RANGAHAUA WHANUI DISTRICT 13

THE NORTHERN SOUTH ISLAND

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PART II

OCTOBER 1996

WORKING PAPER : FIRST RELEASE

WAITANGI TRIBUNAL

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FOREWORD

The research report that follows is one of a series of historical surveys commissioned by the Waitangi Tribunal as part of its Rangahaua Whanui programme. In its present form, it has the status of a working paper: first release. It is published now so that claimants and other interested parties can be aware of its contents and, should they so wish, comment on them and add further information and insights. The publication of the report is also an invitation to claimants and historians to enter into dialogue with the author. The Tribunal knows from experience that such a dialogue will enhance the value of the report when it is published in its final form. The views contained in the report are those of the author and are not those of the Waitangi Tribunal, which will receive the final version as evidence in its hearings of claims.

Other district reports have been, or will be, published in this series, which, when complete, will provide a national theme of loss of land and other resources by Maori since 1840. Each survey has been written in the light of the objectives of the Rangahaua Whanui project, as set out in a practice note by Chief Judge E T J Durie in September 1993 (see pt i, app i).

I must emphasise that Rangahaua Whanui district surveys are intended to be one contribution only to the local and national issues, which are invariably complex and capable of being interpreted from more than one point of view. They have been written largely from published and printed sources and from archival materials, which were predominantly written in English by Pakeha. They make no claim to reflect Maori interpretations: that is the prerogative of kaumatua and claimant historians. This survey is to be seen as a first attempt to provide a context within which particular claims may be located and developed.

The Tribunal would welcome responses to this report, and comments should be addressed to:

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LIST OF ABBREVIATIONS

AJHR	*Appendices to the Journals of the House of Representatives*
AJLC	*Appendices to the Journals of the Legislative Council*
app	appendix
ATL	Alexander Turnbull Library
ch	chapter
Compendium	A Mackay, *A Compendium of Official Documents Relative to Native Affairs in the South Island* (2 vols, Wellington, 1873)
doc	document
fn	footnote
fol	folio
MA	Maori Affairs
NA	National Archives
NZPD	*New Zealand Parliamentary Debates*
p, pp	page, pages
pt	part
ROD	record of documents
ROP	record of proceedings
s	section (of an Act)
sec	section (of this report, or of an article, book, etc)
sess	session
vol	volume
Wai	Waitangi Tribunal claim

PREFACE

Part i of the *Northern South Island* district report was distributed as a working paper (first release) in July 1995. Since that time, I have assumed the position of acting research manager at the Waitangi Tribunal, and have joined the Rangahaua Whanui Advisory Group. As a result, I have had very little time to work on the completion of this report, and have scaled down my original proposal from four further chapters to two and have written a conclusion to the whole report. Part ii will need to be read in conjunction with the more substantial part i, and I have not repeated the introductory information or the bibliography, which can be found in part i.

Part ii contains a chapter assessing the social and economic impact of land alienation in the nineteenth century (ch 1), a chapter on the grievance that most commonly formed the subject of petitions to Parliament (the Wakapuaka block) (ch 2), and the general conclusion to the report (ch 3). I have also highlighted the areas in need of further research by Crown and claimant historians.

Parts i and ii will be published as a whole later in the year, after I have revised the text in light of further research, rethinking, and the comments offered by claimants.

I feel that this overview report offers some substantial historical interpretations and conclusions, which I hope will assist claimants and the Crown in their further research. No doubt my conclusions will be modified by their more in-depth research into sources which I was unable to consult, or was able to consult only lightly, such as the Maori Affairs (MA) series at National Archives.

CHAPTER 1

THE SOCIAL AND ECONOMIC IMPACT OF LAND SALES: LIFE ON THE RESERVES, 1860–90

By the end of 1856, the Maori communities of the northern South Island had sold almost all their land. Throughout the process of land purchase, various reserves had been made for Maori. The New Zealand Company had set out to reserve an eleventh of its land for Maori purposes, but had in fact made 'tenths' only in the Tasman Bay part of its purchases. These tenths were supplemented by occupation reserves created in Tasman and Golden Bays after the Spain award in the mid-1840s. The first Crown purchases were accompanied by the setting aside of reserves for 'present and future needs' in the late 1840s, including the creation of a very large reserve in the Wairau district. The second round of Crown purchases in the mid-1850s, however, swallowed up the Wairau reserve and set aside much smaller reserves in Marlborough. The reserves were more generous for some communities in the Nelson province, with the setting aside of three comparatively large areas: Taitapu on the West Coast; D'Urville Island; and Wakapuaka in Tasman Bay. The future social and economic well-being of Maori communities now depended on the size, quality, and usefulness of their reserves, which would dictate whether or not they were able to maintain desired elements of their traditional lifestyle, and/or to engage with the Pakeha pastoral and agrarian economy. The social and economic impact of land sales may be traced through an assessment of life on the reserves.

1.1 TOWARDS A WORKING DEFINITION OF 'RESERVES'

The definition of a 'reserve' is a complicated matter. There does not seem to have been a detailed or comprehensive Government policy on reserves in the 1840s and 1850s, so that general principles have to be deduced from practice. This is always a difficult and problematic process for historical research, but especially for Tribunal research, where a great deal depends on the Government's public pronouncements about what it was doing and how it intended to do it. In terms of resources, New Zealand Government officials appear to have believed that Maori should retain sufficient land for their 'present and future needs'. This phrase was used widely by those responsible for reserve-making in the 1840s and 1850s.[1] There

1. For example, instructions of Major Richmond, cited in Fox to W Wakefield, 22 July 1847, co208/88; D McLean to Colonial Secretary, 7 April 1856, *Compendium*, vol 1, p 301

were a number of models for the reservation of land for this purpose by the time of the first major Crown purchase in the northern South Island, including the large, self-contained reserves favoured in the United States, and the small, scattered, non-occupation reserves of the New Zealand Company.[2] Government officials in New Zealand tended to draw from these and other varying models, which created some degree of confusion about the nature, purpose, and ownership of reserves in this country. The confusion was exacerbated by the fact that very little was recorded at the time of the making of reserves about their exact boundaries, nature and functions, leaving future governments to come up with a working theory to cover their supposed purposes and status.[3]

There seem to have been two basic approaches to the purpose of reserving land in New Zealand. The first was that Maori needed land to live on and to continue their economic activities. They themselves would choose to keep land vital for these purposes. The underlying reasoning on the part of Government officials was that Maori 'used' very little of their nominal estates for economic exploitation. Whenever the Crown purchased a large block of land, therefore, part of it would need to be reserved for Maori to continue to have the benefit of the small sections which Government officials understood that they actually 'used'. Under this theory, Maori lost nothing by selling the wider block. This seems to have been the principle behind the practice of always reserving part of any large block of land sold to the Crown.

The creation of these 'occupation' reserves was a complex process on the ground. There do not seem to have been any formal guidelines as to how much land was necessary for 'present and future use'. It depended on the use to which any particular piece of land had been put in the past, and its potential for the European style of economic development in the future, with which many Maori were actively engaged by the 1840s. Neither of these considerations accounted for non-economic reasons to retain a particular piece of land. Nevertheless, land kept because it was the site of a burial ground or had important historical associations, was invariably included in any calculation of land left in Maori hands for economic use. In terms of the nature, extent and purposes of land retained by Maori, a great deal depended on how proactive Maori had been in the process of setting aside land for reservation. Many so-called 'reserves' were actually huge areas of land which Maori had decided not to sell to the Crown in spite of pressure from land purchase officials. This was held to be 'unsold' land and therefore still under Maori customary title. The other type of occupation reserve was land excepted from sale within a particular block. It was sometimes (but not invariably) held that the Government had purchased this land and returned it to Maori, thus extinguishing the Maori customary title. It could be returned to Maori as land held under Crown grant, but more commonly it was left under de facto customary tenure but without a clear title in terms of British law.

2. A Mackay, 'Memorandum on the Origination and Management of Native Reserves in the Southern Island, 15 May 1871, *Compendium*, vol 2, p 263
3. For example, 'Report of Interview with Ngati Toa Deputation', 25 May 1880, MA 13/17, 680/1835, NA. The Native Minister told the Ngati Toa delegation that if the 200-acre reserves had been given to them in 1853 they would have been made inalienable.

The difference between these two categories of reserve was unclear in the northern South Island, where the 'blocks' sold to the Crown were so vast and all-encompassing, involving the extinction of all rights over the whole island, that any piece of land retained by Maori was technically a reserve from a wider block. In practice a distinction seems to have been made according to the size of the reserve. The three large reserves were treated in a variety of ways. The two largest reserves, Taitapu and D'Urville Island, had been specifically excepted from the sale of wider 'blocks' in the purchase deeds. Taitapu was defined as an official reserve and at times was held to belong to those who had signed the deed of sale, and at other times was understood to be under customary tenure as though it had never been the subject of a sale.[4] When the Government finally made a definite statement as to whether the northern South Island reserves were inalienable, Taitapu was the only one defined as alienable, possibly on the pragmatic grounds that its size made it desirable for European acquisition.[5] In contrast, D'Urville Island was not defined as a reserve and was left out of Government reports on the reserves, and calculations on the amount of reserved land left to Maori. There was also a third anomalous large reserve, Wakapuaka, which was excepted from sale in the 1855 negotiations at Nelson, but was not mentioned as a reserve in the deed of purchase, although it was included on the official map. This was probably because McLean still wanted to purchase Wakapuaka and did not want to give it the status of an official reserve. As a result, Wakapuaka could most accurately of the three large reserves be defined as unsold land and still under customary tenure.[6] These definitions were very important because they formed part of the way in which the Government treated the reserves in the 1860s and 1870s, when it had to define boundaries more carefully, and make decisions about the legal and moral status of 'reserves'.

In addition to the reservation of land for direct occupation and use, the Government was committed to the idea that land should be reserved to provide a permanent fund for the social 'improvement' of Maori. Both the New Zealand Company and humanitarian pressure groups in Britain and New Zealand argued that churches, schools, hospitals, and the personnel to staff them, should be provided for the Maori as one of the benefits of 'civilization', which was held to be a corollary of the settlement of the country by British settlers and a British form of legal and social organisation. The early Governors accepted these ideals to varying degrees, with the result that a series of experiments were made in the form of reserved sums of money, lands, and trusts. Some Maori supported these experiments and welcomed the idea of practical benefits in the form of education and health care. Others were determined that if land was leased for the purpose of obtaining money, it should not be spent on their behalf but should be paid to them directly in the form of rents. The officials charged with the administration of land reserved for Maori benefit were sometimes of the view that the best return for Maori from their occupation reserves as well would come from rents rather than farming the land themselves. A second category of reserves was created in the 1840s and 1850s, therefore, in which Maori were held to be the beneficiaries of reserves

4. See pt i, ch 11
5. 'Return of Lands Reserved Exclusively for Natives', AJHR, 1883, G-7
6. See pt i, ch 9

actually owned and administered by the Government, and frequently leased to Europeans. These reserves included the New Zealand Company tenths, the occupation reserves created in Tasman Bay by Commissioner Spain, and any other reserves which Maori later chose to bring under the Native Reserves Act 1856.[7]

In practice, therefore, there were two categories of reserved land in the northern South Island after the activities of the land purchase agents and other Government officials in the 1840s and 1850s. The first category was the land excepted from sale during the purchase process for Maori occupation and use. The second category was land which had come under the Native Reserves Act 1856, for leasing to provide rents and a trust income for social purposes. The distinctions were sometimes blurred, however, and there were uncertainties as to the legal status of the reserves, whether or not they were inalienable, who actually owned them, what had been intended by Maori and the Government as their original purpose and functions, and how the Government should fulfil its apparent role as the moral guardian of all the reserves. Some of these issues, especially those of legal ownership, will not be dealt with in this report and require separate treatment.

1.2 PRELIMINARY QUESTIONS

Before assessing the adequacy of the northern South Island reserves for the 'present and future needs' of their Maori occupants, it is necessary to pose some preliminary questions. First, did Maori in fact get all the reserves that they were promised, and/or in the form and to the extent that they were promised? This report is not the appropriate place for a seriatim consideration of this question, but a few examples may be given which indicate that there were problems in the way in which the reserves were finally marked off and allocated to Maori. Claimant and Crown researchers should conduct detailed research into all of the identifiable promises which were made about reserves, and the way in which each actual reserve was created from a very complex process of swapping sections, adjusting boundaries, and surveying reserves with 'natural boundaries' long after the initial contracts were made, and without the presence of the officials who had made informal oral agreements, or of some of the leading rangatira who were parties to those agreements.

The Golden Bay reserves in particular were subject to constant adjustments in the 1840s and 1850s, as suburban sections were swapped for larger rural ones (and vice versa), boundaries were pared to take natural features into account, and reserves were relocated to encompass old cultivation and pa sites, or because mistakes had been made when the original sections were set aside. Mackay's *Compendium* provides material which may serve as a starting point for research on the details of reserve-making in Golden Bay. It seems clear that there were a number of real problems which required adjustment by the 1850s, but it is not clear whether or not the solutions were satisfactory in terms of Maori interests.[8]

7. A Mackay, 'Memorandum on the Origination and Management of Native Reserves in the Southern Island', 15 May 1871, *Compendium*, vol 2, pp 263–267. See also AJHR, 1873, G-2a.
8. *Compendium*, vols 1, 2, passim

In addition to the complicated situation in Golden Bay, there were clear instances of problems with reserves made in the later Crown purchases. The Taitapu or West Wanganui reserve was incorrectly mapped (and in fact halved by the map), and its area was under-estimated by many thousands of acres even after the map had been corrected by a new sketch map.[9] The boundaries of the Wakapuaka and Ngati Koata reserves were surveyed several years after their initial creation, and the written records left by McLean were insufficient to establish where the boundary was supposed to have been between the Ngati Tama and Ngati Koata reserves.[10] The Wairau reserves were also the subject of much contention. The Pukatea (White's Bay) reserve was much smaller than it was supposed to have been, and even the larger amount of acres McLean admitted to when pinned down in the 1860s was much smaller than that recorded in his diary in 1856.[11] Furthermore, Rangitane later petitioned Parliament with their complaints about the Wairau reserves, claiming that McLean had promised them sole title to the reserves (which they shared with Ngati Rarua and Ngati Toa), and that they had wanted a reserve of 60,000 acres.[12] It is unlikely that McLean would have agreed to such a large reserve in 1856, but Rangitane may have felt that it was reasonable given the much larger reserve that had been made in 1847, but subsequently sold to the Government.

Ngati Toa also protested to the Government that promises made at the time of the 1850s' purchases had not been kept. The promise to make individual reserves of 200 acres each for prominent chiefs, and to give some of them scrip as well, has already been the subject of discussion in this report.[13] It is sufficient to note here that other leaders were also promised Crown grants and individually-owned reserves in separate arrangements, some of them also the reserves promised to the wider communities, and that the allocation of Crown grants to individuals was gradually carried out in the 1860s. This process requires detailed analysis by Crown and claimant historians. In addition to this type of promise, there were also oral agreements about the reservation of specific pieces of land which never made it into the written deeds, and were disregarded (in all ignorance) by Government officials in later years. In 1884, for example, Atanatiu te Kairangi petitioned Parliament about an island called Paruparu, situated at the north-eastern end of the South Island, which he claimed was specifically excluded from sale when McLean purchased the neighbourhood, because it had a landing-place for their boats and a burial ground. He 'says he has made repeated applications to the Government for the island, which have been taken no notice of. He prays that it may be restored to him.' The Native Affairs Committee reported that the Ngati Toa deed of cession did not mention the island and that it had sold all their claims on the South Island. [14]

A similar petition was more favourably received in the same year by the Native Affairs Committee of the Legislative Council. Ngati Toa asked that the same island, Paruparu, and also three others (Kakapo, Nukuaiata, and Motungarara), at the

9. See pt i, chs 9, 11
10. Pt i, ch 9
11. Ibid
12. 'Petition of Teoti Makitonore and 10 Others' and 'Petition of Rangitane of Wairau', AJHR, 1889, I-3, p 7
13. See pt i, ch 8
14. AJHR, 1884, I-2, p 14

entrance of Pelorus Sound, be returned to them. The Government argued that the islands were included in the general meaning of the blanket cession deed of 1853, but the committee held in 1884 that as the Ngati Toa deed specified woods, rocks, streams, lakes, and mines, but omitted islands, and since Ngati Toa maintained that they did not intend to cede their adjacent islands, they ought to have been reserved. Sir George Grey told the committee that he had drawn up the deed and presided at its execution, that he did not intend to include the islands, and that 'it was expressly agreed on both sides that they should not be included in the cession.' In 1860, Ihaka followed up the 1853 oral agreement with a visit to Auckland to ask Governor Gore Browne for a 'clear title' to one of the islands, Paruparu, but he was refused. In 1868, he applied to the Native Land Court to hear the islands but the court decided that it had no jurisdiction. The Crown assumed ownership of the islands and leased two of them for pastoral farming under the Land Act 1877, but Ngati Toa continued to visit the islands every year for fishing (and was still doing so in 1884). The Native Affairs Committee recommended that the Government should confirm the title of Ngati Toa to the islands by Crown grant 'to their proper representatives', by which they may have meant a communal title in contravention of the Native Land Act 1873.[15] The Government declined to act on the committee's recommendation, and Matenga Te Hiko and 15 others petitioned Parliament again on the issue in 1913.[16]

Given the evidence of Sir George Grey, it seems clear that the Pelorus Sound islands were one example of what may have been numerous oral agreements to reserve particular pieces of land. These oral agreements made their way into the written record if they became the subject of a series of protests. Ihaka's visit to the Governor in 1860 and its purpose may not have been recorded. The significance of his application to the Native Land Court in 1868 could easily have been overlooked even in a careful study of the minute books. It was only because the tribe decided to try again in 1884 with petitions to Parliament that their oral agreement with the Governor in 1853 became part of the accessible written record. It is up to claimant historians to discover whether this type of information has been preserved in the traditions of the people, or whether the oral traditions have served a different purpose and did not preserve these oral agreements. Some historians might suggest that the only way to test such traditions is to ascertain whether they were the subject of sufficient protest to make them part of the written record. In the case of the Ngai Tahu claim, there was also debate over how quickly they made their way into written history, and whether a lengthy delay meant that they were evolved understandings of events which may not have been entertained by the people at the time.[17] There are a number of difficult issues to consider in this respect, but the Tribunal will need to assess how far the Maori people of the northern South Island received the reserves that they were promised, and in the form that they were promised, by the Government of the day.

Issues of population and entitlement pose a second preliminary question: before we can assess the sufficiency of the reserves for 'present and future needs' we have to have some idea of how many people were supposed to be supported by them.

15. AJLC, 1884, no 5
16. 'Petition of Matenga te Hiko and 15 Others of Porirua', AJHR, 1913, I-3, p 12
17. A Ward, 'A Report on the Historical Evidence: the Ngai Tahu Claim', Wai 27 ROD, doc T1, pp 99–105

This is a remarkably difficult question to answer. Population data is statistically unreliable before the first censuses of the 1870s. It consists of guesses and estimates, and usually exists only for different regions and in different years. The early censuses themselves included a substantial component of 'estimates', although they became more reliable towards the end of the nineteenth century. Ideally, a collaboration between a demographer and a historian such as that between Ian Pool and Tony Walzl for the Ngai Tahu claim, would be necessary before any substantive quantifications could be made as to the exact ability of the reserves to sustain the resident population of Maori. The question of geography complicates this matter further, as the census regions seldom fit tidily into the Rangahaua Whanui district. Nelson Province included parts of the West Coast, and the Marlborough figures included the Kaikoura district. It is not always possible to get a further breakdown of the figures in order to exclude these extra districts. Iwi affiliations are also suspect in the nineteenth-century census data, as ascription was often made by information collectors rather than respondents per se, and any number of people would be described as 'Ngatiawa' or 'Rangitane', involving the conflation of hapu and sometimes of iwi.

It is still possible, of course, to detect broad population trends. The population of the northern South Island declined to some extent during the period 1856 to 1900, but the decline was not as great as it seemed because a large part of it was due to the constant departure of people for the North Island. Even were an accurate population count possible, therefore, there were other complicating factors which need to be taken into account. The northern South Island was part of a wider world of kin associations and land rights stretching from Waikanae and Wellington in the south of the North Island as far north as the Ngati Tama ancestral lands in Taranaki. There was a constant stream of migrations from the northern South Island to Taranaki in the 1860s, 1870s, and 1880s. Nor were such migrations confined to the Taranaki peoples. In 1855, McLean reported that there were 170 Ngati Rarua living in the northern South Island, 30 in Porirua, and 60 who had returned to the ancestral lands at Waikawau and Mokau.[18]

There were also seasonal visits to parts of the Wellington region, some of them lasting for several years, but it is impossible to quantify such movements. On the other hand, there were reports of North Islanders either coming to live in the South Island or possibly coming back to live in the South Island.[19] In terms of the amount of land necessary for the support of the local Maori communities, the potential for migration and counter-migration was known to Government officials at the time of the making of reserves. Indeed, according to James Mackay it was the reason why Te Atiawa hapu were given such supposedly generous reserves in Queen Charlotte Sound – not in case hundreds of relatives suddenly turned up to live there, but so that they would not be tempted to return to Taranaki and complicate the land question in that province.[20] By the 1890s, when the reserves were up for grabs in the Native Land Court, the local residents stressed that they considered a return to Taranaki as disqualifying former inhabitants from any rights in the reserves.[21] In

18. D McLean, notes and journal, 1855, McLean papers, box 3, ATL
19. For example, J Mackay to McLean, Nelson, 31 December 1858, McLean papers, folder 421, ATL
20. J Mackay to McLean, Picton, 24 October 1859, McLean papers, folder 421, ATL

terms of rents and a moneyed income, however, the question was more complicated. Long-term Taranaki residents could not physically live on the South Island reserves, but distance was no barrier to the passage of money, and they might have drained some of the rental income from the area. Further research would be necessary to establish whether or not a significant amount of rent or food or both was sent from the South Island to people living in Taranaki, and not counted in the Nelson and Marlborough censuses.

The second qualifying factor in any consideration of how many people the reserves were supporting, was the individualisation and Crown granting of the various sections. Much of this process took place as a result of promises made by McLean and others to particular families and chiefs during the purchase process in the 1850s, and the adjustment of the Golden Bay reserves.[22] James Mackay, Native Commissioner for the northern South Island, held a hui at Motupipi to discuss reserves and other issues in 1860. It was attended by about 100 Maori, including most of the major rangatira of Golden Bay. The chiefs pressed Mackay to fulfil earlier promises and give them Crown grants for their land, but this was not necessarily accompanied by a desire to subdivide the reserves into individually-owned blocks that would form separate farms. They wanted to have Crown grants for individual interests which ran across all their reserved sections, enabling them to continue the current system of joint, communal farming. In 1863, Mackay wrote that:

> the greatest difficulty was in persuading the Natives to give up innumerable small holdings, and to get them to understand that 18 acres in one block was better than the same quantity of land distributed over the whole reserve.

This suggests that they did not actually want to stop communal farming just because they wanted Crown grants, but Mackay himself was pushing for consolidated, rationalised family holdings instead of joint cultivation. He argued that it would break up the 'confined and unhealthy Pas' and lead to each farmer improving his land, something not possible when land was under joint cultivation. He argued then that he had carried this out at Takaka and that it had worked well there.[23]

At the hui, however, he presented a less positive view of his Takaka experiment and warned the assembled Maori of the dangers of obtaining Crown grants. No restrictions against alienation had been placed on these titles:

> If you have Crown Grants and sell your Reserves, what will become of you. You will be beggars (tangata rawa kire) in your own country. You are a youth you require looking after.[24]

At Takaka, he had divided a 150-acre reserve into six lots, which were Crown granted to individuals:

21. Nelson minute book 2, fol 191
22. For example, McLean to Tinline, Nelson, 12 November 1855, Tinline papers, MS papers 26/1, ATL
23. J Mackay to Native Secretary, 3 October 1863, *Compendium*, vol 2, p 139
24. 'Minutes of Proceedings at a Meeting of Natives held at Motupipi, Golden Bay, on Saturday 4 August 1860', MA 13/51, NA

> I ask you who owns that land now. Has it not become the property of the pakeha. You sold it to him. Well if the Governor gave you all Crown Grants for your Reserves tomorrow what proof would you give me that you will not do the same.[25]

Furthermore, since they could not agree on how to subdivide the land, it was impossible to give them all Crown grants for it. As well as making this point, Mackay suggested that the Government should be very careful and only give grants to those who could be relied upon not to sell the land.[26]

In the same year (1860), Governor Gore Browne drew the attention of the Colonial Secretary to the fact that promises had been made for Crown grants which had not been fulfilled by the Government. The Duke of Newcastle instructed the Governor to pass an enabling Act through the New Zealand Parliament, which led to the passage of the Crown Grants Act 1862.[27] This Act empowered the Governor in Council to fulfil the promises of the 1850s even if there was only oral evidence to support them, so long as the Government had investigated the claims and satisfied itself that the promises had been made. As a result of this initiative, James Mackay investigated the various claims and by 1864 had certified that numerous sections ought to have been Crown granted to individuals.[28] In 1865, the Governor gazetted an Order in Council vesting many of the Golden Bay reserves in the hands of individual Crown grantees. Very few of these grants were restricted – the great majority could be alienated absolutely at the wish of the new owners.[29]

The process by which Mackay investigated the claims that promises of Crown grants had been made, or decided who should have grants and to which sections or parts of sections, has gone entirely unrecorded in the published official sources. There is also little indication of how Mackay overcame the problem that he had earlier recorded, that Maori did not wish to subdivide their reserves. It is possible that he dealt with this problem by granting the reserves of communities to one or two individual as absolute owners. The Te Atiawa settlement at Pariwakaoho, for example, consisted of about 30 people but was Crown granted to one individual, Eruera Tatana.[30] On the other hand, the populations of these villages and sections were so small that the grantees may actually have been family heads for all the inhabitants, many of whom would have enjoyed rights of succession. Further research should be undertaken to establish whether the process of allocating Crown grants was carried out in a manner consistent with the Crown's Treaty obligations, and whether the land thus granted was effectively alienated from communities to individuals, reducing the amount of land available for the 'present and future needs' of Maori in the northern South Island. There should also be research to ascertain whether Mackay's fears had been justified, with a wholesale alienation of Crown granted reserves by sale to Pakeha farmers.

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25. Ibid
26. J Mackay to McLean, Collingwood, 13 August 1860, MA 13/51, NA
27. Memorandum from Native Land Court to Public Trustee and attached extracts, 1 November 1900, MA–MT/1/149.41/54, NA
28. *New Zealand Gazette*, 14 January 1865, p 10
29. Ibid, pp 9–10
30. A Mackay to Native Minister, Wellington, 6 December 1865, *Compendium*, vol 2, p 310

A further complicating factor in assessing the sufficiency of the reserves was the purchase of extra land by Maori, which was Crown granted and never included in the calculation of land available to sustain Maori in the nineteenth century. There are occasional mentions in the various reports of Alexander Mackay, that Maori had purchased extra land. but we have very little information to enable us to calculate how much land had been bought by individuals, and how far this extra land provided an effective supplement to the reserves. There is some suggestion, however, that Maori could not have actually bought much land in the 1860s and 1870s, because complaints were made that the Provincial Governments were obstructing the sale of Crown land to Maori, and that they were being thwarted in their efforts to supplement their reserves.[31]

Another facet of this quandary is that the northern South Island Maori may have owned shares in North Island land, from which they may or may not have derived some form of benefit. It is possible that only the most prominent chiefs were actually given shares in land which passed through the Native Land Court or Compensation Court if they were still resident in the South Island. Huria Matenga, for example, was awarded title in some of the Ngati Tama reserves in Taranaki, but she was of very high status in the iwi and may have been an exceptional case.[32] Without further research, it is not possible to judge at the present time whether or not northern South Island Maori were obtaining any significant benefit from land which they had purchased over and above their reserves, or from land which they owned in other parts of New Zealand.

1.3 LIFE ON THE RESERVES, 1860–90

The preliminary questions discussed above make it clear that an authoritative quantitative analysis is not possible within the bounds of the present report. An overview of life on the reserves, however, and an assessment of their sufficiency for the 'present and future needs' of their inhabitants, is still possible through the use of impressionistic evidence.

Government officials, especially Commissioner of Native Reserves Alexander Mackay, wrote regular reports on the social and economic state of Maori in the northern South Island district. These reports were usually published in the *Appendices to the Journals of the House of Representatives*. Unfortunately, there is little information for the period after Mackay's withdrawal from South Island affairs, when the reports were made by a local police magistrate and became very sketchy. The period 1860 to 1880 is relatively rich in published observations of the northern South Island reserves, allowing a series of 'snapshots' of conditions on the reserves at particular times.

It is the intention of this report to reproduce those 'snapshots' as fully as possible, although this must be done with a caveat as to their limitations. The question of what should be used as indicators of 'wealth' or 'poverty', for example, and how

31. J Mackay to Native Secretary, 3 October 1863, *Compendium*, vol 2, p 138
32. G Byrnes, 'Ngati Tama Ancillary Claims Reports: Ngarautika and Pukearuhe Town Belt Sections 6–8', Wai 143 ROD, doc M21(c), pp 22, 32

they should be interpreted, is a complex one. Recent historians, such as Danny Keenan, have pointed out that the impressionistic evidence of European observers has to be interpreted very carefully. Europeans who visited pa and kainga and recorded their experiences tended, according to Keenan, to see either what they wanted to see or what they expected to see. In either case, their observations had more to do with European concepts of how life should be lived and society should be organised, than with social realities as Maori saw and experienced them. Apart from the more obvious moral judgements, there were also more subtle ones which underlay the use of words like 'comfortable' or 'uncomfortable', 'poor' or 'rich', 'hygienic' or 'unhygienic'. These were loaded terms involving culturally-specific value judgements. The use of such words by colonial observers needs to be carefully weighed and evaluated against alternative Maori points of view, insofar as these are recoverable from written and oral sources.[33]

A further consideration, however, is the extent to which Maori of the time sought to engage with the colonial economy, obtain European forms of 'wealth', and began to adopt European standards of health and comfort. Whether or not one believes that this amounts to 'colonisation of the mind', the social and economic impact of land purchase and reserve-making must be measured against the contemporary aspirations of both races. Keenan points out, for example, the tensions in the world view of Maori health reformers Maui Pomare and Peter Buck. He argues that Pomare and Buck understood the rooting of 'bad housing, feeding, clothing, nursing, unventilated rooms, unwholesome pas' in what Keenan identifies as long-standing customary communal living practices. In order to justify departure from those practices, Pomare looked back to a pre-European lifestyle as something markedly different from the communal living of 1906: 'the ancient Maori lived on mountains which in itself was a cure . . . he was able to withstand the inroads of this disease . . . now he has left the higher altitudes and lives in overcrowded, squalid whares'.[34] The result of this re-interpretation of past and present by Maori in the nineteenth century was an active engagement with aspects of the colonial society and economy, adoption and adaptation of some features, and hearty rejection of others.

For the Maori people of the northern South Island, the success or otherwise of their efforts to engage with the colonial economy and adopt elements of the Pakeha lifestyle depended on the utility of their reserves after the sale of all their land by 1856. Our first snapshot of the aftermath of these land sales came in 1863, when James Mackay wrote a general report on the 'present conditions and prospects' of South Island Maori. His overall impression was that they 'have not made such an advance, either socially or morally, as might have been expected from the close contact into which they have been brought with Europeans.'[35]

One of the primary reasons, according to Mackay, was that their reserves were too small:

33. D Keenan, 'Incontrovertible Fact, Notwithstanding Estimates: Passing Impressions to Resounding Expectations – Maori People Observed in the Early Contact Period', unpublished article, 1995, passim
34. Ibid, pp 18–20
35. James Mackay to Native Secretary, 3 October 1863, *Compendium*, vol 2, p 138

> Since the greater portion of the Native lands in the Middle Island have been purchased by the Crown, the Natives have been confined to their reserves. One of the consequences of this, and of being hemmed in by settlers, is that they are now unable to breed or run the pigs which, at one time, formed a large item of their income, and a staple article of their food. The same reason will also prevent them from ever possessing any very large quantity of horned cattle, or sheep.[36]

He also identified other reasons for the lack of economic development (and indeed a perceived decline in Maori farming), such as the difficulty of carrying on crop farming without fences, which led to the frequent destruction of crops by the cattle of European neighbours.[37]

Farming of all types had been further undermined by the gold rushes, which had lured many Maori into prospecting and digging. Mackay suggested that many had been successful but had wasted their money on alcohol and 'useless finery'. As a result they were now in debt to storekeepers and others, and had developed 'lazy and vagabond habits'. These were fairly standard criticisms made at the time of goldminers of whatever race, but we can assume that Mackay would have been aware of any significant investment of new capital in land purchasing or development by Maori in his district. Instead, he reported that some people did have money available to buy land, but that they had been disadvantaged by the provincial government's refusal to honour the central government's promise that Maori would be able to repurchase land at a flat rate of 10 shillings per acre. In addition, the provincial governments seemed actively to oppose the expansion of Maori land-holding. Mackay gave an example of trying to arrange for the purchase of land at Tua Marina to allow Ngati Rarua and Rangitane access to timber and the river bank. The Crown Lands Office took steps to prevent the arrangement because 'they did not want the Natives to form a settlement there'. He had made several attempts to help Maori repurchase land and met similar difficulties, and this had lowered confidence in the Government.[38]

The result was, in Mackay's impression, the creation of a 'desponding feeling'. He identified the low survivorship of children as a further cause of this observed phenomenon, arguing that 'the idea has become deeply rooted into their minds, that the race is doomed to extinction'. There had also been constant rumours that Europeans were going to massacre them, many of these originating in the North Island. Mackay was not surprised that the 'natural result is the creation of a desponding feeling'. Like many officials of the time, he doubted the ability of the Government to carry out the amalgamation of the races, although he stressed its duty to try anyway: 'It is far easier to prognosticate the ultimate degradation and extinction of the Maori, than to prescribe the proper course to be pursued to avert those evils.'[39]

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36. James Mackay to Native Secretary, 3 October 1863, *Compendium*, vol 2, p 138
37. Ibid
38. Ibid
39. Ibid, pp 138–139. It had been argued by humanitarians for many years that the Government had a positive duty to try to reverse any population decline which took place as a result of contact with Europeans. See, for example, Selwyn to FitzRoy, November 1845, G 19/1, NA.

Having discussed the economic problems of life on the reserves, Mackay went on to describe the political and social state of Maori in his district. In this area he painted a different picture, despite his report of a general despondency and fears of massacre. He described the people as 'outwardly very loyal, because they dare not be otherwise – the numerical disproportion between them and the settlers being so great'. He argued that they saw the Kingitanga as an anti-land selling movement, and that they secretly supported the King's policy of holding on to unsold lands, presumably because they were regretting their own actions, although Mackay did not draw this conclusion. They secretly supported the King's contention that the Governor had no mana over unsold lands, and circulated rumours of huge losses on the European side of the war.

The South Island Maori had also created runanga for themselves, independent of Mackay's control, which led to the somewhat peeved remark that the runanga were:

> an admirable institution for extorting money, and for making endless litigation. I have therefore done everything that lays [sic] in my power to discourage Runangas in every place under my control.

Assessors were settling minor cases with Mackay's permission, and the overall impression is one of a people politically healthy and organised, but aware of their subordinate position, and secretly wishing success to the Kingitanga. There are two subtexts to Mackay's letter in this respect: first, he was suggesting to his political superiors that Maori loyalty could not be taken for granted in the South Island at this time of war, and that he was doing a successful and important job in controlling the situation; but secondly, it also makes it clear that in spite of their economic frustrations, or perhaps because of them, South Island Maori were politically active and were pursuing the new North Island forms of community and political re-organisation.[40]

Although Mackay did not support the runanga and the new forms of political control and the administration of justice, he was in fact advocating a social revolution on the land. Maori were pressing for Crown grants and a more secure title to their remaining lands, and the commissioner was using this movement to encourage the subdivision and individualisation of the reserves. From Queen Charlotte Sound in eastern Marlborough all the way across to Golden Bay and the West Coast, the northern people were still carrying out joint cultivation on communally-controlled reserves. Mackay hoped to use the desire for Crown grants to create consolidated, rationalised family holdings, breaking up the 'confined and unhealthy Pas' and enabling each farmer to improve his own piece of land.[41]

In addition to the incentive of Crown grants, the commissioner had a further instrument for pressuring Maori, assisting the social changes of which he approved, and rewarding political loyalty. The Governor had just appointed him to control the native reserves fund, which administered the tenths and other leased reserves under the Native Reserves Amendment Act 1862. The fund was still in some disarray but it was producing a 'considerable' income from its Nelson properties. There was still

40. J Mackay to Native Secretary, 3 October 1863, *Compendium*, vol 2, p 139
41. Ibid

no system in place, however, as a 'fixed scheme for allotting or apportioning these funds'. The commissioner was charged with establishing such a system, and he suggested that there should be one fund for the whole South Island, to support Medical Officers and health care, schools, and farming (by aiding in the purchase of farm equipment). He also suggested that the fund support the indigent and the infirm, and pay the expenses of Maori involved in Government business. Social change could be assisted by a system of agricultural prizes and rewards for the building of new houses.[42] Commissioner Mackay was not in charge of the fund for long enough to establish the system he proposed, but some of his ideas were followed through by Alexander Mackay when he took over the management of the reserves fund in 1865.

The use of the native reserves fund for welfare and material assistance was endorsed by Alexander Mackay in 1865. He felt that it was wrong, however, for the Government to force the fund to pay for the sorts of assistance that it had elsewhere accepted as its own duty to fund from the taxes of the whole community, especially education. This was one of the major themes of our second 'snapshot', Mackay's report as the new Commissioner of Native Reserves for the northern South Island, which he wrote in December 1865.[43] His report includes a description of many of the individual reserves, and has been included in this report as appendix i. The situation in Golden Bay was still confused at this point, because the old reserve names and titles were still being used officially, despite the exchanges and adjustments which had been made by James Mackay and others. The new commissioner's comments about the worth and usefulness of the Golden Bay reserves were almost entirely negative. His description of the huge Taitapu reserve, which was actually twice the 44,000 acres recorded by Mackay, is worth repeating in full, as it formed the main part of any calculation of acres per head of population made by Government officials.

Mackay wrote that its 'character is very indifferent, consisting chiefly of high hills covered with black birch, portions of it being very rocky and precipitous, but a small portion might be made available for a cattle run'. There was constant traffic to and from the gold fields, and West Wanganui had a harbour, which meant that there was both a local market for meat and a means of servicing it, had the reserve been suitable for pastoral development. With rich coal resources as well, there was considerable potential for a permanent income from this reserve. There were also rich timber and gold supplies, but local Maori had surrendered a lot of their rights to use these and other resources when they agreed to allow Taitapu to become an official Goldfield. The local inhabitants, of whom Mackay says there were only 10 (who would have been supplemented seasonally) could still use the reserve at this time for low-scale cropping in a few small valleys, and for harvesting of native plants, hunting, and fishing. He noted that 'there are others interested in it, as it is a reserve set apart for all the Natives of the Ngatirarua, Ngatiawa, and Ngatitama tribes residing in Blind and Massacre Bays'.[44]

42. J Mackay to Native Secretary, 3 October 1863, *Compendium*, vol 2, pp 139–140
43. A Mackay to Native Minister, 6 December 1865, *Compendium*, vol 2, pp 310–312
44. Ibid, p 310. For the mistake with the true extent of Taitapu, see pt i, ch 11.

The commissioner's description of the other Golden Bay reserves was not very flattering. Some of them, of course, had been made for non-economic reasons, as the sites of burial grounds and other wahi tapu, but Mackay assessed them on the grounds of economic viability alone, partly because the inhabitants were expected to support themselves from these reserves, regardless of the reason for which they had been made. A block of 41 acres at Wainui River was described as 'of very little worth, a great portion of it being bare sand hills'. Another block of 200 acres on the same river supported 20 people. Part of it was cultivated but it was mainly in bush, and some of it was very low and swampy. The occupants were only able to run a tiny number of sheep on it. Allotments at the Tukurua River were too hilly, while the Atiawa settlement at Pariwakaoho had land which was 'very indifferent, in fact there is barely sufficient arable land on it to maintain the resident population'. Their further block of 59 acres on the coast had five acres of cultivable land, the rest consisted of hillsides so steep as to be unusable. The land reserved on the Aorere River was heavily timbered and liable to flooding, while that at Wharangi Bay and Separation Point was 'rough' and barely sustained its tiny population. Occasionally Mackay mentioned that a piece of land had been reserved for fishing purposes, such as the 100-acre block at Ligar Bay which was 'very useless and swampy', but mainly he evaluated the reserves in terms of European-style farming.

According to the commissioner's assessment, sections 12 and 13 on the Takaka River, and a block of 300 acres not listed in the official return (presumably because Maori had repurchased it from the Crown), were 'really the only good land the Natives resident in Massacre Bay possess'. The land was heavily timbered and of 'good quality', situated at the lower end of the Takaka Valley, and could be let to Europeans at £1 per annum. Mackay felt that this particular community 'have plenty of land for their own use' and should be persuaded to set aside land to pay for a Medical Officer.

In summary, Mackay felt that the Golden Bay Maori had a lot of reserves in terms of acreage, but that most of it was either too hilly or too swampy to be used for either agrarian or pastoral farming. There were only 600 acres of really good land in the whole of the Golden Bay reserves. Furthermore, many of these reserves were in the process of being Crown granted to individuals, although Mackay noted that some of these grants were 'life interests'. He concluded: 'although the area appears numerically large, the land on the whole is of such indifferent character as would leave little or none beyond what is required by the resident Natives for their own use and occupation'. They could neither supplement their income by leasing land, nor develop it themselves for pastoral farming.[45]

Their neighbours in Tasman Bay were little better off. On the western side of the Bay, Maori were confined to the company reserves and the supplemental sections allotted to them by Commissioner Spain's award. Mackay noted that a population of 100 people had a total of 1000 acres of suburban land (10 acres per head), some of it of very good quality, which was theirs on sufferance in 1865. He took the view that the land actually belonged to the Native Reserves Trust, under the Native Reserves Amendment Act 1862, and that Maori were squatters on the reserves: 'on

45. A Mackay to Native Minister, 6 December 1865, *Compendium*, vol 2, pp 310–311

the death or removal of any of the occupants to other localities, the land will revert to the Trust and become available for lease'. Although the Ngati Rarua and Te Atiawa on this side of the bay were confined to a very small land base, they received some assistance from the leased lands of the trust, as did the Golden Bay people.[46] They may also have had rights in the Golden Bay reserves, and elsewhere in the northern South Island at this time.

On the other side of the bay, Ngati Tama had the large reserve of Wakapuaka, although this was not counted as a 'reserve' in the official statistics because it had been excepted from sale and was still under customary tenure. Ngati Rarua had given up any rights in this reserve, so that the 18,000 acres were available for the support of the local Tama population under Wi Katene Te Puoho, and possibly their relatives over on the coast. Next to Wakapuaka were the Ngati Koata reserves of the French Pass–Croixelles district. Mackay commented that these reserves, 'although large, are very useless, consisting chiefly of rough hillsides. The land is poor, so much so, that the Natives have been induced to purchase land for cultivation from the Nelson Provincial Government'. As well as these worthless reserves, however, Ngati Koata still had access to the substantial lands and resources of D'Urville Island, which was not included in the commissioner's survey for the same reason that Wakapuaka was excluded.[47]

Marlborough Maori were not as fortunate as Ngati Tama and Ngati Koata. Mackay was only able to praise the reserves in the Pelorus Sound and Valley, where Maori had 1010 acres of land, which was very good quality on the whole but liable to flooding. He even thought that part of these reserves might be set aside to support a Medical Officer. The Te Atiawa reserves at Queen Charlotte Sound, however, were 'large reserves, but, with the exception of a block at Waikawa, near Picton, the rest is of a very indifferent character, chiefly steep hillsides, with small patches, suitable for Native cultivation, scattered here and there on the shores of the Sound'.[48] This account was even more disturbing in light of the events of 1848 to 1851, when Mackay's best reserve (Waikawa) had been described as basically unsuitable for the Maori to use.[49]

The commissioner was also scathing in his description of the Wairau reserve of Ngati Rarua, Rangitane, and Ngati Toa. He suggested that only 50 of the 770 acres were suitable for cultivation, the rest was a deep swamp (which itself might have provided traditional food resources). The amount of good land was so scarce that residents had been forced to buy land from the Government, although Mackay did not say how much land they were able to buy, or comment on the extent to which it alleviated pressure on the reserves. In addition to the Wairau reserve, there were a further 770 acres of reserves in Marlborough, all 'worthless' for cultivation, but some of it serving as a run for stock. The commissioner's report painted a bleak picture for the economic future of Marlborough Maori. His overall conclusion was

46. A Mackay to Native Minister, 6 December 1865, *Compendium*, vol 2, p 311
47. Ibid, pp 311–312. See also A Mackay, 'Memorandum on the Origination and Management of Native Reserves in the Southern Island', 15 May 1871, *Compendium*, vol 2, p 267, where the amount of unsold, non-reserve land (D'Urville Island and Wakapuaka) is given as 51,170 acres.
48. A Mackay to Native Minister, 6 December 1865, *Compendium*, vol 2, p 312
49. See pt i, ch 5

that the Government could not look to these reserves to supplement public monies for 'Maori purposes' in the South Island.[50]

In 1870, Major Charles Heaphy took up his duties as Commissioner of Native Reserves for the whole of New Zealand. He made a fairly detailed report on the northern South Island reserves to the Government, although he drew heavily on the views of the local commissioner, Alexander Mackay. Heaphy's report on the Nelson reserves revealed additional information on the western Tasman Bay reserves to that of Mackay in 1865. The Tasman Bay Maori were supposed to have had 1350 acres of occupation reserves, but in 1853 Governor Grey had granted 350 acres of their land, and 568 acres from the Tenths Trust, to the Anglican Church for an industrial school at Motueka. The remaining 1000 acres had since been surveyed and partitioned among the inhabitants, and it was considered possible to lease 140 acres, which yielded £189 per annum by 1870. The rents were paid to the Maori living on the other 860 acres. Heaphy judged that only half of the land in these Motueka and Sandy Bay reserves was of good quality: 'This gives on the average to each adult Native about six and a half acres of good land, and a similar amount of an inferior quality.'[51]

Heaphy did not discuss the Wakapuaka reserve in eastern Tasman Bay, nor the Ngati Koata reserves in the Croixelles district. The only Golden Bay reserve which he mentioned in any detail was the huge Taitapu one:

> The West Wanganui Reserve is chiefly of poor hilly land, but it contains a few small sheltered glens fit for cultivation in the Native manner. It is chiefly valuable however in containing a coal field; which, lying along the shore of the harbor, promises to become of much importance.[52]

The commissioner suggested that the Native Trust should provide money to develop the coal field. He had no other comment to make on the Golden Bay reserves, except to state that they were so poorly shaped that they would need very long and expensive fences.[53]

Heaphy calculated that Maori in the Nelson Province (including some of the West Coast Ngai Tahu and their reserves) had 58,365 acres, 2 roods, 7 perches, for a population of 483 people, 'giving ostensibly 120 five-sixths acres to each Native'. He qualified this figure with the point that the 'true proportion is, however, less for the local Natives, as Maoris from both sides of the Straits hold interests in the large – 44,000 acre – reserve at West Whanganui'.[54] Furthermore, this reserve was (by his own account) not much use at present to its resident beneficiaries. Heaphy's figures did not include Wakapuaka or D'Urville Island.

The commissioner had very little to say about the Marlborough reserves. He calculated that there were 21,404 acres in 44 blocks for a population of 369 people, but these figures included the Kaikoura reserves and their Ngai Tahu inhabitants.

50. A Mackay to Native Minister, 6 December 1865, *Compendium*, vol 2, p 312
51. C Heaphy to Native Minister, 'Report on the Native Reserves of the Province of Nelson', 26 July 1870, AJHR, 1870, D-16, p 37
52. Ibid
53. Ibid, pp 37, 39
54. Ibid, p 37

Heaphy averaged land ownership to 58 acres per head, although this took no account of the differences in quality and quantity of land available in different areas to the various communities. He asserted that the Government was directly responsible for five reserves, which had been brought under the Native Reserves Act 1856, and was 'indirectly responsible for the inviolability of the remainder', an important statement on the part of the Governor's agent for the administration of reserves. Heaphy judged that the Marlborough reserves were 'fully equal in value to the bulk of land, respectively in each district'. They were mainly unleased and in use for 'plantation places, villages, fishing stations, and woodcutting bushes'. There were no town reserves, and no educational and charitable endowments like the ones on the West Coast. On the whole, however, Heaphy felt that Marlborough Maori were adequately provided for, and concluded:

> The very ample reservation of land for the Natives in these districts, where in Marlborough the average is 58 acres, and in Nelson 120 acres for each Native, has not failed to have a good effect on the minds of the Northern Natives. 'If', the latter argue, 'the Pakeha means eventually to dispossess us of our lands, why does he take care of a handful of slaves who are powerless against him, on the other side of Cook's Strait?'[55]

In 1872, Alexander Mackay wrote a relatively detailed report on the political, social, and economic state of the Maori people in his district, similar to that written by his cousin James in 1863. In terms of their political state, he judged that they were loyal to the Government and well-disposed to the settlers, mainly because their small numbers made it impolitic to take any other stance. A few 'restless spirits' had secretly favoured the Kingitanga at first, but emissaries from the King had made no headway in recent years. Similarly, the new Hauhau religion had made no converts. The local people supported peace, and the establishment of schools in the North Island.[56]

In terms of their social condition, Mackay suggested that the people were in a very good moral state, citing the fact that there had hardly ever been any criminal convictions among them. They were law-abiding and referred disputes with European neighbours to the authorities. Although such claims need to be treated carefully, as education and schools represented very different things to different people, Mackay felt that there was a 'strong desire' among them, especially at Wakapuaka, for schools to educate their children. Apart from the Motueka Anglican school, there had been no schools since the heyday of the Wesleyan missionaries in the 1840s. The local Maori refused to support the Motueka school, in case that support was interpreted as acceptance of the alienation of their reserved land to the Bishop of New Zealand. Mackay recommended that the Government establish village schools.[57]

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55. C Heaphy, 'Report on Native Reserves in the Province of Marlborough', 6 August 1870, AJHR, 1870, D-16, p 43
56. A Mackay, 'Report on the Condition of the Natives in the Provinces of Nelson and Marlborough and the County of Westland, for the Period Ended the 30th June 1872', 18 July 1872, AJHR, 1872, F-3, p 16
57. Ibid, pp 16–17

In terms of other social indicators as recognised by Mackay, he reported that the Maori were mostly 'well housed and clothed and enjoy a good condition of health'. Drunkenness had declined as a result of determined efforts on the part of Maori leaders. Their clothing 'as a rule is not inferior to that worn by the [Pakeha] labouring classes'. He also thought that their domestic lifestyle was becoming more 'European', citing as evidence that most houses were now built of wood and had doors, windows, and chimneys. He had encouraged this trend of building new houses to replace the old 'hovels' by providing bricks for chimneys, windows and doors, and ironmongery, through the native reserve fund. Mackay used this fund to assist Maori and carry out social engineering at the same time. By 1872, the fund was paying for medical attendance, clothing for the elderly and the sick, and half of the cost of crop farming equipment, such as carts, ploughs, harrows, harness, and other agricultural tools.[58]

Mackay claimed that Maori enjoyed a good state of health but he also reported that medical treatment had been provided for 820 cases of illness over the past three years, out of a population of about 920 people. Chest diseases were most common but there had also been several deaths from low fever. The commissioner estimated that the population had been stationary for the past year, but that it was declining overall, citing as evidence that three quarters of the current population were adults.[59]

Mackay's most important comments, for the purposes of this report, were on the economic state of Maori by 1872. In terms of agriculture, he wrote that in the early years of the colony there had been a steady demand for pigs, grains, potatoes, and other crops, which had led Maori to vie with Europeans in cultivation. Demand had dropped steadily, however, and Maori now paid very little attention to agriculture, except to grow a 'bare sufficiency for their own wants'. The drop in prices had also retarded agriculture among Europeans, many of whom had successfully turned to pastoral farming as an alternative. Furthermore, the lure of gold had caused many to abandon cultivation, but with little long-term benefit. Maori, however could not turn to pastoral farming as the Pakeha had done, while in the meantime they were finding it increasingly difficult to maintain elements of their traditional lifestyle. Mackay's comments on these matters are worth quoting in full:

> They own comparatively very few horses and cattle, and the breeding of pigs, which used to occupy their attention in former years, has fallen into disuse, excepting in a few localities, chiefly in consequence of their having no room to run them, owing to the gradual settlement of the country by the European population. The same reason will also prevent them from owning any number of sheep.
>
> Since the sale of the bulk of their lands to the Crown, the Natives have been mostly confined to their reserves, which, although large in the aggregate for the number of persons to whom they belong, are small in comparison to the extent of land owned by them in former years, over which they could hunt or fish without hindrance or fear of transgressing some unknown law; now they can hardly keep an animal about them, without its becoming a source of anxiety, lest it involve them in some trouble with their European neighbours. The increase of civilization around them, besides

58. Ibid, p 17
59. Ibid

> curtailing their liberties, has also compelled the adoption of a different, and to them a more expensive mode of life, which, owing to their improvident habits, they find it very difficult to maintain. ('From long use, European commodities have become necessaries of life. Hitherto the Natives have possessed the means of paying for them; but in proportion as their expensive habits and tastes increase, so does their poverty.'[60])
>
> All this is very perplexing and bewildering to the Maori, whose early habits and mode of life were so different to ours, and it is not surprising that, perceiving his incapacity to keep pace with his European neighbours, a want of earnestness should predominate all he undertakes. The quantity of land set apart for the Natives is ample, if they would only put it to good use; but in many instances they prefer letting, in place of cultivating it. This practice is not objectionable when they have plenty of land to spare for the purpose, and the rent is commensurate with its value. At Motueka, the Natives, who occupy a portion of the Trust Estate, derive an income from letting their surplus land, at £240 per annum – this amount is independent of rent accruing from land in the occupation of tenants under the Trust. The Natives of Queen Charlotte's Sound and the Wairau also receive an income of £100 per annum from rents.[61]

Some of Mackay's comments were ambivalent. He recognised that neither Europeans nor Maori found arable farming a very profitable pursuit in the current economic climate, but that Maori reserves were too small to allow them to adopt pastoral farming. They could, however, lease any small pieces of suitable land to European neighbours to form part of their large runs, and obtain a limited income from it that way. Mackay approved of this where there was still enough left to the lessors for subsistence farming and therefore survival, but he implied that this situation was relatively rare.

In 1874, the commissioner commented further on the increasing pressure on the reserves. His comments in this case were directed towards the southern Ngai Tahu reserves, but would have applied with equal strength to the northern districts:

> A much larger area is necessary to afford subsistence for a Maori than for a European, owing to the difference in their mode of tillage. The Native system of husbandry is a very exhaustive one to the soil, and so soon as it is worn out it becomes of no further use to them. This forms the chief cause of their impoverished condition. In former years, before the country was occupied by Europeans, they could roam all over it in search of edibles, but now they are hemmed in by civilization, and have no chance of obtaining the necessary supplies should the few acres they cultivate fail to produce a sufficiency. Every year as the settlement of the country progresses, the Natives are necessarily restricted to narrower and narrower limits, until they no longer possess the freedom adapted to their mode of life. The settlers hunt down, for pastime or other purposes, the birds which constituted their food, or, for purposes of improvement, drain the swamps and watercourses from which they obtained their supplies of fish; their ordinary subsistence failing them, and lacking the energy or

60. Author's interpolation, taken from J W Stack to Native Minister, Kaiapoi, 30 April 1873, AJHR, 1873, G-1, p 20
61. A Mackay, 'Report on the Condition of the Natives in the Provinces of Nelson and Marlborough and the County of Westland, for the Period Ended the 30th June 1872', 18 July 1872, AJHR, 1872, F-3, pp 17–18

> ability to supplement their means of livelihood by labour, they lead a life of misery and semi-starvation.
>
> All this might have been obviated in the case of the Southern Natives, had the precaution been taken to set apart land to provide for the wants of the Natives, in anticipation of the probable effect of colonization on their former habits. It would have been an easy matter for the Government to have imposed this tax on the landed estate, on the acquisition of Native territory. Such reserves would have afforded easy relief to the people who had ceded their lands for a trifle, and formed the only possible way of paying them with justice.[62]

In discussing his theories for the causes of population decline for the whole island, Mackay commented that Maori of all ages lacked sufficient food and clothing. He argued that this did not act as a check to marriage and having children in a 'prudential' sense, however, as the want of necessities was 'a matter of familiar occurrence to which they have been accustomed from childhood'. He blamed Maori subsistence agriculture as well, arguing that they 'depend principally for subsistence on that which is most easily obtained, and consequently suffer through the variations of the seasons'. He also added that there had been an increase of population in Marlborough, which he ascribed to half-castes, and that the decline in the north was largely due to migration – in 1860 the whole of the Ngati Rahiri, living at Anakiwa, left for Taranaki, and since then members of other tribes had done the same. Mackay felt that there was a much more pronounced population decline in the south.[63]

By the early to mid-1870s, therefore, Maori were facing serious economic constriction on their reserves. The Native Reserves Trust did its best to assist, and frequently stood between the northern Maori and disaster. In 1873, for example, Mackay reported that food had been very scarce in his district for the past 18 months, due to flooding and then droughts. The destruction of the potato crop, and the inability to grow seed potatoes for the next crop, would have led to starvation at Motueka if the fund had not stepped in and supplied them with necessities and seed potatoes. Maori in other parts were able 'through their own exertions to relieve themselves from want'. The Wakapuaka Maori would have been in the same position as the Motueka people if they had not been involved in building a road through their land, which enabled them to buy food. The line between subsistence and destitution was clearly very narrow in the case of the Nelson Maori.[64]

The trust's main income-producing lands were in Nelson and the districts of Moutere and Motueka – 52 town sections, and 4100 acres of suburban land. The rents amounted to about £1500 per annum at this time. From this sum, £300 per annum was paid to the Motueka people for the leased 'occupation' land. The rest of the money was spent on administration and salaries, aiding Maori agriculture, assisting house-building, medical attendance (a doctor's salary), and the provision of food and clothes for the sick and indigent. There seemed to be a good number of sick, poor, and elderly people who had to be supplied with food and clothes.[65] In

62. A Mackay to Under-Secretary of Native Department, 24 June 1874, AJHR, 1874, G-2c, p 2
63. Ibid, p 6
64. A Mackay to Native Minister, 15 April 1873, AJHR, 1873, G-1, p 19
65. A Mackay, 'Report on Native Reserves, Middle Island, 30 July 1873', AJHR, 1873, G-2a, pp 1–2

terms of Mackay's administration of this money, both contemporaries such as Heaphy, and modern historians such as Graham Butterworth, have argued that he did an excellent job.[66] Pamariki Paaka, however, petitioned Parliament in 1886 for the return of these lands and their leases to the direct control of Maori owners, and for an accounting from Mackay as to the 'former payment of rents'.[67] Further research is necessary on the issue of reserves administered by the Crown, the quality of that administration, Maori satisfaction or otherwise with that administration, and Maori aspirations for control over lands in their beneficial ownership.

One of the key tasks of the trust was to assist the Government in its aims to provide schools for the education and socialisation of Maori children. During the 1870s, the trust was involved in building schools and paying the salaries (or part of the salaries) of teachers. By 1877, Mackay was very concerned at the inroads which this had made on the money at his disposal for other purposes, especially after flooding had damaged some Motueka properties and reduced the trust's income. A great deal had been spent on building schools and roads, which 'may be fairly considered to be outside the purpose for which the fund is properly intended'. He also pointed out that the payment of salaries for teachers and medical officers was an unfair burden for the trust, since the Government had accepted its duty to pay them everywhere else.[68]

The new education initiative of the 1870s met with a mixed reception from Maori, partly because it came in the middle of a determined political campaign to undo the effects of land sales and recover either land or monetary compensation. Mackay was asked to report on the claims of the northern South Island people and he did not argue in support of them, as he felt that the deeds of 1853 to 1856 had expressed a clear sale of all interests everywhere by Maori of the time.[69] He did not mention the political campaign for redress in his general report of 1876: 'the Natives generally are pursuing their usual avocations; their general conduct has been good, and there is no case of crime to record'. He added that the schools had made little progress, and blamed this on the indifference of parents.[70]

James West Stack, however, was more forthcoming on the other reasons for the problems experienced by the schools. Stack was a Canterbury clergyman with a very long experience of working with Maori, and he was entrusted with the task of inspecting the schools each year. According to Stack, the teachers were the new missionaries and their schools were designed to be 'one of the chief civilizing agencies', which would wean Maori from their 'prejudices' and make them more loyal to the obliging Government that had provided them.[71] In 1876, he reported that the education of Maori in the South Island was being carried on against the determined opposition of a large number of Maori. Without the interest taken by

66. C Heaphy to Native Minister, 'Report on the Native Reserves of the Province of Nelson, 26 July 1870', AJHR, 1870, D-16, p 37; G Butterworth, *The Maori Trustee*, Wellington, 1991, pp 16–18
67. 'Petition of Pamariki Paaka', AJHR, 1886, I-2, p 16
68. A Mackay, 'Report on Native Reserves, Nelson and Greymouth, 6 August 1877', AJHR, 1877, G-3a, pp 1–2
69. See pt i, ch 9
70. A Mackay to Under-Secretary of Native Department, 17 May 1876, AJHR, 1876, G-1, p 37
71. J W Stack to Native Minister, 29 June 1875, AJHR, 1875, G-2a, p 14

Government officials and a few important chiefs, the number of children at schools would be even less:

> The absence of schools supplies the Maoris with a good cry that they are neglected; when they are provided with them they either do not send their children, or, if they do, they seem at pains to hinder their advancement in learning . . . It is hopeless to expect any improvement as long as the Maori believe that by letting their children grow up in ignorance they are strengthening their claims to compensation for their lands.

Stack felt that this was a 'silly whim' and that parents should be compelled by law to send their children to school.[72]

The school inspector cited the Wairau School as one example of this situation. He reported that without Rore Pukekohatu's support, the school would be deserted: 'many are opposed to it, having adopted the views that prevail among the South Island Natives that in making use of the schools they are prejudicing their claims to further compensation for their land.'[73] Stack expanded on this theme in 1877, asserting that it was usually difficult to get Maori parents to send children to school, and to get children to stay there, but in addition there was the 'systematic opposition of those who regard these institutions as having been established as a set-off against their claims to further monetary compensation for their lands'.[74] Stack equated opposition to the schools with moral decline, and reported that the Wairau teacher complained about the extent to which the children were allowed to smoke and drink by their parents, and that the Wairau Maori, especially the Rangitane, were 'very much addicted to drink'. Their determined opposition to the school, however, was also another aspect of an ongoing struggle between Ngati Toa and Rangitane. Because Rore Pukekohatu supported the school so strongly, and had brought in children from outside to attend it, Rangitane were trying to discredit and destroy the school. Stack was horrified by the reported spectacle of children smoking and drinking, and predicted that the Wairau community was sinking into a state worse than that of their 'savage forefathers'. There were also tensions between the teacher and the community – Stack, however, dismissed their complaints about the teacher as 'frivolous'.[75]

At Motueka, Stack presented a picture of a community in disarray, and once again he equated opposition to the school with social disharmony and drunkenness:

> At Motueka, as elsewhere in many parts of the country, the Natives are in a very pitiable condition. While the old chiefs were alive, they were able, by virtue of the prestige attaching to the position they once held – before colonisation – to restrain the lawless, and to maintain a certain standard of propriety: now they are dead, every one sets up to be a leader. The whole social system of the Maoris is disorganized; they are loosed from the old restraints, and are not bound by the new; the slave sits on the same mat with his master, and the prostitute and the drunkard flaunt their

72. J W Stack to Under-Secretary of Native Department, 27 May 1876, AJHR, 1876, G-2, p 10
73. Ibid, p 11
74. J W Stack to Under-Secretary of Native Department, 12 June 1877, AJHR, 1877, G-4, p 15
75. Ibid, p 21

> vices before the chaste and the sober. But however disheartening the result of the efforts now being made to elevate the Maoris may be, it would be wrong to give them up; it would be a shame to desert the few who, however feebly, are trying to adopt the customs of civilized life in their entirety – the few who are struggling to emancipate themselves and their children from those customs which are rapidly dragging down their race to destruction.[76]

In 1878, Stack presented a similarly negative view of Waikawa, where a new school had been built with 28 children on its roll, but here the problem was that the local Te Atiawa objected to the role of assimilation assigned to their new school. The children were very defiant, an attitude which Stack blamed on:

> the constant intercourse that exists between the disaffected Taranaki Natives and those living about Cook Strait. The manners of the Maoris in this neighbourhood are very disagreeable, and they evidently do not wish to acquire our language or habits. The masters engaged in the schools are deserving of much sympathy for with the most strenuous efforts they can hardly make headway against the thinly-concealed antagonism of the adult Maoris . . . On my way to examine the school I had to pass through the village, where every person I met seemed under the influence of drink. The master was just returning from the house of the Chairman of the School Committee, whom he found sitting with some Maoris round a grog-bottle, and deaf to all his advice. Under the circumstances it was impossible to invite any of the Maoris to attend the examination. I trust Mr Lewis's [the teacher] influence will in time effect some improvement in the moral condition of this village.[77]

Stack's views were clearly very sincerely held, but there was little of this fire and brimstone, or social dislocation, in Mackay's reports of a quiet, law-abiding people whose 'general conduct has been good'.[78] He did, however, report a continuing decline of population in the late 1870s. In 1878, he took a census in his district. There were 470 adults and 222 children. This represented a considerable decrease since the last census, partly because of many more deaths than births, and partly because of a large migration. Since 1874, 146 had left the area, and 135 had died, while births amounted to 92. Mackay pointed out, however, that almost all of the deaths were adults, and mainly from old age, which meant that infant survivorship was high. In Queen Charlotte Sound there were more births than deaths. Mackay accounted for this by 'the large admixture of European blood amongst the parents'. He suggested that the population of Marlborough, Nelson, and Westland was 1214 in 1858, and had decreased by 45 percent since then (to 692), but 20 percent of that decrease had been by migration. Mackay had no real explanation for the population decline. His earlier suggestion that malnutrition played a part was forgotten as he argued that 'they usually possess an abundance of good land with every facility for obtaining the necessaries of life, to which is added the advantage of dwelling in a climate of greater salubrity than is enjoyed in most parts of the world; but, notwithstanding all these advantages that tend to keep a population in a normal

76. J W Stack to Under-Secretary of Native Department, 12 June 1877, AJHR, 1877, G-4, p 22
77. J W Stack to Native Minister, 29 June 1878, AJHR, 1878, G-7, pp 9–10
78. A Mackay to Under-Secretary, 17 May 1876, AJHR, 1876, G-1, p 37

condition, the Maori is gradually passing away'. This statement was in stark contrast to earlier comments about the economic situation on the reserves, and to his later comments in the 1880s.[79]

By 1881, the northern population had declined from 692 to 623, with 43 births outweighed by 71 deaths, and the departure of 25 people for the North Island.[80] This reduction in population does not seem to have reduced economic pressure on the reserves. Mackay sent a report to the Native Department on the dire straits of Ngai Tahu in that year, and it is worth quoting at length, as many of his observations would also have applied to the northern reserves, especially as the one large area left for shifting agriculture and hunting (Taitapu) was about to be sold in its entirety two years later in 1883:

> At many of the other settlements poverty is steadily on the increase amongst the residents, and without some change is effected, the people will ultimately drift into a state of semi-starvation. The increase of civilization around them, besides curtailing the liberties they formerly enjoyed for fishing and catching birds, has also compelled the adoption of a different and more expensive mode of life, which they find very difficult to support; this gets them into debt with the tradesmen, and the puzzle is how they manage to exist at all, as regular employment is not to be obtained, and the scanty crops that are raised are insufficient for their own use. A few of them receive a small income by letting their land; but the money is usually anticipated a year or so in advance . . .
>
> A matter that has inflicted a serious injury on the Natives of late years, and for the most part ruined the value of the fishery easements granted by the Native Land Court, is the action of the Acclimatization societies in stocking many of the streams and lakes with imported fish. These fish are protected by special legislation, consequently the Natives are debarred from using nets for catching the whitebait in season, [n]or can they catch eels or other Native fish in these streams for fear of transgressing the law. They complain that, although they have a close season for eels, the Europeans catch them all the year round. In olden times the Natives had control of these matters, but the advent of the Europeans and the settlement of the country changed this state of affairs and destroyed the protection that formerly existed, consequently their mahinga kai (food-producing places) are rendered more worthless every year, and, in addition to this, on going fishing or bird-catching, they are frequently ordered off by the settlers if they happen to have no reserve in the locality. This state of affairs, combined with the injury done to their fisheries by the drainage of the country, inflicts a heavy loss on them annually and plunges them further into debt, or keeps them in a state of privation. All this is very harassing to a people who not long since owned the whole of the territory now occupied by another race, and it is not surprising that discontent prevails, or that progress or prosperity is impossible. The small quantity of land also held per individual – viz, fourteen acres, and in some cases the maximum quantity is less – altogether precludes the possibility of the Natives raising themselves above the position of peasants. A European farmer finds even a hundred acres too small to be payable, and is frequently compelled by circumstances to have recourse to the money-lender, and probably in the end loses his farm through inability to meet his engagements. This is by no means an isolated case, and demonstrates forcibly that

79. A Mackay to Under-Secretary of Native Department, 27 May 1878, AJHR, 1878, G-2, p 8
80. A Mackay to Under-Secretary of Native Department, 30 April 1881, AJHR, 1881, G-3, p 9

> small holdings in the present state of New Zealand are not conducive to prosperity, even when managed to the best advantage, which is not the case with land occupied by the Natives.[81]

The tenor of Mackay's remarks about the southern reserves probably held true for the north as well, and indeed he repeated the gist of them about Marlborough five years later in his landless natives report.[82] Further research would be necessary to establish the particulars, especially for Golden and Tasman Bays. The general legislative system, for example, of protecting species was the same for the whole island and should be assessed, but further research would be necessary to show whether acclimatisation societies stocked the northern lakes and rivers with the same fervour that they did in the south.

By the mid-1880s, the situation had deteriorated further in the north. In 1883, the Native Land Court heard the large blocks of 'unsold' land and awarded title to selected individuals. The huge Taitapu reserve was sold in the following year, removing the one area in Golden Bay over which Maori could still hunt and fish with some degree of security. The Government had taken over the reserve as a gold field long before, and had had the right to lease land to Pakeha farmers for logging and pastoral farming if it chose to do so, but the *Appendices to the Journals of the House of Representatives* suggest that this right was not exercised and that Maori could still exploit most of the reserve for traditional sources of food.[83] Alexander Mackay had been very derisive about the non-traditional economic potential of this reserve, but by the 1880s it was clear that there were new ways to exploit its rugged resources if the capital and ability were present. The timber industry had reached such proportions that the exploitation of distant forests was now a distinct possibility, and the Government had just woken up to the fact that it possessed vast forests on the former Maori lands which it had purchased but not onsold to settlers, and many of these forests were in the Marlborough and Nelson districts.

The forests of New Zealand, according to a Government report in 1881, covered an estimated 20 million acres, of which the Crown forests amounted to 10 million acres. The Government was assessing how to make more profit from the growing value of the timber industry, including logging for the building industry and firewood for towns and settlements. In the 1860s and 1870s, the Government had sold forest land simply for clearing and farming, but by 1881 it wanted to cash in on the growing timber industry by taxing private forests, and selling timber from Crown forests. If Maori had retained the forests in Marlborough and Nelson Provinces, they would have been an asset capable of expanding exploitation by the end of the 1870s. The profits from the timber industry would have more than compensated for the taxation of private forest land, and 'it may be asked whether forests, as well as agricultural lands, are capable of producing permanent revenue'. Using the model of forests in Europe, the Government concluded that forests were indeed capable of producing permanent revenue if logged properly. One acre of managed forest produced about 15,000 superficial feet of timber. One hundred

81. A Mackay to Under-Secretary of Native Department, 6 May 1881, AJHR, 1881, G-8, p 16
82. A Mackay, 'Report on Native Land Claims in Marlborough, 9 May 1887', AJHR, 1888, G-1a, pp 1–2
83. See pt i, ch 11

superficial feet could be sold for 2s 2d, so the yield of one acre would be £16 2s 11d, but with the proviso that forests had to be fairly large to be managed in this way and produce an annual income. The writer of this report (an unidentified Government official) asserted that the optimum age for felling trees was at 125 years old, and that management of a forest for permanent income would involve felling one acre a year for every 125 acres of forest. As a very bare minimum, therefore, a forest would have to cover 125 acres – but one acre on its own per annum might not justify keeping 125 acres in forest so an exploitable forest would have had to have been much bigger. The Crown forests were certainly large enough in aggregate to produce a huge income, and strong suggestions were made that the Government should start exploiting its forests more systematically.[84]

Taitapu was the only northern South Island reserve large enough for the systematic exploitation of timber in this way. The other reserves were only capable of providing enough wood for their inhabitants' direct use. Taitapu also had important mineral resources, and its loss was a blow to both the traditional economy of the area, and any attempt to develop a modern resource base. On the positive side, the Maori owners received £10,000 for Taitapu (which was probably a lot less than it was worth, as it was resold 10 years later with no real improvements for £25,000).[85] Research would be necessary to show whether this injection of capital was used for the long-term economic benefit of the local Maori people.

The alienation of Taitapu was accompanied by the loss of the other large reserve on the mainland, the 18,000-acre block at Wakapuaka, which had been reserved for Ngati Tama at the behest of Wi Katene Te Puoho, and over the strong opposition of Donald McLean. The Native Land Court awarded the title of Wakapuaka to a single individual, Huria Matenga, daughter of Wi Katene te Puoho. Huria's husband, Hemi Matenga, proceeded to drive the other inhabitants off the reserve with a determined campaign of harassment, which included the burning of houses.[86] I am not sure how many people were still living on the reserve in 1883, and how many lost their land as a result of the Court's award and Matenga's actions, but it is clear that this reserve was lost to Ngati Tama as a community after 1883. The only large piece of land still in Maori ownership was D'Urville Island, most of which was leased to Pakeha pastoralists in the 1880s. It will be necessary for claimant historians to examine the nature of the leases and the amount of income which Ngati Koata received from the retention of D'Urville Island at this time. According to the census of 1886, they ran a few sheep, pigs, and cattle on the island but had all their cultivations on their tiny mainland reserves.[87]

By 1886, Alexander Mackay had become a Native Land Court judge and the flow of detailed reports on the northern South Island had ceased, although the police magistrate made occasional comments when he sent census information to the Government. The new style of census included the recording of economic statistics, however, which supplement our picture of Maori in the late 1880s. According to the

84. 'Forests in New Zealand: Papers Relating to Colonial Revenue Derivable from, June 1881', AJHR, 1881, H-11, pp 1–4
85. See pt i, ch 11
86. See ch 2
87. Summary of Maori census, 1886, AJHR, 1886, G-12, p 18

data collected by enumerators, there were 96 Maori living in Tasman Bay, subsisting on 41½ acres of potatoes and 89¼ acres of other crops. They had 50 acres in sown grass, and had 400 sheep, 114 cattle, and 107 pigs. In Golden Bay, there were only 25 people, who had 4 acres of potatoes, 5¾ acres of other crops, and 156 acres in sown grass. Their livestock consisted of 21 cows and two pigs. According to the data, this very small-scale agriculture was carried out by individual farmers – there was no more joint cultivation in Nelson Province. In the Sounds County, there were 185 people, supported by 25¾ acres of potatoes, 24¾ acres of other crops, and 75 acres of sown grasses. These people had 2739 sheep, 117 cattle, and 285 pigs. In addition to the individual crop-farming, there were two acres of potatoes and three acres of other crops in common cultivation. The population of the rest of Marlborough (not including Kaikoura) was 87 people, with 48½ acres of potatoes, 248½ acres of other crops, but no sown grasses. They had no sheep but did have 84 cattle and four pigs. In addition, they had 700 acres of crops in common cultivation. There were 38 people living on D'Urville Island, and they had no crops on the island, although they did have 150 sheep, 24 cattle, and 70 pigs.[88]

A small population, therefore, was eking out a subsistence existence. In May 1886, partly as a result of political pressure from Ngai Tahu, Alexander Mackay was commissioned by Parliament to inquire into cases of Maori who had no land in the South Island, or who were dependent on land which had been set aside for them but was inadequate for their maintenance and support, and also any half-castes who had no land. Mackay's commission charged him with the further task of listing all such cases, recommending how much land they should receive from the Government, and where it could be located for 'cultivation and settlement purposes'.[89] The Government's intention was to provide a bit more land for subsistence cultivation, and not for the main rural occupation of pastoral farming.

Mackay held a meeting at Wairau Pa of the Wairau and Pelorus Maori on 19 May 1886. He does not seem to have inquired into cases in Golden and Tasman Bays, presumably because he felt that Maori had enough land in those districts for subsistence farming. He reported that the 1853 Ngati Toa deed specified that reserves would be made by the Governor for the resident Maori. Seven hundred and seventy acres were reserved at Wairau for cultivation purposes and 200 acres at White's Bay for a 'fishing-station'. Mackay gave the old acreage of the White's Bay reserve, before its enlargement in the 1860s, possibly because the larger area was only suitable for fishing. Also, the Wairau reserve later turned out to be about 900 acres when it was more accurately surveyed in the 1890s. These adjustments would have affected the figure of seven acres per head reached below, but the fact is that Mackay inquired how much land each individual had in 1886 and concluded that they did not have enough.[90]

Nine hundred and ninety-eight acres were reserved at the Pelorus, but since 238 acres of that land were 'allotted to certain persons as a special award, this area cannot be reckoned as a portion of the general estate'. The general estate would have been 760 acres. The gross total in both places was 1530 acres, not counting the

88. Summary of Maori census, 1886, AJHR, 1886, G-12, pp 17–18
89. A Mackay, 'Report on Native Land Claims in Marlborough, 9 May 1887', AJHR, 1888, G-1a, p 1
90. Ibid

200 acres at White's Bay, which was 'of inferior quality and unfit for cultivation'. According to Mackay's calculations, there were 219 people in 1856 when the reserves were made, 120 living at the Wairau and 99 in the Pelorus:

> The acreage set apart for Native purposes in both districts, averaged over the whole number, amounts to seven acres per individual, and had the Natives not supplemented the quantity by purchasing Crown land they would have been very badly off. They did not feel so much the want of an increased area in the early days while the country was only sparsely populated by the Europeans; but as they are now hemmed in on all sides, and their requirements are much greater than in former times owing to their food supplies being cut off or considerably interfered with, they now find that the land set apart for them, for the reasons stated as well as other causes, is inadequate to their wants.
>
> At the inquiry it was ascertained that there were 245 persons, inclusive of half-castes, who were insufficiently provided for; and I would beg to recommend that land to the extent of five thousand acres should be selected and set apart in suitable localities, for the purpose of enabling an area of twenty acres to be allotted to each individual, less the quantity already possessed.
>
> It is impossible at present, owing to their reserves not having been subdivided amongst them, to determine the quantity now possessed per individual; and this can only be ascertained after the Native Land Court has sat in the locality. In the meantime, however, it would be advisable that action be taken to secure the land needed to increase the reserves.[91]

Mackay tried to select land as per his instructions but was prevented from doing so. When he went to the Land Office at Blenheim, all the desirable sports on the shores of Queen Charlotte and Pelorus Sounds 'suitable for Native occupation, and which they desired to acquire as possessing some peculiar advantages', were, for the most part, already set aside as sites for fishery reserves, or were occupied under lease or license for pastoral farming.

Mackay had no better luck inland:

> The Pelorus Natives were very desirous to secure a block of land up the Rae Valley, at the junction of a stream called the Rongo with the River Rae; but all the country in that locality has been proclaimed under the State Forests Act. Other localities where they desire to secure land are within the Wakamarina Goldfield, and unavailable without specially withdrawn.[92]

Mackay listed the names and residences of 74 Ngati Kuia, 57 Rangitane, 11 Ngai Tahu (resident in the north), 22 Ngati Toa/Koata, 48 Ngati Rarua, and 33 'half-castes', all under-provided with land.[93] It is puzzling, however, that Mackay had earlier informed the Government that small holdings of less than 100 acres simply could not be made to pay, and yet in 1887 he recommended that these Maori should have up to 20 acres each, inclusive of both their existing land and any supplementary land.

91. Ibid, pp 1–2
92. Ibid, p 2
93. Ibid, pp 2–7

By the end of the 1880s, therefore, the officials sources provide a strong impression of a people in economic difficulties, confined to reserves that were too small to allow them to continue their traditional modes of cultivation or resource-gathering, but which were also too small for European-style subsistence farming, let alone pastoral farming. As for the various factors which might have ameliorated this situation, such as the purchase of further land from the Crown, the shared owning of land from coast to coast and possibly in the North Island, and the decline in population as deaths outstripped births and people continued to return to their ancestral lands in the North Island, there is no hint in the official sources that these factors were sufficient to alleviate pressure on the reserves. Mackay was particularly scathing in his comments on the Marlborough reserves, which he continually characterised as worthless, and it was in this province that he held his inquiries with regard to 'landless natives' in the northern South Island in 1886.

Nevertheless, the situation was also serious in Golden Bay and Tasman Bay. The Motueka/Riwaka people were confined to land of which Heaphy said that only half was useful, with very few acres per head, and only the Native Trust to stand between themselves and serious privation. On the other side of the bay, Ngati Tama had lost Wakapuaka to the sole ownership of Huria Matenga and her heirs, which forced at least some of them off the land. In Golden Bay the one reserve with any potential for major development had been sold, and the rest were again mainly worthless, according to Mackay, who wrote in 1865 that 600 acres of land at Takaka was the only good land in the whole of the Golden Bay reserves. By the 1880s, however, the Maori population of Tasman and Golden Bays was so small that they may have been able to survive on the basis of subsistence farming, rent from a few leases, and occasional assistance from the trust, whereas those in Marlborough could no longer maintain a subsistence lifestyle. Ngati Koata (and possibly some Ngati Kuia) may have been in a better position – we would need to know a lot more about the D'Urville Island leases before an assessment of this community's economic position could be made. Overall, however, the situation was an indictment on the reserve-making of the 1840s and 1850s.

1.4 LANDLESS NATIVES RESERVES

This chapter has attempted to describe in some detail, through the use of official sources, the economic and social dimensions of life on the reserves for the first thirty years after the final large-scale alienation of land in 1856. The next 30 years were also important, with the focus still on the reserves. The Maori people of the northern South Island were still fairly dependent on their reserves by 1916, although certain elements had broadened their economic and social role, making them more a part of the wider settler community by the time of the First World War. The growth of wage labour on neighbouring Pakeha farms, and gradual acculturation through the schools of the period, which concentrated on making English the sole medium of communication, led to social change on the reserves and the development of new sources of income. There was a further change in social trends with the gradual recovery of the Maori population, and its growth in the early decades of the

twentieth century. Many Maori were still dependent on the reserves by 1914, and there were more of them to be accommodated on the land.

The Government response to Maori landlessness in the South Island began before the real turn around in population growth, when Alexander Mackay held an inquiry in 1886 into the state of landholding in the Wairau and Pelorus districts. The process of creating and allocating landless natives reserves, however, took more than thirty years to complete. Nevertheless, it was not designed to accommodate population growth; the Minister of Native Affairs decided that children born after 1896 would not receive land.[94] In 1888, Mackay investigated the situation in Queen Charlotte Sound and made a list of people who were either completely without land or did not have enough for their own support. Parliament set up a joint committee in the same year to assess Mackay's work and carry out further investigations. As a result of the deliberations of this committee, which met from 1888 to 1890, 6111 acres were set aside for Marlborough Maori. Appropriate pieces of land were selected in 1892, probably by Mackay and Percy Smith, and by 1894 they had been surveyed and were ready for selection. This land was awarded to 191 people, some of whom were in occupation of the land by the time that Commissioners Mackay and Percy Smith reported on the matter to Parliament in 1897. The new reserves represented, together with what these people possessed elsewhere, 40 acres of land per person, of which three acres was kept aside from each share to make villages. A further 175 landless people in Queen Charlotte's Sound were to receive 6442 acres at Tennyson Inlet, but that had not been surveyed by 1897. In addition to these reserves, however, the commission noted that there were still 460 people in the Kaikoura and Marlborough districts who were either landless or nearly so, and that it would be very difficult to find suitable land for them.[95]

The maximum allocation of 40 acres per person was 10 acres less than that considered necessary for each Ngai Tahu individual in the south. Mackay explained to Parliament:

> This difference in area – 40 and 50 acres – arises from the fact that the southern Ngaitahu people had a special claim to consideration in fulfilment of promises made at the cession of their territory, whereas those to the north had no such rights, and are indebted solely to the generosity of the Crown for the increased area. Moreover, the minimum area for these latter people had been fixed before we [Mackay and Percy Smith] took the matter in hand.[96]

By 1905, the land at Tennyson's Inlet had still not been surveyed, and the commissioners were expressing concern at the many problems which they had encountered in the process of creating the reserves. The greatest delays had come from the:

94. 'Landless Natives in the Middle Island: Report Relative to Setting Land Apart for', 28 September 1905, AJHR, 1905, G-2, p 1
95. 'Landless Natives in the South Island: Report Relative to the Setting Apart of Land for', AJHR, 1897, sess 2, G-1, pp 1–2
96. 'Landless Natives in the Middle Island: Report Relative to Setting Land Apart for', 28 September 1905, AJHR, 1905, G-2, p 2

> absence of suitable blocks of land in which to allocate the claims when ascertained. In the end, lands have actually been found to meet all requirements as to area, but much of the land is of such a nature that it is doubtful if the people can profitably occupy it as homes.[97]

In Queen Charlotte Sound, for example, enough suitable land was found to allocate three acres to each individual for homesteads grouped into villages, with the remainder awarded as large blocks held in common (presumably for sheep farming).[98]

In 1906, Parliament passed the South Island Landless Natives Act, which authorised the Governor to grant titles for the new reserves, and made them inalienable except by lease for a period of 21 years. The Governor could lease the lands in consultation with their owners, and the Maori Land Court was given limited powers to decide successions and authorise exchanges, although it could not decide the actual title in the first place. This Act was repealed in 1909 by the Native Land Act of that year, but the reserves did not actually come under the definitions contained within the new statute, so that there was no provision for deciding successions and land transfers for these blocks of land. New reserves were proclaimed under the Land Act 1908, but this may have been illegal and the grants issued were in need of retrospective validation.[99] The process of surveying land and of making a few more reserves continued piecemeal in the period from 1905 to 1914, when Parliament appointed a second royal commission to examine what had been done by the previous commissioners, and the extent and value of the landless natives reserves.

The 1914 commission was not particularly impressed with the quality of land which had been reserved, the commissioners basing their opinions on the reports of Crown lands rangers and Government valuators:

> The lands vary in quality and degrees of inaccessibility, and range in value from £2 10s an acre to 5s. There are a few fertile patches, and these are occupied, but the blocks on the whole are unsuitable for closer settlement or Native cultivation. The Marlborough lands seem well adapted for selection in fairly large areas by sheep-farmers with moderate means . . .[100]

The large Tennyson's Inlet block of 6408 acres had still not been allocated, and was 'very rough and broken, and in parts mountainous'. It was unfit for cultivation and was also being considered for proclamation as a scenic reserve, despite its theoretical status as a landless natives reserve. The Maori owners felt that the land was useless for their purposes and asked the commission to get them land of equivalent 'value' nearer to their homes in the Wairau Valley.[101] The other blocks were often heavily wooded and some were suitable for sheep farming, and had been

97. 'Landless Natives in the Middle Island: Report Relative to Setting Land Apart for', 28 September 1905, AJHR, 1905, G-2, p 1
98. Ibid, p 2
99. 'Reserves for Landless Natives: Report of the Commission of Inquiry', AJHR, 1914, G-2, pp 3–4, 9
100. Ibid, p 6
101. Ibid

leased to Pakeha or to one or two of the multiple owners, who were able to make a going concern of the block. Distance from villages and from other lands was sometimes a problem, and the timber could not necessarily be turned to good account because of the distance of timber mills. There were also problems with obtaining legal grants, and not all of the land had been allotted. The commissioners seem to have felt, however, that the other reserves were superior to Tennyson's Inlet, and that benefit was being derived from most of them.[102]

There is no substantial historical account of the landless natives reserves for the northern South Island. Further research would be necessary before any conclusions could be drawn about the process of their creation, and the extent to which they served the purpose of providing for the 'present and future needs' of Maori in supplementation of the original reserves. Owing to considerations of time, it has not been possible to prepare a fuller overview of the landless native reserves within the context of the present report.

102. Ibid, pp 6–7, 9

CHAPTER 2

WAKAPUAKA: THE MOST ENDURING GRIEVANCE IN THE PETITIONS

The Maori people of Te Tau Ihu o te Waka a Maui have petitioned Parliament for redress of various grievances over the last 130 years. Two grievances stand out among the petitions because of their persistence and depth of feeling: first, the complaints about the action of Governor Grey in granting part of the Nelson Tenths estate to Bishop Selwyn in perpetuity for the support of an Anglican school; and secondly the decision of the Native Land Court to grant Wakapuaka to Huria Matenga in sole ownership. The former grievance has been dealt with by the evidence of M J and H Mitchell. It is the subject of a specific claim (Wai 104) and is also an issue under the wider Wai 56 and Wai 102 claims, but seems to have been resolved through direct negotiations between claimants and the Anglican Church.[1] The second grievance was the subject of 23 petitions between the years 1896 and 1948, and is worth some detailed consideration in this report.

The 'Wakapuaka block' was created as a legal entity by the Native Land Court in 1883. Wakapuaka is situated some miles to the north-east of Whakatu (Nelson). It was originally a site of Ngati Tumatakokiri occupation, but was taken from them by Ngati Kuia and their allies some time in the late eighteenth or early nineteenth centuries. After the conquest it was occupied by Ngati Kuia, and then included by their ariki, Tutepourangi, in his tuku of land to Ngati Koata in the 1820s. Ngati Koata and Ngati Kuia lived there together from the late 1820s until the mid-1830s, when Te Rauparaha led an attack on Tasman Bay. The Kawhia allies sacked Wakapuaka, although they were careful not to kill their Koata kin, and Tutepourangi himself was killed by a prominent Ngati Tama warrior, Paremata Te Wahapiro (also known as Te Kiore). Ngati Tama seem to have settled in Tasman Bay around this time and occupied Wakapuaka, perhaps alongside a continuing population of Ngati Koata and Ngati Kuia. The Ngati Tama ariki, Te Puoho, seems to have favoured Parapara in Golden Bay as his South Island residence, but he also lived at Te Horo in the North Island, and had residences elsewhere. I have not been able to ascertain whether Te Puoho resided at Wakapuaka.[2]

In 1836, Te Puoho led a Ngati Tama raid into Murihiku territory which led to his death in battle at Tuturu, and the capture of his nephew and stepson, Paremata Te Wahapiro, by Ngai Tahu. Te Puoho was survived by his widow, Kauhoe, and their son, Wi Katene Te Puoho. These two people were living at Parapara at the time of

1. Rama Rewi to Marama Henare, 11 October 1993, Wai 104/0 master file, Waitangi Tribunal
2. See pt 1, ch 2

the Murihiku expedition, but they moved to Wakapuaka at some time after 1836. The details of this relocation vary according to the versions recited in the Native Land Court and elsewhere, but are crucial to the decisions of that court in 1883 and 1937, which led to the vesting of title for Wakapuaka in certain individuals and whanau at the expense of others. This is the grievance which led to many petitions and forms of legal action. It is not the intention of the present author to express an opinion on whose claims to the block were 'valid', but merely to present the different versions of the story and the history of the petitions.

At some point between 1836 and 1842, Kauhoe and Wi Katene visited D'Urville Island and asked Ngati Koata for a gift of land on which to reside. According to some versions of the story, Kauhoe was enraged at the failure of Ngati Tama and Ngati Rarua to avenge her husband's death, and so went to Ngati Koata in order to offend her husband's closer relatives. Others suggested that Kauhoe and her son were insecure and needed land with a clear title on which to live. Some say that Kauhoe asked on behalf of herself and her family but others suggest that she asked for land for only one of her sons, Wi Katene. The Ngati Koata rangatira responded by gifting her with Wakapuaka, which was already occupied by Ngati Tama. Maori authorities disagreed about the meaning and significance of this gift, and in particular whether Ngati Koata retained any rights in the land.[3]

Some sources stated that Kauhoe and Wi Katene did not move to Wakapuaka until after the New Zealand Company came to Nelson, but others disagreed with this assertion. In any case, Kauhoe died there in 1843.[4] She was survived by two sons: Wi Katene Te Puoho, son of her second marriage (to Te Puoho); and Paremata Te Wahapiro, son of her first marriage (to Te Puoho's younger brother, Te Taku). There was some rivalry between these half-brothers, and Te Wahapiro led strong opposition to the company's attempts to extend the boundaries of the Nelson settlement into Wakapuaka lands in the 1840s. He quarrelled with Wi Katene and may have lived more often in the North Island after 1845, where he died in 1854. Te Wahapiro was survived by four children from his first marriage (Tipene Paremata, Ripene, Wi Katene, and Heni Tipo) and two daughters by his second marriage (Atiraira and Ngawaina). Some of these children lived at Wakapuaka in the second half of the nineteenth century, along with a Ngati Tama community. Wi Katene Te Puoho was the acknowledged leader of this community, especially after the death of his half-brother, Te Wahapiro, in 1854.[5]

The whole Ngati Tama community at Wakapuaka resisted the sale of their land to the Crown as part of the Waipounamu purchase in 1855 and 1856. McLean was forced to accept its status as a reserve, but he did so only on a temporary basis, and he did not record it as a reserve in any of the deeds (although it is marked as such on the 1855 map). The block amounted to about 17,736 acres, which McLean remarked was no more than sufficient for the local community's needs.[6] Parts of it were leased to European farmers in the 1860s and 1870s, including two leases to the relatives of Alexander Mackay, Native Commissioner and a personal friend of Wi

3. AJHR, 1936, G-6b, pp 5–10
4. Ibid
5. Ibid, p 45, passim
6. McLean to Colonial Secretary, 7 April 1856, *Compendium*, vol 1, p 302

Katene and his immediate family. Mackay witnessed the leases, and he maintained a special relationship with the family, which later influenced (according to Judge Harvey in 1936) his evidence as to the ownership of the Wakapuaka block.[7]

Wi Katene married Wikitoria Tatana Te Keha, the daughter of Golden Bay Te Atiawa chief Henare Te Keha, and they had one daughter, Huria. Wi Katene and his daughter were the leading rangatira at Wakapuaka in the 1870s, along with Huria's husband, Hemi Matenga, the brother of Wi Parata and descendant of a prominent Ngati Toa line. Wi Katene remained firmly opposed to the sale of any land, and he refused to take Wakapuaka before the Maori Land Court. This posed a problem when the Crown wanted to buy land for a telegraph station in the mid-1870s. Alexander Mackay negotiated with Wi Katene, but he was determined not to refer the land to the court, partly (as Mackay said) for fear of reviving the claims of his relations to rights over the land, as distinct from his own. The government had already obtained his reluctant agreement to the alienation of 10 acres for the station site, but now they needed to obtain a legal title to the land, which could not be done without its passage through the court. Mackay stated that Wi Katene's relatives (the children of Te Wahapiro) had 'proprietary rights' over 'certain portions of the estate' but that they were in a 'subordinate position' and their proprietary rights 'partake entirely of a secondary character'. Mackay must have known that such rights would have to be recognised by the court, but he advised the government that there was 'no question as to Wi Katene's title to the land'. He may have meant the title to the particular 10 acres by this statement, but that is not clear.[8] Parliament solved the dilemma by the passage of a special law in 1877. The Wakapuaka Telegraph Station Site Act 1877 stated that the land was 'owned by' Wi Katene, Huria Matenga and Hemi Matenga (in right of his wife), but that the title had not been ascertained by the Native Land Court, therefore Parliament authorised the Governor to purchase the land from its owners without reference to the court.

This action on the part of the Crown must have strengthened the position of Wi Katene and his daughter and son-in-law. Wi Katene died in 1880 and the block was put through the Native Land Court soon after his death. Huria Matenga applied for a court hearing on 1 November 1882. The application was unsigned, and filled out in the handwriting of the two men who dominated the history of the block for the next thirty years, Hemi Matenga and Alexander Mackay.[9] There is considerable evidence that Huria acted generously towards her relatives and favoured their interests during her husband's absences, but that he controlled her closely when he was present, and explained her occasional lapses as the result of a severe drinking problem.[10] Under section 17(2) of the Native Land Court Act 1880, the application had to contain the 'name of the tribe or the names of the Natives admitted by the applicant to be interested therein', as Parliament assumed that very few pieces of land would not be held in customary terms by more than one right-holder. The applicants (Mackay and Matenga) listed Ngati Tama as the tribe on whose behalf Huria claimed Wakapuaka.

7. AJHR, 1936, G-6b, pp 24, 31–32, 37–38, 43–44, 56
8. Alexander Mackay, draft memorandum to Clarke, 1877, AJHR, 1936, G-6b, pp 20–21
9. AJHR, 1936, G-6b, p 10
10. Ibid, passim

The evidence suggests that a pre-hearing deal was made between Huria Matenga and her cousins (the descendants of Te Wahapiro) in 1883, shortly before the sitting of the court, to the effect that Huria would front the case and head the title, but that she would include the other descendants of her grandmother, Kauhoe, in the list of people to go into the title.[11] Judge Harvey accepted this evidence in 1936, but it did not come into the public arena until some years after the court decision in 1883, and will be dealt with later in this chapter during the account of the petitions. As far as the court knew in 1883, there was only one Ngati Tama claimant to the land, Huria Matenga, and Judge Harvey believed that the court had to act on the evidence before it. The other descendants of Kauhoe had a reason for not lodging their own claims, but it is not clear why other Ngati Tama residents did not come forward with claims.

The case was heard by Judge Mair on 15 November 1883. There were two cross-claims to that of Huria's: Meihana Kereopa and others on behalf of Ngati Kuia, Rangitane, and Ngati Apa, the ancestral owners; and Tepine te Ruruku for Ngati Koata. The Kurahaupo witnesses claimed that Tutepourangi had gifted the land to Ngati Koata, but that Kuia and Rangitane had continued to live there with Koata until the second gifting of land to Kauhoe, and some had stayed even after that. The Koata witnesses claimed through their receipt of Tutepourangi's gift, and the continued occupation of some of their people after the gift had been made to Kauhoe and Wi Katene. They also claimed that Huria had agreed to acknowledge a joint right with them in the block, but that her husband had prevented her from keeping her agreement.[12]

The case for Huria Matenga was presented by her husband, and Huria did not appear in court. He claimed the land for her as her sole right, on the grounds that Ngati Koata had gifted it to Kauhoe for Wi Katene and his descendants. The evidence which seems to have swayed the court was that of Alexander Mackay. He deposed that the former owners were not really 'Rangitane etc' but an unnamed tribe from Taupo, by whom he meant Ngati Tumatakokiri. Having disposed of the Rangitane–Kuia–Apa claim, he then stated that Tutepourangi's gift had not extended beyond Rangitoto, and that Wakapuaka had been allotted to Ngati Tama by Te Rauparaha in the 1830s. Ngati Koata's gift of land to Kauhoe was 'purely Maori ceremony' and had no practical meaning. Having disposed of Koata's claim, he then deposed that Wi Katene had had full and exclusive authority over the land since the 1840s, that he had successfully prevented its sale in the 1850s, and that he had leased parts of it in the 1860s and 1870s without ever having to consult anyone else or pay them part of the rents. Hemi Matenga supported Mackay's evidence in most respects, although he did state that Ngati Koata had continued to visit and take food from the land.[13]

On 17 November, the Ngati Kuia–Rangitane–Ngati Apa claim was withdrawn, apparently in response to a huge feast that Hemi and Huria Matenga had given in their honour the night before.[14] The court delivered its judgment on 20 November 1883:

11. AJHR, 1936, G-6b, pp 29–32, 39–40, passim
12. Ibid, p 11
13. Ibid, p 12
14. Ibid

> The evidence in this case has been perfectly clear. It appears that Wi Katene came into possession before the great sale [the Waipounamu purchase]. This land was reserved from sale at his instance. He and his heirs have enjoyed undisputed possession to the present time. Even Ngati Koata, who set up a counterclaim, admit the mana of Wi Katene. They argue that Huria ought to admit them, not that they have any right. With that aspect the Court has nothing to do with any promise she may have made. When Huria gets her title she is free to do with it as she will.
>
> Therefore the Court makes an order in favour of Huria Matenga for the Whakapuaka block as shown in the map, excepting the 100 acres set apart for Ngati Koata and the 10 acres for the Cable Station. A certificate of title to issue upon production of an approved survey.[15]

The court's findings did not make any material difference to the situation on the ground, as Huria's other relatives (and I presume the wider Ngati Tama community) continued to live at Wakapuaka and farm the land. As far as they knew, and there did not seem to be any reason to doubt it, they had been included in the certificate of title alongside Huria Matenga. In 1886, Huria made a will which bequeathed the whole of her lands to her husband, Hemi Matenga. In 1895, she entered into an extraordinary arrangement, whereby she leased Wakapuaka to her husband for the rest of his natural life, in return for £100 per annum. On 29 May, the lease came before Judge Mackay in the Native Land Court and he confirmed it. Armed with the lease, Hemi started to evict the other members of Huria's family from the block. He killed their stock and even burnt down the house of Atiraira Nopera, a daughter of Te Wahapiro by his second marriage.[16]

The eviction of Huria's relatives led to the first of many petitions to Parliament for a rehearing of the title to the Wakapuaka block. In terms of legal remedies, an application for rehearing had to have been lodged within six months of the original court decision. Otherwise the only avenue for redress was for Parliament to authorise a special rehearing, usually through a catchall Act of Parliament called the Native (or Maori) Purposes Act, which tended to pass through the Legislature every year. In 1896, Wi Katene Paremata, son of Te Wahapiro and grandson of Kauhoe, petitioned Parliament for a rehearing of the Wakapuaka block, on the grounds that he and his relatives were entitled to shares in the block, and that Huria Matenga had promised to include them in the title, but that she had failed to keep her promise and they had been 'shut out of the same'.[17]

The Native Affairs Committee reported on the petition on 27 August 1896. According to Atiraira's counsel in 1904, the committee 'agreed that a rehearing should be allowed, but when Judge Mackay presented a statement to the committee the following day, the committee altered its first report and drew up another which was against the petitioners'.[18] The petitioners had alleged that Huria Matenga (Wi Katene's heir) and Atiraira Mohi (on behalf of the other line of Kauhoe's descendants), had agreed to Huria presenting the case in court on her own, after

15. Ibid, p 13
16. Ibid, pp 28–29
17. 1896 no 60, AJHR, 1896, I-3, pp 10–11
18. Findlay, Dalziell, and Company to Minister of Native Affairs, 9 September 1904, AJHR, 1936, G-6b, p 43

which she would insert their names into the list of owners presented to the court. Mackay told the committee that he did not believe this story because Atiraira was the daughter of a second wife of low rank, and could not have presumed to have made such an agreement. He also denied their claim that they had not known about their exclusion until 1896, and added that they had occupied only by permission of Wi Katene and then of Huria. Mackay told the committee that Te Wahapiro had specifically sold Wakapuaka in 1853 as part of the Waipounamu purchase, but that Wi Katene had preserved it from alienation.[19]

The committee's final report was to the effect that Wakapuaka had been owned by both Kauhoe and her son, Wi Katene, but that her other son's (Te Wahapiro's) rights had been alienated to the Crown in the Waipounamu purchase of 1853 to 1856. If Te Wahapiro's rights could have been proven before the Native Land Court, therefore, they would have been the Crown's rights rather than those of his descendants'. As for the promise alleged to have been made by Huria Matenga, the committee noted merely that Huria denied having made such a promise. Furthermore, the petitioners had made no claim in 1883 and had waited 13 years to make one: 'Their absence from the Court and their delay in making a claim seems to confirm the view that Wahapiro's descendants did not think they had any claim to the land.' The committee concluded that the petitioners had not proven their case.[20] The committee's decision was very influential and was often reissued in later years in response to further petitions. In 1935, Judge Harvey concluded that the committee had relied too heavily on Mackay's opinions, and that his evidence had misled them into making an incorrect finding.[21]

According to H K Taiaroa, the Legislative Council's Native Affairs Committee also reported on the 1896 petition, but in a more favourable way than the House committee. In 1897, the committee 'were in favour of a rehearing, or, at all events, thought that it might be just as well to grant a rehearing'. It found that the petitioners:

> had established a case for inquiry as to their claim to be registered as beneficial owners in the Whakapuaka Block, and recommended the Government to inquire whether action should be taken under subsection (10) of section 14 of 'The Native Land Court Act, 1894'.

This part of the 1894 Act had replaced the Native Equitable Owners Act 1886, which had been designed to allow for rehearings of land where Maori right-holders had been excluded from certificates of title by the Native land Court's 10-owner rule, or where there were other implied or concealed trusts in the granting of land to a small number of 'owners'. Taiaroa was led to believe, however, that this section of the Native Land Court Act 1894 was the wrong one, since the petitioners approached the Government on the matter, and 'were told this report was drawn up under a misconception as to the powers given under the clause mentioned by the committee'. The Government, therefore, refused to act on the committee's

19. Mackay to Native Affairs Committee, 24 August 1896, AJHR, 1936, G-6b, pp 29–31
20. AJHR, 1896, I-3, p 11
21. AJHR, 1936, G-6b, pp 31–32, 37–38

recommendation.[22] Their objections may have been mistaken or based on a technicality, however, as the 1894 Act was held to apply to the case when the petitioners sought an Order in Council later in 1903.

In 1897, the two daughters of Te Wahapiro by his second marriage, Ngawaina and Atiraira, made a second petition to Parliament for a rehearing. The Native Affairs Committee of the Legislative Council considered this petition in 1898 and heard evidence from the petitioners' husbands. Judge Harvey considered that their evidence was sound, but this time the 'Committee chose to believe the Mackay version of things'. Its report simply repeated what Mackay had said (and the House's committee reported) in 1896. Judge Harvey suggested that the two committees had based their reports on 'half-truths' and were mistaken in their findings.[23]

In 1899, Atiraira tried again with a third petition. Both Houses adjourned consideration of this petition for the next couple of years, until 1901 when Henare Tomoana moved in the Legislative Council that the Government be asked to inquire into the ownership of Wakapuaka. Tomoana told the Council that Te Wahapiro had been the main owner of the block under Maori custom, and that there had certainly been more than one owner of the land.[24] H Scotland supported the motion, arguing that it was very unlikely for such a large block of land to have had a single owner:

> knowing as he did something about Native lands, it seemed to him highly probable that there might be in existence equitable claimants to this land. They knew, unfortunately, that the decisions of the Native Land Courts had not always given satisfaction to the Natives. Sometimes a Native Land Court would seem to have gone on the principle 'that those who did not ask did not want.'[25]

Scotland went on to suggest that the time had come to replace a system of an English court and judges with a Maori one, just as they were giving Maori greater power through the new Maori councils. In any event, he hoped that 'justice, even though it were tardy justice', would be done to the petitioners.[26]

George McLean and W Kelly objected on the grounds that the Native Affairs Committee had investigated the 1898 petition very carefully and rejected it, and that Judge Mackay's report would show the Council why this rejection had been fully justified. McLean also saw some danger in reopening the question, especially since the Government had purchased land from the 'man who was in possession' (referring, I believe, to the acquisition of the telegraph station site back in the 1870s). H K Taiaroa replied to the concerns of these councillors, and stressed the decision of the 1897 committee in favour of the petitioners, as opposed to the Mackay-inspired decision of 1898. He also pointed out that the 1899 petition had been adjourned so that the petitioners could bring more evidence, and that this opportunity had been denied them.[27] W Jennings of Auckland supported the Maori

22. 30 October 1901, NZPD, vol 119, p 873
23. AJHR, 1936, G-6b, pp 41–42
24. 30 October 1901, NZPD, vol 119, pp 871–872
25. Ibid, p 872
26. Ibid
27. Ibid, pp 872–873

members, adding: 'It was one of these Maori questions of which it might be said, "Hope deferred maketh the heart sick".'[28] W C Walker, the Minister of Education and Immigration, promised the Council that the Government would consider the question and reopen the inquiry if they felt that there were sufficient grounds. The Council passed Tomoana's motion but the Government does not seem to have taken any action on it.[29]

The House's Native Affairs Committee finally reported on the 1897 and 1899 petitions in 1903. It concluded that there was 'no reason why the decision arrived at in 1896 should be altered'.[30] The Council's committee also considered the 1899 petition in 1903, and decided to reopen the question of whether or not Huria had made a pre-hearing agreement with Atiraira and her family. It asked the Minister of Justice to have Huria examined by a Nelson magistrate. Although the magistrate could not compel Huria to attend, she agreed to give evidence in November 1903. H W Robinson, a stipendiary magistrate, put the committee's questions to Huria and she denied that she had ever promised to admit her relatives to the title. Huria's evidence was unsworn and nothing seems to have come of this further inquiry.[31]

Atiraira and her family did not give up. They tried a further petition in 1903, which was held over for consideration until the following year. Having obtained nothing by way of petitions to Parliament, they consulted a law firm and then applied for an Order in Council in 1904. They asked for an order under the Land Titles Protection Act 1902, authorising the Native Land Court to inquire into the Wakapuaka title under the equitable owners provisions of the Native Land Court Act 1894. Section 14(10) of that Act allowed the court to ascertain whether owners named on certificates of title were in fact meant to be trustees for people who had not been included in the title. Under this application, the issue was not whether the customary title had belonged to more than just Huria Matenga, but whether Huria had promised to act on behalf of the others and to include their names in the list of owners presented to the court. Atiraira's solicitors outlined their case in a letter of 9 September 1904, to which Huria's solicitors replied on 26 June 1905, with affidavits from Alexander Mackay and his cousin, James Mackay. These affidavits were used not merely to combat the application for an Order in Council, but were also used as evidence against later petitions. Atiraira's lawyers argued that Alexander Mackay was a biased and unreliable witness in this particular case, but this view (later upheld by Judge Harvey) was ignored. The Government declined to issue an Order in Council under the equitable owners legislation.[32]

In the meantime, the House committee had considered the 1903 petition. On 18 October 1904, it reported that the committee, 'having dealt exhaustively with the petitioner's case in 1896, has no further recommendation to make'.[33] Having failed to obtain either a favourable report or an Order in Council, the family tried a further petition in 1906. This time the House committee reported that it had no

28. 30 October 1901, NZPD, vol 119, p 874
29. Ibid, pp 872, 874
30. 1897 no 358, 1899 no 283, AJHR, 1903, I-3, p 7
31. AJHR, 1936, G-6b, pp 39–40
32. Ibid, pp 42–46, 52
33. 1903 no 689, AJHR, 1904, I-3, p 28

recommendation to make 'because the petitioner has not exhausted his legal remedies'.[34] I am not sure what the committee meant by this, and reference to the unpublished committee minutes in the LE series (National Archives) would be necessary to clarify the matter, if the minutes for those particular hearings survive. It may be that the committee thought that further attempts could be made to reopen the court proceedings by obtaining an Order in Council.

Huria Matenga died in 1909 and her husband, Hemi, inherited the Wakapuaka block under the terms of her will. Wi Katene Tipo fronted a petition in the same year to try again for a rehearing. The House's Native Affairs Committee reported in 1910 that it simply had no recommendation to make to Parliament on the matter.[35] Hemi Matenga then tried to get the Maori Appellate Court to reclassify the block as European land, so that he could bring his estate out from under the cloud of a possible Native Land Court rehearing. The court refused his application, however, possibly because the judge believed that there may have been a trust associated with Huria's sole ownership of the block.[36] Hemi died two years later in 1912, and the land passed to two Pakeha trustees under his will, as Hemi had no children. Wi Katene tried yet another petition in the year of Hemi's death, but the House committee once again delivered a single-sentence report to the effect that it had no recommendation to make.[37]

By 1912, the descendants of Kauhoe and her son, Te Wahapiro, had been petitioning Parliament for 16 years. They seem to have given up for the next 15 years. In the late 1920s and early 1930s, however, as special rehearings became fairly common through an annual Act of Parliament, there was another (and more successful) flurry of petitions. At this point a wider group of petitioners joined the fray, including Ngati Koata, and the representatives of a larger Ngati Tama group who were outside the immediate line of descent from Kauhoe. In 1928, there were two petitions: one from Reuben Stephens, whose identity was not clarified by the committee report; and one by Wi Katene, on behalf of the descendants of Kauhoe. The House committee reported simply that it had no recommendations to make on these petitions in 1928 and 1929 respectively.[38] In 1929, Wi Katene tried again but his petition was held over until 1933, when the committee made its usual one-sentence report.[39]

Undeterred by this rebuff, Wi Katene submitted a third petition in 1933. This petition was held over until the following year, at which time it was joined by a petition from Waka Rawiri and Hoani Meihana on behalf of the members of the 'Ngati Tama Tribe' who had lived at Wakapuaka, and for whom the land had (so they argued) been set apart 'long before 1862'.[40] These petitions were considered by the committee in October 1934, when it finally changed the stance of the last 37 years and recommended that the Government inquire into the matter.[41] The reports

34. 1906 no 360, AJHR, 1906, I-3, p 13
35. 1909 no 317, AJHR, 1910, I-3, p 11
36. AJHR, 1936, G-6b, p 57
37. 1912 no 186, AJHR, 1912, I-3, p 16
38. 1928 no 57, AJHR, 1928, I-3, p 6; 1928 no 56, AJHR, 1929, I-3, p 4
39. 1929 no 361, AJHR, 1933, I-3, p 3
40. AJHR, 1936, G-6b, p 2

gave no indication as to the reasons for this change of heart. As a result of the committee's recommendation, the two petitions were included in the schedule of the Native Purposes Act 1934 to be referred to the Maori Land Court for inquiry. The chief judge was empowered to take whatever remedial action he saw fit upon receipt of the court's report.

In 1935, Ngati Koata, no doubt impressed by this unexpected success, made a petition to Parliament on their own behalf as well. J A Elkington and others argued that Koata had given the land to Kauhoe for her son, and that they had continued in occupation alongside Wi Katene Te Puoho. The end of his line meant, they suggested, that the gift reverted to Ngati Koata as sole owners.[42] The committee recommended that Elkington's petition be added to the schedule to the Native Purposes Act 1934, which was duly done by Parliament in 1935.[43]

Chief Judge Jones referred the three petitions to Judge Harvey, who inquired thoroughly into the history of the block and the petitions, and made his report to the chief judge on 8 July 1935. By this time, about 6358 acres had been sold, leaving a residue of 11,381 acres which could still be made the subject of court orders for reallocation to the petitioners. Judge Harvey heard a great deal of evidence and legal submissions, as well as examining the historical documentation of the case. He concluded that the Native Land Court had made the only decision it could in 1883 upon the evidence before it, but that the witnesses had not relayed all the information that they could and should have given to the court. Harvey felt that more should have been revealed about the actions of the 'section of Ngati Tama' as a whole, who lived at Wakapuaka and who had joined Wi Katene Te Puoho in securing its reservation from sale. He found that Mackay's evidence on this point had been incorrect in ascribing the reservation solely to the efforts of Wi Katene. He also dismissed the argument that Te Wahapiro had sold any rights he might have had by signing the Ngati Toa deed of 1853. The judge held that this was no more a sale of Wakapuaka than the deeds signed by Wi Katene. In terms of occupation after the 1853 to 1856 Waipounamu purchase, the judge concluded that Wakapuaka was reserved for the Ngati Tama living there, which included both their leader, Wi Katene, but also the son of Te Wahapiro, Tipene Paremata.[44]

In his assessment of the historical material, Judge Harvey also emphasised parts of Mackay's 1877 report to the Government about the sale of the telegraph station site, which seemed to demonstrate Mackay's knowledge that others besides Wi Katene had 'proprietary rights' in the block. He reviewed the evidence presented to Mackay as judge in the 1892 Nelson tenths case, and argued that this was the 'evidence that was not given and should have been given when the title to Whakapuaka was investigated'. Given the significance of this evidence and Judge Mackay's findings in the Nelson tenths case, Judge Harvey proceeded to demolish Mackay's arguments in his report to the Native Affairs Committee of 1896, and his affidavit of 1905.[45] He blamed Mackay for misleading the committee and

41. 1934 nos 262, 1933, 123, AJHR, 1934–35, I-3, p 7
42. AJHR, 1936, G-6b, p 2
43. 1935 no 329, AJHR, 1934–35, I-3, pp 9–10
44. AJHR, 1936, G-6b, pp 13–16
45. Ibid, pp 20–32, 41–46, 52, 56–57

subsequent committees, and endorsed the statement made by counsel for the petitioners:

> I am amazed at the deadly persistency with which Alexander Mackay pursued these unfortunate people. Whenever and wherever they sought a way of relief they saw the massive figure of Alexander Mackay blocking the path. I am amazed at the tremendous efforts he made to establish Huria Matenga in the sole ownership of this land. I am amazed at his devotion to her cause and at the way he wrestled with the truth and sometimes overcame it. It is no wonder from his frequent appearances in this case the Maoris got the idea the decision against them was given by Judge Mackay. It was he certainly who killed every attempt they made to get a rehearing.[46]

With regard to the alleged meeting and pre-hearing agreement, the judge was particularly impressed with the evidence of Mere Paaka, a friend of the deceased Huria. She testified that there were a number of people present at a meeting between Huria and Atiraira, and that they all agreed that Huria would present their case and respond to the Koata claim, and then include their names in the certificate of title. Huria's husband, Hemi Matenga, had not been at the meeting.[47] Harvey considered that there was sufficient evidence to support the story, and he firmly condemned the actions of successive Native Affairs Committees for reporting incorrectly on the facts, and for not uncovering what he considered to be a very obvious 'truth'. He reported to the chief judge that the petitioners on behalf of the descendants of Kauhoe had proved their case to his satisfaction.[48]

Judge Harvey's decision did not consider the other groups of petitioners, Ngati Koata and Ngati Tama, with the same degree of depth and analysis. He concluded very briefly that Ngati Koata had not petitioned against the court's decision until 1935 (a lapse of 52 years), and held this to be sufficient evidence that their rights had not survived. The same was true of the wider Ngati Tama community, with the added argument that Ngati Tama had not contested the original court case either. Judge Harvey dismissed the petitions of J A Elkington and Hoani Meihana on these grounds.[49]

The chief judge reported Harvey's 60-page decision to Parliament on 18 May 1936. He informed the Native Minister that:

> the true facts were not sufficiently disclosed to the Court of 1883 to enable it to judge properly of the rightful ownership, and that, had the Court known the true history of the gift, it would have included Kauhoe's other descendants in the title.

Chief Judge Jones concluded that a prima facie case had been made for a rehearing of those parts of the Wakapuaka block which remained in Maori ownership.[50] Parliament accepted Jones's recommendation. Section 9 of the Native Purposes Act 1936 authorised the Native Appellate Court to rehear the Wakapuaka title with

46. Ibid, p 56
47. Ibid, pp 39–40
48. Ibid, pp 37–42, 57
49. Ibid, p 57
50. Ibid, p 1

reference to the petitions of 1933 to 1935. The Act empowered the court to admit other people to the title on the basis of their customary rights, to award compensation from the estate of Hemi Matenga, and to pay the legal costs of the new grantees from the Matenga estate. As usual, however, the court's finding would not affect land 'alienated for value'.

Having petitioned Parliament on and off for 40 years, and endured the expense of a full Maori Land Court hearing of their claim, the petitioners now had to submit to the expense of another hearing – this time in the Maori Appellate Court, but with the prospect that their costs might be paid from Hemi Matenga's estate. The three parties were heard by the Appellate Court in Wellington in July 1937. Judge McCormick was presiding officer, with the assistance of Judges Browne and Carr. The judges made a brief decision, which acknowledged their debt to the 'very full and careful report prepared by Judge Harvey'. Although stipulating that they did not necessarily assent to 'all the conclusions and inferences contained in it', they basically upheld Harvey's findings (with one important exception). Ngati Tama's tribal claim was weakened by the fact that 'no adequate reason has been shown for the long delay' in protesting the decision between 1883 and 1934. The judges felt that Ngati Tama could not show that they had conquered the area on their own, nor that their 'intermittent occupation' had been 'sufficient to establish a tribal right'. The Ngati Tama claim was dismissed on these grounds.[51]

The Ngati Koata case was considered to be stronger than the Tama one because they had argued a claim before the court in 1883, but the judges considered the failure to appeal or protest for 50 years was still strong evidence that the claim had lapsed. They found that Wakapuaka was generally recognised as belonging to Ngati Koata after the Kawhia conquest of the area, either because of Tutepourangi's gift or because of their alliance with Ngati Toa, and this was accompanied by 'intermittent' occupation. Nevertheless, the court held that 'all Ngati-Koata rights were given away' in the gift to Kauhoe and Wi Katene. In response to the Koata contention that they had ceded 'a mere right to occupy', the judges concluded 'that the Ngati-Koata chiefs made an absolute gift of the land and did not belittle the wife and son of a chief like Te Puoho by treating them in the manner that has been suggested'. The Ngati Koata claim was dismissed on these grounds.[52]

With regard to the claim of Kauhoe's descendants, the Appellate Court judges were much more inclined to emphasise the importance of Wi Katene than Judge Harvey had been. They maintained that his was 'by far the strongest and most continuous occupation'. Te Wahapiro's family had occupied in an 'intermittent' fashion by comparison, and had spent much of their time in the North Island. They concluded that Wi Katene was the 'ahika [ahi kaa] of the family on this land'. They also rejected the idea that post-1840 developments could not be the primary determinants of title:

> Any idea that the rights of members of a family become crystalised [sic] in the year 1840 has long been disposed of by judgments of this Court which has invariably

51. Wellington Maori Appellate Court minute book 6, 14 July 1937
52. Ibid

> for many years past taken into account happenings subsequent to that period. We, therefore, are of opinion that the right of Wi Katene must be held to be much larger than that of Te Wahapiro.[53]

As a result of these views, the judges came to a decision quite different from that which Judge Harvey was likely to have made in 1935. They admitted the descendants of Te Wahapiro to the title, which was an important victory for the petitioners, but only to a quarter share of the remaining land; three-quarters of the estate would continue to be vested in Hemi Matenga's heirs.[54] It is important to note that M J and H Mitchell gave these proportions incorrectly in their evidence to the Tribunal, asserting that 75 percent of the title was awarded to the descendants of Te Wahapiro, and only 25 percent to Hemi Matenga's heirs.[55]

The Maori Appellate Court's decision was followed by a further decade of petitions. There were four petitions in 1938: Turi Ruruku and others of Wakapuaka (whose iwi affiliation was not recorded, but who may have been Ngati Koata); Kipa Roera and others of Ohau (whose iwi affiliation was not recorded); Hoani Meihana and 16 others of Pihama (the Ngati Tama claim); and Hoani Meihana on his own. The petitioners asked Parliament to create a special court of appeal or inquiry to hear the Wakapuaka case again, or to enact legislation granting them a right of appeal from the Native Appellate Court's decision (presumably to the Court of Appeal). The House's Native Affairs Committee reported on the first three petitions in September 1938 with their usual one-sentence report that they had no recommendation to make.[56] Hoani Meihana's petition was considered in September 1939 and given the same report.[57]

The process of petitioning was interrupted by the outbreak of war, and there were no more petitions until the end of the Second World War. In 1945, Pauline Selwyn and 16 others petitioned 'for legislation establishing their rights in Wakapuaka Block'. This marked a further effort by Ngati Koata, but the House committee rejected the petition with its accustomed decision not to make recommendations.[58] Ngati Kuia revived their claim to Wakapuaka in the same year, with a petition from F T Sciascia and 24 others of Porangahau. The committee seems to have been impressed with the Ngati Kuia case, as they recommended the petition to the Government for 'favourable consideration'.[59] Further research would be necessary in the LE files at National Archives to determine the reasons for the committee's decision. The Government does not seem to have taken any productive action on this vaguely worded recommendation.

Ngati Tama submitted two further petitions in 1946, both of them in the name of Hoani Meihana 'and others'. The first of these petitions was reported on in October 1946, with the usual Native Affairs Committee report of 'no recommendations'.[60]

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53. Ibid
54. Ibid, fol 255
55. Wai 102 ROD, doc A16(b), ch 8, p 153
56. 1938 nos 55, 61, 62, AJHR, 1938, I-3, pp 6–7
57. 1938 no 111, AJHR, 1939, I-3, p 3
58. 1945 no 26, AJHR, 1945, I-3, p 12
59. 1945 no 53, AJHR, 1945, I-3, p 13
60. 1946 no 53, AJHR, 1946, I-3, p 16

The second petition was withdrawn in 1947.[61] The committee's report did not indicate the reasons for its withdrawal, but Hoani Meihana tried again in 1948 with seven other signatories. Their request for a 'reinvestigation of the rights of Ngatitama Tribe' was again rejected. The committee refused to make any recommendation to the Government.[62] Pauline Selwyn and six others tried to reopen the Ngati Koata case again in the same year, but the committee refused to recommend action on their petition either.[63]

By the end of 1948, therefore, there had been 10 petitions against the Native Appellate Court decision, a recommendation that the Government consider one of them (the Ngati Kuia one), and no other action on the matter. The Native Affairs Committee presumably considered that the judges had investigated the claims thoroughly in 1935 and 1937, and could see no grounds for reopening the inquiry in the 1940s, with the possible exception of the Ngati Kuia claim, which had not been put forward in the 1930s. Research would be necessary with the LE files, however, to show whether these petitions were investigated carefully and thoroughly, or whether the committee's investigation was pro forma. There were no more petitions to Parliament about Wakapuaka in the 1950*s* and 1960s.[64]

The Native Land Court decision of 1883, and the subsequent process of petitioning and rehearings, remains a grievance with claimants before the Waitangi Tribunal. It has been raised in the evidence of M J and H Mitchell, for example, on behalf of the Wai 102 claimants, and has been included in Ngati Koata's statement of claim for Wai 566.[65] The Tribunal will need to consider:

(a) the legislation which governed the hearing of northern South Island 'reserves' by the Native Land Court in 1883, and the process by which the court reached its decision to vest Wakapuaka in the sole ownership of Huria Matenga;
(b) whether other parties had a legitimate claim as at 1883, and the processes by which those parties could have obtained a rehearing of the case;
(c) the petitions and their investigation by the Native Affairs Committees of both Houses, 1896 to 1935;
(d) the process of obtaining Orders in Council, and the failure of Atiraira Mohi's application;
(e) the process of establishing a prima facie case for inclusion in special legislation, and the 1935 court hearing and decision of Judge Harvey;
(f) the hearing and decision of the Native Appellate Court in 1937, and the restrictions upon its revesting of title; and
(g) the petitions and their investigation by the Native Affairs Committee, 1938 to 1948.

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61. 1946 no 76, AJHR, 1947, I-3, p 6
62. 1948 no 31, AJHR, 1948, I-3, p 10
63. 1948 no 32, AJHR, 1948, I-3 p 10
64. AJHR, 1949–69, I-3
65. Wai 102 ROD, doc A16(b), ch 8, pp 152–153; Wai 566 ROP, paper 2.1, p 3

A consideration of these issues, which would require some additional research on the part of claimant and Crown historians, should enable the Tribunal to make findings upon the claimants' most enduring grievance in their petitions to Parliament.

CHAPTER 3

CONCLUSION

3.1 THE NEW ZEALAND COMPANY AND THE SPAIN COMMISSION

The focus of this district report has been the alienation of land from Maori use and ownership, the consequences of that alienation, and the role of the New Zealand and British Governments in the process of alienation and reserve-making. The first major alienation took place in 1839 when the New Zealand Company purported to purchase the whole of the northern South Island from Te Rauparaha and a few Ngati Toa chiefs at Kapiti, and from a selection of Te Atiawa chiefs at Queen Charlotte Sound. The company's local agent, Captain Arthur Wakefield, tried to follow up this purchase by the selection of land in Tasman and Golden Bays from 1841 to 1842. His efforts to obtain land at the Wairau led to his death in 1843 and the de facto abandonment of the company's pretensions to have bought land further afield than the Nelson and Golden Bay districts.

The company purchases may be interpreted in the light of:

(a) its instructions to its New Zealand agents;
(b) its prospectuses, articles, charter, and other official statements of intent;
(c) the evidence of company directors and other witnesses to British parliamentary committees; and
(d) the statements of intention made by agents of the company to Maori, and reported by them to the company, to the Spain commission, and to the Government.

The liability of the Government may be measured by its role in superintending the company's actions, and its increasingly formal connection with the company in the 1840s. In February 1841, the Crown gave the company a charter, and made known its intention to use the company as one agency for the colonisation of New Zealand. From this point on, the Government monitored the company's actions and interfered in its concerns. The formal relationship between Crown and company really began in November 1840 when the Colonial Office agreed to provide the company with four acres of land for every pound spent on colonisation (the Pennington award). In 1841, the Crown assumed formal responsibility for the ownership and administration of the company's Maori reserves. Further interference in the company's land transactions with Maori was inevitable with the proclamation of Crown pre-emption in 1840, the passage of the Land Claims Ordinance, and the appointment of Commissioner Spain under the ordinance to investigate the validity of the company's purchases of land.

The company's purchases were intimately connected with the findings of the Spain commission, which formalised the parameters of the company's title and led to a Crown grant of land for the Nelson settlement. When measured against the express intentions of the company, the 1839 purchase from Ngati Toa and Te Atiawa had many flaws. Captain Wakefield found it necessary to repurchase land upon his arrival in Tasman Bay in 1841, because the local residents had neither consented to the sale nor received any of the purchase money. Further company purchases were illegal in 1841, however, so the captain claimed that he was merely making gifts upon actual occupation, rather than formally purchasing land. This meant that there were no deeds, no formal cession of rights, no recorded definitions of what was being given up and what was being retained in Maori ownership. These vague bargains were made with the iwi of Tasman Bay and some of the iwi of Golden Bay, although the Motupipi community may never have given its consent for settlement to take place in their area. It was clear that many Maori consented to settlers arriving and having land to live upon, and that they were to continue to sit (noho) with the Europeans, which was the closest the company interpreters could come to translating the concept of tenths. Evidence to the Spain commission, however, indicates that the details of the transactions were otherwise unclear.

Commissioner Spain was appointed in the wake of the London Agreement of Crown and company that there should be an award to the latter of four acres per pound spent upon colonisation. The Colonial Secretary instructed that the commissioner should 'execute the Law [the Land Claims Ordinance] with a view to prevent future injustice rather than with the expectation of being able to redress satisfactorily past wrongs'. Spain seems to have concurred with this view of his duties, and he reached an agreement with the New Zealand Government that he would do his best to arrange an accommodation between Maori and the company, rather than proceeding to invalidate the company's transactions, except in cases where this was completely unavoidable. His move towards arbitration and compensation, as opposed to finding whether or not purchases were valid, was very clear in the sittings of the commission at Nelson in 1844.

A number of criticisms may be made of the way in which Spain investigated the company's northern South Island purchases:

(a) his inquiry at Nelson was insufficient, having heard the evidence of several company witnesses but only one Maori chief, and then allowing Protector Clarke to examine other Maori witnesses informally, without transcribing their evidence or explaining whether it reconciled the contradictions between the evidence of Te Iti and the company witnesses, and between the evidence of the company witnesses themselves;

(b) he held no formal inquiry at Golden Bay, simply accepting Clarke's assurances that the local Maori had sold their land;

(c) his judgment recognised the partial validity of the Kapiti purchase of 1839, in contradiction to his findings in other cases, which allowed him to ignore the illegality of Captain Wakefield's 'gift-giving' purchases in 1841 and 1842, although in all other respects he treated them as formal purchases;

(d) he did not accept the refusal of the Golden Bay people to accept compensation, but ruled that the money should simply be banked on their behalf until they could be prevailed upon to accept it;
(e) his award left the whole question of what had been ceded extremely confused, with undefined reservations and the inclusion of districts which Maori continued to insist had not been sold, which led to a contraction of reserves in the final Crown grant, and further Crown purchases of land in Golden Bay in which Maori were placed on an unfair and unequal footing; and
(f) his findings awarded title of the Wairau district to a particular iwi (to the exclusion of two others) without an actual investigation of its customary ownership, and in contradiction of his stated principle that all residents had rights of 'ownership', and this judgment formed the basis for the later purchase of land by the Crown from only one of the three resident iwi.

3.2 CROWN PURCHASES, 1847–56

In the aftermath of the company purchases and the Spain commission, the impetus for further land alienation moved to the Crown, which purchased land from Maori in order to tidy up the Spain award, to enable the company to meet its obligations to its Nelson settlers, and to fulfil the royal instructions of 1846 as far as possible by obtaining the 'waste lands' of Maori for the Crown. The New Zealand Government also wanted to prosecute settlement more actively after 1845, and it purchased land to carry out this objective. Governor Grey's policy was to buy as much of the 'waste lands' as he could for the lowest possible price, for onsale or leasing to settlers, and to confine Maori to progressively smaller agricultural reserves. There were other reasons for the massive purchases of the late 1840s and early 1850s, however, including short-term political goals, such as the pacification of Ngati Toa, long-term political goals, such as the extension of substantive sovereignty and the reorganisation of Maori society, and of course the goal of creating revenue by the on-sale of Maori land for a much higher price than had been paid to the original owners. These reasons were interlinked, and often bore little relationship to the Government's stated intentions with regard to Maori, both in Colonial Office pronouncements and those of the Governors of New Zealand.

The main body of this district report deals with the Crown purchases of 1847 to 1856, by which the vast bulk of land in the northern South Island was alienated from Maori ownership.

3.2.1 Wairau purchase, 1847

Governor Grey's first initiative was to buy the Wairau and Kaiparatehau districts in 1847, as well as 100 miles of the Kaikoura coast. The Wairau purchase took place in the context of the 1843 collision between the company and Maori, and the resultant 'massacre', FitzRoy's adjudication that the company had been in the wrong, Spain's award of the Wairau to Ngati Toa, and the more immediate 1846

crisis in the Hutt Valley. Grey's object was to provide land for the company for its rural sections, to bring Ngati Toa under the closer control of the Government, and to obtain the rich lands of the Wairau and Kaikoura regions for future settlement. He sent the Surveyor General, C W Ligar, to inquire into the nature and extent of the Wairau lands, and their current ownership, but ignored Ligar's report that the consent of 12 major chiefs and 'many' resident Maori would be necessary for alienation. Instead the Governor bought the land on the signatures of just three of the Ngati Toa chiefs, and disregarded the claims of other Ngati Toa chiefs and people, and of Ngati Rarua, Rangitane, and Ngai Tahu. The evidence suggests that the money paid to these chiefs was never distributed among the wider circle of right-holders, and that the Government countenanced this situation.

Governor Grey paid £3000 in annual instalments of over six years, partly to ensure the continued loyalty of the Ngati Toa leaders. He admitted that the price was 'small' and less than the chiefs had asked for, but justified this by the largeness of the Wairau reserve, which amounted to 117,248 acres. Anything less, he reported to the Colonial Office, would have been unjust to Maori while they continued to practise their traditional economy. Unfortunately for Maori, the Crown purchased this large reserve six years later.

The Governor did not inform the British Government of the element of coercion which had underlain the Wairau purchase. According to Grey's later testimony, the Wairau 'massacre' was brought up by the chiefs themselves, and their agreement to sell so much land was a voluntary atonement for their 'crime'. He looked upon it 'more as a giving up of the land for the good of both races than as a purchasing of it'. Other evidence suggests that Ngati Toa regarded the purchase as a forced cession of land in which they paid unwilling utu for the Queen's dead at Wairau, and that the imprisonment of Te Rauparaha and other senior Toa chiefs was used to pressure Tamihana Te Rauparaha and the others to agree to the 'sale'.

3.2.2 Waitohi purchase, 1848–50

In contrast to the Wairau purchase, the purchase of the much smaller Waitohi district was conducted in a more creditable manner. The Government used its influence to assist the company to acquire Waitohi as a port for the Nelson settlement. The local Te Atiawa were willing sellers and the negotiations were carried out over a number of years, which enabled a general understanding of (and consent to) the terms of the sale. There were problems, however, with the quality of land in the Waikawa reserve, which was supposed to replace the agricultural utility of Waitohi. This problem was not so important at the time because of the retention of the rest of Queen Charlotte Sound.

3.2.3 Pakawau purchase, 1851–52

This purchase was conducted by the Nelson Commissioner of Crown Lands, Major Richmond, acting on the instructions of Governor Grey. Richmond's task was to buy the area north of Aorere in Golden Bay, which Grey wanted because of its rich mineral resources. The major avoided paying Maori for the full value of their

minerals and their land. He feared that they might be 'advised that it would be more to their interest to retain the ownership, [and that] the present opportunity might be lost of acquiring it'. Under Lord Normanby's instructions, of course, it was the Government's duty to ensure that Maori did not enter into just such a bargain in which they were the 'ignorant and unintentional authors of injuries to themselves', but these instructions, had, perhaps been superseded by later instructions and policies. Richmond's negotiations with the Te Atiawa inhabitants of the Pakawau block were delayed by the intervention of other chiefs in Golden Bay who claimed to have an interest, and by the Ngati Toa chiefs of Porirua. Rather than inquiring into the matter carefully to ascertain the basis of right-holding in the block, the Governor instructed Richmond to satisfy all claimants. As a result, the sale was widely canvassed in Nelson Province and its terms were settled at a general hui in May 1852. The area of land was unknown (estimated at 96,000 acres) but it included West Whanganui harbour and was sold for £550, which was paid among a wide circle of claimant chiefs. The local residents received only 230 acres of reserves. The same hui refused to sell the West Coast of the South Island at this point for the low price which Richmond was allowed to offer them.

3.2.4 Waipounamu purchase, 1853–56

(1) *First Ngati Toa deed, August 1853*

In August 1853, a hui of Ngati Toa chiefs met with Grey and McLean to farewell the Governor, who took advantage of a situation involving a complex recognition of mana, to request the cession of all of Ngati Toa's lands in the South Island. The Ngati Toa chiefs signed a deed on behalf of themselves and their South Island relatives and allies, which made a blanket cession to the Queen of 'all our lands' in Te Waipounamu. The Government paid £2000 up front, and promised a further £3000 over six years. The distribution of the later payment, and the allocation of reserves, were supposed to be decided at a general hui in Nelson in January 1854. The Government understood the deed as a sale of eight million acres for less than a farthing per acre, which would be followed by the payment of compensation to resident right-holders, and their restriction to small agricultural reserves on the model of Earl Grey's 1846 instructions. Ngati Toa did not concur with the Government's interpretation of the deed, and historians such as Ward and Ballara have argued that such 'blanket' cessions of rights were inherently faulty. Rawiri Puaha, for example, informed resident chiefs that he had not sold Kenepuru Sound and Mahakipawa Arm (in the Pelorus), Tory Channel, the large Wairau reserve of 1847, Port Underwood, and parts of Cloudy Bay. Specific districts had in fact been treated for and sold, such as the West Coast and Te Hoiere, and others had been left out, such as the islands at the mouth of Pelorus Sound, despite the blanket nature of the deed; the real details of what was agreed to were oral in form and were not recorded by officials.

The transaction was made almost entirely with North Island Ngati Toa chiefs, some of whom were offered additional inducements in the form of scrip to buy land, and individual 200-acre reserves. The value of these inducements was greater than that of the actual purchase money, which Government officials boasted was very

low in relation to the value of the land and its resources. As with the Pakawau purchase, there was a desire to buy the land before settlement revealed the prices that could be got for both the land and minerals. The Government held no hui or other inquiry into the right-holding of the area but accepted Ngati Toa's claim of pre-eminent rights at face value, and offered Toa chiefs further inducements to assist the compensation process on the ground in the northern South Island. One of Ngati Toa's lasting grievances, however, was that the promised individual reserves were never made for the 26 chiefs, and they were not happy with an eventual payoff in the 1880s, in the form of £5200 vested in the Public Trustee.

(2) *Deals with non-resident Te Atiawa, 1854*

McLean broke the August 1853 agreement by failing to hold a general hui in Nelson in January 1854, at which Ngati Toa was supposed to meet with the resident right-holders from across the top of the island and decide on how the remaining £3000 would be divided, and also decide on what land would be reserved from the sale. Instead, McLean went to Taranaki to arrange land purchases in that province. As part of his complicated strategy to breach Te Atiawa's anti-selling front, the commissioner offered money for land which they were no longer using (and which some had never used) in the northern South Island. In March 1854, he obtained many signatures, including that of Wi Kingi, to two deeds: the first sold Te Atiawa's interests in areas of previous purchase (Waitohi and Wairau, including the Waikawa reserve); the second sold the 'whole of the lands to which we lay claim in the Middle Island', and listed 18 places of settlement, two of which had already been sold (the Wairau again, and Pakawau), some of which Te Atiawa had never settled at, and others of which were later reserved by the resident right-holders. McLean paid £700 for these two agreements, and there were no reserves mentioned in the deeds for the use of these Taranaki Maori.

In November 1854, McLean visited Waikanae and negotiated a deed with five chiefs of that district, which sold Te Awaiti (Tory Channel) and 'all the lands which have been entirely given up by Rawiri Puaha and the chiefs of Ngatitoa'. He paid them £200, making a total of £900 paid to non-resident Te Atiawa over the 15 months since the signing of the original Ngati Toa deed. This was a well known practice of McLean's, in which he negotiated first with non-residents and obtained a foothold in the title, before presenting the purchase as a fait-accompli to those more nearly concerned in the fate of the land.

(3) *First South Island deed, November 1854*

During this war of nerves, while McLean bought up the rights of various non-residents, he did make one brief visit to Nelson in November 1854. He negotiated a preliminary settlement with two Ngati Hinetuhi chiefs from Port Gore, and paid them £100 as 'part payment' for their lands at Port Gore and Queen Charlotte Sound. The deed stipulated that there would be a further 'final settlement of all our claims' after the land had been surveyed and the reserves marked off. I have found no evidence of a further settlement with Ngati Hinetuhi, as provided for by the deed; the two signatories did not sign the later Te Atiawa deed in 1856, but one Hinetuhi

person was listed among the 50 hapu heads who received money for distribution under that later deed.

(4) *Second Ngati Toa deed, December 1854*

Taking advantage of the presence of large numbers of Ngati Toa from both islands at Wellington for a tangi, McLean held a second hui at Porirua and obtained the signatures of leading chiefs to a second deed. This hui was more representative of the South Island Toa than the 1853 one had been, and the leading Ngati Rarua chief from the Wairau, Te Tana Pukekohatu, was also present. McLean's suggestion that there were also leaders from other iwi present was misleading, and rested mainly on the presence of the Ngai Tahu chief Taiaroa, and a few minor Te Atiawa chiefs from Queen Charlotte Sound. In return for signing a deed that was slightly more specific about what was being sold, and for promising to go with McLean to the South Island to compel their relatives and allied to accept the purchase, the Ngati Toa leaders and Pukekohatu received the outstanding £2000 of the original purchase money. The whole of the £5000 had been spent by the end of 1854, therefore, and almost all of it had been paid to non-resident right-holders.

(5) *The Golden Bay and Tasman Bay transactions, November 1855 to March 1856*

In November 1854, McLean sent a surveyor and interpreter into the French Pass, Sounds, and Wairau districts to lay off reserves as they saw fit. This was a clear signal to resident Maori that the purchase was a fait accompli and their separate consent not strictly necessary, and that reserves would be dictated by the Government. In December, he negotiated a second deed with Ngati Toa and paid them the remaining purchase money. It was now 17 months since the signing of the original deed, and local Maori across the island were frantic in their appeals to Major Richmond that both their consent and payment were necessary for the alienation of the land. They accused the Government of a serious breach of faith. They also refused to accept the reserves as laid off by Brunner and Jenkins, pointing out extensive districts which they wished to keep. Nevertheless, the stringent decisions of these two officials as to the real 'needs' of Maori seem to have formed the basis of the later reserves in the areas which they visited.

McLean kept the resident Maori waiting a further 10 months before coming to Nelson to settle matters – this waiting game, during which McLean dealt with crises elsewhere, was ended by the direct orders of the new Governor. The commissioner met with the Golden Bay and Tasman Bay chiefs at Nelson in November 1855. Ngati Rarua and Ngati Tama (and some Te Atiawa, although perhaps not the Pariwakaoho people) were present. Ngati Apa were not present, and were neither consulted nor paid for their interests in the land. McLean drew up a deed for the chiefs to sign, ceding 'all our lands in this Island' not already sold, with Arahura, Wairau, and the Ngai Tahu purchases as the boundaries, for the sum of £600. McLean took the view that the land had already been sold and he was merely extinguishing outstanding claims and making reserves. The effect of this constraint is reflected in the price, which was much lower than Ngati Rarua and Ngati Tama had held out for in abortive negotiations to sell the West Coast in 1852. McLean

argued that the bargain secured 'a large extent of land to the Government for a very small amount of purchase money'.

After strong argument from Riwai Turangapeke and Wi Katene Te Puoho, McLean agreed to withdraw the Government's 'claim' to Taitapu and Wakapuaka respectively. Taitapu became a reserve under the deed, but Wakapuaka was not mentioned as excepted from sale, although both places were marked (incorrectly) on the map. McLean and the Maori signatories agreed that the question of unsold land within the area of the Nelson Crown grant should be dealt with separately. The commissioner also made a separate deal with Turangapeke for land between Taitapu, Pakawau, and the Nelson Crown grant, although this oral agreement was forgotten about until the chief's later complaints led to its settlement in the 1860s. The 'blanket' cession was nonsense, therefore, as neither side regarded the transaction as a cession of all unsold rights everywhere, and it may in fact have been considered by Rarua and Tama mainly as a sale of the West Coast. These iwi argued later that they had not sold the interior, and there remained an unpurchased 'hole in the middle' of the Waipounamu block. There is evidence both for and against this contention, but the matter is very complex and requires further research. The point that every unsold coastal place north of Te Tai Poutini was made the subject of specific deals, including Taitapu, the Turangapeke block, Golden Bay, and Wakapuaka, of which only Taitapu is reflected in the official deed, is surely significant. There may also have been other oral agreements of the type entered into with Turangapeke, and which failed to make their way into the written record.

The Golden Bay grievances arising from the Spain award were 'settled' in March 1856, by the signing of three further deeds in which Ngati Rarua and Ngati Tama were paid £150 for the Separation Point–Wainui district, and groups of Ngati Tama were paid a total of £170 because they had missed out on a share in the Spain compensation award. These new payments were kept to the low levels of the original Spain award, and the Government maintained that these deeds extinguished all outstanding Maori claims in Golden Bay.

(6) *Marlborough transactions, 1856*

McLean toured the Marlborough districts from January to March 1856, negotiating with the local inhabitants to sign deeds of cession, and allocating reserves. Many of these reserves were not surveyed at the time, and nor did they include the most basic prerequisites of the 1840s, such as all pa and cultivations. As a result, some reserves became fruitful sources of later disputes and misunderstandings. The Ngati Toa and Ngati Rarua of the Wairau district, and the Ngati Toa of Pelorus Sound, accepted that their land had been sold in the August 1853 and December 1854 deeds. McLean was supported by leading Porirua chiefs in these negotiations, and he also gave individual reserves as 'inducements' to key local chiefs. He also treated with the surviving 'conquered' communities of Rangitane in the Wairau, and Ngati Kuia in the Kaituna Valley–Pelorus Sound region. Rangitane asked for £2000 but received a token £100. Their real recognition was supposed to lie with the ownership of reserves, but Rangitane were shortchanged. Their reserves were never granted to the extent agreed upon in terms of acres, nor in accordance with a promise (they

argued) of exclusive ownership. Ngati Kuia also received £100 and a handful of tiny reserves, in return for the blanket cession of all their rights everywhere. These deeds were widely negotiated and signed, and were witnessed by leading Ngati Toa chiefs; the element of disadvantage and compulsion arising from earlier transactions was a clear factor in the acceptance of very low prices and inadequate, ill-defined reserves.

Te Atiawa of Queen Charlotte Sound asked for £10,400 for their land but over a series of negotiations they agreed to accept £500, which was only £100 more than they had received just for Waitohi six years earlier, and was a full £400 less than had been paid to their non-resident Taranaki and Waikanae relations. McLean negotiated on the basis that the land was already sold, and that if they did not accept the £500 he would pay them nothing for it. Hapu heads feared that the low price meant that the people would receive less than sixpence each for the alienation of their land. Surveyors had already laid off reserves at the command of the commissioner, and Te Atiawa were confined to a handful of tiny reserves on the shores of Queen Charlotte Sound. Waikawa reserve, which had been found unsuitable for Maori agriculture, was pronounced by Alexander Mackay to have been the best of them.

Ngati Koata were more successful to the extent that they secured renewed Government agreement to the exclusion of Rangitoto (D'Urville Island) from the Waipounamu purchase. They received £100 in satisfaction of their rights on the mainland, and two or three small reserves in the French Pass district. As with other reserves in these transactions, the failure to carry out proper surveys led to boundary disputes in later years, and the contraction of the reserves.

These Marlborough transactions tied up the loose ends of the Waipounamu purchase. As far as the Government was concerned, its officials had paid a total of £6787 to extinguish Maori title over 8 million acres of land and natural resources, and had restricted the former Maori owners to small occupation reserves and a subsistence economy. Officials had neither surveyed the reserves, marked proper boundaries, recorded all the oral promises and agreements, fulfilled all the terms and conditions, nor investigated customary title to ascertain full and proper consent to the agreements and a correct apportionment of purchase money between varying types of right-holders. Nevertheless, McLean pronounced the transaction complete, with the sole exception of a need to extinguish the title of Ngai Tahu on the West Coast.

3.2.5 Ngai Tahu purchases, 1857–60

Without an investigation into customary right-holding, but acting on the principle of 'blanket' purchases of all rights everywhere, the agents of the Crown entered into three further transactions involving northern South Island land, in which they purchased the rights of Ngai Tahu on the east and west coasts. The North Canterbury purchase of 1857 and the Kaikoura purchase of 1859 acquired the rights of Maori based at Kaiapoi and Kaikoura respectively. The Arahura purchase of 1860 was held to have extinguished the rights of people living south of the Taitapu reserve. The Tribunal has already reported on Treaty breaches with regard to these

purchases, but its reports were restricted to the effects of the transactions on Ngai Tahu. Rangitane may have had unextinguished interests south of Parinui o Whiti which ought to have been considered. Ngati Apa certainly had interests in the Kawatiri district and elsewhere on the West Coast. They signed the Arahura deed, received an unknown amount of the small purchase price, and 424 acres of reserves. Their interests were neither recognised nor extinguished north of the Arahura purchase, and the Native Land Court compounded this situation by refusing to recognise Ngati Apa in the late nineteenth century. The plight of Ngati Apa deserves serious consideration. Furthermore, the Wai 102 claimants have argued that the Young commission unfairly excluded Ngati Rarua and others from the West Coast reserves at Greymouth and elsewhere. Further research is necessary on these issues.

In conclusion, I would like to pose a series of fundamental questions for the consideration of the Tribunal in respect of Crown purchases in the northern South Island:

(a) What were the Crown's stated undertakings to (and about) Maori regarding the manner in which land would be purchased, and the amount and types of land which Maori needed to retain in their possession?

(b) Were there alternatives to alienation by sale – in particular, the questions of how much land was really necessary for settlement at the time and for the foreseeable future, and whether Maori should have had the option of leasing their land to European pastoralists and miners?

With regard to the actual negotiations and process of purchase, there are a number of important questions:

(a) *Who did the Crown negotiate with, and did it treat with all (or any) of the correct right-holders?* Did the Crown treat with the whole community? with a large group of chiefs? with a small group of chiefs? with residents? with absentees? with people who had never lived on the land or visited it for resource-use? with non-resident chiefs claiming paramountcy over their neighbours? with conquerors? with conquered? with both?

(b) *And in respect to all of these potential vendors, with whom did the Crown negotiate first?* That is to say, did the Crown get the consent of non-residents first, and present the purchase as a fait accompli to residents, who were told that they were merely entitled to compensation)? to whom did it give the majority of the payment? how were the payments divided between vendors and did the Crown supervise or control such arrangements? on top of the formal price and reserves, were separate arrangements made with key chiefs as 'inducements'?

(c) *What was contained in the formal agreement (the deed)?* Were there other, informal or verbal agreements? Were the written deeds translated accurately? Were their contents explained adequately to Maori? Was there a clearly defined sale of a clearly defined district? Was there a map? Was the map accurate and did Maori demonstrate an understanding of it? Did the parties walk the boundaries of the sale or of the reserves or of both?

(d) *Did the Crown extinguish all customary interests, and were the phrases about the 'surrender of all rights everywhere' a genuine reflection of the transaction as understood by Maori?* And in particular, did the Crown

actually bargain for specific and discrete districts, in contravention of the wording of the deeds? Did it fail to extinguish the rights of Ngati Apa? And was there a 'hole in the middle' of the blanket purchases?

(e) *Reserve issues.* In terms of the sale negotiations, were reserves adequately described in the deed? accurately placed on the map? were the boundaries specified, and if so, were they marked off correctly? were reserves surveyed at the time or marked off much later, and were the original vendors and Crown agents present to ensure that the arrangements were properly carried out?

(f) *Issues of consent.* Were the parties willing? were they constrained, and if so, by what? were the consequences of the permanent alienation clear, and did the Crown deal fairly in terms of ensuring that Maori were fully aware of the economic value of land and minerals? Were the vendors allowed to keep as much land as they wanted to, whether as reserves or unsold land? did the Crown agree to make reserves where the vendors wanted them?

(g) *Price in terms of money.* Did the Crown pay a fair price? (This is a vexed issue, but some reliance may be placed on the comments of Crown agents at the time and later that the prices were frequently nominal in terms of the real value of the land and its resources.)

(h) *Price in terms of 'secure titles'.* The Crown maintained that part of the benefit of land sales was that Maori would get secure Crown grants for their reserves. Did this happen, and was the allocation of grants carried out fairly?

(i) *Undertakings.* Did the Crown fulfil all the undertakings made to Maori during purchase negotiations?

Based on the evidence contained in this report, and with the proviso that further evidence may emerge from the primary record which may alter the findings of this report, it seems clear that the Crown's performance was flawed with regard to many of these questions, and that the alienation of Maori land in the northern South Island did not take place in a manner consonant with the good faith and fiduciary duties of the Crown. As a result, Maori in this district lost almost all of their land in a very short period, without adequate recompense, without their willing or deliberate consent to many of the most basic details of the transactions, and without adequate provision for their either maintaining their traditional economy or engaging in a meaningful sense with the emerging settler economy.

3.2.6 Reserves

After the alienation of almost all of their land by 1856, the future of northern South Island Maori rested on their reserves. On the basis of evidence contained in Mackay's *Compendium*, Maori Affairs files at National Archives, and official Government reports from 1860 to 1900, it is possible to draw the following conclusions:

(a) the Crown did not ensure that the New Zealand Company's scheme for making reserves was properly carried out;

(b) Maori never received their full tenths awards, and in fact the Government permitted a drastic shortfall in the tenths (partly by direct action, partly by inaction);
(c) the question of who was entitled to the benefit of the tenths may never have been satisfactorily settled;
(d) the Crown did not make all the reserves that it promised to do during the Crown purchases, and nor did it ensure that those reserves which were made were consistent with verbal and/or incompletely recorded agreements with Maori;
(e) the Crown did not ensure that enough (and appropriate) land was reserved for Maori to continue their traditional economic practices if they chose to do so;
(f) the Crown did not ensure that enough (and appropriate) land was reserved for Maori to participate in the settler economy if they wanted to do so, particularly in terms of pastoral farming and the timber industry, especially as one of the Crown's cardinal arguments was that Maori would benefit more from selling land and having settlers than from keeping undeveloped land;
(g) from the impressionistic evidence of Alexander Mackay and others, and the plight of 'landless natives' by the 1880s, it would appear that the Crown did not ensure that enough (and appropriate) land was reserved to meet the 'present and future needs' of Maori; and
(h) only two really large reserves were ever made, the Wairau reserve of 1847 and the Taitapu reserve of 1856, and the Crown did not ensure that Maori were able to exploit these reserves to their fullest extent or to retain them permanently in their possession.

In addition to these issues, there are a number of important questions about reserves which this report was not able to answer. Further research is necessary on:

(a) the administration of the tenths and other reserves which came under the Native Reserves Acts;
(b) the full details of how reserves were finalised after a complicated process of adjustment and swaps, especially in Golden Bay;
(c) the process by which Maori obtained legal title to their reserves, especially James Mackay's allocation of Crown grants in the 1860s, and the landmark decisions of the Native Land Court in the 1880s and 1890s;
(d) the extent to which Maori retained the smaller reserves in their possession;
(e) the allocation and suitability of the landless natives reserves, and the degree to which they actually alleviated landlessness; and
(f) the use and retention of land on D'Urville Island by Ngati Koata and Ngati Kuia.

The research of these and other issues, as identified in the main body of this report, would be necessary before the Tribunal could obtain a full history of land and resource loss in the northern South Island, and the role of Crown and Maori in the process.

APPENDIX I

REPORT OF THE COMMISSIONER OF NATIVE RESERVES

Reproduced from A Mackay, *A Compendium of Official Documents Relative to Native Affairs in the South Island* (2 vols, Wellington, 1873) vol 2, pp 310–315

No. 36.

Mr. ALEXANDER MACKAY, Commissioner of Native Reserves, to the Hon. the NATIVE MINISTER.

SIR,— Wellington, December 6th, 1865.

In accordance with the request contained in your memorandum, dated December 5th, No. 876, I have the honour to furnish an account of the Native reserves in the Province of Nelson and Marlborough, showing their position and character.

I presume the return of the Native Trust property, together with the letter accompanying it, which I had the honour of laying before you yesterday, will be found to contain sufficient information concerning those reserves under the immediate control of the Commissioner.

I will therefore commence with the reserve of 44,000 acres, first on the list. This block is situated at West Wanganui, in the district of Collingwood, Massacre Bay, and was excepted from sale by the Natives in 1855, when surrendering their claims to the northern portion of the West Coast, Middle Island. Its character is very indifferent, consisting chiefly of high hills covered with black birch, portions of it being very rocky and precipitous, but a small portion might be made available for a cattle run. Now that a constant traffic exists on the West Coast to and from the several goldfields, vessels occasionally take shelter in the harbour from which the place takes its name, this and the probability of a coalmine being worked on the land might induce parties to make terms for a right to occupy the available portions as a run for stock, as it would create a market for meat.

Very good coal has been found on the land, and an application for a square mile of the reserve for coalmining purposes, has been made lately by a Company in Nelson, the terms proposed are one shilling per acre rental per annum, and sixpence per ton royalty on all coals raised..

There are about ten Natives living on and near the reserve, but there are others interested in it, as it is a reserve set apart for all the Natives of the Ngatirarua, Ngatiawa, and Ngatitama tribes, residing in Blind and Massacre Bays.

It would be necessary to get the assent of the Natives to bring this reserve under the operation of "The Native Reserves Act, 1856," before the rents could be appropriated for Native purposes, even then, the Natives chiefly interested in the land would expect to receive the rent.

The blocks marked A, B, C, D, E, F, G, and I, are situated at and near Collingwood, in Massacre Bay, and were reserved for the Natives by the New Zealand Company. Crown grants for the individual owners are in course of preparation, they consist chiefly of old cultivations in use at the time of the Company's purchase.

The block of 41 acres at Wainui river includes the site of the old pah, cultivations, and burial grounds; it is of very little worth, a great portion of it being bare sand hills.

The section of 200 acres on Wainui river, Massacre Bay, belongs to Paramena te Haereiti and his relatives, numbering in all about 20; a portion of this section is cultivated by them, it is chiefly timbered, some parts being very low and swampy. The Natives have a few sheep running on it.

The allotments situated at the various places shown in the margin have been abolished, and a block of 100 acres substituted at Ligar Bay instead. It was reserved especially, by Mr. Commissioner McLean, for Matenga te Aupouri, of Motupipi, as a fishing reserve for himself and family, the land on the whole is very useless and swampy.

This block is now held under Crown grant by his sons, Raniera and Pirimona Matenga.

The block of 90 acres marked I is situated on the coast, near Collingwood, and belongs chiefly to Tamati Pirimona, Hori te Koramu, and a few others. It has been surveyed and sub-divided into individual allotments, and Crown grants are in course of preparation for the owners.

The blocks at the Parapara river, marked as follows:—M, N, O, P, Q, R, and S, have mostly been done away with; the few that remain in possession of the Natives are now held under Crown grant. The two allotments at Tukurua river, marked T and U, are in occupation by Pirika Tanganui and his family (numbering about 15), the land is chiefly hilly, a portion of it being quite precipitous.

The allotments on the coast near Aorere and Parapara, marked V. and W., together with the block of 62 acres at Parapara Harbour, are now comprised within a block of 100 acres on the Parapara river; a Crown grant for this is to be made out in favour of Henere te Ranga of Takaka

The blocks on the Pariwakaho river, marked X, Y, and Z., are now included in Section 79, at Pariwakaho. This section was originally set apart for Henere te Keha and his family, and on his death became the property of his son, Eruera Tatana; a Crown grant giving him a life interest in the land is in course of preparation.

There are about 30 Natives living at this settlement, some of them are owners of land purchased from the Government.

The character of the land on the above named section is very indifferent, in fact there is barely sufficient arable land on it to maintain the resident population.

The block of 59 acres on the coast at the same place, with the exception of a few patches, including at the most five acres, is of a very worthless character, a great portion of it consisting of steep hill sides, the portion available for cultivation is in use by the Natives residing at Pariwakaho.

The block of 100 acres north of the village of Seaford, Massacre Bay, was reserved by Major Richmond in 1852, for an old chief named Wiremu Kingi, who was one of the principal claimants to land in that locality; it is broken land and intersected with water courses. He and another are the only Natives now residing on it; 81 acres is the correct quantity contained.

Three out of the six sections situated on the Aorere river, Collingwood, are New Zealand Company's blocks, and belong to Tamati Freeman, and his brother. Crown grants are being prepared in their favour giving them a life interest in the land. The other sections were awarded to Pirika and his relatives, by Mr. Commissioner McLean, when settling land claims in that neighbourhood; the land is heavily timbered, and liable to be flooded.

The allotments, one of 30 acres, and the other of 62 acres, near Collingwood, and at Parapara Harbour, have been alluded to before.

The blocks marked A, B, C, D, E, F, G, H, I, J, and K, situated at Motupipi and Waitapu, Massacre Bay, are New Zealand Company's blocks, and belong to Eruera Wirihana, Pirimoua Matenga, Raniera Matenga, and others. Crown grants are being made out in favour of the above-named Natives.

The block of 100 acres at Wainui has been already alluded to, it is included in the block of 200 acres marked off in that locality.

The block of 157 acres at Taupo Point does not exist, other land has been substituted instead of it.

The reserve at Wharawharangi Bay and Separation Point includes a larger area than shown in the Schedule. I cannot, however, give the exact quantity from memory, although I am aware that, owing to its rough character, it does not contain more land than the few Natives resident there, who number about 12, require for cultivation.

The allotments on Sections 13 and 12, Takaka river, are New Zealand Company's blocks, and belong to the individuals whose names are shown in the margin of the return. Crown grants are being made out in favour of the owners.

These sections, and a block of land containing about 300 acres, which is not shown in the return, is really the only good land the Natives resident in Massacre Bay possess. The land is heavily timbered and of good quality. It is situated at the lower end of the Takaka valley, and, from its position, would let readily to European settlers at £1 per acre, provided the Natives were in a position to dispose of it in that manner.

As they have plenty of land for their own use, it would be a good thing if they could be induced to set apart a portion of the said land, from which a rent might be raised to defray the cost of medical attendance on the Natives in that district; the expense at present is borne by the Trust.

The whole of the within-mentioned lands are situated on the shores of Massacre Bay, and, although the area appears numerically large, the land on the whole is of such an indifferent character as would leave little or none beyond what is required by the resident Natives for their own use and occupation.

The Sections No. 111, 113, 117, and 118, at Sandy Bay, near Motueka, were given up at the instigation of Mr. Commissioner McLean, to Wi Parana and his family. They were originally New Zealand Company's sections.

The whole of the land, as shown per return, in the Riwaka, Motueka, and Moutere districts, which include about 100 sections of 50 acres each, were set apart by the New Zealand Company in accordance with the original scheme of settlement. A large slice of some of the best land on the Estate has got into the hands of the Church, and is vested in the Bishop of New Zealand in trust for an industrial school for the Natives. The school has now been closed for nearly two years, it having been found a failure. There are also about 100 Natives residing on the Estate, who have been allowed to occupy some of the finest land; they have been in possession ever since Nelson became a settlement, no other land having been appropriated for their use, consequently they have been allowed to remain in possession by the Commissioners, and on the death or removal of any of the occupants to other localities, the land will revert to the Trust and become available to let on lease.

It is very unfortunate for the interest of the Trust that one-fifth of the Estate, including, as it does, the cream of the land, should be alienated from the purpose for which it was undoubtedly intended, it is a loss, I consider, of fully £500 per annum to the Trust.

There is a large number of sections at present, which, from their position and character, are not available as leaseholds; a few of these, however, have been in demand during the current year, and have been leased to settlers at a low rental, and, as the country gets peopled, parties will no doubt be glad to take the remainder at a low rate; even should the settlers be willing to take them for little or nothing, it would be better than allowing the land to remain idle, as the fact of their being improved by cultivation would ultimately enhance their value.

The remainder of the Estate at Motueka under the control of the Commissioners, is let on long leases at various rentals, realizing an amount of about £300 per annum. A full and more descriptive account of the rate of rental and term of lease is contained in the return I had the honour of placing before you yesterday.

Of the various blocks situated at Arahaura, or rather at the Buller, on the West Coast, Middle Island, containing in all about 740 acres, not much can be said, as I am but little acquainted with the locality, however, from what I do know of the place, I presume the land is heavily timbered.

There are a few Natives resident there, but, as they lead such a wandering life, it is impossible to say with certainty what their numbers are.

There are also 1000 acres of rural land in this district set apart for charitable and educational

purposes, for the benefit of the Natives, which, as the place progresses, will no doubt be in demand, and may at some future date contribute a considerable amount to the Fund. There are also 3500 acres set apart, under the provisions of "The Native Reserves Act, 1856," in the Buller and Grey districts, West Coast, besides ten acres in each of these townships, which, although lying idle at present, will no doubt, when these districts get a settled population, become a valuable addition to the property.

This concludes the whole of the reserves in the Province of Nelson, and, with the exception of 5053 acres, situated in Nelson and Motueka, and the various blocks set apart on the West Coast, amounting to 3500 acres, there is no other land that could be made available for raising a Fund that could be appropriated for general purposes connected with the Natives within the Province of Nelson.

Of the reserves in the Province of Marlborough those situated in the Pelorus come first on the list, comprising an area of 1010 acres. As these allotments are nearly of one character, it is needless to particularize them. The land is of very good quality on the whole, but liable to be flooded. A portion of these reserves might be set apart, if the Natives would agree to it, for the purpose of raising a Fund for medical attendance on the Natives, and for other purposes.

A short time since, the Natives resident there were petitioning Government to appoint a medical man for their district, and it would be a good opportunity now to suggest to them that, if they were really serious in their desire to procure medical advice, this would be a good mode of obtaining it, and one within their reach.

The reserves in the locality of the Croixelles were made by Mr. Commissioner McLean in 1856, for the Ngatikoata tribe, who were the original owners of the land in that neighbourhood. The reserves, although large, are very useless, consisting chiefly of rough hillsides. The land is very poor, so much so, that the Natives have been induced to purchase land for cultivation from the Provincial Government at Nelson. These reserves, although shown in the return of Native reserves for Marlborough, belong properly to the Province of Nelson.

The Natives resident in Queen Charlotte's Sound have large reserves, but, with the exception of a block at Waikawa, near Picton, the rest is of a very indifferent character, chiefly steep hillsides, with small patches, suitable for Native cultivation, scattered here and there on the shores of the Sound.

Of the 770 acres on the north bank of the Wairau river, there is barely 50 acres suitable for cultivation, the rest consist of a deep swamp. The amount of good land in this block is so very limited that many of the resident Natives have purchased land from the Government.

Although the Kaikoura reserve is large, it is very worthless, consisting chiefly of steep hillsides clothed with a small growth of timber. It was given to the Natives at their own request when surrendering their claims to land in that locality, in order to secure to them the right of fishing along the coast.

Of the remainder, comprising in all 770 acres, it is needless to particularize, as it is all of such a worthless character; and the small quantity of good land contained in the various blocks, is not more than sufficient for the use of the resident population, the uncultivable parts serving as a run for their stock.

In conclusion, I would beg to point out that it is not to the reserves in the hands of the Natives in the Province of Nelson and Marlborough the Government should look to augment the funds for Native purposes in the Middle Island, but, rather to those reserves in the Provinces of Canterbury and Otago, which do not as yet contribute anything in that way.

I have, &c.,

ALEXANDER MACKAY,

Commissioner of Native Reserves.

The Hon. the Native Minister, Wellington.

Enclosure in No. 36.

Return of Native Reserves in the Provinces of Nelson and Marlborough, alluded to in the foregoing Report.

Province of Nelson.

Name of Block.	Situation.	Area.	Remarks.
		A. R. P.	
Waipounamu	West Wanganui	44,000 about	Excepted from sale in 1855, for the Ngatiraua, Ngatitama and Ngatiawa tribes belonging to the original settlement of Nelson
New Zealand Company's Block	Arorere, Collingwood ...	6 1 10	A Excepted in grant to New Zealand Company, in 1848, and since granted to Native owners
" " "	" "	0 0 21	B Abolished
" " "	Parapara	0 0 4	C "
" " "	"	0 3 28	D "
" " "	Aorere river	6 3 0	E Excepted in grant to New Zealand Company, in 1848
" " "	"	5 1 21	F Brought under the operation of "The Native Reserves Act, 4856," by Order in Council, dated 12th October, 1866—*Gazette* No. 57
" " "	"	8 3 27	
" " "	"	11 1 6	
			G Excepted in grant to New Zealand Company in 1848
" " "	"	10 3 32	H " "
			I " "

Return of Native reserves in the Provinces of Nelson and Marlborough alluded to in the foregoing report—*continued.*

Province of Nelson.

Block.	Situation.	Area. A. R. P.	Remarks.
New Zealand Company's Block and Waipounamu	Aorere, Collingwood	90 0 30	J Sub-divided into individual sections and grants issued to Tamati Pirimona and others
" " "	" "	7 2 34	K Under "The Native Reserves Act, 1856"
" " "	" "	12 0 17	L " " "
" " "	Parapara	2 0 7	M Abolished included in Sections 192, and 193, reserved in 1856
" " "	"	3 1 13	N Section 192 since granted to Henare te Ranga
" " "	"	0 2 0	O " " "
" " "	"	0 2 38	P " " "
" " "	"	1 1 24	Q " " "
" " "	"	11 3 23	R " " "
" " "	"	2 0 33	S " " "
" " "	Tukurua river	15 2 14	T " " "
" " "	"	0 1 30	U " " "
" " "	Coast near Aorere	0 0 9	V Abolished
" " "	Parewakaho river	3 0 21	W Part of Sections No. 78 and 79
" " "	" "		Part of Section 79. The whole of this Section appears to have been promised to the Natives. It contains about 150 acres.
" " "	Parewakaho river	5 2 31	X " " "
" " "	"	0 3 24	Y " " "
" " "	" coast	59 3 35	Z " " "
" " "	North of the Village of Seaford, Tasman's corner ...	110 0 0	No. 20 reserved in 1852 by Major Richmond for Wiremu Kingi, contains only 81 acres
" " "	Aorere river	150 0 0	Pirika Tanganui
" " "	"	158 0 0	10 Harawira te Waewae
" " "	"	150 0 0	13 Excepted in grant to New Zealand Company, in 1848, since granted to Tamati Pirimona and others
" " "	"	150 0 0	Section 14 reserved in 1856 for Tamati Pirimona
" " "	"	150 0 0	Section 16 given in exchange for Section 34, Aorere, formerly set apart by the New Zealand Company, since granted to Hori te Koramu and others
" " "	"	236 0 0	Sections 73, 74, 75, 76, 78, 84, 85, reserved in 1856
" " "	Takaka...	35 0 0	A Excepted in grant to New Zealand Company, in 1848
" " "	"	91 3 28	B Excepted in grant to New Zealand Company, in 1848, and awarded as follows:—2 acres 2 roods, to Rawiri; 1 acre 1 rood, to Hone; 2 acres 1 rood, to Eruera; 2 acres 2 roods, to Hone; 3 acres, to Richmond; 2 acres 3 roods, to John Richmond; and 8 acres 16 perches, to Pene Richmond, the remainder amongst Eruera Wirihana, Raniera Matenga, Pirimona Matenga and others
" " "	Takaka river	11 2 22	C " " "
" " "	"	8 3 33	D " " "
" " "	Waitapu coast...	11 3 5	E " " "
" " "	Small Island	1 3 38	F " " "
" " "	Motupipi	4 0 13	H " " "
" " "	"	32 0 19	I " " "
" " "	"	49 2 18	J " " "
" " "	"	48 1 5	K " " "
" " "	Pohara	9 0 4	L Excepted in grant to New Zealand Company, in 1848
" " "	Ligar Bay	0 1 21	M Abolished in 1856, 100 acres reserved in
		9 0 38	N Tata Bay instead
" " "	"	3 2 15	O " " "
" " "	Tata Bay	0 2 11	P Abolished
" " "	"	7 0 33	Q
" " "	Anatimo	4 0 21	R Abolished a small reserve containing 2
" " "	Takapu	39 1 16	S acres 2 roods set apart instead
" " "	"	200 0 0	T Excepted in grant to New Zealand Company, in 1848
" " "	Wainui	157 2 10	U " " Since abolished
" " "	Taupo Point	100 0 0	Reserved in 1856 for Paramena
" " "	" Head	5 0 9	V Excepted in grant to New Zealand Company
		1 0 8	W " " since increased to 40 acres
" " "	Wharawarangi Bay		
" " "	Separation Point	1 0 32	X " "
" " "	Anatakapu	5 3 30	Y " "
" " "	Middle Bay	3 3 19	Z " "

Return of Native reserves in the Provinces of Nelson and Marlborough alluded to in the foregoing report—*continued.*

Province of Nelson.

Block.	Situation.	Area. A. R. P.	Remarks.
New Zealand Company's Block and Waipounamu	Takaka river, G, Section No. 13	10 0 0	For Emanu
" " "	" "	3 1 0	" Richmond
" " "	" "	16 1 0	" Rawiri
" " "	" "	7 0 30	" "
" " "	" "	6 0 7	" Wi Ngaparu
" " "	" "	2 0 0	" John Richmond
" " "	" "	6 3 0	" Hone Taitapu
" " "	" "	13 1 8	" Manihera
" " "	" "	5 1 14	" Watene
" " "	" "	9 3 29	" Horina
" " "	" "	0 2 0	" Meihana
" " "	" "	10 0 27	" "
" " "	" "	5 0 0	" Inia
" " "	" "	16 3 8	" Ereera
" " "	" "	17 0 0	" Rawiri te Rauhihi
" " "	G, Section No. 12	13 0 0	" Inia
" " "	"	20 1 0	" Rameka
" " "	"	2 1 0	" Manihera
" " "	"	7 1 5	" Meihana
" " "	"	5 0 0	" Watene
" " "	"	5 0 0	" Horina
" " "	"	5 0 0	" John Richmond
" " "	"	13 0 0	" Hone Taitapu
" " "	"	7 0 0	" Kerei
" " "	"	13 0 0	" Peni
" " "	"	28 0 4	" Retimona and Wi Ngaparu
" " "	"	5 0 0	" Paratene
" " "	"	5 0 0	" Manihera
" " "	Middle Bay	1 0 29	A 1 Abolished in 1856 with the cou-
" " "	Anapahi	16 0 34	B 1 currence of the Natives, and 100 acres set apart at Waiharakeke, near Totaranui instead
" " "	Potokitaua	0 1 27	E Excepted in grant to New Zealand Company, in 1848
" " "	Fisherman's Island	2 1 1	J " " "
" " "	Marahau	0 0 22	L " " "
" " "	"	0 2 10	M " " "
" " "	"	0 2 24	N " " "
" " "	Kaitiritiri	5 0 4	O " " "
Arahura	Kararoha, on beach, north of Mawhera, Section 35	26 0 0	Ngaitahu Tribe, for Poharama Hotu
"	Kawatiri or Buller, Section 36	100 0 0	Ngaitahu Riwai Kaihi
"	" " 37	50 0 0	Kuini
"	" " 37	10 0 0	Ramiri Puaha
"	" " 38	50 0 0	Wikitoria
"	" " 38	10 0 0	Herewini Iwiwhenua
"	" " 39	100 0 0	Wi Parata
"	" " 40	50 0 0	Hone Kaiaia
"	" " 41	50 0 0	Henere Mauhika
"	" " 42	4 0 0	Mata Nohi nohi
"	South of mud-flat Orowaiti, Section 43	50 0 0	Hakaraia
"	Orowaiti, Section 44	100 0 0	Pua te Rangi, and others
"	Kawatiri, Wataraka Section 45	50 0 0	Riria te Piki
"	Kawatiri, Oweka Section 46	50 0 0	Tarapuhi, and others
"	Karamea, on the south bank of the River Otumahana Section 47	40 0 0	Ramiri Puaha and Mata Nohinohi

Province of Marlborough.

Name of Block.	Situation.	Area. A. R. P.	Name of Reserve.	Remarks.
Kaituna and Hoiere ...	Awanui, at the head of the Pelorus river ...	150 0 0	Te Horo ...	Reserved in 1856 for members of the Ngatikuia and Rangitane tribes
" " ...	" " "	50 0 0	Orakauhamo ...	" "
" " ...	" " "	20 0 0	Ruapaka ...	" "
" " ...	" " "	26 0 0	Te Rakauhapara	No. 19, "
" " ...	" " "	60 0 0	Takapau Wharaunga	" "
" " ...	" " "	10 0 0	Te Parapara ...	" "
" " ...	Kaituna	200 0 0	Kaiowahine ...	" "
" " ...	Awanui	14 0 0	Ruapaka ...	" "
" " ...	Kaituna	100 0 0	Rangiawea ...	" "

Note.—Reserves marked A, B, C, D, F, G, H, J, K, and P, in Blind Bay, are Government reserves for public purposes.

Return of Native reserves in the Provinces of Nelson and Marlborough alluded to in the foregoing report—*continued.*

Province of Marlborough.

Name or Block.	Situation.	Area.	Name of Reserve.	Tribe or Section.
		A. R. P.		
" " ...	"	300 0 0	50 of which are to be granted to Hura Kopapa	For Hura Kopapa, of the Ngatikuia tribe
" " ...	"	10 0 0	Landing-place at Pareuku ...	Ngatikuia and Rangitane
" " ...	Mahakipawa	70 0 0	Oruapuputa ...	" "
" " ...	"		Urupa burial place	" "
" " ...	"		Urupa at Mahakipawa	" "
Croixelles Harbour ...	Kaiaoa	20 0 0	Kaiaoa	Reserved in 1856 for the Ngatikoata tribe
" "	Okiwi	400 0 0	Okiwi	"
" "	Whangarae	600 0 0	Whangarae ...	"
" "	Onetea	20 0 0	Onetea	"
" "	Whangamoa	100 0 0	Whangamoa ...	"
Queen Charlotte's Sound, or Arapaoa			Iwituaroa ...	Ngatiawa tribe
" " "			Kaipakirikiri ...	51 Hapus
			Kumutoto ...	"
	Queen Charlotte's Sound, or Arapaoa ...		Tunoamai ...	"
			Torea Moua ...	Ihaka te Wharekaho
" " "	Arapaoa		Onamaru ...	Tamati Katipa and others
" " "	"		Takapuwahia ...	"
" " "	"		Ruakaka ...	"
" " "	"		Waimimiti ...	"
" " "	"		Mokopeke ...	"
" " "	"		Wekenui ...	
" " "	Papakereru			"
" " "	Puha			"
" " "	Te Pangu			"
" " "	Hitaua			"
" " "	Watamonga			"
" " "	" burial place			"
" " "	Waikawa...			"
" " "	Whenuanui			"
" " "	Ngakuta			"
Waipounamu	Wairau river	770 0 0		Reserved in 1856, for the Ngatirarua, Ngatitoa, and Rangitane tribes
"	White's Bay	2,169 0 0		" "
Kaituna and Hoiere ...	Motueka Pa	200 0 0		Given up for four Town Sections, since granted to Manihe rate Maihi and Paora te Piki
Kaikoura	Base of Kaikoura ...	4,800 0 0	Mangamauna	Reserved in 1859 for members of the Ngaitahu tribe
"	Kaikoura...	50 0 0		Eruiti and others
"	"	50 0 0		Hohepa and others
"	Mouth of Waikawau	12 2 0		
		27 2 0		
"	Kaikoura Bay	3 1 20		
"	Kaikoura...	56 0 0		Hakaraia and others
"	"	1 0 0		
"	"	19 0 0		Whera and others
	Waiariki	12 0 0		Ropata and others
	Kaikoura...	6 0 0		
	"	74 0 0		Tumaru and others
	"	10 0 0		Wiremu Kepa
	Mikonui	450 0 0		Kaikoura, Whakatau, and others