

## CHAPTER 6

# CONCLUSION

### 6.1 INTRODUCTION

Before the advent of European settlement in the Wairoa district, the hapu of Ngati Kahungunu controlled over 315,000 hectares, nearly three-quarters of a million acres. Today the amount of land still remaining in Maori ownership in this district is approximately 14,900 hectares. The purpose of this report has been to provide an historical overview of how that land was alienated. While some firm conclusions can be drawn from the available evidence, many others are preliminary, at this stage. This report is released as a draft, in the anticipation that many submissions will be made in response to it. These submissions will, hopefully, help to correct any inaccuracies, and possibly, offer a different perspective, or interpretation, to the events discussed in this report. This report has relied heavily on secondary and official primary sources. Explanations of Maori action, therefore, are taken from the opinions of Europeans, who held their own Eurocentric opinions, and often had strong vested interests to protect. Despite this, a number of strong points can be made about the interactions of Maori and the Crown in the Wairoa district, and the ways in which Wairoa land was alienated from Maori.

### 6.2 THE PEOPLE

Chapter 1 of this report was mainly drawn from the work of nineteenth- and twentieth-century writers, who wrote down and interpreted Maori oral traditions, and from the research of the historian Angela Ballara. Wairoa Maori have traditionally been labelled as Ngati Kahungunu. While this is correct, it does not fully explain the composition of the people who inhabited the Wairoa district in the early nineteenth century. The people of the region could trace their descent from many different seminal ancestors, including some resident in the area before the arrival of Kahungunu's descendants. The tendency to identify with the iwi Ngati Kahungunu had been reinforced during the wars of the 1820s and the 1830s, but the basic social group, in 1840, was the independent community of chiefs and people. In 1840, or even in 1850, the Europeans arriving in the area did not encounter an established Ngati Kahungunu hierarchy. They found chiefs of differing degrees of status or mana leading various combinations of hapu living as separate communities. The claims before the Waitangi Tribunal today reflect the complex situation of groups and sub-group identities during the early nineteenth century.

### **6.3 THE CROWN PURCHASES**

During the months of October 1864 to the middle of 1865, the Crown bought approximately 179,370 acres from Wairoa Maori. A further 7424 acres were bought in April 1868. With regard to these purchases, some of the issues the Tribunal may need to consider include: the adequacy of the price paid, whether the transactions were adequately understood or consented to by Maori sellers, whether those who sold the blocks were entitled to do so, any failure of the Crown to establish the correct owners, any failure of the Crown to protect the rights of sellers and non-sellers alike.

On the evidence available, it is clear that some iwi, at least, were willing to sell in order to attract a large European population to the area. This was based on a desire to participate in the settler economy, and possibly, for added protection against their former enemies. But the issue remains of whether the purchases were conducted in a manner fully consistent with the principles of the Treaty of Waitangi. It appears that Maori were pressured into selling more than they originally wanted to, both by their desire for European settlement and by the tactics of the Crown's officers. McLean and his officers almost always rejected the Maori vendors' initial asking price and offered very much lower ones. Iwi, it appears, were well aware of the market value of their land but with the Crown's pre-emptive right operating they had no choice but to settle for the Crown's price. Pre-emption was originally instituted to protect Maori from unjust and unbalanced private purchases. But it does not appear that the Crown was using the pre-emptive right in a protective sense against unscrupulous settler practice, rather, its officers used it to pressure Maori to sell land for far less than they wanted. It would seem to be a misuse of the pre-emptive power against Maori.

Some of the other practices of the Crown's land purchasing agents may also be subject to criticism. For example, pressuring iwi into selling more than they wanted to; purchasing land from willing sellers in order to put pressure on the rest; and the exploitation of certain situations, like the wars and the threat of confiscation, to push through sales. Also in question was whether the rights of non-sellers were protected. Very few reserves were made in these early purchases. In some cases, no provision was made in the deed for reserves but a reserve was made later, usually though, for an individual rather than for the benefit of the hapu. It may be argued that McLean thought that by purchasing only one side of the river, as in the case of Nuhaka and Wairoa, he was leaving sufficient land for Maori. This view, however, fails to account for those hapu directly affected by the alienations.

### **6.4 RAUPATU AND POST-CONFISCATION CROWN PURCHASES**

Although the causes for the outbreak of war on the east coast have not been discussed in this report, it has been argued elsewhere<sup>1</sup> that a rebellion as such did not take place, and that the Crown's confiscation of land that followed was unjust.

1. Joy Hippolite, 'Raupatu in Hawke's Bay', report commissioned by the Waitangi Tribunal, 1993 (Wai 201 ROD, doc I17)

## *Conclusion*

The Crown agreed to return most of the confiscated land to Maori in 1867, retaining 42,430 acres for itself. There were then a number of delays before the Crown got around to returning the land to the ‘loyalists’. It then immediately turned around and purchased back 146,080 acres of this land, leaving 10,920 acres for reserves, to be squabbled over by Tuhoe, Ruapani, and Ngati Kahungunu. It has already been argued by the Tribunal that the implementation of the confiscation legislation was unlawful;<sup>2</sup> in Wairoa, it was completely unwarranted, and may have been in breach of the principles of the Treaty.

### **6.5 THE NATIVE LAND COURT PERIOD**

In the aftermath of the wars and the imposition of British law the Crown failed to protect iwi rights through the operation of the Native Land Acts. This included the land-purchasing activities of the Crown agents who were ready to exploit successive legislative acts which greatly contributed to a process of land loss and dispossession. Some of the major problems of the Native Land Court and direct private purchase included: the court’s refusal to award Crown grants to more than 10 owners for a block; the cost of the process, resulting in the alienation of more land: the acquisition of land through fraud: and the acquisition of land through debt. Opinions expressed by concerned Europeans and officials and other persons show that even in the nineteenth century many Crown acts were regarded as contrary to justice and practical alternatives existed, for example, the East Coast Trust. But nowhere has it been proved that the Crown was truly committed to retaining land in Maori ownership and control – in fact, the opposite was the case: the Crown was dedicated to breaking down traditional Maori society. In introducing the Native Land Acts, the Crown began a process of alienation of Maori land that was far more effective and far-reaching than the punitive confiscations following the wars. The tangata whenua of the Wairoa district suffered dearly through the policy and practices of the Crown.

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2. Waitangi Tribunal, *The Taranaki Report: Kaupapa Tuatahi*, Wellington, GP Publications, 1996, pp 10–11

