Government then became the sole proprietor of the land and native title was completely extinguished (see fig 3). The amount of land retained by the Government was 42,430 acres of which 6888 was to be allocated to military settlers or immigrants; the remaining 35,500 was to be held by the Government and be available for sale. In 1876 it was proposed to lay the confiscated block out in lots of 2000 to 5000 acres and sell them as small sheep runs.¹³

The remainder of the land, lying between the Waiau and Wairoa Rivers and Ruakituri Stream, stretching inland to Lake Waikaremoana, was to be divided into blocks and returned with a Government certificate to the ‘loyal chiefs’.¹⁴

It is clear that the Wairoa people must have been pressured into signing the deed. Pitiera Kopu, one of the Government’s staunchest allies during the wars, died six days later of pleurisy, after being subjected to much criticism from his iwi for having ‘driven the land out to sea’. Lambert claimed his death was hastened no doubt by the ‘strenuous time’ he had had trying to persuade his iwi to sign.¹⁵

After signing the agreement it was discovered that certain errors had occurred in the 1866 Act. In one of the clauses the word ‘include’ was used instead of the word ‘exclude’. This rendered the 1866 Act inoperative by admitting the land titles of rebel Maori which it was expressly intended to exclude. As well, the boundaries described in the schedule were found to be wrong. Lottin Point had been described as Lottery, and two other places, Haurangi and Purororangi, appeared unknown.¹⁶ An amendment Act was passed in 1867 to tighten up the 1866 schedule and to provide for the agreements which the Government had already entered into.

This deed may have been expedient rather than strictly legal according to the Act. By section 3, the Native Land Court was suppose to inquire into and determine the title to the land, and under section 4, issue a certificate transferring the property

11. Turton’s Deeds, vol 2, p 546; AJHR, 1870, A-16, encl 1, no 9; AJHR, 1872, C-4, no 23, ‘Reports on Settlement of Confiscated Lands’; Williams, p 251

12. See for another example Captain Preece, Resident Magistrate, 9 December 1886, MA 1, 1915/2346

13. AJHR, 1871, C-4; AJHR, 1877, C-12

14. AJHR, 1870, A-16, encl 1, no 9; AJHR, 1872, C-4, no 23

15. Lambert, p 409; see also *Hawke’s Bay Herald*, 23 April 1867

16. NZPD, 1867, p 924; AJHR, 1867, A-10d

Figure 3: Wairoa cession

of persons deemed to be rebels to the Crown. On 17 September 1868, the Wairoa deed of cession was brought before the Native Land Court for confirmation.¹⁷ There is no record in the minute book of the court's decision, but on 18 September Biggs informed the Government that the Wairoa cession had been confirmed by Judge Monro.¹⁸

The 1866 Act and its 1867 amendment were subsequently repealed by the East Coast Act 1868.¹⁹ This Act, while not affecting any agreement entered into under the previous acts, required the Native Land Court to refuse to order a certificate of title in favour of any person who was guilty of any offences mentioned in the fifth section of the New Zealand Settlements Act 1863 (ss 2, 3). In any claim heard, the Court could order that a certificate be issued stating that the land comprised therein belonged to 'rebels' (s 4(3)). Upon the issue of such a certificate the land comprised in it was deemed to be Crown land (s 5). The provisions of this Act do not appear to have been implemented in the Wairoa district. In any event, this legislation still

17. Wairoa minute book 1, p 25

18. O'Malley, p 138

19. For the background to this Act, see O'Malley, pp 102–110.

did not solve the problem of how to distinguish ‘loyal’; interests in land from ‘rebel’.

3.3 THE RETURN OF TE KOOTI

Before the Government could do anything with the ceded land, Te Kooti and his followers escaped from the Chatham Islands, where they had been held without trial for two years. They arrived back on the mainland in July 1868 and for the next four years the Government hunted them in a series of expeditions across northern Hawke’s Bay, the Urewera, Taupo, East Cape and the Bay of Plenty. Te Kooti was hunted until, still eluding capture, he retired into the King Country in 1872. In 1883, he was finally pardoned as part of a Government attempt to open up the King Country by peaceful means.²⁰

3.4 SETTLEMENT OF THE CONFISCATED LAND

With peace restored the Government could now turn its attention to the settlement of the confiscated land, held over since 1867. In 1869 Ihaka Whaanga, Paora Te Apatu, and some of the other Wairoa chiefs, had raised the issue of the arrangements concerning the portion of land in the upper Wairoa to be awarded to them with a Government certificate.²¹ McLean was in complete agreement that a matter that had stood over for so long should be definitely settled without delay, as long as doing so had not been prejudiced by any subsequent act of the Native Land Court or promise by Biggs.²²

With Te Kooti finally gone from the district, the promise of the Government to subdivide the land and decide on the persons to appear in the grants could now be carried out. On 3 August 1872 Samuel Locke met with the Maori at Wairoa. Locke had previously ridden over the country and visited Waikaremoana to ascertain the most suitable boundaries for the blocks which were to be divided and crown-granted. Rivers and streams or other natural features were used as boundaries in order to save the expense of survey, as the land was rough sheep country.

After lengthy discussion the land was divided into four blocks and another agreement was signed by the chiefs on behalf of their people on 6 August. By this agreement the Government kept, besides the Kauhouroa block of the previous arrangement, two other blocks of land. One of approximately 250 acres at Onepoto, the site of a constabulary post on the Waikaremoana Lake, and the other of 50 acres for a proposed road at the crossing of the Waikaretaheke Stream. The four blocks to be returned to the Wairoa Maori were Ruakituri, Taramarama, Tukurangi and Waiau. The deed of agreement also included the schedule of names to whom each of the four blocks were to be conveyed.

20. See my report (fn 1) pp 32–40 for more on Te Kooti, his motives and his campaigns

21. AJHR, 1870, A-16, no 9, encl 1

22. AJHR, 1870, A-16, no 10

Once again this may have been expedient rather than strictly legal. As the Crown had waived its claims to those lands, they continued to be held by their customary owners on the basis of native title. In order for the customary-owned lands of 'rebel' Maori to be transferred to 'loyalists', the Native Land Court would have first had to issue a certificate under the East Coast Act stating that the land belonged to rebels and transferring the land to the Crown. The Government would then be able to issue Crown grants to those people who would not be otherwise entitled to them.

Locke concluded his report by saying that:

The settlement of this long outstanding question will be of great benefit to the Wairoa, as settlers will now be able to occupy the country as sheep runs, and all feeling of uncertainty existing in the Native mind removed.²³

However the question was far from settled. In fact, the 1872 agreement was not given effect to. On peace being made with Tuhoe, that tribe submitted a claim to the four blocks in conjunction with Ngati Kahungunu, to whom the land had been returned. Both parties were advised to settle the title to it through the Native Land Court.²⁴ The dispute over the title had the effect of raising bad feelings between the two tribes. In June 1875 Frederick Ormond, the resident magistrate at Wairoa, reported that:

Between the Wairoa and Urewera natives there now exists much mistrust and unfavourable feeling, the chief bone of contention being the division of the confiscated land.²⁵

On 29 October 1875 a meeting was held at Wairoa to discuss the disputed boundary of the land between Ngati Kahungunu and Tuhoe. The Government had originally intended to vest the returned land in trustees 'for the benefit of the friendly tribes', but now wanted to buy the land, with the exception of certain reserves.²⁶ The purchase of this land was intended to contribute to the general safety of the district, by enabling European settlement to extend along the boundary of the territory of the Tuhoe tribes.²⁷ But first the title to it had to be investigated by the Native Land Court. The purpose of the meeting was to settle the dispute prior to the land being brought before the court. It seems that the Government had some concern that Tuhoe, who had no experience with the Native Land Court procedure, might be at a disadvantage, in comparison to Ngati Kahungunu, who had had 'lengthy intercourse with Europeans', and were well 'conversant with the mode of procedure adopted in the investigation of land titles'.²⁸

Both parties claimed rights to the land on ancestral grounds. Tuhoe claimed that their boundary in the direction of the Wairoa approached as far as Mangapapa. Locke recited the boundaries of the land claimed by them as:

23. AJHR, 1872, C-4, no 23; see also AJHR, 187, C-4B

24. AJHR, 1874, G-2, no 14

25. AJHR, 1875, G-1A, no 4

26. See Preece to Under-Secretary, 13 and 16 December 1887, MA, 1/1915/2346

27. Locke to McLean, 29 May 1875, AJHR, 1875, G-1, no 14

28. AJHR, 1876, G-1A

Raupatu

Pakaututu, Mohaka, Tuke-o-te-Ngaru, Paewahie, Ngahaha, Rotokakarangu, Tukitukipapa, Putere, Te Arau, Rotonuihaha, Potikihere, Te Toi, Whirinaki, Waiwhakaata, Puharakeke, Te Paepae, Tukutapa, Tukurangi, Mangapapa, Wharepapa, Whataroa, Erepeti, Tauwharetoro, Te Ihu o Mangatapere, Te Mapara, Puhinui, Waioeka, Whakamaui, Pukenui-o-Raho.²⁹

Ngati Kahungunu, on the other hand claimed their boundary extended beyond Mangapapa across Lake Waikaremoana to the Huiarau Ranges.³⁰ Ruapani, it appears, included themselves under Tuhoe.

The Tuhoe boundaries cited may not have been their exact boundaries but Tuhoe had felt forced into defining them as such. Hori Wharerangi, of Tuhoe and Ruapani, explained that he had defined the boundaries as such because he believed Ngati Kahungunu were fast absorbing all their land, in particular the four blocks in question, Tukurangi, Waiiau, Ruakituri and Taramarama. The meeting deteriorated into a slanging match with each feeling they had to denigrate the other's claim to assert their own. It brought out all the traditional animosity between the two tribes. Locke maintained that:

Had the Government acquired and retained this land before the restoration of peace with the Urewera, no claim of theirs would have ever been heard of to the land in question. The Government were evincing no small consideration for the Urewera Natives in sanctioning at all the investigation of the claim put forth by them, considering the grounds upon which they assert their right, being as they were at the time in rebellion when the land was confiscated and dealt with.³¹

Karaitiana Takamoana, of Ngati Kahugunu ki Heretaunga, accused the Government of trying to intimidate the Maori, 'by telling them that they hold the land, and inducing them to lease it, when really the Government has no power to do so'.³²

Locke denied that the Government was attempting to intimidate them. He insisted that the Government was 'endeavouring to amicably settle the long outstanding dispute between these contending tribes that have been for generations at war'. No compromise could be reached so the meeting was brought to a close with the matter to be placed before the Native Land Court.

The case for Tukurangi, estimated at 37,000 acres, opened on 4 November 1875 at Wairoa under Judge Rogan. At the hearing Tuhoe and Ngati Kahungunu disputed each other's evidence, with each trying to outdo the other in pressing their claim. The judge, unable to make a decision on the evidence, closed the case the next day with the excuse 'no decision to be given till [the] Court has personally viewed the ground'. The same day the case for Ruakituri, estimated at 52,000 acres, was heard, with the court finding that 'the two statements made by the claimants and counter claimants were totally at variance with each other and were exceedingly contradictory' and the case was closed.³³

29. Ibid

30. Ibid

31. Ibid

32. Ibid

Taramarama and Waiau opened and closed on 6 November, with the two parties stating that their claims to these blocks were identical to Ruakituri. The court decided that it need not go over the same evidence again and that owing to the conflicting nature of the evidence, a site visit was necessary. No judgment would be given until a proper survey had been made and a duly certified plan presented.³⁴

The adjournment of the cases resulted in a flurry of telegrams to the Native Minister as Locke attempted to redeem the situation. He proposed a compromise that would mean giving Tuhoe up to £2000 and promising them one of the reserves that were to be made. This, he said, would also require giving the same amount to the 'Govt. Natives', on top of the price already agreed for the blocks. Locke thought that this would be the cheaper option in the long run, for to wait any longer would cost more in survey fees. He informed McLean that he had consulted with Rogan, the judge, who had advised him to 'compromise if you possibly can'.³⁵

This must have been agreed to because the court sat again on 12 November at which time Wi Hautarake and Hetaraka te Whakaunui appeared and on behalf of Tuhoe withdrew their claims to the four blocks. They stated that it was not their intention to come into court again and that Tuhoe had 'arranged' their dispute with Ngati Kahungunu. Toha Rahurahu, of Ngati Kahungunu, then submitted a list of names for each of the four blocks. How the names were picked is unclear, unless they were the people present that day. The lists bear little resemblance to the 1872 agreement. For example, the names for the Ruakituri block were down from 69, in 1872, to 23, and of these only nine were in the original agreement. Taramarama was 13, from 33, Tukurangi, 10 from 36 and Waiau, 10 from 37. Memorials of ownership were ordered by the court for those named.³⁶ Then by a deed dated 12 November 1875 Tuhoe and Ruapani were paid £1250 in relinquishment of their claims over the blocks of land.³⁷ Possibly with the land in such dispute, these iwi were willing to settle for some money now rather than risk losing out all together, if judgement should go against them. Six months later, Frederick Ormond reported that:

The Native Land Court, during its sitting here in November last under Judge Rogan, defined the boundary between the Ngatikahungunu and Urewera with perfect satisfaction to both parties.³⁸

Almost immediately following the court hearings Josiah Pratt Hamlin, a land purchase officer, assisted by Locke, purchased the blocks on behalf of the Government for £12,610. The land involved was estimated at this stage to be 157,000 acres. Hamlin explained the division of the money. As well as the £1250 already paid to Tuhoe and Ruapani, £9700 was paid on 17 November 1875 to those awarded memorials of ownership by the Native Land Court. This £9700 comprised

33. Napier Minute Book 4, p 65ff; see also Locke to McLean, telegraph, 6 November 1875 MA 1/1915/2346

34. Napier Minute Book 4, p 65ff

35. Locke to McLean, telegraphs, 7 and 8 November 1875, MA, 1/1915/2346

36. See NMB 4, pp 94-96

37. Auckland deed number 841, DOSLI Wellington; see also J P Hamlin to Ormond, 4 December 1875, AJHR, 1876, G-5, no 5 (encl)

38. Ormond to Under-Secretary, 15 May 1876, AJHR, 1876, G-1, no 36

£2350 for the Waiau block, £2350 for Tukurangi, £2600 for Ruakituri, and £2400 for Taramarama. The Ruakituri deed was also signed by Eru Kohi Kohi and Wi te Rama, husbands of Ihipera te Kore and Rewai te Koari respectively. Ihipera and Rewai were named in the memorial of ownership but not their husbands. Eru Kohi Kohi also signed the Taramarama deed, along with Ihipera. This would have been because under section 86 of the Native Land Act 1873 a husband had to be a party to the execution of any deed by a married woman and both signatures were necessary.

A further £160 was paid to some of the leading chiefs of Ngati Kahungunu, Tuhoe and Ruapani 'for services performed' in assisting Hamlin to complete the negotiations. As well a sum of £1500 was to be paid to 'the loyal Natives of Wairoa, Mohaka, Nuhaka, and Mahia' as compensation for their interests in the land given to them by the Government in consideration for their services during the war, and in accordance with the agreement at Hatepe in 1867. This was paid on 15 January 1876 to Ihaka Whaanga and 440 others.³⁹

The significance of the purchase of these four blocks of land was noted by J D Ormond, the general Government agent for Napier, to McLean on 9 December:

The purchase is in many respects an important one. It settled a long-standing feud between the Ngatikahungunu and Urewera tribes, who disputed the ownership of these lands. Both parties have now disposed of their interests to the Crown. This is, I believe, the first instance of any sale of land by the Urewera.⁴⁰

McLean, who was now Native Minister, concurred in the opinion expressed by Ormond of the importance of this purchase, one for settling the 'long-standing feud between the Ngatikahungunu and Urewera tribes, who hitherto disputed the ownership of these lands', by both parties disposing of their interest to the Crown. But more important perhaps was that this purchase was the first instance in which Tuhoe had participated in land sales to the Government. It was accepted by the Government as:

evidence of a desire, on the part of that tribe, hitherto bitterly opposed to Europeans, to maintain friendly relations. The fact of their having participated in the purchase money is the best proof they can afford of an intention to live on peaceable terms with the colonists.⁴¹

The following year, on 22 August 1876, he told the House of Representatives:

I may here mention the great change that has come over Native feeling in the interior of that part of the country [the upper Wairoa]. The Urewera, a tribe but a few years ago at deadly feud with us, and who, even after friendly relations were established pertinaciously refused to sell an inch of their lands, were considerable owners in these blocks. With some hesitation they submitted to allow these claims to be adjudicated upon by the Native Land Court; their claims were heard, and they were

39. AJHR, 1876, G-5 no 5; Auckland deeds 837–841, DOSLI Wellington

40. AJHR, 1876, G-5, no 5

41. *Ibid*, no 6

well satisfied with the result; and yielding to the persuasion of the co-claimants of other tribes, joined in the sale, and received their share of the money.⁴²

Frederick Ormond noted that:

On the strength of the money expected for these lands, nearly every Native ran headlong into debt. Upon division of the money it was not sufficient to cover much more than half of these debts; but as some of these people are in receipt of rents, and others are about selling further blocks, it is to be hoped they will clear them off.⁴³

The total quantity of land acquired by the Government by this purchase, excluding the reserves, was given as 146,080 acres, 'a cost of a fraction under 1s 8³/₄d per acre'.⁴⁴ The lands were proclaimed waste lands of the Crown on 13 August 1877.⁴⁵

3.5 'AMPLE RESERVES'

'Ample reserves' were set apart for the three iwi involved. For Ngati Kahungunu they were: Tukurangi, 3800 acres; Taramarama, 1700 acres; Ruakituri, 2920 acres. Further reserves of 2500 acres were promised for Tuhoe and Ruapani, making a total of 10,920 acres of reserves.⁴⁶ The sites for Kahungunu's reserves were fixed almost immediately and a surveyor engaged straight away to mark them off. Tuhoe's and Ruapani's reserves were supposed to be marked off later in the month of December.

A schedule from Locke, dated 16 August 1877, listed the reserves for Ngati Kahungunu as set out in table 3.1.⁴⁷

In Locke's list, the Makaheha reserve of 500 acres in the Tukurangi block had been crossed out as it had since been purchased by the Government. Hamlin explained that he had been forced to purchase this reserve as it was a portion of a 5000 acre block which the Government had agreed to sell to a Mr Cable. Although the iwi had specifically requested this reserve, on ascertaining its position it was discovered that Cable's homestead stood on that particular spot and according to an agreement between Cable and the Government, Cable was to have 5000 acres adjoining and including his homestead. As the iwi would not take the 500 acres elsewhere Hamlin, after consultation with J D Ormond, had decided to purchase the Makaheha piece for £100. There was no mention of what the iwi had thought of this.⁴⁸

Locke also listed the reserves for Urewera and Ngati Ruapani. These were to be: a 300-acre reserve in the Waiau block; two reserves in Tukurangi, one of 800 acres

42. AJHR, 1876, G-10; NZPD, 1876, p 505

43. AJHR, 1876, G-1, no 36

44. AJHR, 1876, G-5, no 5 (encl)

45. AJHR, 1878, G-4; *New Zealand Gazette*, 13 September 1877, no 78, p 928

46. AJHR, 1876, G-5, nos 5, 7

47. MA, 1/1915/2346

48. J P Hamlin to Native Department, 6 December 1876, MA, 1/1915/2346; a schedule of the remaining reserves was listed in AJHR, 1886, G-15, p 11

Figure 4: Crown purchases and confiscation

and one of 300 acres; and a reserve of 1100 acres in Taramarama. Locke also suggested that 300 acres be marked off as a military reserve around the redoubt at Onepoto and that 150 acres close to it be marked off as a timber reserve.

Crown grants for the reserves in the Tukurangi, Ruakituri and Taramarama Blocks for the Wairoa Maori had been issued by February 1881.⁴⁹ But dissatisfaction over the way the grants were awarded was to persist into the twentieth century.

The Urewera and Ngati Ruapani had to wait a bit longer. In August 1882, Richard John Gill, of the Native Land Purchase Department, wrote to Preece, the resident magistrate, that it was not intended to issue Crown grants for these reserves until the nature of a trust was clearly defined.⁵⁰ This must have been done by 1884 for in that year it was notified that a sitting of the Native Land Court was to be held on 8 July 1884 to define the individuals and their respective shares in the Urewera reserves.⁵¹ The reserves were listed as: 1100 acres in Taramarama; 300 acres in Tukurangi; and 791 acres and 298 acres in Waiiau Survey District. The 791 acres represented the 800 acres reserved in the Tukurangi block, less nine acres for a

49. Captain Preece, 1 February 1881, MA, 1/1915/2346

50. Gill to Preece, 18 August 1882, MA, 1/1915/2346

51. *New Zealand Gazette*, 1884, no 69, pp 942–943

road, while the 298 acres was from the 300 acres reserved in the Waiau block, less two acres for a road.

The sitting for these hearings was to be held at Hastings, but before they could proceed the Native Land Court dismissed the applications, saying that it had no jurisdiction over these lands because the reserves had not been specifically excluded in the deeds of sale to the Crown. The deeds had listed the acreage to be reserved, without specifying the land. Apparently the only answer to remedy this was to proclaim the land native reserves under section 144 of the Land Act 1877, and as temporarily reserved for the use and support of the Urewera and Ngati Ruapani.⁵²

The court hearing finally took place on 9 March 1889. The court found that the owners of the Urewera reserves were the 60 people who signed the deed of 12 November 1875 and that they were entitled to equal shares.⁵³

3.6 OTHER RESERVES

3.6.1 Te Waharua

In May 1883, Rewai Rangimataeo and Maraki Te Koari (or Kohea) wrote to Bryce the Native Minister, requesting that a Crown grant be issued in their favour for 100 acres at Te Waharua, out of the confiscated land. They said it had been promised to them by McLean at Napier on 13 May 1875. They had asked for 200 acres but had been promised 100.⁵⁴ This was typical of McLean, to promise a reserve and then leave it for his staff to sort out later, usually with the result that nothing more was ever done about it. But this time the claimants had witnesses. McLean had made his promise in the presence of Captain Richardson and others. Richardson corroborated their account in a letter to Preece:

It was understood at the time that it was intended as a mark of loyalty on his part during the disturbances and further as he was the most active partisan Sir Donald McLean had in the early days when acting as Chief Land Purchase Commissioner. Had Sir Donald lived there would have been no trouble in the matter. The fact of the natives taking possession immediately after their return from Napier to Wairoa show the 'bona fides' of the transaction. It would be a gross injustice to Maraki if deprived of his claim to the land.⁵⁵

This was also confirmed by a note from Hamlin, dated 9 October 1875. Bryce was in no doubt that the promise had been made but he was sure that it had been merged in with the other reserves (on what evidence he did not say). Nothing more was done at the time, except to file the papers. No answer seems to have been made to Rewai and Maraki.

52. *New Zealand Gazette*, 1885, p 246

53. Preece to Under-Secretary, 29 March 1889, MA 1/1915/2346, copies of the judgment included

54. *Ibid*, 26 May 1883

55. *Ibid*, Richardson to Preece, 26 November 1883

The matter surfaced again in 1886. Preece wrote asking for action on the claim of Maraki Kohea.⁵⁶ It was referred to Locke who was adamant that it had not been merged with the other reserves made, as supposed by Bryce. However nothing further was done before Maraki died in September. Preece wrote that ‘only a few days before his death he was asking whether anything had been done in the matter, and his relations have since been enquiring’.⁵⁷

The records were at last examined. It was discovered that in the meantime 50 acres had been Crown granted to a Mr Bolan, a military settler. The remaining portion of the section, about 130 acres, had been promised by the Land Board to another settler. Given that, Morpeth, the Native Under-Secretary, did not think the land should be given to the claimants. Instead he suggested that they be offered land elsewhere.⁵⁸

Preece, for one, saw the injustice of this proposal:

I would respectfully point out that if Mr Morpeth’s recommendation is carried out it will be a more inequitable settlement of the matter. The land in question is specially valued by the Natives because it is the site of an old settlement, and fishing ground.

He noted that a promise made in 1875 by McLean, in consideration for loyal services, should be considered before a promise made by the Auckland Waste Lands Board in 1886. He also pointed out, that ‘Had the matter been settled then [in 1875] Maraki Kohea, would have got the 100 acres where Sergeant Boland selected his’.

As it was:

the lot awarded to Sergeant Boland has recently been purchased by Mr Carroll jnr of Wairoa for the purpose of allowing Natives to remain where they have been residing for some years under the impression that the land was Maraki Kohea’s. The other land from which it is suggested by Mr Morpeth that the 100 acres should be selected is situated 10 miles up the river and is of inferior quality, besides which there are not old associations attached there to, which would make it valuable in the Native mind.⁵⁹

Morpeth concurred and Preece was instructed to select 100 acres out of the remaining 130 acres.⁶⁰ This was given effect to by the Native Contracts and Promises Act 1888.

3.6.2 Whakamarino

Tamihana Huata and others were not so lucky. In 1881 Tamihana Huata wrote arguing that 300 acres known as Whakamarino had been wrongfully included in the 1100 acre Urewera reserve out of the Taramarama block. He wanted the block resurveyed so that the 300 acres could be awarded to him and his hapu as his parents and other relatives were buried there.⁶¹ A reply was apparently sent on 23

56. Ibid, Preece to Under-Secretary, 8 May 1886

57. Ibid, 25 October 1886

58. Ibid, 11 November 1886

59. Ibid, Preece to Under-Secretary, 9 December 1886

60. Ibid, 14 February 1887

March 1882 saying that the Government could not undertake the subdivision of the reserve. Tamihana wrote again on 15 July asking that it be divided off. Under-secretary Gill replied that no division of the land could be made except upon an order from the Native Land Court and the Government could not interfere any further.⁶² By this time Hapimana Tunupaura, of Kahungunu, had also written asking the Government what it intended doing about their 300 acres.⁶³ Preece had recommended that the 300 acres be defined and given to them, 'as the people are anxious to settle on it'.⁶⁴ Gill's reply, however pre-empted that.

The matter, however, did not go away, resurfacing in 1888 when Mako Paora, Meiha Te Hina and Pahi Matiu of Ngati Hiku wrote alleging that the 300 acres had been lost in the survey of the reserves and that 'Whakamarino has now been sold to Europeans by Government'. They wanted 300 acres elsewhere awarded to them.⁶⁵ The letter was sent to Preece who eventually replied in March 1889 that this was a long standing claim.⁶⁶ The next day he wrote from Napier that he had had the matter investigated before the Native Land Court at the same time as the Urewera reserves had been heard. Preece concluded from the evidence that the Whakamarino reserve was accidentally omitted from the deed at the time of purchase. The Judge though decided that the 300 acres could not be taken out of the Urewera reserve and that the Ngati Hika hapu would have to look to the Government for redress.⁶⁷ Sheridan, however, insisted that there was no evidence to support the Whakamarino claim.⁶⁸ A letter to that effect was sent to the claimants.⁶⁹

Huata approached the Government in 1890 and again in 1895 concerning the Whakamarino reserve.⁷⁰ As well, in December 1895 Tina Te Pokopoko wrote to the Native Minister about the reserve.⁷¹ Sheridan rather tersely replied that the 'missing former papers show clearly that these Natives have no claim and this has been repeatedly explained to them'.⁷² A further letter from Teira and Meiha Te Hira in February 1897 received the reply that the Government could grant no more reserves.⁷³

3.6.3 Ohuka

In 1887 a petition was received by the Government from Tamihana Huata and others concerning 40 acres known as Ohuka in the Taramarama block.⁷⁴ It was

61. MA, 1/1915/2346, 20 July and 1 December 1881

62. *Ibid*, 18 August 1882

63. *Ibid*, 14 June 1882

64. *Ibid*, minute dated 27 June 1882

65. *Ibid*, 20 July 1888

66. *Ibid*, minute dated 28 March 1889

67. *Ibid*, 29 March 1889

68. *Ibid*, handwritten minute on cover sheet, Sheridan to Lewis, 20 May 1889

69. *Ibid*, 27 June 1889

70. *Ibid*, 28 March 1890 and 22 January 1895

71. *Ibid*, 10 December 1895

72. *Ibid*, minute dated 12 May 1896

73. *Ibid*, 26 February 1897 and 30 April 1897

74. *Ibid*, petition no 232, 22 November 1887

Figure 5: Crown purchases

referred to Preece who explained that Ohuka was one of the military reserves out of the 1872 agreement. He was of the opinion that:

the Petitioners have no shadow of claim to the land in question, it was originally confiscated and then by agreement was handed to the Crown, and again the whole block was conveyed to the Crown with the exception of certain Reserves the above piece not being mentioned as the Natives knew that they had no claim to them.⁷⁵

In 1890, Hapimana and Huata wrote again. They claimed that the reserve had been loaned to the Government as a military post at the time of the Te Kooti campaigns. They had always believed that it still belonged to them and were unaware of how it passed into the Government hands. They had seen the Native Affairs Committee's report and Preece's letter, but still did not accept this response to their claim.⁷⁶ Lewis asked that the writers be informed that the matter could not be reopened, and that seemed to be the end of it, at least for the time being.⁷⁷

75. Ibid, 13 December 1887

76. Ibid, 28 March 1890

77. Ibid, 17 April 1890

3.6.4 Rehearing of the main reserves

In 1881, Preece had written that the Wairoa Maori were upset with the way in which the Crown grants had been issued for the reserves in Tukurangi, Ruakituri and Taramarama. Instead of each reserve being allocated to the grantees in accordance with family and hapu interests and occupation, all the reserves in each block had been issued to all the grantees identified as having an interest in the blocks. Thus grants in the names of the whole 10 grantees had been issued for all four reserves in Tukurangi, 22 grantees in 12 reserves in Ruakituri, and 13 grantees in seven reserves in the Taramarama block. Preece recommended that a meeting be held with all the grantees to ascertain what names they wished put in the grant of each reserve.⁷⁸ At the time, though, the Government saw no reason to alter the awards.⁷⁹

The claimants however refused to give up and over the years a series of letters and petitions were received concerning the issue. Finally, in 1897 Tamihana and 51 others petitioned Parliament, praying for inquiry into and adjustment of the ownership of the reserves. This petition, along with several others, led to the passing of section 30 of the Native Land Claims Adjustment and Laws Amendment Act 1901. The Native Land Court was given the power to re-investigate the ownership of each reserve as if they had not previously been dealt with.⁸⁰ On 21 May 1906, the court hearing began regarding the ownership of the Ruakituri, Tukurangi and Taramarama reserves.⁸¹ Court orders were made on 1 June 1906 for the reserves shown in table 3.2.

Further research could be done on who these reserves were awarded to, under what conditions, and what subsequently happened to them. Some are still in Maori ownership but research should be done to find out what happened to the rest of them. Wairoa minute book 15, 1 June 1906, pages 100 and 101, should be consulted by claimants as the starting point for further research.

3.7 CONCLUSION

In the aftermath of the wars, the Government wanted to plant military settlers among the Pai Marire. Land was to be taken under the East Coast Land Titles Investigation Act 1866 for this purpose. But because there was no clear cut division on the ground between ‘rebel’ and ‘loyal’ interest, the Government could not clearly separate their land and resorted to out of court settlements, outside the provisions of the legislation that the confiscation was supposedly based on. Having swiftly acquired the land by ‘cession’ the Government was by no means as prompt in ensuring a title for ‘loyalists’. When it finally got around to settling the matter, it ignored the agreements entered into with the kupapa, and acted on the basis of what was expedient, rather than the policy of rewarding ‘loyal’ and punishing ‘rebel’. In

78. Ibid, 1 February 1881

79. Ibid, Richard John Gill, 24 March 1881

80. MA, 1/1915/2346, pt II

81. Ballara and Scott, ‘Crown Purchases’, Wairoa, pp 47, 58

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the end there were complaints that just as many ‘loyal’ Maori had lost land as ‘rebel’.

By 1875, the Government had acquired approximately 375,304 acres from Wairoa Maori as a result of 1864 to 1865 and 1868 land sales, confiscation and post-confiscation sales. In an area of just over three-quarters of a million acres this represents nearly half of the land covered in this report. The rest of the land will be discussed under the Native Land Acts and public works takings.

Table 3.2: Reserves subject to court orders on 1 June 1906

Taramarama	Ruakituri	Tukurangi
Ohiwa	Whataroa	Kahotea West A, B
Otamariki	Whataroa urupa	Kahotea East
Mangapapa	Rimuroa	Pikaungaehe
Koariari	Makareao	Te Kiwi
	Okare	Tarapatki
	Ngaipu	
	Raupo	
	Tapatangata	
	Tarake	
	Matakuhia	
	Paiaumu (Paraumu)	
	Oriwha	
	Waikatea	