TE MANEMANERAU A TE KĀWANATANGA

A History of the Confiscation of Tūhoe Lands in the Bay of Plenty

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ABSTRACT

This thesis endeavours to show that Tūhoe lands should never have been confiscated and that Tūhoe efforts to gain compensation have been totally unsuccessful to date. When certain lands within the confiscated district of the Bay of Plenty were returned to the tribes there, Tūhoe were not granted any. Furthermore, lands which actually belonged to Tūhoe were granted to other tribes.

Although the major focus is on issues specific to Tūhoe, these are viewed within the wider context of nineteenth century land acquisition in New Zealand. This study looks at Tūhoe historical claims to disputed lands included in the confiscation district of the Bay of Plenty. Chapter One traces the extent of Tūhoe territories within the confiscation district and describes how Tūhoe came to occupy them and the duration of their occupation. Information about these claims came from tribal oral sources and original manuscripts, as well as from more generally accessible sources.

The development of colonial expansion patterns is discussed in Chapter Two. The contention is that they were based on materialistic considerations and legal pretexts to justify the acquisition of Māori lands. Hostilities between Māori and Government in the Bay of Plenty are dealt with in Chapter Three. Particular attention is paid to the causes of the hostilities and the complex racial and political misunderstandings which contributed to the inevitability of war. As a result of these encounters, the New Zealand Settlements Act was imposed.

Chapter Four covers the implementation of its provisions through the Compensation Court. The failings of this Court and its commissioners and field officials are exposed.

Chapter Five examines the settlement of Tūhoe lands in Ōpouriao and Waimana, as well as the changing fortunes of some of the settlers who took advantage of the settlement scheme. After placing the experiences of Tūhoe people within the wider context of what had taken place in New Zealand, Chapter Six focuses on Tūhoe attempts to bring the wrongs they had suffered to the attention of Government. In retrospect these early Tūhoe attempts at redress show that much has to be learnt about presenting substantial submissions. It was obvious that much of what was known by the elders then, though recorded, was never used in evidence to support their petitions. Nonetheless, without the existence of these manuscripts, present attempts would not be possible.

Chapter Seven gives a basis for a proposed just settlement for the confiscation of Tūhoe lands. In order to provide a guide for monetary compensation, details of values of Tūhoe confiscated land have been sought from official records. Compensation for the denial of justice, the loss of human life, land and property, remain open for negotiation.

Finally, while certain conclusions can be and are drawn from these investigations, the end of the story remains unwritten. It will depend on the outcome of new Tūhoe attempts to gain redress from the appropriate statutory body.

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LIST OF ABBREVIATIONS

AJHR	Appendices to the Journals of the House of Representatives.
CT	Certificate of Title, Lands and Survey Department, Hamilton.
JPS	Journal of the Polynesian Society.
L & S Dept	Lands and Survey Department, Hamilton.
MA	Māori Affairs' Files, National Archives, Wellington.
MS	Manuscript.
NA	National Archives, Wellington.
NZG	New Zealand Gazette.
NZJH	New Zealand Journal of History.
OCF	Ōpotiki Confiscation File, Lands and Survey Department, Hamilton.
OMB	Ōpotiki Minute Book of the Māori Land Court.
OS	Oral source.
WHSJ	Whakatāne Historical Society Journal (Historical Review).
WMB	Whakatāne Minute Book of the Māori Land Court.

CHAPTER ONE

NĀ TOI RĀUA KO PŌTIKI TE WHENUA
NĀ TŪHOE TE MANA ME TE RANGATIRATANGA

The land is from Toi and Pōtiki,
the prestige and sovereignty over those lands came from Tūhoe.

The above declaration of ancestral allegiance affirms Tūhoe acknowledgment of their origins, heritage and entity as a people. To understand the significance of this declaration, one has to retrace the mythical, as well as the historical, origins and experiences of the Tūhoe people.[1]

Pōtiki was born of the ancestral parents, Hinepūkohurangi and Te Maunga. Both parents personified the dominant features of the lands of Te Urewera. Hinepūkohurangi as mist represents the female element that shrouds Te Maunga, the mountain. From the union of the mountain and the mist sprang Pōtiki, from whom descended the tribe known as Ngā Pōtiki.[2]

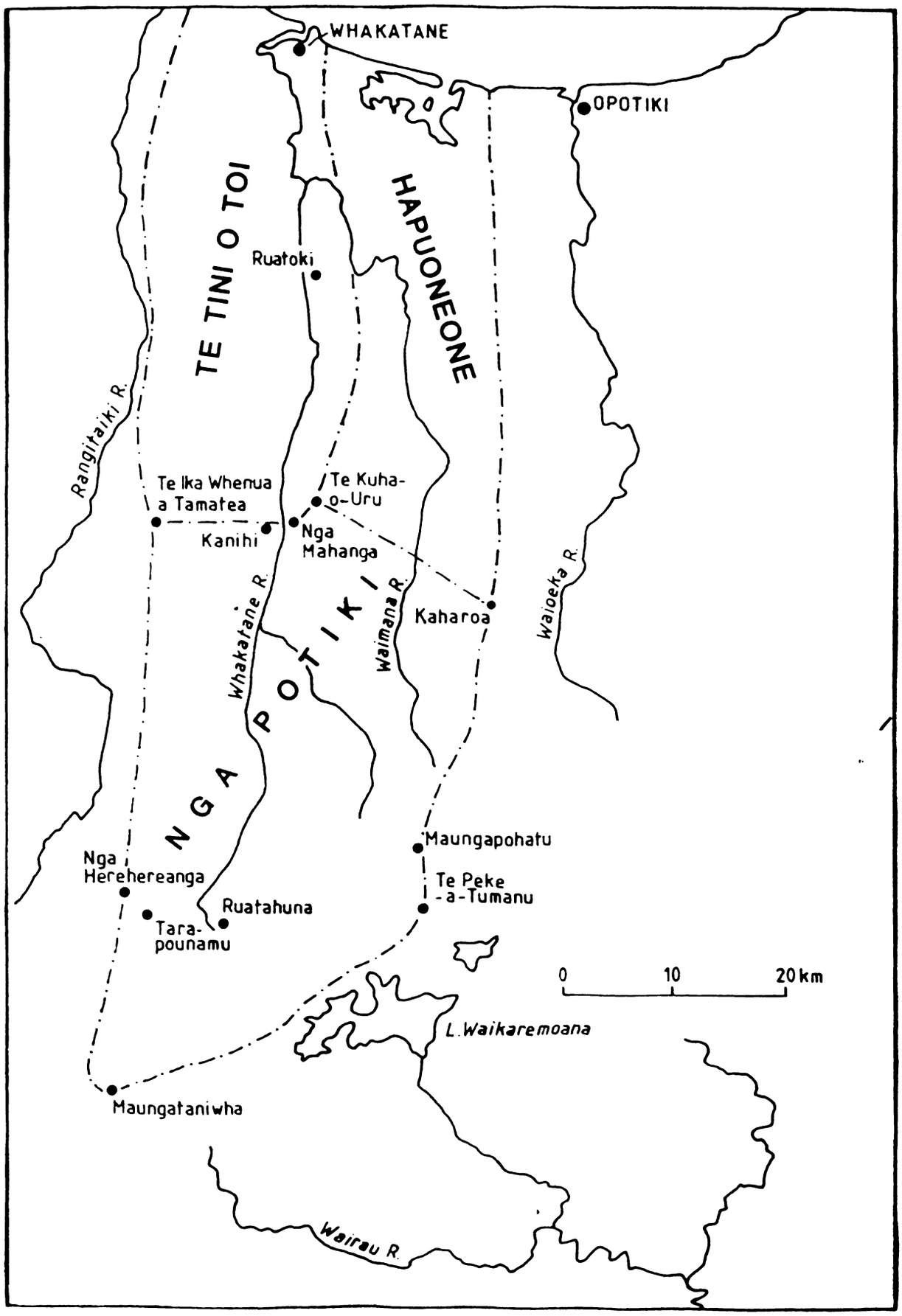
The boundaries of Ngā Pōtiki extended from Maungapōhatu to Ngā Kūwha-o-Uru, then to Te Ohora Stream, crossing the Whakatāne River at Ngā Māhanga to Kānihi, westward to the summit of Te Ika Whenua-ā-Tamatea, southwards to Te Hereherenga; from here towards the east to Maunga-Taniwha crossing the Waiau River, and then following the main range of Huiarau northwards to Whakataka, then to Te Peke-ā-Tūmariu to Maungapōhatu. Within these boundaries lived the many subtribes of Ngā Pōtiki. These were Ngāti Rakei or Ngāti Haka, Ngāi Tuahau, Ngāti Huri or Tamakaimoana, Ngāi Tūmatarākau, Ngāti Hā, Ngāti Tūmatawhero, Ngāti Rautao, Ngāti Kotore, Ngāti Kuri, Ngāti Tāwhaki, Ngāi Te Riu, Ngāi Tātua, Te Waimana, Ngā Maihi and Ngāti Maru.[3]

To the north of Ngā Pōtiki, there emerged another ancestor called Toi Kairākau, whose stronghold was a pā at Whakatāne called Kāpū-te-Rangi. The pā stood on the bluff above the entrance to the Whakatāne Harbour. Toi was the progenitor of many subtribes, of whom the principal ones were Te Tini o Awa, Te Mārangaranga, Te Tini o Tuoi, Te Tini o Taunga and Ngāi Tūranga. Collectively, these subtribes were known as Te Tini o Toi, the Multitude of Toi.[4] Te Tini o Toi occupied the valley of the Whakatāne River from its mouth to a point below Ngā Māhanga. Intermarriages between Ngā Pōtiki and Te Tini o Toi gave rise to new subtribes with dual identities and allegiances. Later the push and pull for dominance among the various subtribes brought about the events that form the historical basis of this study.

It is important at this stage to point out that, while the original declaration which prefaces this chapter, mentioned Pōtiki and Toi, another original ancestor, for reasons unexplained, was omitted. That was Hape-ki-Tūmanui-o-te-Rangi, whose descendants came to assume the name of Te Hapūoneone (People of the Land). Although Hape was a later settler, his landing at Ōhiwa Harbour brought him into close association with Te Tini o Toi. These ties were important in establishing settlements around that vicinity. As time lapsed, Hapūoneone established their own identity and territories further inland, in the Waimana Valley and adjacent districts.[5]

In areas where the boundaries of the three divisions of tribes met, inevitable intermarriages set up new alliances and groups with new identities. However, politically and economically, each tribe was an autonomous unit whose authority and jurisdiction extended to the limits of their own territories. Group security was furthered through close cooperation with other groups sharing the same environment. Cooperation was easily solicited through shared lineages that extended back to one or more of the original ancestors of Pōtiki, Toi or Hape.

Map showing tangata whenua boundaries



Tūhoe subtribes claim that the land they came to occupy was inherited from Toi and Pōtiki. However, this claim would have only been a hollow proclamation if their authority and sovereignty had not been established and maintained and withstood all challenges from others, no matter how close or distant those kinship ties may have been. Tūhoe's authority to claim Ōpouriao and adjacent lands of Rūātoki and Waimana, took many centuries to emerge and be dominant. The following is only a glimpse of the significant events which helped to establish the history relevant to the study of these claims.

In examining how Tūhoe came to establish their sovereignty over their lands, this account will need to begin after the landing of the Mātaatua canoe at Whakatāne. Tūhoe Pōtiki, from whom the tribe derives its name, was a great-grandson of Toroa, the principal chief of the Mātaatua migrants. Tūhoe was also of Te Tini o Toi and Ngā Pōtiki heritage, in this way: Wairaka, the daughter of Toroa, married Rangi-ki-Tua of Te Tini o Toi and their son, Tamatea-ki-te-Huatahi, married Paewhiti of Ngā Pōtiki, who bore Tūhoe. Tūhoe later consolidated his ties with Te Tini o Toi groups by marrying Pare Taranui, and with Hāpuoneone through his marriage with Tōmairangi.[6] Paewhiti and Tamatea had other children, Ueimua the eldest, then Tānemoeahi, and later Uenukurauiri, a daughter. The descendants of Ueimua and Tānemoeahi have equal claim to the lands of Tūhoe through the same ancestral ties. Tūhoe, in the same way, claim lands of Tūhoe's older brothers. However, the genealogical lines of all three brothers remained quite separate, although relationships between them were acknowledged according to one another's relative social status. The Tūhoe tribe is known by that name solely because they are descendants of Tūhoe Pōtiki, but they have inter-married to a great extent with the descendants of the two elder brothers. Probably nearly all the living descendants of Tānemoeahi are also descendants of Tūhoe Pōtiki. Many of the descendants of Ueimua,

however, are now known as Ngāti Awa, Ngāti Pūkeko, Pahī Poto or by other names.[7] These intermarital connections have not affected the separate standing of the tribes. It was merely incidental. Each tribe retained a separate identity and wars were waged among them.

How then did Tūhoe come to be a separate entity made up of Mātaatua migrants, Ngā Pōtiki, Te Tini o Toi and Hāpuoneone, who were already separate, established groups? Part of the answer has been given in the marriage arrangements of Tūhoe. The other answers can also be revealed by relating some of the events from the past.

The account begins by focussing on Ueimua, Tānemoeahi and Tūhoe Pōtiki or Te Tokotoru-ā-Paewhiti (the Three Warriors of Paewhiti), as their mother proudly referred to them. It was some 50 years after the landing of Mātaatua that Te Tokotoru-ā-Paewhiti came to establish settlements within the Rūātoki district at Ōwhakatoro.[8] Their occupational rights to these lands came through Ngāi Tūranga, a subtribe of Te Tini o Toi and Te Hapūoneone descent. Tūhoe's pā was named Te Mauku. Tānemoeahi's was at Pūtiki, about one kilometre west of Te Mauku. Ueimua lived at Kakatarahae, about one kilometre north of Te Mauku. Peaceful coexistence between the brothers did not last. A quarrel arose between Ueimua and Tūhoe when Ueimua disputed the right of Tūhoe to cultivate a piece of land at Tāpuitaru. The quarrel ended in conflict between the forces of Tūhoe and Tānemoeahi against those of their elder brother. Ueimua was slain, and his sons, Ira Taketake, Toroa Kaikaha, and Te Kato-ā-Tāwhaki, led a retreat of Ueimua's followers back to Whakatāne to live amongst Te Tini o Awa.[9]

Undaunted by defeat, the offspring of Ueimua returned to avenge their father's death and attempt to regain Kakatarahae, occupied by Tūhoe's followers. They had raised a force of Te Tini o Awa, from Ōpotiki and Ngaiterangi, to attack Te Mauku, Tūhoe's pā. The sons of Ueimua and their allies were defeated and forced to retreat. Toroa

Kaikaha was killed in the above exchange. Ira Taketake led three more attempts to defeat Tūhoe's followers. Each attempt was met with defeat. It was on the last attempt that Ira Taketake was killed. This marked the last occupation of the Rūātoki district by the children of Ueimua, but the fighting continued between the descendants of Ueimua and Tūhoe Pōtiki for some generations. Permanent occupation of Ōwhakatoro, Rūātoki, Ōpouriao and Waimana was denied Ueimua's descendants. Tūhoe and Tānemoeahi's descendants, on the other hand, retained the **mana** of the lands through conquest and occupation.

After the fighting at Ōwhakatoro, Tānemoeahi went to Waiapu on the East Coast and died there. Tūhoe Pōtiki went in search of his uncle, Māhanga, who had previously moved to Waikato. There Tūhoe Pōtiki married a woman from Ngāti Te Ata and settled at Kāwhia. Murakareke stayed with his father at Kāwhia. After Tūhoe was drowned at Kāwhia, Murakareke returned to Pūtauaki where he died. The fires of Tūhoe and Tānemoeahi were kept burning at Ōwhakatoro by Tūhoe's youngest son, Karetehe. Having defied the attempts of Ueimua's descendants to retake Ōwhakatoro, Tānemoeahi's descendants moved and established themselves at Tukuhauparu on the western banks of the Whakatāne River above Waikirikiri. The descendants of Tūhoe, who remained with Karetehe, established themselves at Ōhae under Te Whanapeke, grandson of Murakareke, and at Ngā Taumata, under the leadership of Hao-ki-Tahā. Others settled further up the Whakatāne River at Kānihi. The Kānihi factor of Ngāti Karetehe, however, soon came into conflict with subtribal groups of Ngā Pōtiki and were forced to seek refuge as far away as the Mōtū River near Te Kaha. After initial attempts to return to Rūātoki by force failed, it took many years before they were able to return peacefully. Ngāti Karetehe gradually ceased to exist as a subtribal identity and was replaced by Ngāti Koura.[10] With Rūātoki south

firmly secured, Tūhoe's descendants began to consolidate their authority. Challenges had still to be countered, mana had to be upheld and maintained. The balance between war and peace was so delicate. A new warrior son could emerge to champion an unavenged death or insult upon his family or people, or something as small as a charred fern root could lead numerous kin groups into conflict and turmoil for many years.

The matter of the descendants of Tūhoe and Tānemoeahi can be left for now and attention given to Tāmango, Ruapūruru and Kahuki in the lands of Ōpouriao that lie to the north of Rūātoki. Although the adventures of Tāmango and Ruapūrupuru appear unrelated at first to the destiny of the descendants of Tūhoe Pōtiki, they nonetheless left important impressions upon the landscape of Ōpouriao which remain today. Both were chiefs who flourished from about 1500 to the 1550s. Ruapūruru was of Te Tini o Toi, as well as Te Hapūoneone, connections. He held those lands near Puketī and Pū Kiokio on the southern banks of Waimana River[11] and the pā Ōtarahioi, Te Mauku, Karaka and Ōpātaka on the northern banks. Towards the east, guarding the entrance to the Waimana River gorge, stood Kapowhetu and Tauānui. Ruapūruru's lands continued up the Waimana gorge to a point where the Waiōpua Stream enters the Waimana River, and the pā Te Waro stood.

Tāmango was of mixed Tini o Toi and Ngā Pōtiki descent. He surveyed his domain of Ōpouriao from his pā Ōtere, which stood on the western bank of the Whakatāne River near the junction with the Waimana River. Tāmango's pā stood just a kilometre to the west of Puketī, Ruapūruru's pā. Tāmango does not appear to have descendants in any of the genealogical references of the past. Perhaps the following incidents involving him, Ruapūruru and Kahuki, will provide the explanation.[12] Kahuki was related to Tānemoeahi through marriage in the following manner; Tānemoeahi married Uetupeke, paternal grandmother of

Kahuki while she was pregnant to Rongowhakaata of the Tūranga or Gisborne area. The child, a male, was named Rongopōpoia and he in turn married Rangiparoro. Their child was Kahuki. After Rongopōpoia's death, Rangiparoro and Kahuki took flight to Kaharoa in the Waimana Valley, where the former found both a home and new husband, Haeora. Rangiparoro had twin daughters named Rangiataura and Rangiatamea. Some time later Kahuki made a journey to seek out the killer of his father, Rongopōpoia. He travelled north from Kaharoa with his sisters to Rangitihi, and to Puketī to his uncle Ruapūruru.

We take up the story when Ruapūruru was walking away from his garden below Ōtarahioi loaded with weeds he was about to discard down the banks of the Waimana River. Unbeknown to him, his nephew, Kahuki, lay hidden among the trees that lined the riverbank in front of him. Ruapūrupuru was of impressive build, his mark being the way he plaited his hair in eight strands that were tied up over a wooden comb held firmly on his crown. Having recognised the plaits, Kahuki emerged from where he was hidden, concealing his face and head with his dog skin cloak. Ruapūruru immediately issued a challenge to the trespasser and asked who he was. The dog skin clad figure did not flinch but remained silent. Ruapūruru sensed that there was something familiar about the person before him by the manner in which he had been confronted. Ruapūruru asked of the stranger whether he came from the south and, if so, knew who he was. Kahuki uncovered his face, and Ruapūruru was not surprised to see that it was his nephew whose fighting prowess had preceded him in those parts.

Kahuki's arrival brought all of Ngāti Ruapūruru to Kapowhētū to celebrate and honour his presence amongst his kinfolk. As the people assembled in their main meeting house for the night, Kahuki stood to return his uncle's hospitality and kindness. He soon revealed that the purpose of this mission was to seek out Tuamutu who had killed his

father. Then, when he spoke of the tragic circumstances of his father's death, he revealed another tragedy that had occurred on his journey to Ruapūruru. Kahuki had not set out alone, but was accompanied by his twin sisters, Rangiatamea and Rangiataura (named so because of the colour of their hair - one black and the other red).

Kahuki's journey began at Kaharoa, over the range of Taiarahia and down through Ōpouriao into a kahikatea forest at Te Tarau, where they rested to get whatever food they could forage. His sisters, who were prodding for huhu grubs in the rotten wood of fallen trees, attracted a war party which happened to be close by. So swift and silent was the war party's attack that Kahuki only caught a glimpse of a red-cloaked figure disappearing with his sisters. Knowing he could well be next, Kahuki fled through the forest with his pursuers close behind. Once his escape was sure, he turned and called out, "If the red one be slain, then spare the black one. Should the black one be slain, then spare the red one." It became clear to Kahuki that both sisters had been slain. Also, it was revealed by Ruapūruru's people that the red cloak could only be the one worn by their neighbour, Tāmango.

Kahuki conceived a plan to lure Tāmango's people from their pā at Ōtere so they could be attacked in the open. Indeed, the plan was executed the following day and Ngāti Ruapūruru managed to inflict severe punishment upon Tāmango's people. Tāmango, however, survived. Kahuki, well satisfied that his sisters' deaths had been avenged for the time being, still had further surprises in store for Tāmango. The need to avenge his father's death was more urgent. Before leaving for Ōhiwa to seek out Tuamutu, who had killed his father, Kahuki left Ruapūruru with instructions to establish peace with Tāmango as soon as possible by offering a high-ranking woman from Ngāti Ruapūruru as his wife. A house was to be built in honour of such an occasion.

Kahuki's expedition to Ōhiwa proved successful and he soon returned to find a house built for Tāmango's marriage ceremony at Waiwherowhero. The house stood somewhere between Ōtere and Puketī. As arranged, Tāmango and all his people arrived and assembled in the house to await the arrival of the local dignitaries. However, the house had been designed as a death trap for Tāmango and his people. No sooner had they entered when the house was surrounded and set alight. The only escape for those inside was the low entrance door. Those who tried to escape death by fire were struck on the head with blows from hard clubs. Above the crackle of fire and screams within, Kahuki called out, "If the red one be slain, spare the black one. If the black one be slain, then spare the red one." Neither Tāmango nor any of his people survived. Thus Ngāti Tāmango disappeared into obscurity.[13]

The influence of Ngāti Ruapūruru remained in Ōpouriao under Ngāti Raka from Waimana, while the lands of Tāmango were gradually occupied by Ngāti Kareke and Ngai Tākiri, also of Waimana Valley. Ngāti Raka eventually also took over the pā and cultivations of Ngāi Ruapūrupuru around Puketī and Ōpouriao.

The history of Tāmango and Ruapūruru is important in the study of Ōpouriao, in that it assists in putting into perspective the position of undisputed or undisturbed possession of Ōpouriao and Rūātoki areas over which Tūhoe had already established claims. It is through these men that the earliest occupation of Puketī and Ōpouriao is recorded in the traditional history of Tūhoe. Puketī was an important strategic pā, for whoever came to occupy it, also came to command the fertile flats of Ōpouriao. With that part of Ōpouriao's history already given, the writer will now relate the events surrounding Ōpouriao after the times of Tāmango and Ruapūruru.

Ngāti Kareke, Ngāti Raka and Ngāi Tākiri hold important places in the history of conflict over Ōpouriao. To begin, it is important to review the history contained in those names to explain not only their origins, but also to establish the close co-existence and cooperation among these three groups of people. It must be borne in mind that the three were all the same people as other subtribes of Tūhoe through their ancestral origins from Toi, Hape and Tūranga Pikitoi. Before they assumed their given names of Ngāti Kareke, Ngāti Raka and Ngāi Tākiri, they were part of the subtribe of Ngāi Tūranga.

Ngāi Tūranga were the descendants of Tūranga Pikitoi of Te Tini o Toi. Later marriages also brought them into close association with Te Hapūoneone. At the time Ueimua, Tānemoeahi and Tūhoe Pōtiki had established their respective settlements at Ōwhakatoro, Ngāti Kareke, Ngāti Raka and Ngāi Tākiri had not emerged as subtribal identities. They were collectively a part of Ngāi Tūranga.

The beginnings of Ngāti Kareke as an identity, occurred after the struggles for Ōwhakatoro, which have been already noted. Ōwhakatoro had become deserted by Ngāti Karetehe, who had gone to reside at Ōhae, Ngā Taumata and Kānihi. The vacant lands of Ōwhakatoro soon became a temporary sanctuary for a people known as Maruiwi, who were descendants of Toi through his son, Awanui-ā-Rangi, and had migrated to settle in Heretaunga (Hastings district). Maruiwi suffered many attacks in that district, which was probably the cause of their migration to the Bay of Plenty. They chose the Whakatāne district because of their connections with Te Tini o Toi through Awanui-ā-Rangi. Maruiwi travelled up the East Coast from Napier to Poverty Bay, then across the high forest ranges to Te Kaha, afterwards moving on to Te Waimana.[14] When Maruiwi arrived, Waimana lands were in the possession of Te Hapūoneone, but they were allowed to settle there peacefully. They soon established their pā at Māpouriki, Tautautahi and Te Kawakawa. The tranquillity between Te

Hapūoneone and Maruiwi was soon broken and led to Maruiwi being expelled from Waimana.[15] Maruiwi, in order to escape constant harassment from Te Hapūoneone and Ngāi Tūranga, then moved to Ōwhakatoro. From here Maruiwi planned to return to Te Waimana and attack Ngāi Tūranga before returning forever to their former lands of Heretaunga. As it happened, the pā they chose to attack was that of Ōue under the chief Tamaruarangi. Maruiwi chose the cover of darkness to advance on to Ōue. As they advanced through the forest, they imitated the calls of the night birds such as the kiwi, ruru, kākāpo and kareke to cover any slight sounds that could have been made by an attacking force. Imitating the bird calls would also deceive the sentries of the pā into thinking that no one was in the forest. The birds would be silenced by the approach of anyone through their domain. The attack that followed caught Ngāi Tūranga of Ōue unawares. Tamaruarangi and his people were captured and killed. However, some survivors and a son of Tamaruarangi, called Rangitūmai, escaped from Waimana and sped over Taiarahia ranges into Ōpouriao and through to Kiwinui pā in Ōwhakatoro. Here Rangitūmai's kinfolk of Rongo Kārae were living. Maruiwi pursued Rangitūmai and attacked Rongo Kārae's pā. This mistake cost Maruiwi many of their warriors. The survivors returned to Ōwhakatoro with Ngāti Rongo close on their heels. Maruiwi were then forced to evacuate Ōwhakatoro as the onslaught of Ngāti Rongo came upon them. Thus, Maruiwi were expelled. As Maruiwi made off toward their distant homelands of Heretaunga, they were engaged by other tribal groups for crossing their territories. Indeed, the retreat of Maruiwi was marked by disaster. Before them were many hostile lands which they had to cross. Even the elements were against them and, in the end, contributed to their final destruction. It was on a stormy night that Maruiwi met their deaths at the bottom of a chasm near Pōhue on the Napier-Taupo highway about a kilometre south of the Pōhue Hotel. Maruiwi, blinded by

rain and darkness, fell into the chasm. All but six or seven perished. Thus Maruiwi ceased to exist as a tribal group.

Rangitūmai and the other survivors of Ōue (after the expulsion of Maruiwi), assumed the name of Ngāti Kareke in memory of the subterfuge employed by Maruiwi in the taking of their pā Ōue in Waimana. Kareke was a swamp bird, a species of rail. Ngāti Kareke were given shelter and territory by their Ngāi Tūranga kinfolk living south of Ōwhakatoro, as well as those sections of the tribes living on the western ranges and flats of the Whakatāne River opposite Ōpouriao. The branch of Ngāi Tūranga who occupied the latter lands had, by this stage, already assumed the name of Ngāti Raka, after Raka, the son of Tauke. Tauke belonged to the fifth generation after Tūranga Pikitoi, the founder of the Ngāi Tūranga tribe.[16]

Ngāi Tākiri was a group who were directly descended from Tauke and Raka. They assumed the name Ngāi Tākiri after Tākiri, the great-great-grandchild of Raka. It is in this way that Ngāti Kareke, Ngāti Raka and Ngāi Tākiri were related and subsequently reunited through common historical experiences and intermarriage. It is those historical links that require explanation.[17]

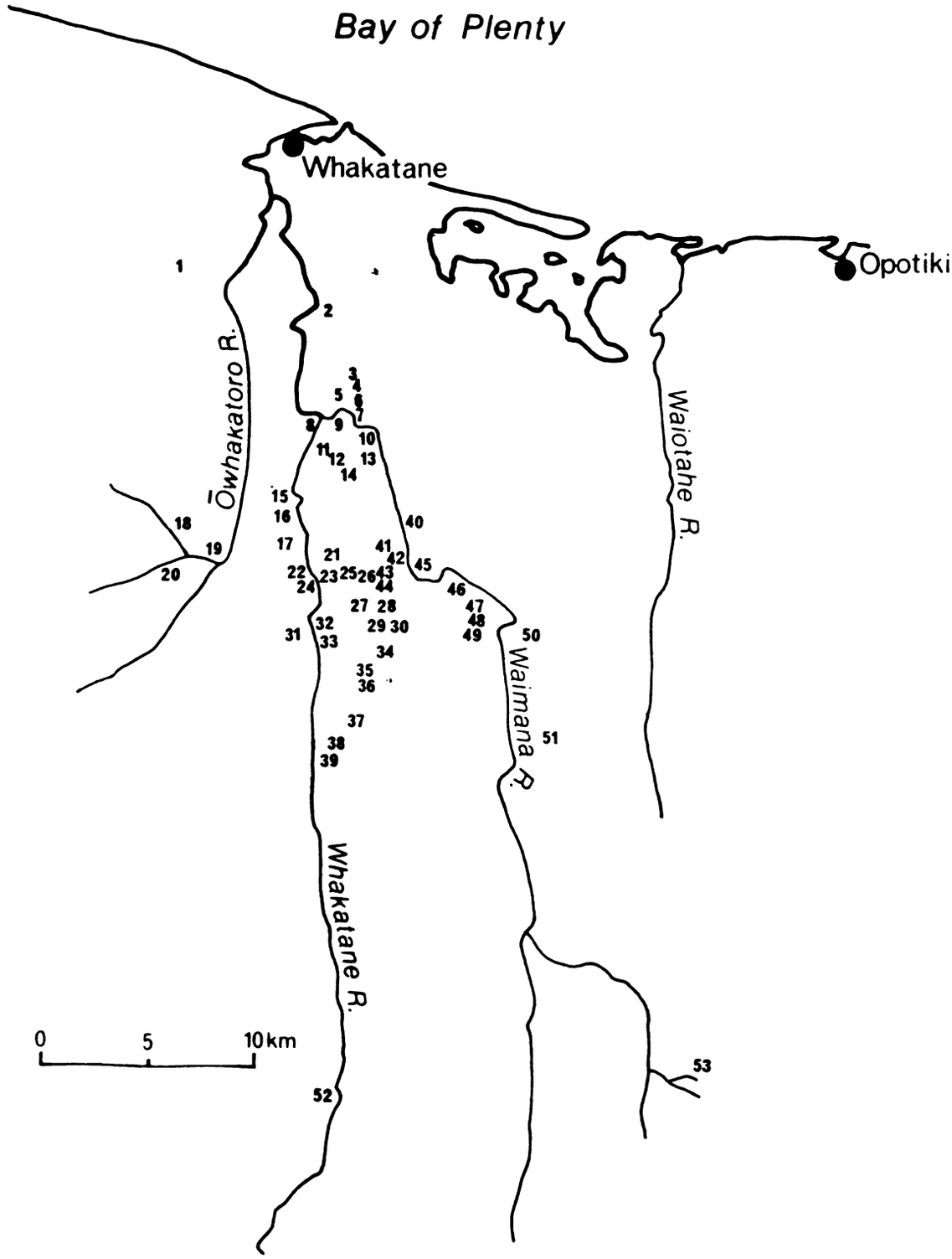
Maruiwi were expelled from Waimana and Ōwhakakatoro around 1630. After that these subtribal groups of Ngāi Tūranga took on their new identities and occupied new territories over which they assumed separate jurisdiction, though retaining mutual rights of access to parts of one another's lands.

Ngāti Kareke occupied the lands west of the Whakatāne River which were overlooked by a series of fortifications, of which Te Pōroa was the principal pā. Approximately 800 metres to the south on the same ridge as Pōroa was Te Tawhero. To the west stood Tātāhoata, and to the north stood Ōtere, the old pā of Tāmango.[18]

Ngāti Raka occupied the lands previously held by Ruapūrupuru, although under Raka these boundaries were extended further east into Waimana and south into Rūātoki. To the north Puketī acted as the sentry pā to watch over the plains of Ōpouriao. To the west across the Waimana River were Ruapūruru's old pā of Kapowhetu and Tauānui guarding the Waimana gorge. Proceeding south along the ranges west of the Waimana River was Te Kiokio, overlooking Te Waro and the Waiōpua Stream. Just south was Rangitihi on Taiarahia range. Due south-west on the same range were Kōtukutuku and Waikākariki. Te Rangimōaho, now the name of the ancestral house of Te Māhurehure subtribe of Te Rewarewa pā in Rūātoki lived at Waikākariki. Much more will be learnt of this ancestor.

Continuing south along the Taiarahia range is Ruatoto (sometimes known as Ngā Toto o Whakahou) where Tāpoto, the warrior chief of Ngāti Raka, lived. Ruatoto stood on a spur above the present school of Rūātoki. On the Ōruakorau Stream, just south of the school, were the pā of Ōtenuku and Te Tapuwae, sometimes referred to as Ōtapuwae. Tauke, the father of Raka, lived at Ōtenuku. Tākiri, the great-great-grandson of Raka, lived at Ōtapuwae, which was one of Ngāti Tākiri's main pā. East of Ōtenuku, on the same side of Ōruakorau Stream, was the pā of Para te Taitonga. Continuing south of Ōtenuku were Taumata, Maringi-ā-wai and Ōtutewai.[19]

Map showing pā sites and settlements



1 Kiwinui
2 Te Hūrepo
3 Te Karaka
4 Ōpataka
5 Ōtarahioi
6 Tauanui
7 Kapowhetu
8 Ōtere
9 Puketī
10 Te Pā Harakeke
11 Ōpouriao
12 Pūkiokio
13 Te Umuparapara
14 Pā Harehare
15 Tātāhoata
16 Te Pōroa
17 Tāwhero
18 Kākatarahae
19 Te Mauku
20 Pūtiki
21 Wairapukao
22 Ōmāwake
23 Kaimatahī
24 Ōhotu
25 Kōtukutuku
26 Waikākāriki
27 Rūātoki
28 Ruatoto
29 Paratetaitonga
30 Pou-o-Urutake
31 Ngāhina
32 Ōtenuku
33 Ōtapuwae
34 Ngā Taumata
35 Maringi-ā-Wai
36 Ōtutewai
37 Ōhae
38 Waikirikiri
39 Ōpoutere
40 Te Waro
41 Te Kiokio
42 Pitowhero
43 Puke Tawhero
44 Rangitihi
45 Māpouriki
46 Te Kuini
47 Pātapu
48 Te Kawakawa
49 Te Maire
50 Tautautahi
51 Oue
52 Kānihi
53 Kaharoa

In tracing the fortifications of Te Kareke, Ngāti Raka and Ngāi Tākiri, it can be established that they occupied a considerable part of the Whakatāne valley and also a part of the Waimana watershed. They occupied and defended these lands for nearly two centuries before Ngāti Kareke were eventually expelled by Ngāti Pūkeko and Ngāti Awa from Pōroa and Ngāti Raka from Ōpouriao by their southern Tūhoe kinsfolk. The outcome of these conflicts had considerable bearing on the claims made by Ngāti Pūkeko, Ngāti Awa and Tūhoe before the Compensation Court after the general confiscation of Eastern Bay of Plenty lands. To establish the merits of each of these claims, the history of the struggles between Ngāti Kareke and Ngāti Awa tribes, as well as the Ngāti Awa, Ngāti Raka conflict with other Tūhoe subtribes, will need to be surveyed.

Ngāti Awa and Ngāti Pūkeko claimed before the Compensation Court that they had priority claims over Tūhoe for Puketī and Ōpouriao lands as a result of their victory over Ngāti Kareke at Te Pōroa. As it has been established, Ngāti Kareke, although related to Ngāti Raka, did not hold jurisdiction over Puketī or Ōpouriao. The authority over those lands was held by Ngāti Raka. If conquest was recognised by the Court as a legitimate claim for the granting of lands as compensation, then Ngāti Awa and Ngāti Pūkeko should only have gained grants of lands previously held by Ngāti Kareke. Other principles in the exchanges of lands through the Compensation Court require more thorough investigation later.

The conflict between Ngāti Pūkeko, Ngāti Awa and Ngāti Kareke broke out over the killing of Pokipoki of Ngāti Kareke.[20] The eventual struggle between these forces continued for generations and only ended when Ngāti Kareke fell at Pōroa and were then forced into exile. The Ngāti Kareke survivors fled to their western pā of Tātāhoata. From here Te Kareke then migrated to Ōhiwa to a place called Paparoa, but were again pursued by Ngāti Awa and Ngāti Pūkeko who were determined to

exterminate them. Unable to sustain their own defence force, Ngāti Kareke migrated to Kutarere and Te Waimana.

Ngāti Kareke's close kin of Ngāti Raka, Ngāi Tākiri and others of Rūātoki and Waimana did not attempt to assist them in combat against Ngāti Awa and Ngāti Pūkeko. Taotao of Tūhoe and Ngāti Kareke did go to Tātāhoata to save his relations by pursuading them to move to Ōhiwa and Waimana, there to seek refuge and breed fighters in order to retake their tribal lands. Apart from Taotao, kinship allies remained aloof not wishing to become embroiled in the affairs of Ngāti Kareke. It was apparent that the northern sections of Ngāti Raka had forsaken their old kinship obligations to Ngāti Kareke, replacing them with more immediate and pragmatic concerns of safety and survival by remaining cooperative with their more powerful neighbours of Ngāti Pūkeko and Ngāti Awa. This new alliance was expressed in their support of Ngāti Awa forces against their other kin of Ngāti Rongo, Tamakaimoana and other Tūhoe subtribes soon after Te Pōroa fell about the end of the eighteenth century.

The fighting between Ngāti Awa, Ngāti Raka and other subtribes of Tūhoe began with a domestic incident which soon flared into sporadic intertribal wars that endured for 20 years. The incident began with the marriage of Mahuru of Ngāti Rongo and Takarehe of Ngāti Awa. Takarehe was induced to live at Ngāhina in Rūātoki with the people of his wife, Mahuru who, one day, presented her husband with a fern root cake without bothering to remove its burnt crust or the fibres within it. This brought on a quarrel between them, during which Takarehe struck out at Mahuru with a **patu**, causing blood to flow from her head. Mahuru fled to her relative, Tamahape, who lived at Ōpoutere pā. On finding him, she told of the quarrel and how she was hit on the head by Takarehe, who soon arrived still blind with rage. He struck at Mahuru now sheltering behind Tamahape's back. He, in defence, struck back, instantly killing Takarehe. The news of Takarehe's death soon reached his Ngāti Awa

relations who were quick to take up the challenge to avenge his death at the hands of Tamahape of Tūhoe. Ngāti Raka and Ngāi Tākiri joined Ngāti Awa, as did Ngāti Pūkeko, as well as Ngāi Te Rangi of Tauranga and Te Whānau-ā-Apanui from Te Kaha. When the above group first ventured into Tūhoe territory, they chose to attack Ōhae pā. The presence of invaders was soon detected and messengers were sent out to other Tūhoe pā for reinforcements. The attack of Ōhae was rebuffed, but the result of that battle increased the bitterness between the coastal and inland peoples, that is, Ngāti Awa and Tūhoe. Ngāti Raka and Ngāi Tākiri's participation in the invasion brought the vengeance of other Tūhoe subtribes upon them.[21]

Ngāti Rongo, having defeated Ngāti Raka at Ōhae, soon turned their attention to inflict further punishment and evict them from the fertile flats that allowed Raka to replenish their food stores with **kūmara**. Ngāti Rongo cast about for allies to assist them in their quest. Rangimōaho of Waikākariki helped in their search for allies and soon gathered in the forces of Ngāi Tama of Waimana. Tamakaimoana forces from Maungapōhatu also came to the aid of Ngāti Rongo. The combined forces marched on Ngāti Raka's stronghold of Ōtenuku in Rūātoki. Both Ōtenuku and Ōtapuwae were taken by the allies of Ngāti Rongo, killing many Ngāti Raka. A few who escaped were pursued to Kiokio, another pā of Ngāti Raka. Ōtapuwae and Ōtenuku were occupied by Te Urewera, while Ngāti Rongo took over Ōtūtewai pā.

Ngāti Raka attempted to redress the imbalance by conducting a series of attacks on Tūhoe hapū of the hinterlands, in particular, Ngāti Rongo. With new reinforcements at Kiokio pā, Ngāti Raka could safely observe activities of Ngāti Rongo people at Ōmawake and Ōhotu. Noticing a large party of men departing, they chose their moment to attack Ōmawake. When they arrived, Ōmawake was occupied only by women, children and old people. Ngāti Raka captured some of the women and

children, while the remainder were killed. This affair became known as Kohi Pī - the chicken collecting episode. The force continued south in search of the male party which had left Ōmawake earlier hoping to catch them off guard. Ngāti Raka caught up with Ngāti Rongo at Maringi-ā-Wai while they were eeling, besieged and defeated them. After this episode, which occurred about 1820, all of the Tūhoe subtribes living at Rūātoki departed for Ruatāhuna in support of a Tūhoe campaign against Ngāti Kahungunu, Ngāti Pūkeko in Whirinaki and Te Whāiti and Te Arawa at Pukekaikāhu.[22]

It was not until the northern tribes of Ngā Puhi, under Pōmare, had retreated from Te Urewera district about 1823, did Tūhoe people return to their former lands of Rūātoki to settle in the old forts. Ngāti Raka, with Whakatōhea's help, returned to settle old scores with their Tūhoe relations at Rūātoki. Indeed, their attack on Ōtairoa in 1822 proved successful for they returned with captives of very high-born Tūhoe women to Ōpotiki. Ngāti Rongo again turned to Tamakaimoana of Maungapōhatu to aid them in revenging their defeat at Ōmawake (Kohi Pī), Maringi-ā-Wai and Ōtairoa.[23]

Several groups gathered to deliver a final blow on Ngāti Raka, Ngāti Tākiri and Te Kareke who had returned from Ōpotiki and occupied their hill forts, Rangitihi and Te Pou-o-Urutake. This occupation was a menace to the welfare of the hapū at Rūātoki. The forts of Ngāti Raka were assaulted with considerable force and Te Pou-o-Urutake soon fell. Remnants of Ngāti Raka under Tāpoto fled up the Waimana River into the Waimana valley. Here they were attacked again and forced to flee once more towards Ōhiwa, Waiotahe and Ōpotiki.[24]

Tāpoto, the fighting chief of Ngāti Raka, now realised that there was little hope of regaining the lands of Ōpouriao and Rūātoki from which they had been driven. The hapū of Ngāti Koura and Māhurehure seized the lands of Ōpouriao, while Rūātoki was occupied by Ngāti Rongo.

Peace settlements were arranged with Tāpoto of Ngāti Raka and Tūhoe at Whakatāne. This was the last major battle between the southern subtribes and Ngāti Raka, the latter losing permanent possession of their lands. Ngāti Raka, however, made one more attempt to regain Ōtenuku in the year 1860. Ngāti Rongo were quick to act and burnt the newly-built palisades and drove Ngāti Raka away. Ngāti Raka returned later to Te Waimana to renew ties with other Tūhoe hapū. In later attempts to claim their former lands at Rūātoki, Ngāti Raka used the Native Land Court. The Court ruled that Ngāti Raka had been driven out and could not establish evidence that they had occupied those lands since the time of Rangimoaho in 1822.[26]

Ngāti Kareke also made attempts to reclaim Rūātoki. Their case was dismissed as the evidence showed that these people had been driven from Te Pōroa by Ngāti Awa and from Te Pou o Urutake by Ngāti Rongo and Tamakaimoana.[27]

After the Ngāti Raka were driven away, Ngāti Koura, Māhurehure and Te Urewera subtribes lived at Ōpouriao where they occupied Puketī and other pā while building new ones as well. Ngāti Koura lived at Te Waitapu pā and Te Urewera at pā Harehare.

Having established territorial occupation and tribal jurisdiction over its lands of Ōwhakatoro, Ōpouriao, Waimana and Rūātoki, the northern sections of Tūhoe affirmed their allegiance to uphold mana and rangatiratanga. It should be stressed that the battles between Ngāti Raka and other Tūhoe subtribes were essentially wars between related subtribes as Ngāti Raka shared the same kinship ties.

Tūhoe's authority and sovereignty over these lands were never challenged from the time of the defeat of Ngāti Raka until the lands were confiscated in 1866. When hearings were conducted through the Compensation Court at Whakatāne in 1867, Ngāti Awa and Ngāti Pūkeko challenged Tūhoe's claims to lands in Ōpouriao and lands west of the Whakatāne River. Those claims will now be examined.

When two groups from different tribes claim an area of territory, it is only to be expected that their claims contain contradictions. Therefore it is necessary to explore both arguments before drawing any conclusions.

Ngāti Pūkeko, Ngāti Awa and Tūhoe accounts agree that Ōpouriao and Rūātoki were deserted when Pōmare and his Ngā Puhi warriors ventured into Whakatāne and up through to Ruatāhuna in 1822. However, there are certain differences of opinion as to the reason. Tūhoe informants disagree with their counterparts that Tūhoe fled before the might of Ngā Puhi. Tūhoe claim that they ventured further inland to heed the call from Ruatāhuna to rally Tūhoe forces to plan strategies against other tribal forces from Ngāti Kahungunu at Wairoa, Ngāti Whare and Ngāti Pūkeko at Te Whāiti, Tūwharetoa, Tūnohopū of Te Arawa and Ngāti Ruapani at Waikaremoana.[28]

There is little doubt that Pōmare came to Whakatāne to revenge the losses of his tribe at the hands of Ngāti Awa and Ngāti Pūkeko during the expedition of Te Mōrenga at Ōkahukura in the Rangitaiki Valley in 1818. Ngāti Pūkeko and Ngāti Awa fled inland and occupied deserted Tūhoe pā around Rūātoki, where they made a stand against Pōmare. Unable to withstand the guns of Ngā Puhi, the remnants of Ngāti Pūkeko and Ngāti Awa fled into the refuge of the Urewera hinterlands further up the Whakatāne valley. Satisfied that they had sufficiently avenged their earlier defeat, Pōmare withdrew his forces and returned north. It is said that Ngā Puhi were unable to catch even a glimpse of the elusive Tūhoe during this venture.[29]

Ngāti Rongo hapū of Tūhoe claim that after the Maringi-ā-wai episode, they dwelt uninterrupted at Rūātoki and only left there on four occasions. This account says nothing about Tūhoe retreating to Ruatāhuna when Ngā Puhi came to Rūātoki.[30] Ngā Puhi's withdrawal allowed Ngāti Awa, Ngāti Pūkeko and Tūhoe to return to their respective lands in Rūātoki and towards the coast.

Soon after Pōmare's return to Northland, a chief of Tūhoe named Te Maitaranui travelled to Taiāmai in the Bay of Islands in 1824. There he convinced Pōmare to take up the cause of Tūhoe against Ngāti Kahungunu at Te Wairoa. To mark this occasion, Te Maitaranui was presented with a rooster and hens as a gift. In the same year, Pōmare again ventured into Whakatāne and up the river to Ruatāhuna to meet Te Maitaranui to discuss joint strategies against Ngāti Kahungunu.[31] The unexpected arrival of Pōmare sent Ngāti Awa fleeing to Ōhiramoko in Ruatāhuna, while Ngāti Pūkeko departed for Te Whaiti.[32]

At the meeting in Ruatāhuna between Pōmare and Te Maitaranui, peace was declared. The two parties agreed never to raise war against each other. Ngā Puhi then withdrew to the coast so they could proceed by sea to Māhia and attack Ngāti Kahungunu from the sea. Tūhoe ventured overland to stage land attacks upon the enemy.[33]

These accounts concerning Pōmare's expeditions to Whakatāne and Te Urewera suggest that he had a respect for Tūhoe. This is clearly seen in his actions of deliberately avoiding clashes with Tūhoe within their territory. Only two Tūhoe were killed by Ngā Puhi forces. In addition, there was the success of Te Maitaranui's journey to the Bay of Islands and the peace arrangements at Ruatāhuna between Tūhoe and Ngā Puhi. Ngāti Pūkeko claims to Ōpouriao, in particular, Puketī, are based on their occupation of those lands from the time Pōmare withdrew in 1824 until 1866.[34] This claim is unrealistic.

The wars of Ngāti Awa, Ngāti Pūkeko and Ngāti Raka against other Tūhoe hapū continued soon after Ngā Puhi withdrew. These wars were fought in and around Ōpouriao, Rūātoki, Waiohau, Ruatāhuna, Te Whaiti and Waiotahi. Although the wars had their beginnings in the time before the Ngā Puhi incursions, grievances were renewed by incidents which occurred at a place called Pūkareao while Ngāti Pūkeko were returning home to their lands soon after Pōmare had withdrawn his forces. A Tūhoe

chief named Tokopunamu was killed and eaten. Nearby the body of another Tūhoe chief, Whakahoki, was exhumed and also eaten. Infuriated by these insults, Tūhoe forces pursued Ngāti Pūkeko and caught them at a place called Waikokopū in Waiohau. Another battle between these forces took place at Waipōkaia. Subsequent battles between Tūhoe and Ngāti Pūkeko with their allies from Ngāti Awa, continued until 1834 when peace was finally made at Ōtukaimaramara in Te Teko. While these wars were fought, the struggle for Ōpouriao between Tūhoe forces and Ngāti Raka continued as well. The turmoil that raged around Ōpouriao could not have allowed Ngāti Pūkeko much opportunity to settle those lands so soon after the departure of Ngā Puhi. Tūhoe had brought about the defeat of Ngāti Raka toward the end of 1823. This defeat allowed Tūhoe, by right of conquest, to occupy those lands and Ngāti Raka pā on Ōpouriao. It was not until the defeat of Ngāti Raka that Tūhoe claimants began to establish Tūhoe's mana over Ngāti Raka lands. Hēmi Kōpu claimed, in his evidence, that he, with Wikiriwhi, Te Ahoaho, Te Ahikaiata and 30 others from Tūhoe, occupied Ōpouriao. However, at the same time he maintained that that was not until peace had been established with Ngāti Awa and Ngāti Pūkeko in 1834. These settlers established large cultivations of kūmara, potatoes and maize for commercial purposes. He pointed out that they used Pākehā agricultural tools and methods in cultivation.[35] Te Makarīni, in evidence, supported Hēmi Kōpu's claims and added that soon after 1834, Puketī had become their headquarters and they had run cattle as well. Amongst them lived a Pākehā trader by the name of Jack Fox, who married Te Ahoaho's daughter. They continued to occupy these lands until they were physically removed by Colonel Lyons in 1867 and detained at Whakatāne.[36]

Ngāti Pūkeko informants presented opposing accounts. Pīerieri, for example, maintained that Tūhoe only came to Ōpouriao on the invitation of Ngāti Pūkeko so that they might be closer to trade with Pākehās in

Whakatāne. According to Pīerieri, when peace had been established in 1834, he went to Ruatāhuna to invite Te Whenuanui to come to Whakatāne to live. At Ruatāhuna, Pīerieri presented Te Whenuanui with gifts from the trader, Tapsell. These items included a gun, an iron pot and tobacco.

In his amazement Te Whenuanui said, "What good things the Pākehā have! How will I be able to see such things again?" Pīerieri replied, "Move closer to the coast so that you may be nearer to the Pākehā."[37] Te Whenuanui apparently did not hesitate and he packed up his belongings, but moved to Ōpouriao to join Te Ahoaho and the others of Tūhoe.

There is no doubting that Ngāti Pūkeko may well have persuaded Te Whenuanui to move to the coast, but this was not the case with Hēmi Kōpu, Te Ahoaho, Te Purewa, Ahikaiata and the others. Other statements by Himiona, who had assisted the surveyors with drawing the confiscated line through Tūhoe lands in 1867, also support Tūhoe claims of occupation.[38] It is thus unrealistic to accept that Tūhoe presence in Ōpouriao was due only to the goodwill of Ngāti Pūkeko. The historical data does not support their claim. Tūhoe mana over these territories was reaffirmed through war with Ngāti Raka. Those rights of conquest and occupation were only removed by government legislation when the Ōpouriao lands were included in the confiscation of the Bay of Plenty district in 1866.

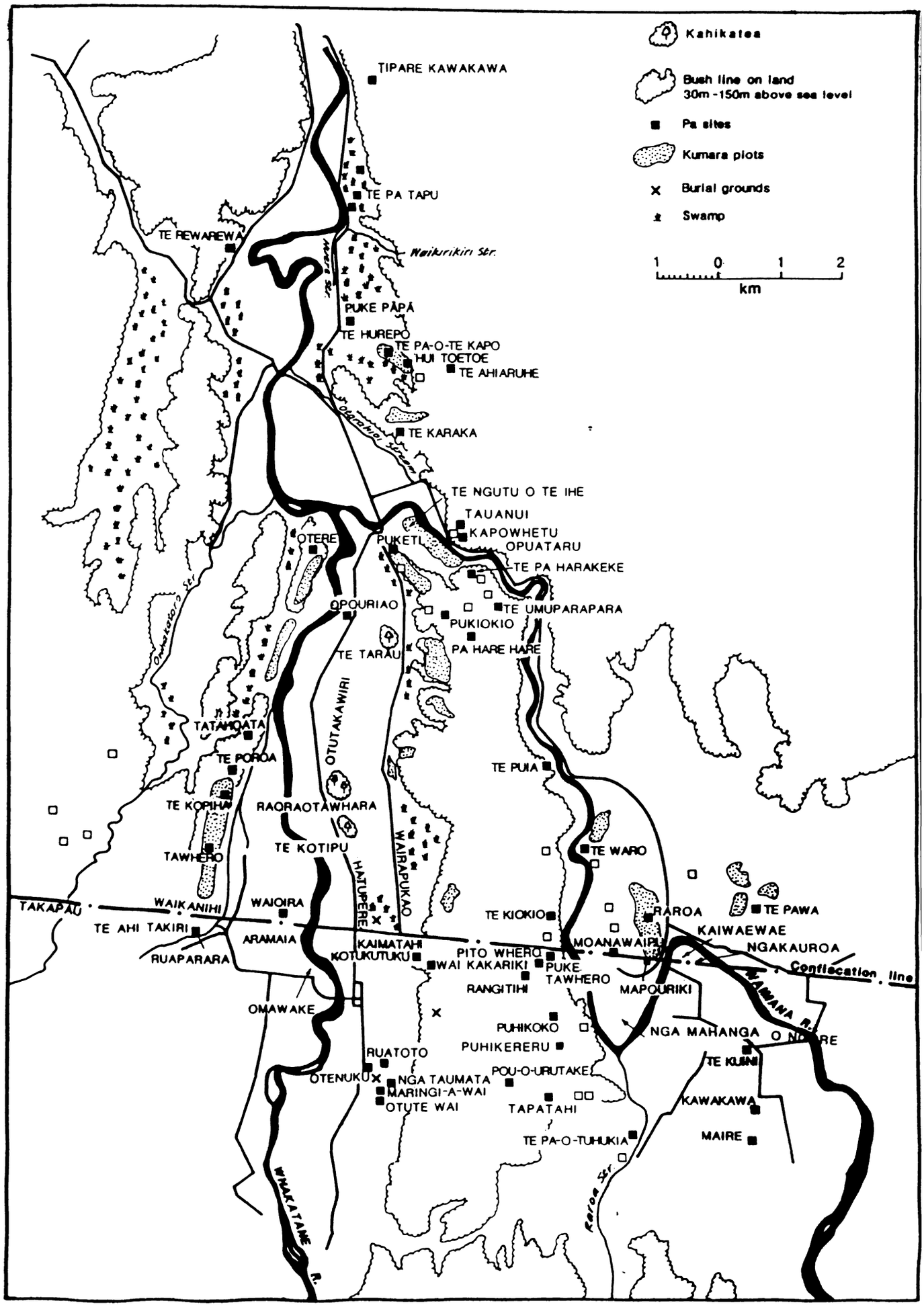
At the time Tūhoe claims were made before the Compensation Court (and indeed subsequently through to 1927), the Government did not acknowledge Tūhoe claims to Ōpouriao and other lands within the confiscated district. However, this could well have been due to the inability, or to their lack of experience in Pākehā ways, to articulate their claims.

Tūhoe mana was established over Ōwhakatoro and Kiwinui to the west, and Ōpouriao and Waimana to the east. It is a principle of conquest or **take raupatu** that, in order to have a legitimate claim to such territory, there must also be occupation. Tūhoe claim to have permitted Ngāti Awa and Ngāti Pūkeko use of certain areas of timber for canoes and houses and for cultivations. There are references in minutes of hearings of the first and second Urewera Commissions where a number of witnesses and claimants state that this was a common occurrence based on kinship historical ties. The overriding principle is that the mana **whenua** was never relinquished over Ōpouriao by Tūhoe despite usage by Ngāti Awa and Ngāti Pūkeko. The pā occupied by Tūhoe from 1823 till 1867 were in and around Ōpouriao, either on an **ahi kā** or **ahi mahana** basis, were:

Pā	Hapū
Puketī	Ngāti Koura
Pāharehare	Ngāti Huri/Ngāti Rongo
Pū Kiokio	Ngāi Tauranga
Ōtere	Ngāi Te Kapo
Hūrepo	Ngāi Te Kapo/Ngāti Rongo
Te Kiokio	Māhurehure
Tātāhoata	Ngāti Tāwhaki
Waioira	Ngāti Tāwhaki/Te Whānau Pani
Ōpouriao	Ngāti Koura/Te Māhurehure
Rangitihi	Ngāti Rongo
Ōtarahioi	Ngāti Muriwai
Te Pou-o-Urutake	Ngāti Kareke/Tamakaimoana
Te Kōpiha	Māhurehure
Te Karaka	Ngāi Te Kapo
Pāharehare	Te Urewera/Māhurehure
Rangitihi	Ngāti Rongo
Te Tawhero	Māhurehure
Māpouriki	Māhurehure
Waikākariki	Māhurehure

The statement of tribal affiliation, "Nā Toi raua ko Pōtiki te whenua, nā Tūhoe te mana me te rangatiratanga" did not apply to the lands of Ōpouriao or Rūātoki alone, but to all lands that came to be recognised as the territory of Tūhoe.

Map showing Tūhoe settlements, plantations and burial grounds in Ōpouriao, Rūātoki and Waimana North



Sources Hasdon Hast M L. 1005, M.L. 6873, N.Z. Historic Places Trust 1984

Footnotes to Chapter One

1 A pepeha is a saying about a particular tribe by the people of that tribal group. The pepeha used here provides a prescription for establishing Tūhoe's ancestral claims, rights of conquest and occupation, as well as tribal mana over those lands of Ōpouriao, Ōwhakatoro, Waimana and Rūātoki, which is the focus of this study. Mana is used here to mean established claims which have withstood the brunt of numerous attacks over successive generations. This definition has been taken from Tamarau's Manuscript, p. 109.

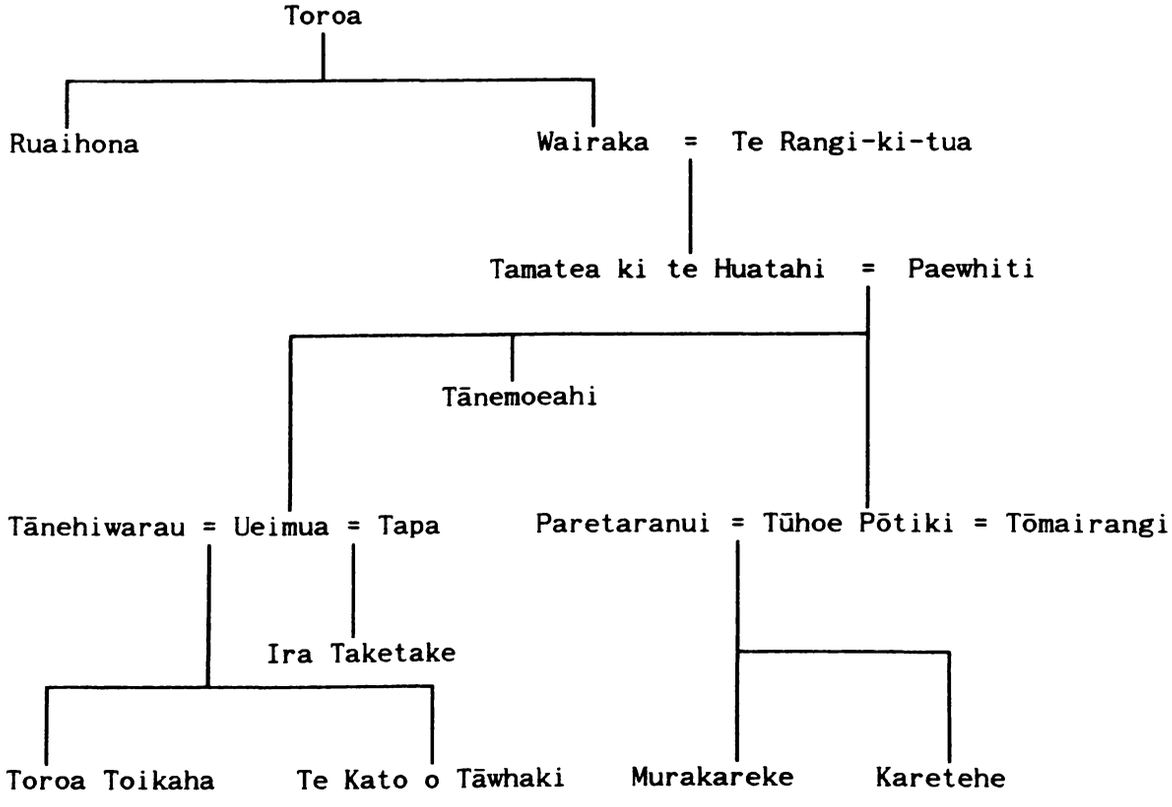
2 Best, E., 1972: p.21.

3 Best, E., 1972: p. 17. The area mentioned above has been occupied by Ngā Pōtiki and subsequent branches of the same group with kinship connections which extend beyond the boundaries, but have specific land rights within.
For the individual history of Ngā Pōtiki subtribes, see Best, 1972: pp. 26-61.

4 Best, E., 1972: pp. 62-63.

5 Best, E., 1972: p. 59. Lands and Survey Publication 1983: p. 19.

6 Whakapapa Table No. 1 showing descent of Te Tokotoru a Paewhiti (the three warriors of Paewhiti) and their children. (See Tables Nos. 1, 7, 27 Best, 1972: vol. 2, for wider relationships with Te Tini o Toi, Hapūoneone, Tūhoe, Ngāti Awa tribes and subtribes.)



7 Mead, H.M. 1982: pp. 32-45.

8 Other accounts suggest that Tamatea and Paewhiti moved to Ōwhakatoro before their children were born and lived at a pā called Hukikōherehere. When all three sons had grown up, Tamatea divided the lands of Ōwhakatoro amongst them. It was then that Tūhoe and Tānemoeahi built their pā. After Tamatea's death, Ueimua remained at his father's pā, but renamed it Kākātarahae (Tamarau's Manuscript pp. 32, 47-48, 118, 137-138).

9 Best, E., 1972: pp. 244-245.

10 O.S. Taua McClean, Rotorua, March 1985.

11 The old name for Waimana River was Tauranga. While it is preferable to use the traditional name, it is omitted here only to remove unnecessary confusion.

12 Best, E., 1972: pp. 100-111.

13 Best, E., 1972: pp. 108-109.

14 J.P.S. Vol. VI, p. 179; Vol. XII, p. 53.

15 Best, E., 1972: pp. 66-78.

16 Whakapapa Table No. 2 showing the origins of Te Kareke, Ngāti Raka and Ngai Tākiri. (See Table No. 31, Best, E., Vol. 2 for fuller reference.)

(1) Tūranga piki toi
Nukutere
Uru ki mai
Te Pūtaanga
Tauke
(2) Raka
Tama awa
Awa parāoa
Hine umu
(3) Tākiri = Kura Rutunga = Awahau
Tamaruarangi
(4) Rangitumai
Tara ki Tuaki

(1) Founder of Ngai Tūranga
(2) Raka, founder of Ngāti Raka
(3) Tākiri, founder of Ngai Tākiri
(4) Founder of Ngāti Kareke

17 Refer to Whakapapa above.

18 Refer to Map No. 1.

19 Tamarau's MS: p. 3.

20 Tamarau's MS: p. 35.

21 Best, E., 1972: pp. 322-323.

22 Best, E., 1972: pp. 333-337.

23 Tamarau's MS: pp. 88-89.

24 Best, E., 1972: p. 350.

25 Tamarau's MS: pp. 101-103.

26 Best, E., 1972: p. 349.

27 Tamarau's MS: p. 35.

28 Best, E., 1972: pp. 361, 362.

29 Best, E., 1972: p. 530.

30 Best, E., 1972: p. 336.

31 Smith, P., 1910: pp. 311-314.

32 Best, E., 1972: p. 530.

33 Smith, P., 1910: p. 315.

34 Tamarau's MS: p. 96.

35 M.L.C.M.B. WHK. No. 4a, pp. 186, 203, 208.

36 M.L.C.M.B. WHK. No. 4a, p. 186.

37 Tamarau's MS: pp. 35-39.

38 Tamarau's MS: p. 102.

CHAPTER TWO

COLONISATION TO CONFISCATION

... Whakakake e te ture i te kiinga o te waha, nō runga rawa koe, nō te mana o Kuīni e tū nei ...	You, the law, state that you are supreme, as you come from the highest, from the Queen herself ...

The history of Ōwhakatoro, Ōpouriao and Rūātoki, set out in Chapter One, exemplifies aspects of the traditional process of taking and holding land and establishing claims to it. The coming of the Pākehā and the establishment of the British rule of law - "sovereignty" - brought with it another culture and other ways of acquiring land. Tūhoe elder, Mr Kūpai McGarvey, related this process to the Tūhoe situation in the following manner:

> First there was Pōtiki, Toi and Hape. They claimed the land and held it. Then came the canoe Mataatua and its people. They tilled the earth, and made laws for the benefit of and to ensure the survival of all the people. Then the Pākehā came to settle, they forced our people off the land and claimed it for themselves.[1]

The first stage of transition in the history of settlement in Aotearoa outlined above by Kūpai, has been elaborated on in Chapter One. The second stage of settlement, that of the Pākehā, is the subject of this chapter.

From the outset, Chapter Two will endeavour to establish the ramifications of colonisation and confiscation. Effort will be made to follow up these various ramifications and to trace whence they came from and where they lead to.

Colonisation and confiscation were directly linked in this manner; colonisation created the legal pretext for confiscation. This provided the legal means to meet the Pākehā demands for land for settlement and other purposes.

Underlying the process of European colonisation of Aotearoa, was the aim ultimately to absorb or assimilate the Māori into the European knowledge of the true God, civilisation and government. Christianity, commerce and colonisation were confidently expected to bring about what Europeans in the nineteenth century called the "amalgamation of the two races - Māori and Pākehā". In Aotearoa, the civilising mission began in earnest with the arrival of the founder of the Anglican Mission, the Rev. Samuel Marsden. He came with a clear-cut plan to appoint three mechanics - a carpenter, a blacksmith and a twine spinner, since nothing in his opinion, could pave the way for the introduction of the gospel but civilisation, which could be accomplished amongst the "heathens" only by the arts.[2]

Marsden's priorities were reversed in the mid-1820s, under the leadership of Henry Williams. With his brother William Williams' knowledge of Māori language, they concentrated on Christian instruction and conversion as a prelude to civilisation. Within the span of about 10 years, the bulk of the Māori population had become professing Christians, the religion of Anglo-Saxon civilisation.[3]

There was no doubt in the mind of Mr Henry Fitzgerald, a Member of the House of Representatives, that it was the contributions of the missionaries that civilised the Māori and laid the foundations for the empire. To measure the magnitude of the missionaries' success, he pointed to the way in which the missionaries had removed the greatest obstacles to national and political union, i.e. superstition and religious belief. The removal of this stumbling block cleared the path for the statesmen.[4]

Indeed, the future of the civilising mission in New Zealand in the later nineteenth century came to rest more in the hands of the colonists, who continued to work through to the twentieth century. On 6 August 1862, Mr H. Fitzgerald rose in the House of Representatives to move the following resolutions:

1. That in the adoption of any policy or the passing of any laws affecting the native race this House will keep before it as its highest object, the entire amalgamation to all Her Majesty's subjects in New Zealand into one united people.

2. That this House will assent to no laws which do not recognise the right of all Her Majesty's subjects of whatever race within the colony, to a full and equal enjoyment of civil and political privileges.[5]

The adoption of the first resolution by the House formalised earlier European recipes for coexistence of the Māori and Pākehā. It indicated the commitment to the amalgamation of the two races and a more deliberate and systematic attempt to civilise the Māori by means of colonisation. The second resolution was consistent with the objective of previous Governments in bringing the Māori and their property within the scope of English civil and criminal law. The justification for these resolutions was that they should provide an opportunity to unite Māori destiny with that of the Pākehā. These two resolutions were seen by Mr Fitzgerald as providing the key to the desire of the Māori for nationality and law and order. If it had been provided before, he claimed, there would never have been a Māori King. He went on to suggest that if the Māori were to accept nationality, they should accept British nationality, for it was "a far higher and nobler nationality than any that the Māori could create for themselves".[6]

The intended application of British laws was to instil the abstract majesty of the law to which all must bow "from the Queen on her throne to the beggar in the streets".[7] The same principle of equality was said to be inherent in the application of English law to Māori land; to legitimise Māori land titles within the eyes of the law. Until this was done, Māori land title could not be said to exist.[8] Besides, Mr H. Fitzgerald was optimistic that Māori titles would change of their own accord because the whole mind of the Māori as to the meaning of ownership had been changing. "In time", he said, "Māori land title will accommodate itself to the English ideas of ownership. When this is

understood, there will be more land thrown into the market than there will be Europeans to buy."[9]

When the ideals of the British colonising mission are matched against the lamentable process of colonisation, they can be seen to provide altruistic reasons for ethnocentric motives. An examination of the intentions and deeds of the European colonists from this perspective indicates other characteristics of the colonisers. It is difficult to accept that the colonists, as a body, or as individuals, would have emigrated from Britain with the sole object of benefitting the Māori and not to improving their own position. While it may have appeared that the agents of civilisation - trader, missionaries and colonists acted in concord, there were, in fact, predictable conflicts. The roots of these conflicts can be attributed to the selfish interests of certain commercial and professional classes who sought private advantages out of the colonisation process and used it to protect their own economic, political and social privileges.

Ruatara, one of the earliest associates of Rev. S. Marsden and the missionaries, came to hold doubts about their intentions. Before his death in 1819, he expressed his view that the Māori would be deprived of their land. He saw that as soon as the missionaries gained a footing, the military would come and take the country for themselves.[10] These suspicions were not unfounded. In Marsden's letters to Rev. J. Pratt and Commissioner John Thomas Begge, he suggested the great advantages Britain could derive from New Zealand, without the cost of setting up a colony, but also advised posting a military force "in case it should be deemed expedient to give encouragement to the colonisation of New Zealand".[11] Lieut-Colonel Edward Nicols of the Royal Marines, in his letter written in 1823 to Earl Bathurst, Secretary of State for the Colonial Department, stated he was in favour of establishing New Zealand as a military colony. The plans he proposed outlined the size of the

force that would be needed, and the type of assistance that would be required for their settlement in New Zealand. Such a proposal, in his view, would set up a thriving colony founded on military principles and discipline.[12]

Clearly the intentions and deeds of the agents of civilisation demonstrate their failure to stand by their declared principles and humanitarianism in the face of commercial and political interests. As colonisation progressed, the interests of the various European groups converged on Māori land and the maintenance of Pākehā institutions to consolidate their own economic and political supremacy.

The desire of the Europeans for more land and the commencement of the war by the Governor in 1860, justified the fears which Ruatara had had so long ago. While the colonists deemed it necessary to use the language of the humanitarians to explain their policies, it was very doubtful that such reasoning would have been intelligible to the Māori for they appeared simply to clash with their existing and acknowledged rights to the land inherited from their ancestors.

Land had become the focus of economic and political confrontation between Māori and Pākehā. The rivalry that developed over land was also a contest for mana, and authority over the land and the people it sustained. Above all there was the question of whose authority, whose law was to prevail. Obviously the deadlock demanded more satisfactory arrangements for the future' conduct of the Government with respect to the Māori population. The use of the military in Taranaki and Waikato made it apparent that force, rather than conciliation, was to become the solution to for the settlement of the differences between the two races.

It was only a matter of time before military options were used by the colonists as an instrument of subjection to establish permanent European authority throughout the land and as an implement to extract the advantages to be gained from New Zealand. Such proposals had

already been suggested in 1823 by Marsden and Lieut-Colonel Nicols. War was seen from the common European perspective to lead to long-term advantages for the colonists. War would bring glory, promotion and plunder.

The outbreak of the war in Taranaki and Waikato announced the transition of one stage of colonisation into another. Colonisation had entered into a phase of collective action on a new scale. Government came to express the will of only the British inhabitants of these islands. It was hardly coincidental, for example, that legislation to individualise Māori land titles and to confiscate the land in Taranaki and Waikato was passed soon after the settlers took responsibility for Māori affairs in the early 1860s.

Military measures were adopted to deny the right of chiefs, such as Wiremu Kingi, as trustee for tribal lands, to veto the sale by an individual of a piece of land. They were also used to enforce the transfer of the ownership of Māori land where legislative and purchasing methods failed. The forceful acquisition of Māori land was also considered by provincial authorities and the Government as necessary to alter the depressed state of regional development in 1860 and to get quick returns to repay overseas loans for extensive provincial public work schemes.[13] Two Auckland businessmen, Mr Frederick Whitaker, who became Premier, and Mr Thomas Russell, who was Defence Minister, seized upon Governor Grey's confiscation proposals and inflated them into massive confiscation on an economic rather than punitive basis. Their vigorous war policy gave rise to accusations that they were also motivated by self-interest.[14]

The missionaries looked eagerly to the Government for the subjugation of those elements within Taranaki and Waikato districts which frustrated their progress in the Christianising mission of the established European churches.

There was the question of whose authority and law was to prevail. War was loudly acclaimed by the settlers in Taranaki and elsewhere as a decisive step by the Government to assert sovereignty throughout the land. The subjugation of the rebellious elements in Taranaki and Waikato led to other measures, not only to secure the enforcement of colonial law, but also to inflict punishment on these tribes and to deter other tribes from rebelling. In order to do this, several acts were passed to authorise the confiscation of land from "rebel" tribes for European settlements and to punish "either by death ... or to arrest and detain in custody, all persons engaged or concerned in rebellion or suspected thereof".[15] In addition, military settlements were set up on confiscated lands to deter further Māori hostilities and encourage permanent European settlement.

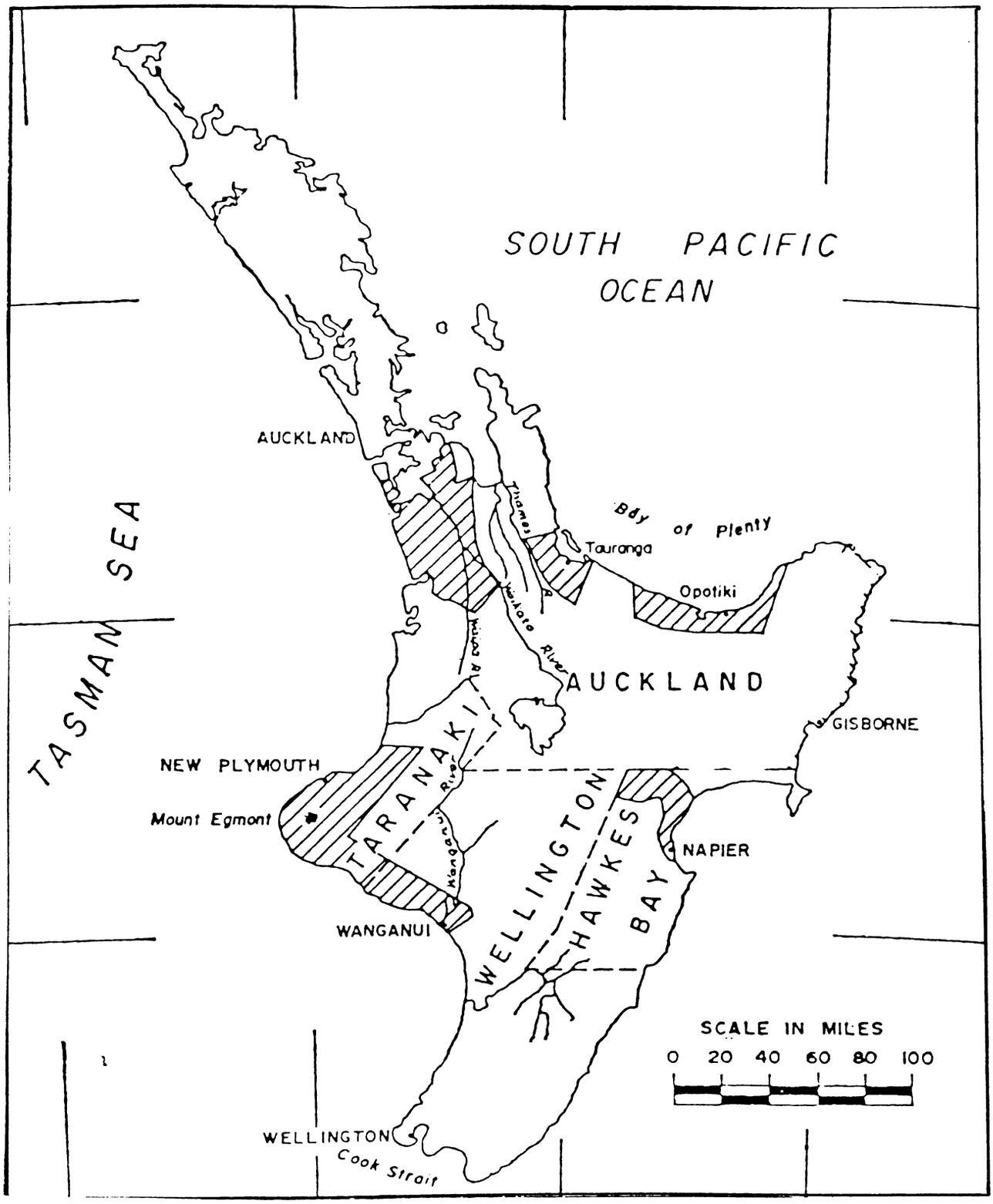
Confiscation in Taranaki and Waikato prepared the way for further confiscation in other districts. Confiscation was not merely a result of rebellion of part of the Māori population against the Queen's authority. To arrive at an understanding of confiscation and the justification for it, it is necessary to refer to the circumstances and process of christianity, civilisation and colonisation in achieving political, economic and social unity of the two races under European control.

The promotion of civilisation and its benefits for the Māori emerged out of an European assessment of their calling and duty in the civilisation, enlightenment and government of the world. Commerce, christianity and colonisation acted together "to spread civilisation to the Māori like a benevolent infection".[16] Māori progress in agriculture raised the assessment of the European of their capacity for civilisation. This brought forth the admiration of some settlers and also the envy of others. But in resisting European seizure of their lands, they were labelled as "rebels" and suffered the confiscation of

their lands. The confiscation of "rebel" Māori land was considered just and necessary by Premier Domett in 1863, to force them into civilisation since peaceful methods had failed.[17]

It was against this backdrop that the Imperial Government in Aotearoa claimed the right to confiscate Māori land by a series of acts and proclamations beginning with the New Zealand Settlements Act of 1863. This act provided the legal authority for confiscation of land if all, or some, of any tribe rebelled against the Queen's authority, and for paying those who were not rebels compensation either in land or money. The Governor-in-Council could not only confiscate districts within the lands of tribes in rebellion under the provisions of the 1863 Act, but could also define and vary the boundaries of such districts as he thought fit. Between 1863 and 1866, lands in Taranaki, Waikato, Tauranga, Northern Hawkes Bay and Bay of Plenty districts were confiscated under the provisions of the New Zealand Settlements Act. A total of 3,490,106 acres (1,412,998ha) was confiscated.[18]

Map showing confiscated areas 1864-1867

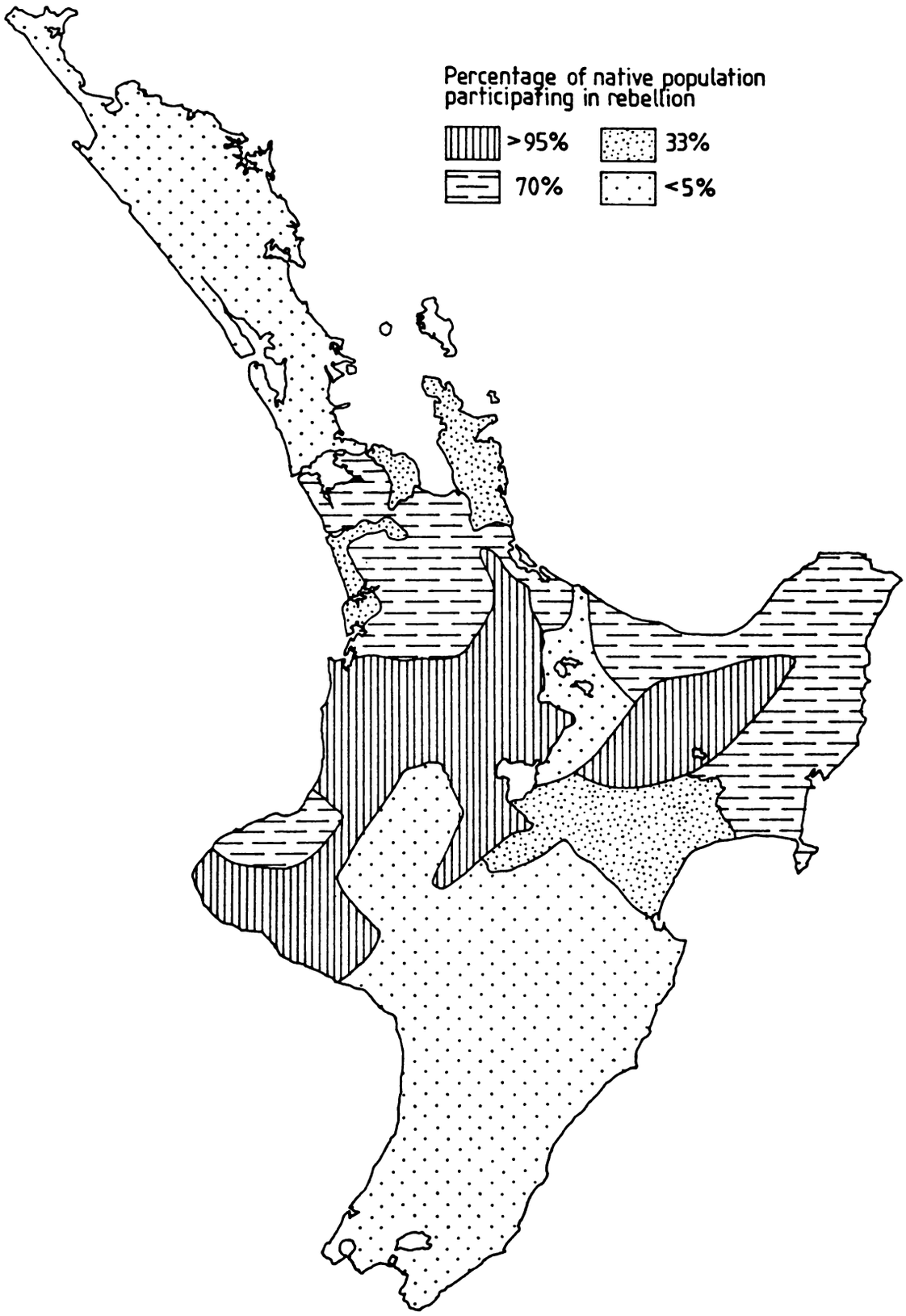


Source: Dalton, B.J., 1983.

The issues of colonisation and confiscation had their roots deeply embedded in the past. The social, economic and political aims of these policies were to bring the Māori and their property within the scope of European religion, law, education - in short - civilisation. Underlying this principle, however, were the clear intentions on the part of the agents of colonisation, to acquire more wealth in land, and the use of their institutions to consolidate their own economic and political supremacy. Land, and authority over it, and the people it sustained, became the focus of economic and political confrontation between Māori and Pākehā. The question was, whose authority? And whose law was to prevail? One cannot ignore the racism of the Pākehā towards the Māori, and the way this shaped European actions and statements of the times. Clearly, these were aimed at the protection of white life and white property from Māori savagery and barbarism, and at the assertion of white supremacy. Armed with superior weapons of war and measures of law to cover every move, the Colonial Government thrust deeper into the heartland of Māoridom. Spurred on by the advocates of confiscation, the war spread from Taranaki, to Waikato, to Tauranga and the Bay of Plenty.

To examine the circumstances which led to the imposition of confiscation by the Colonial Government, one has also to identify and explain the conditions that produced the outbreak of Māori rebellion. It is obvious that two quite distinctive and opposing perspectives exist on the history of race relations and contact in New Zealand. To say that confiscation was due to the rebellion of part of the Māori population against the Queen's authority, is one perspective. The perspective advocated here is that "rebellion" should be seen as the reactions of a group of people who used force in their political struggle for survival. They mobilised to counteract the effects of domination and exploitation. It was not the Queen's authority which was at the core of Māori resentment, but rather the excessive violence and punishments committed under the guise of the Queen's authority.

Map showing approximate percentage of Māori participation in rebellion



Footnotes to Chapter Two

1 Recorded at Rūātoki "Wānanga-ā-Tūhoe", 25/10/1970.

2 Havard-Williams, P., 1961: p. 15.

3 Sorrenson, M.P.K., N.Z.J.H. Vol. 9 No. 2: p. 101.

4 Sorrenson, M.P.K., N.Z.J.H. Vol. 9 No. 2: pp. 13-14.

5 Fitzgerald, H., 1862: pp. 6-7.

6 Fitzgerald, H., 1862: p. 22.

7 Fitzgerald, H., 1862: p. 25.

8 Fitzgerald, H., 1862: p. 26.

9 Fitzgerald, H., 1862: p. 28.

10 McNab, R. (ed), 1908: p. 405. 405.

11 McNab, R. (ed), 1908: pp. 483, 595.

12 McNab, R. (ed), 1908: pp. 598-607.

13 Gardner, W.J., 1981: p. 65.

14 Gardner, W.J., 1981: p. 65.

15 N.Z. Statutes, 1863: p. 16.

16 Sorrenson, M.P.K., N.Z.J.H. Vol. 9 No. 2: p. 105.

17 Sorrenson, M.P.K., N.Z.J.H. Vol. 9 No. 2: p. 105.

18 Dalton, B.J., 1967: p. 181.

CHAPTER THREE

STORM CLOUDS OF WAR

E kore au e hoki i te waewae tūtukia engari mā te ūpoko pakaru.

While I breathe, I will fight.
(Te Maitaranui of Maungapōhatu)

Before leaving the process of colonisation dealt with in the previous chapter, it should be said that the Māori did not fail to perceive the weakness of their position compared with that of their Pākehā rivals. Officers of the Crown, settlers and ministers of religion were all anxious to hasten the transfer of Māori land into Pākehā hands. Māori came to learn that they would neither retain the efficiency of their own authority systems and laws, nor could they participate in the benefits enjoyed by the settlers as British subjects. These anxieties were expressed in many ways. The creation of a Māori King, for example, provided an outlet for a united attempt to retain their lands for the wellbeing of the Māori race, and for the maintenance of their independence. By 1860, the Māori began to retreat from the conditioning of colonialism and "civilisation".

The war commenced in Taranaki in 1860, was carried on by the Government into Waikato in 1863, Tauranga in 1864, and then into Eastern Bay of Plenty in 1865. It was the strongest proof to the Māori of Pākehā intentions to acquire more Māori land for settlement and to impose further government controls. These intentions were made more blatant by the confiscations and the setting up of military settlements in those areas engulfed by the storm clouds of war.

In examining the circumstances which led directly to the confiscation of lands in the Bay of Plenty district, this study will pay particular attention to matters relevant to Tūhoe. The Tauranga case has been well argued by E. Stokes,[1] K. Sorrenson,[2] and Whakatōhea's case by A. Lyall[3]. The Ngāti Awa and Ngāti Pūkeko of Whakatāne interests are currently under investigation by their own tribal scholars.

Tūhoe lands were included in the confiscations of 1866 because of the people's involvement in the defence of Ōrakau at Waikato in 1864 and in the events which followed; the deaths of Rev. C. Volkner at Ōpotiki on 2 March 1865, and of Mr James Fulloon at Whakatāne on 17 July 1865; and their participation in the resistance by Ōpotiki and Whakatāne tribes to the armed forces sent to capture the alleged killers of Rev. Volkner and Mr Fulloon.[4]

There can be no denying that Tūhoe were involved in the defence of Ōrakau. This fact is well preserved in the songs of Tūhoe performed regularly on their own marae, or when visiting or welcoming Waikato people. Indeed, Elsdon Best devotes 13 pages in his history of the Tūhoe people to the Ōrakau incident.[5] Tūhoe could not ignore the plight of Waikato, nor could they turn their backs on the genealogical and historical links they shared.

In Chapter One it was noted that Tūhoe, the ancestor, travelled to Waikato. He married a woman from Ngāti Te Ata and eventually settled and died at Kāwhia. It is believed that his bones were interred in an underwater cavern known as Muriwhenua at Kāwhia.

In his study of King Pōtatau, Dr Pei Jones records an account of how peace was made between Tūkorehu, who was leading an army of Waikato and Ngāti Maniapoto through Te Whāiti, and Te Purewa, a chieftain warrior of great renown of Tūhoe. This peace came about after neither of the two leaders could not defeat the other in an epic dual in which they were engaged. Peace was secured with an embrace and exchange of **mere**, as well as words declaring an undying friendship. This peace-making, as Dr Pei Jones records, had far-reaching effects, for in later years it was the reason for Tūhoe coming to assist the people of Tūkorehu and Rewi Maniapoto in their memorable stand at Ōrakau.[6]

Interaction became more regular and further relationships were cemented in a wider social, economic and political alliance. The famous Tūhoe landmark, the sacred mountain, Maungapōhatu, was pledged as a perpetual covenant of allegiance to King Pōtatau Te Wherowhero in 1858.[7] This action was taken at Pukawa on the shores of Lake Taupo where nearly all tribes were represented. There Te Heuheu, leader of Ngāti Tūwharetoa, had a flagstaff erected. Beneath this flag he had long ropes of plaited flax attached to the pole. The flagstaff symbolised Tongariro, sacred mountain of Ngāti Tūwharetoa people. As each tribe's chief came forward, he was given a plaited flax, which he then tied to a stake, driving it into the ground to indicate his allegiance to the King Movement. Tūhoe was but one of approximately 37 tribes whose chiefs gave their allegiance at that meeting.

Through all these encounters, a network of reciprocal and mutual obligations was built up and became traditional knowledge, passed on from one generation to the next. The transmission of kinship associations and bilateral agreements was reinforced through existing community codes of reciprocal behaviour for its members. **Whānaungatanga** expresses the caring and sharing within close kin groups which also extend into relationships with other groups. People who accepted gifts from others had to be mindful of the principle of reciprocity. Those who did not give in return could cause a loss of mana for the individual, the **whānau**, the hapū and the leading chiefs. Such a situation could not be tolerated in Māori society. The stigma of being mean or "forgetful", was too difficult to bear for any Māori. The shame cast on the group could remain with the descendants for many, many years. The maintenance of group prestige and mana was a serious matter. These existing historical associations and pledges exerted forces which could not be ignored.

Notices from Waikato which reached Te Urewera tribes took the form of passionate and persuasive compositions proclaiming the need to fight injustices and to ward off the threat of annihilation.

Tēnei ka noho rau maharatanga ake I te ruru au e ruru ake nei Ka whanawhana runga i te kare tai	I sit with thoughts perplexed by the enclosing storm clouds of war charging over pounding seas.
E hoa tūtaia atu te kohi te pūtao mai Papātangi. Pātaia atu te kōrero o Kāwana E hau mai nei	Friends take heed of the deeds of plunder at Papātangi. Can we not even question the proclamation of the Governor which affect us?
Tōtoke rawa te whenua	Now the land lies cold (deserted)
Kei te muri kei te tonga. Kei Waitara te pūtake o te kino Ko te pūtake i huri ai aku hoa ki te mate. Me hopu koe Waitara, ki taku ringa Me tātua pūpara ki taku hope He whakakoi, he whakahau e Kāwana Kua tipa tere koe i te ao atea ...	to the north and to the south. Waitara is the source of strife and now the cause of all my friends' sufferings. Waitara, let me grasp you in my palm and then clasp you with my cartridge belt. To affirm my stance to the Governor to make haste his departure by this morning ...[8]

The military operations in Taranaki and Waikato confirmed Tūhoe suspicions of government plans to force tribes into submission and forcibly take their lands from them. Fearing they would be the next victims of European aggression, Tūhoe sub-tribes held a meeting at Ruatāhuna to discuss the war in Waikato. At the meeting two proposals emerged. Piripi Te Heuheu proposed that a war party of Tūhoe should march north and assist Waikato in fighting Pākehā soldiers at Ōrakau. He said, "Tūhoe, listen to my word. The land is in anguish. I propose that Tūhoe here assemble to greet the land, that the men may be in advance, while the land lies behind."[9]

Another chief, Te Ahoaho, rose and said, "My idea is this, give heed to it Tūhoe, Tāwharautia a Mataatua!" Here Te Ahoaho alluded to Tūhoe's tribal lands as the ancestral canoe, Mātaatua, which brought the ancestors across the Pacific Ocean. He objected to going afar to fight,

and wished to see the tribes stay home to protect their lands if attacked. While the resolution that Mātaatua should be protected was supported, the sympathy for the troubles at Waikato also drew support.[10]

The details of the battle at Ōrakau are not relevant to this thesis. But when Tūhoe survivors arrived at Ruatāhuna, they were met by the widows of those killed at Ōrakau. There was no hero's welcome for the return of this war party. To the bitterness and tragedy of defeat, was added the insults of the widows.

I hoki mai koe	You return
E te Whenuanui ki te aha?	Whenuanui, for what reason?
Te mate atu ai i te	Better had you die
Unuhanga o te Puhi o Mataatua	When the pride of Mataatua fell
Ka mahora ki te riu o Waikato	Shattered in the valley of Waikato

The Commission investigating the Bay of Plenty confiscation in 1928 noted that, while Tūhoe took part in the Waikato war in 1864 and assisted in the defence of Ōrakau, they were pardoned by the proclamation of 2 September 1865, which declared that the war which commenced at Ōākura was at an end and that the Governor would not take any more land on account of that war.[11]

What then of Tūhoe's imputed involvement in the killing of Rev. C. Volkner and Mr J. Fulloon? Or, indeed, their participation in resisting the expeditionary forces sent into the Bay of Plenty to capture their alleged killers? News of the Rev. Volkner's killing spread quickly, sending shock waves throughout the country. Official correspondence and reports portrayed in gruesome detail the cannibalistic rituals of the killing. Evident in this correspondence was panic about the spread of barbaric Hauhau fanaticism among tribes in that area. The killing of Volkner confirmed all the worst fears of the white settlers. Their fear was fueled by inflammatory reports that claimed the **Pai Mārire**[12] Movement had become dangerous and that it was essential for the peace of the colony to put it down with a strong hand.[13]

Other accounts portray the founder of the new faith, for most part, as half or wholly crazy; the followers as a body of fanatics determined to wipe out every European, and who had been driven back to the "anarchy and savagery from which the missionaries had saved them".[14]
The implications from these earlier reports were that not only had Hauhau fanaticism resulted in Volkner's death, but also that such outrages were the inevitable result of the movement.

Renewed attention to the Volkner incident by historian Mr Paul Clark, challenges earlier interpretations that it was an act of savage fanatics. Adverse local circumstances contributed more to inflame the anxieties of otherwise contented Whakatōhea than the sudden arrival of Pātara, Kereopa and their group. Whakatōhea were divided over the war in Waikato and Tauranga, and those who attempted to join the war against Pākehā forces suffered defeat by Te Arawa and their Pākehā allies. The outbreak of disease in mid-1864 devastated large numbers from their ranks. By January 1865, 200 out of 600-700 had died.[15] Added to the distress of disease and fighting was the decline of trade and food production in the area. Volkner in 1864 recorded how the people were weakened by war, ill-clothed and almost without food.[16] Times were already desperate when Pātara and Kereopa reached Whakatāne and Ōpotiki. As Mr P. Clark suggests, the arrival of Pātara and Kereopa at Ōpotiki acted as a catalyst on Whakatōhea's attitudes at a time of considerable hardship.[17] The rhetoric of the Pai Marire in speech-making and prayer identified and linked the groups who covertly threatened Māori society, i.e., the ministers of the church, the soldiers and the surveyors of their lands.

Local confidence in Volkner was eroded by Kereopa's verbal attacks and accusations that the plight of Whakatōhea could be directly attributed to the deceit of ministers of the church.[18] Whakatōhea's disenchantment with Volkner and his activities in their area arose from the mounting evidence against him as a government spy. Local animosity towards the minister was first expressed by the ransacking and auctioning of his property while he was away. The second expression of their indignation took the form of a letter warning Volkner not to return to Ōpotiki.[19] In the context of the situation in Ōpotiki, the untimely reappearance of Volkner was bound to precipitate action. Confronted by his own letters giving information to the soldiers, Rev. Volkner was hanged as a traitor for conniving in the betrayal of the people who had adopted him as one of their own.[20]

While the level of local dissatisfaction with Volkner may suggest that he would have been killed anyway, the presence of Pai Marire, in particular, Kereopa Te Rau, helped to precipitate the decision to hang him. It is mere conjecture to imagine what might have happened if Kereopa had not endorsed Whakatōhea's decision to kill Rev. Volkner. The fact that he did so, against the objections of Pātara and the rest of the Taranaki party, provided religious sanction and justification for local initiative to kill Volkner. Having been rebuffed, Pātara and his party left without Kereopa for another **kāinga** and were not present at the hanging.

The killing of Volkner was not merely a cold-blooded murder of an innocent missionary. Nor was it proof of the "savage and evil" nature of Pai Marire. It arose from complex local issues and Māori knowledge of his activities as a Government spy. Hastily conceived reportings of Pai Marire involvement in the Volkner incident, suggested that its rhetoric and rituals had in them something treasonable and criminal, as well as having the character of unlawful conspiracy. It became

politically expedient for the government to use such acts as justification to set in motion measures for immediate retribution against those responsible.

As if in anticipation of indiscriminate Government vengeance, Ngāti Awa chiefs were quick to forward letters to Government officials condemning the killing of Volkner and disassociating themselves from the crime, which they pointed out was committed by Whakatōhea of Ōpotiki and those present from Taranaki.[21] Subsequent letters from Ngāti Awa restated their innocence and made clear to Government that they would remain neutral should soldiers be despatched to capture the killers of Volkner. However, they said that such a force should not pass through Ngāti Awa lands, but proceed directly to Ōpotiki by sea.[22]

What then of Tūhoe? Throughout the large collection of material relating to the killing of Volkner[23], there was only one reference to Tūhoe. Their involvement was implied in a letter sent to Government officials in Auckland dated 6 March 1865, which outlined the crimes committed by Volkner against Māori people as reasons for his crucifixion.[24] The letter was signed by a committee claiming to represent tribal groups of Whakatōhea, Ngāti Awa, Taranaki and Te Urewera. Te Urewera, of course, includes Tūhoe. There is nothing to show how the committee was appointed, or who was present at the drafting of the letter. No Tūhoe presence in Ōpotiki was recorded prior to this letter, or afterwards. Consequently, the committee could not speak on behalf of those tribes they claimed to represent.

Another letter records Te Urewera presence at a meeting held by Ngāti Awa chiefs at Te Horo near Ohiwa, on 17 March 1865.[25] A letter drafted at this meeting restated earlier Ngāti Awa claims that they had nothing to do with the killing of Volkner. They also re-established that the letter was the work of chiefs. As such, they were affirming their authority over their territories, and underlining the fact that

their land should not be trespassed on by Government forces in transit to Ōpotiki to apprehend the killers of Volkner. There is no reason to doubt Te Urewera's presence at this meeting, but it is noticeable that their names did not appear as signatories to the letter.

A few months later in July 1865, the killing of Mr J. Fulloon and two crew members of the trading cutter "Kate" at Whakatāne, cast into further disarray the already volatile situation in the Eastern Bay of Plenty. Although his father was a trader, Mr J. Fulloon inherited kinship ties with Ngāti Awa, Te Urewera and Ngāti Porou through his mother. Among the Bay of Plenty tribes, he was Te Mautaranui after a Mataatua forefather. He was appointed to the staff of the Native Land Purchase Department under Mr Donald McLean. On the outbreak of the Waikato War, he was attached to General D.A. Cameron's staff and in June 1863 made some useful intelligence reports to the Government concerning the attitude of the local tribes towards war.[26] After the killing of Rev. Volkner, Mr Fulloon was sent as interpreter on H.M.S. "Eclipse", which visited Ōpotiki and the surrounding districts, with the intention of apprehending the murderers of Rev. Volkner. The day he met his fate he was reported to have been on board the "Kate" to report on the attitudes of local Māoris at Whakatāne and to endeavour to raise a contingent of loyal Māoris.[27]

Mr Fulloon's activities soon aroused suspicion from kinsfolk and opposition Members of Parliament alike. Mr William Thorne Buckland, M.P. for Raglan, said that there was nothing which could take place in the Native Office without the Māori people as a whole becoming acquainted with it. He said that if any correspondence arrived at the Native Office concerning the state of any district, responses were sent in the Māori language to the Māoris of these districts. Earlier statements by Mr Buckland suggested that it was also well-known along the East Coast that Mr Fulloon was enlisting Māori friends, as soldiers

to put down the Hauhau fanatics and capture the killers of Rev. Volkner.[28] Mr Henry Albert Atkinson, Minister of Defence, harshly denied such allegations and quickly came to the defence of the Government by only admitting that Mr Fulloon's duty was to ascertain the feelings of the natives and immediately report to Wellington.[29]

At home, however, Mr Fulloon had been warned by Mita, a chief of Whakatōhea, not to venture into that area, for he feared for Mr Fulloon's life. Mr Fulloon had laughed at the idea and said, "I am going to my own people and they will not kill me." Apart from the suspicions about him, Mr Fulloon's provocative gestures to a group of Māoris on a passing whaleboat as the cutter **Kate** entered Whakatāne, would have been considered adequate reason for his death. Mr Fulloon had apparently called out to invite them to come aboard and have their heads blown off.[30]

The killing of Mr Fulloon did not cause wide reaction among the New Zealand public as did the killing of Rev. Volkner. According to Mr Buckland, Mr Fulloon's death "was no murder according to the Goverment's acceptance of the word". This was qualified by contending that it was "no more murder than that at Ōākura, in which it had been said that the threat had first been given".[31] By this definition of murder, how does the killing of Volkner stand?

The Commission of 1928 provides an answer. The "murders" of Rev. Volkner and Mr Fulloon were not in themselves acts of rebellion. However, if the natives of Ōpotiki and Whakatāne had not resisted the armed forces sent to capture the murderers, there would not have been any excuse for confiscating their lands.[32]

Did Tūhoe participate in resisting the expeditionary forces sent to capture the killers of Rev. Volkner and Mr Fulloon? It could also be asked if the forces were despatched to the Bay of Plenty for the sole purpose of capturing their killers.

The resolution to use military force in the Bay of Plenty was shaped behind the closed doors of Parliament. Upon receiving correspondence relating to the Volkner incident, Ministers of the Crown were quick to draw up measures which were aimed at, not only at securing the capture of the "fanatic murderers" at Ōpotiki, but also at destroying the whole Pai Marire Movement. They recommended to Governor Grey that he take possession of Warea and the Pai Marire stronghold at Waeroa in Wanganui.[33] However, it became clear that the Government could not despatch a sufficient force from Wanganui to Ōpotiki until certain operations had been completed there.[34] The Government was determined to carry out retribution by force as soon as it found itself in a position to do so.

In following the sequence of operations implemented in Ōpotiki and Matatā, one can observe that more sinister intentions lurked latently behind the attempt to apprehend the killers of Rev. Volkner and Mr Fulloon and bring them to justice. The plans for organising an expedition to Ōpotiki were quite vague as to how the objective could be achieved. As Mr Fred A. Weld, Colonial Secretary, himself stated in outlining Government action, the executive could arrange with the commanding officer to take those measures which might appear most advisable to him, once the occupation of the country (East Coast) had been affected.[35] This, in itself, proposed wider implications than the initial object. It became obvious that the strategy of the expedition was to strike a blow at the "rebellious natives" to crush the opposition to Government which had come to a head in the Ōpotiki district. It was hoped that the despatch of the expeditionary force would bring the war to a decisive end.[36] This last reference suggested that the killing of Rev. Volkner and Mr Fulloon had been set up as a pretext so that the Government could set in motion operations as if a state of war existed. Appropriate action would then be taken to eradicate such a threat. If

any single act was designed to plunge the colony into renewed war, this time, with Whakatōhea, Ngāti Awa and Tūhoe, it was the despatching of an expedition which came suddenly and whose intentions were only made clear by their actions.

Before the despatch of the expeditionary forces to Ōpotiki, there emerged a curious sequence of events which escalated into a war in a district where none existed and where there was not even the threat of one. On 2 September 1865, the Governor issued a Proclamation of Peace, ending the war which had commenced at Ōākura. It outlined the fate of those tribes who had resorted to arms and had then been defeated. Following this was the warning that any disturbance of this peace by tribes would evoke "severe chastisement". It had been impressed upon the people the hopelessness of resistance to the law, and pardons were issued for those tribes who had taken up arms in past incidents. For the alleged associates of the murderers of Rev. Volkner and Mr Fulloon, there was no such release unless they, the perpetrators of the crime, were given up to an expedition to be sent to Ōpotiki. If not, lands of the tribes who concealed these murderers would be seized for military settlement and compensation for the widows and relatives of Rev. Volkner and Mr Fulloon.[37]

If the intentions of the Government, in issuing the Proclamation of Peace, were to bring about peaceful feeling between Māori and Pākehā, or to bring a political conclusion to the war, then they failed miserably from the start. The wording paid little heed to the circumstances which led to the killing of Rev. Volkner or Mr Fulloon. Nor did it make a distinction between single persons who might have done wrong, and of whole tribes, or sub-tribes. The text, in fact, could have only succeeded in rekindling animosities between the two races by reminding Māoridom of European superiority through their suffering of defeats, and the injustices of confiscation. Technical details as to the time and

duration of the amnesty were overlooked. So was the procedure as to how the Proclamation of Peace should be answered, and by whom. The question of distribution and delivery of the Proclamation to all concerned needs careful examination. The state of communications in the Bay of Plenty was such that mail to these places was by sea only. It was not until the arrival of the Waikato soldier-settlers at Ōpotiki on 27 November 1866, that some form of regular land communication existed.[38] Even if it had been previously in existence, a blockade on Ōpotiki and Whakatāne ports by Pai Marire prevented the landing of ships, except at great risk to life and property.

It is thus doubtful if any knowledge of the Governor's Peace Proclamation ever reached Ōpotiki or Whakatāne. It was only two days later on 4 September that a proclamation enforcing martial law throughout the districts of Ōpotiki and Whakatāne, was issued. In essence, it merely heralded the inevitable employment of an expedition to capture the killers of Rev. Volkner and Mr Fulloon. There is no intention here to dwell on the details of the landing of the expedition at Ōpotiki on 8 September, except to observe that what actually took place on landing was not consistent with, nor appropriate to, the stated objectives for the expedition which were to apprehend the killers of Volkner and Fulloon and to bring them to justice. The arrival of the expedition only six days after the issuing of the Proclamation of Peace, and only four days after the Proclamation of Martial Law, casts serious doubts on the Government's desire to promote peace in the country. One can only postulate that the Proclamation of Peace was designed as a safeguard against possible criticism of subsequent Government action, and that the Government hoped it would be acknowledged that it had shown some mercy to a beaten foe.

At about the same time that the expeditionary forces landed at Ōpotiki, the Colonial and Te Arawa forces, under Major William G. Mair, at Matatā and Te Pō, had succeeded in destroying Māori houses, plantations and food stores in those areas. They had captured many prisoners, among whom were the alleged killers of Rev. Volkner and Mr Fulloon. Kereopa, however, remained at large. The rapid success of the Colonial Forces and the "friendly natives" against the "authors" of the disturbances upon the East Coast, prompted Mr Edward Cardwell, Colonial Secretary, to join Governor Grey's praises of the "gallantry, skill and value of the services thus rendered to the cause of order".[39] Lands around Matatā became occupied by Ngāti Rangitihi, sections of Tūhourangi and Ngāti Tarāwhai of Te Arawa, in return for services rendered to the Colonial Forces. Ōpotiki was occupied by colonial forces after the surrender of most of the Whakatōhea subtribes. For those that did not give in, liberty had more to offer than unconditional surrender to Colonial Forces.[40]

With a land base secured in Ōpotiki, expeditions were sent out to capture Kereopa and other unsurrendered members of Whakatōhea who were alleged to have escaped into the rugged heartland of Waioeka and Te Urewera. Lieut-Colonel J.H.H. St John, Commander of the 1st Waikato Militia in Ōpotiki, was vivid in his description of the state of the district and the Māori people who inhabited it.

> Vengeance was taken; an expedition of colonial forces was sent to attack the murdering tribe; and, after losing heavily in men, the Whakatōhea were driven off their ancestral patrimony, which was given over to the military colonists ...
>
> The whole of this district, from Whakatāne southwards, was for a long time vexed and plagued with uncomfortable neighbours. The mountains of the interior were inhabited by the fierce Uriwera (sic), a tribe thoroughly hostile to Europeans ... it was their common practice to descend to the coast down one of the gorges, shoot or burn, then disappear as rapidly as they had come.[41]

However vivid Lieut-Colonel St John's descriptions might be, they are largely exaggerated and one-sided. Not all of Whakatōhea were driven from their lands. Some withdrew into the hinterlands of Waioeka to seek security from military action. It is true that certain numbers of subtribal members refused reconciliation with the Pākehā forces who had invaded their lands. However, the number of Māori in Whakatōhea who did not surrender could hardly be looked upon as a threat, as can be shown by the following information based on Mr John Alexander Wilson's census return of Whakatōhea hapū.[42] Of the 80 members of Ngāti Rua, 22 did not surrender. This number was made up of 16 males, 5 females and 1 child. Of the 85 of Ngāti Ngāhere, 22 did not surrender. Of these, 8 were males, 7 females and 7 children. Of the 120 Ngāti Tamahana, 15 did not surrender; 7 males, 7 females and 1 child. Ngāti Ira showed a more united resentment to the military presence in Ōpotiki. Of 88 members, 53 did not surrender; 20 males, 19 females and 14 children. A total force of 51 males could hardly be a match for a European force of 300-500 soldiers with rifles and cannons. However, the previous remarks by Lieut-Colonel St John typified the military outlook of the times.

Much of the official view of the confiscated district, especially of areas towards the interior, was based on such reports. Indeed, the concerned and anxious tone of the reports on the existence of "unsurrendered rebels" within the Waioeka Gorge and Urewera could have been a deliberate ploy to justify the despatching of punitive expeditions against "rebel" outposts up the Waioeka and Waimana Rivers.

Tūhoe were already seen as a potential threat to the stability of European settlement, well in advance of any direct hostile action that certain Tūhoe hapū might take as a result of the invasion of Matatā, Te Teko and Ōpotiki. Indeed, Tūhoe did not appear to have assisted any of its neighbours in defending their territories. Te Makarini, in his evidence before the Compensation Court in 1867, maintained that he, with

other Tūhoe, remained in Ōpouriao when the Government expeditionary forces landed at Matatā and Ōpotiki in 1865, nor was there any attempt at general mobilisation of Tūhoe forces.[43]

While Tūhoe remained isolated within their mountainous heartland, they did not remain ignorant of the forces changing the contours of the Māori landscape as they knew it. Nor did they escape the indiscriminate attacks of punitive expeditions sent into Te Urewera under the pretence of capturing Kereopa. In November 1865, a Tūhoe pā, Te Kuini at Waimana, was attacked without warning. The expeditionary force was not under any threat. The attack was made at night while all the occupants were asleep. The absence of a look-out indicates that Te Kuini was not a fortified pā but an undefended kāinga. One occupant was mortally wounded, while the remaining 19 scattered into the safety of the bush.[44] The name, Te Kuini (The Queen), suggests that the occupants at the time were loyalists. What sympathy those Tūhoe had for the Queen was shattered. It should therefore come as no surprise that one of the survivors became Te Kooti's leading tactician against government expeditionary forces into Te Urewera in 1868. He was Maraki Te Whiu. The attack on Te Kuini and later military excursions into Waimana forced Tūhoe warriors, under Tamaikōhā, to resort to arms. They were convinced that their destruction had been pre-determined. Their only hope of safety lay in their courage and strength to resist armed forces sent to dispossess them of their lands and homes.

By December 1865, the alleged killers of Rev. Volkner and Mr Fulloon had either been killed, or imprisoned in Mt Eden. Except for the fact that Kereopa was still at large, the expeditions to Ōpotiki and Whakatāne districts had succeeded in the suspension of local disturbances. The military was now in a position to guard against the possible resurgence of such disturbances.

Not satisfied with the capture of Rev. Volkner and Mr Fulloon's killers, many Ministers of the Crown considered it necessary to resort to means by which the resistance could be checked. They feared that the restlessness might persist and disturb the peace of the colony.[45]

In spite of encircling clouds of war around the territories at Tauranga, Whakatāne and Ōpotiki, Tūhoe adhered strongly to the plea, "Kia Tāwharautia a Mataatua" - shelter Mataatua. Their adherence to this stance probably explains why there is no evidence of their presence in Ōpotiki and Whakatāne prior to, or soon after, the killing of Rev. Volkner and Mr Fulloon.

Against this background came an Order-in-Council proclaiming all the lands in the Bay of Plenty district be confiscated on 17 January 1866. Was the Government justified in confiscating Tūhoe lands? As implied in the 1928 Commission report, Tūhoe lands were confiscated because of their alleged participation in the resistance by Ōpotiki and Whakatāne tribes of the armed forces sent to capture the killers of Rev. Volkner and Mr Fulloon. Tūhoe representations to Government since 1866 have consistently maintained their innocence in the face of earlier accusations, and indignation at imposed guilt and blame. This chapter presents Tūhoe perspectives of the events which led directly to the imposition of the New Zealand Settlements Act in 1866.

There were European critics and opponents of confiscation but little heed was paid to them. Among those opposed was the Duke of Newcastle, then Secretary of State for the Colonies. Although he did not disapprove of confiscation, he nonetheless condemned its being carried out on a very large scale, as this would have convinced the Māori people that land-grabbing was the true motive behind it.[46] In a debate in the Legislative Council on 16 November 1863, Dr Donald Pollen, Member of the House of Representatives, declared that the whole policy of confiscation was politically immoral and utterly delusive and unsound

as a financial project.[47] Mr E. Cardwell, who succeeded the Duke of Newcastle, criticised the New Zealand Settlements Act because it enabled the Government to seize any lands necessary for settlement purposes, without any consideration of whom the owners were. He pointed out that no distinction was drawn between the leaders of rebellion and those whom they had coerced into joining them. The procedure, by which actual confiscation might be effected, could be secret, and yet there was no opportunity for appeal. The conditions and scale of compensation were strictly limited and there were no limits to the punishment that might be meted out.[48]

Outside the walls of the General Assembly, other individuals denounced confiscation in no uncertain terms. Prominent among them was Mr J.E. Gorst who, despite his unceremonious eviction from Waikato by the Kīngitanga, never allowed malice to cloud his reason. He wrote:

> The colonists are to take the land of those tribes who have, as they termed it, rebelled, divide part among military settlers who are to protect the colonists in their peaceful money-making vocations; sell part to future immigrants to repay the cost of the war, and to restore part as farms for the conquered Natives who, it is hoped, will suddenly turn into quiet agriculturalists and live at peace with the Pakeha intruders. The effect of this scheme would be to exterminate the Natives, upon false pretences, at the cost of the British Government, and for the benefit of the colonists.[49]

The Commander-in-Chief of the Colonial Forces, Lieut-General D.A. Cameron, added his protest. in his view the Government was deliberately keeping the war alive in order to gain the right to confiscate still more Māori land. He refused to accept Governor Grey's explanation that the war was a defensive one, or that its object was to punish tribes throughout New Zealand, but to give the colonists security by establishing military settlements in areas where there was danger of rebellion. Lieut-General Cameron felt that the war was entirely aggressive and aimed solely at the occupation and confiscation of Māori land. He followed the conviction of his words and resigned his post.[50]

The New Zealand Settlements Act obviously had many shortcomings. Despite these, however, it was to be no temporary measure, but rather it was to become a permanent part of the law of the land. Mr W.F. Monk summed up the act in the following manner:

> Its lack of definition, its absolute subjection of the Natives to the mercy of the whites, and the fact that it was open to much abuse.[51]

The year, 1866, brought new pressures and changes to Tūhoe, which forced them to put into action defensive techniques to maintain their mana, rangatiratanga and survival as an independent tribal community.

Footnotes to Chapter Three

1 Stokes, E., 1978: Te Raupatu o Tauranga.

2 Sorrenson, M.K.P. (unpublished paper). "The Tauranga Confiscation."

3 Lyall, A., 1979: Whakatohea of Opotiki.

4 AJHR 1928 G-1: pp. 20-21.

5 Best, E., 1972: pp. 566-578.

6 Jones, P., 1949: pp. 94-95.

7 Jones, P., 1949: p. 94.

8 Source, J.W. Milroy.

9 Best, E., 1972: p. 566.

10 Best, E., 1972: pp. 567-568.

11 AJHR 1928 G-7: p. 20.

12 Pai Marire were the teachings of the Prophet Te Ua Haumene meaning the "good and peaceful" creed.

13 AJHR 1869 A-10: p. 20.

14 Miller, H., 1966: p. 121.

15 Clark, P., 1975: p. 33.

16 Clark, P., 1975: p. 33.

17 Clark, P., 1975: p. 40.

18 Clark, P., 1975: p. 40.

19 W.H.S.J. 1965: Sept-Dec., p. 113.

20 Grace, M.S., 1899: p. 151.

21 AJHR 1865 E-5: p. 5.

22 AJHR 1865 E-5: p. 7.

23 AJHR 1865 E-5: pp. 4-19.

24 AJHR 1865 E-5: p. 9.

25 AJHR 1865 E-5: p.15 (another letter indicated that 300 people were present at this meeting - AJHR 1865 E-5: p. 5).

26 Lawn, C.A., 1980: p. 12.

27 Parliamentary Debates, 27 September 1866-1867: p. 610.

28 Parliamentary Debates, 27 September 1866-1867: p. 611.

29 Parliamentary Debates, 27 September 1866-1867: p. 611.

30 Parliamentary Debates, 27 September 1866-1867: p. 611.

31 Parliamentary Debates, 27 September 1866-1867: p. 611.

32 AJHR 1928 G-7: p. 20.

33 AJHR 1865 A-1: pp. 12-13.

34 Parliamentary Debates, 27 September 1866-1867: p. 611.

35 Parliamentary Debates, 27 September 1866-1867: p. 312.

36 Parliamentary Debates, 27 September 1866-1867: p. 312.

37 AJHR 1866 A-9.

38 W.H.S.J. Vol. VI, No.4, 1958: p. 125.

39 AJHR 1866, A-1: p. 25.

40 Lyall, A.C., 1979: p. 163.

41 St John, 1877: p. 156.

42 OCF L. & S. Dept. These challenge Cowan's figures Vol.2: p. 110.

43 OCF L. & S. Dept.

44 Cowan, J., 1923: p. 112.

45 Parliamentary Debates, 26 July 1866: p. 816.

46 Harrop, A.J., 1937: p. 200.

47 Harrop, A.J., 1937: p. 201.

48 AJHR 1864 E-2: p. 20.

49 Gorst, J.E., 1959: p. 394.

50 Holt, E., 1962: p. 225.

51 Harrop, A.J., 1937: p. 253.

CHAPTER FOUR

THE IMPLEMENTATION OF CONFISCATION IN THE BAY OF PLENTY DISTRICT

Peke anō mai Te Kāwana ki te kohi i te roi a Tūhoe, hai roi mō tana whenua ...

The Governor has taken away the lands and livelihood of Tūhoe and with much generosity has granted it to others ...

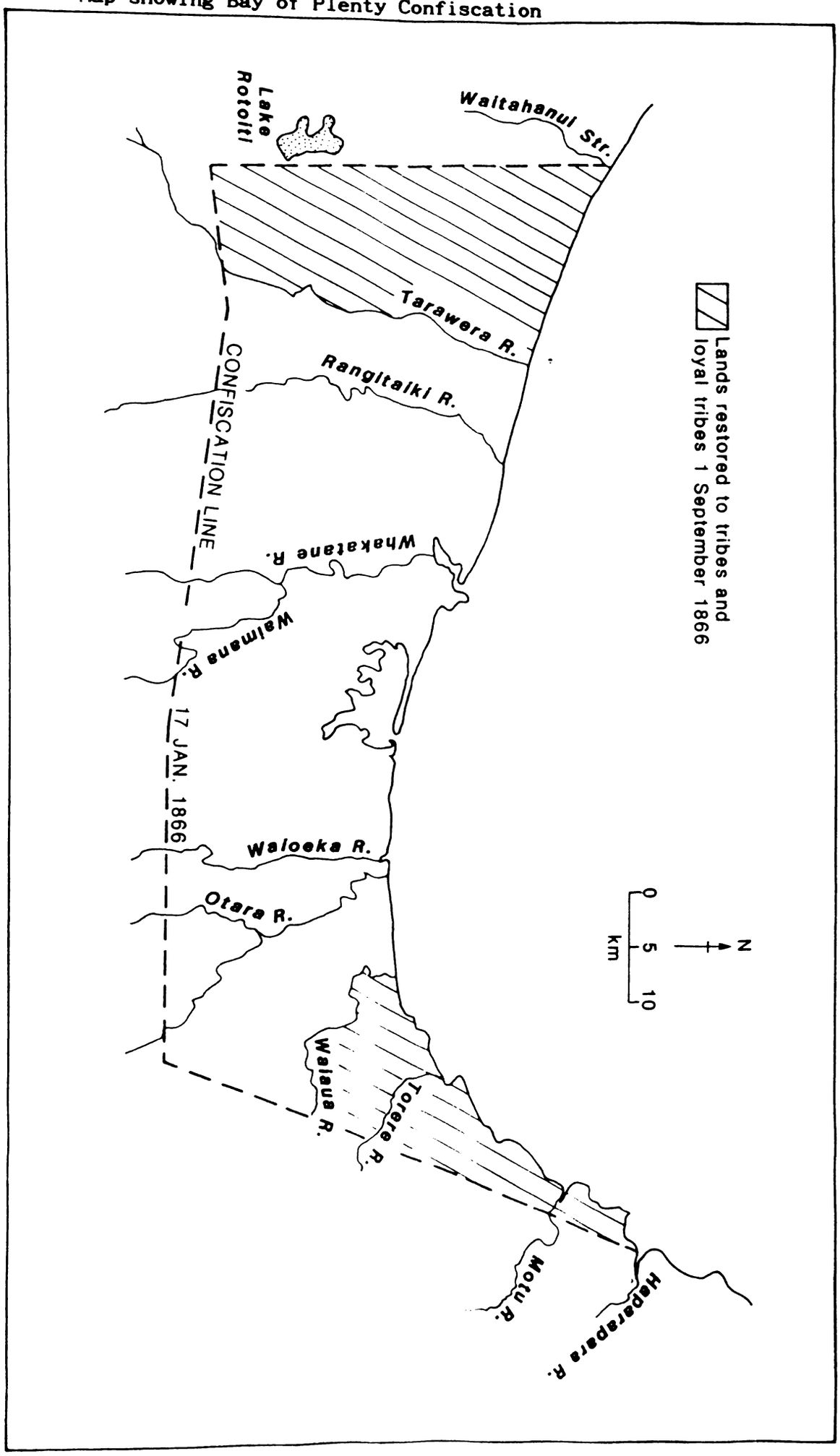
Between 1866 and 1871, Tūhoe's mana and rangatiratanga were directly challenged by the Government's administrative procedures and military operations designed to secure lands within the confiscated district of the Bay of Plenty, and to subdue the "rebellious" Tūhoe. This chapter examines the development and the eventual spread of those policies.

By an Order-in-Council dated 17 January 1866, lands designated the Bay of Plenty district, were confiscated to the Crown under the New Zealand Settlements Act 1863. The schedule to the Order-in-Council outlined the total land affected.[1]

> All that land bounded by a line commencing at the mouth of the Waitahanui River, Bay of Plenty, and running due south to the Tarawera River: thence by a line to the summit of Putanaki (Mount Edgecombe): thence by a straight line in an easterly direction to the confluence of the Rivers Tauwhare and Ohiwa: thence by a line running due east for twenty-five miles: thence by a line to the mouth of the Aparapara River in the Bay of Plenty.[2]
> **Note:** **Putanaki** and **Aparapara** are typographical errors for **Pūtauaki**, the mountain, and **Hāparapara**, which is a river north-east of the Motu River in Te WHānau-ā-Apanui.

There does not appear to be an agreement among official sources as to the exact amount of land that was confiscated in the Bay of Plenty district as declared by the Order-in-Council. The total area ranges from 440,000[3] to 448,000 acres[4], while Mr W. Stafford, in replying to a reference to the Bay of Plenty confiscation in the House, simply alluded to the area of confiscation as being in the vicinity of 400,000 to 500,000 acres.[5] The total area that has been generally accepted by historians for the Bay of Plenty confiscation is 440,000 acres.[6]

Map showing Bay of Plenty Confiscation



This is but one example of the inconsistency and discrepancy which appeared in official records of that time. The lack of documentation and the complexities of the situation make it impossible to accurately assess the total area confiscated. The Colony lacked any overall control survey by triangulation. Most of the surveys were isolated or uncoordinated.[7] This could well explain why the records on the locations and estimated acres within the confiscated district, left much to be desired.

Within the confiscated district, Tūhoe authorities cited traditional boundaries to the lands under their mana and occupation at the time of confiscation. These have been maintained by Tūhoe in their schools of learning; the most recent use was when Kūpai McGarvey gave younger Tūhoe tribal members an explanation of the boundary names and urged them to retain these until the issue of Puketī and Ōpouriao had been resolved. The school was held during Labour Weekend 1971 and the recitation given on 23 October of that year. The boundaries read as follows:

Te Pukenui-o-raho
Tārua-mauku
Te Waiputa-ā-tawa
Te Wai-ā-te-atua
Te Tūturitanga o Rangipāroro
Ngā Pī-o-werewere
Te Taumata-o-Hākōpūrakau
Waipahihi
kia puta ki te ngutu awa o Waiotahe
to emerge at the river mouth of Waiotahe

Te Karihi-potae
ka huri ki te rā tō, ka haere i te ākau
turning to the setting sun along the coast

Te Kōhai-o-Tama-puta-ana
Wainui-tohorā
Te Ana-kai-ā-rara
Waikaria tū ranga-o-Tairongo
Ōhiwa
Ihukatia
Te Parinui-o-te-Pukenui-o-Tao
Te Horonga-o-Ngai-Te-Hapū-Paparinga-tohorā
Te Puke-i-ahua
Marae-Tōtara

ka whiti ki te tonga
turning south

Mokorua
ka whiti ki te hauāuru, ka piki, ka eke ki
turning west to ascend to

Tūtūmānuka
Te Taumata-pātītī o Tama-ā-mutu
kia taka iho ki
descending into

Te Tāpapatanga o Hineauripo
Ōhine-te-raraku
Tāhunaroa
ka whati ki te tonga
turning south to

Taumata o Takeretō
raua ko
and

Mumuhau
kia whakawhiti i te awa o Whakatāne, kia hāngai ki
crossing the Whakatāne River directly in line with

Te Puaha-o-Kahu
ka haere i roto o
journey within

Tauwhare-pukatea-tawa
ka piki, ka eke ki
then climbing to reach the summit of

Tūpakihiwi
ka heke, ka tatū ki te awa o te
descending until reaching the river of

Waioho
whakawhiti, ū atu ki
crossing over to arrive at

Te Puaha-o-Kahu
ka haere i roto o Kahu
passing through Kahu to

Kiwinui
ki te marangai o
continue east of

Tokanui
rere atu i kona
thence direct from there to
Te Ahirarātu
Te Mangaroa
Te Whiti-o-Tū
Te Tiringa-o-te-kupu-ā-Tamarau
Whakairihau
Te Waiariki
Te Awa-o-Rangitāiki

Te Waitapu-o-Tūkarakia
Te Māpou
Te Kupenga-ā-Paewhiti
Takahi-rekereke
Tukuwhāwhā
Tāpapa-te-Āpiti
Awhiorangi
ka huri ki te tai-rāwhiti
then turning east to

Taumata-kaeaea
Tāpapakiekie
Kākātarahae

Te Takapau
te awa o Ōwhakatoro, ka piki i te
to the river of Ōwhakatoro, before climbing to

Ahi-ā-Tākiri-waikānihi
Ruaparapara
ka whakawhiti i te awa o Te Tamāhine-ā-Hinemataroa, whiti mai
across the river of Te Tamāhine-ā-Hinemataroa towards

Kai-matahī
Te Wairapukao
Rangitihi pā
ka heke
descend to

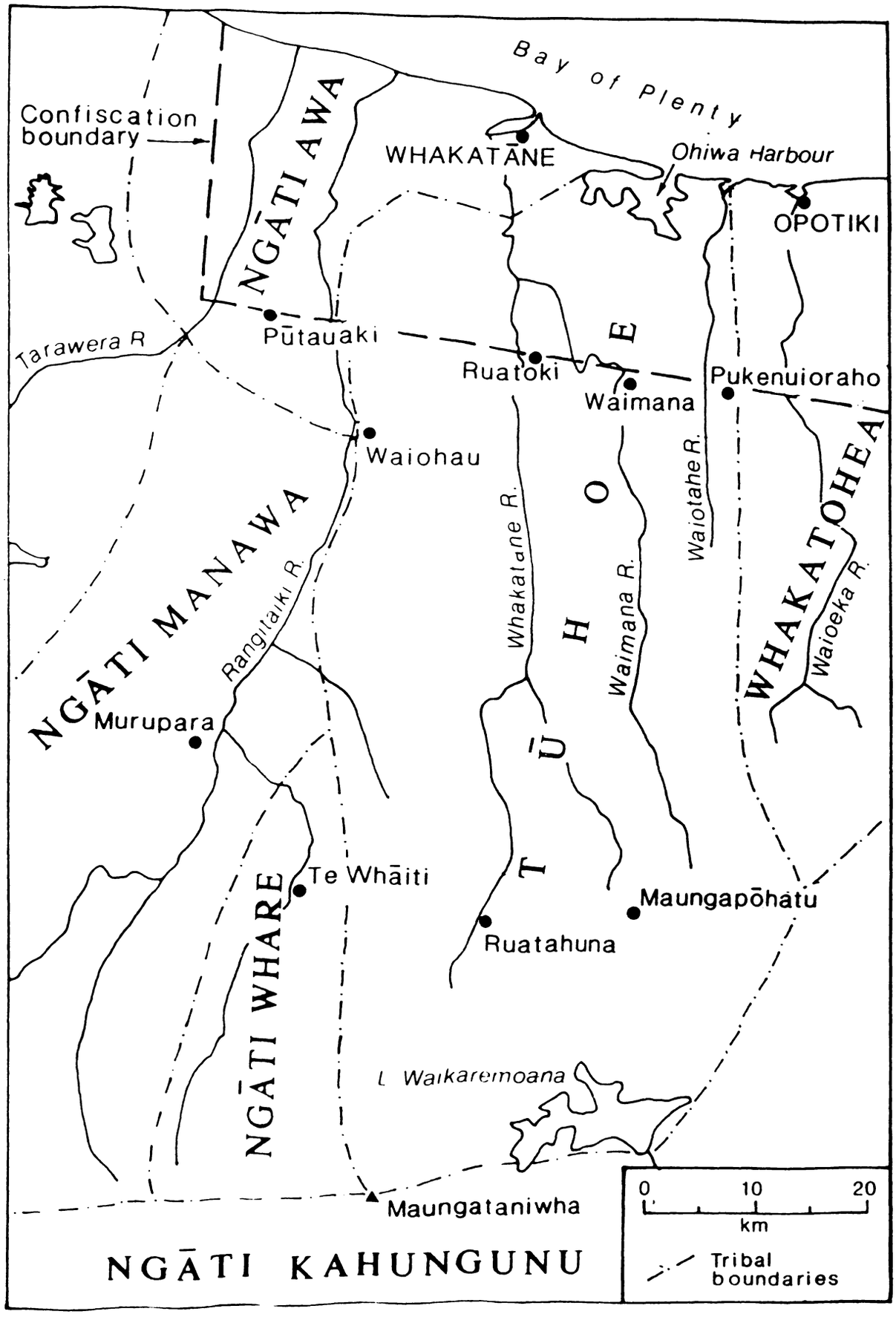
Pito whero
whakawhiti i te awa o Tauranga
across the Tauranga River

Te Moana-waipu
Koukou-matua
Arawhatawhata
Te Pukenui-o-raho
ka kati i konei te rohe o te raupatu
here the boundaries of the confiscated areas meet again

Ko te rohe o te whenua i murua e te Kāwanatanga, arā, ko te rohe raupatu (1866)

This was known as the district of Tūhoe lands contained within the confiscated area proclaimed by the government (1866).[8]

Map showing tribal boundaries in eastern Bay of Plenty pre-confiscation



Tūhoe's claims to the lands outlined above, which were included in the confiscated district, were totally ignored, as will become apparent later.

Tribal boundaries within the confiscated area were also ill-defined and difficult to determine with any degree of accuracy. The areas of tribal lands within the confiscated district were based on Mr Charles Heaphy's Plan.[9] This Plan suggests that tribal lands affected by the Order-in-Council in round figures were as follows: Whakatōhea lost some 144,000; Ngāti Awa about 57,000, and Tūhoe about 15,000 acres. Mr Heaphy's original Plan showed that Tūhoe had 57,344 acres confiscated. However, this was considered a mistake by certain Government observers at the time and was duly amended. Practically all the land shown in the Plan as being confiscated from Tūhoe, was actually given to Ngāti Awa by the Compensation Court.[10] Mr Heaphy's original estimate of Tūhoe's lands within the confiscation district of the Bay of Plenty was closer to Tūhoe's claim. (This Plan is discussed more fully in Chapter Seven.)

The uncertainty which prevailed over the exact location of tribal boundaries created confusion and conflict concerning land claims among some of the tribes concerned. Incidents took place between Ngāti Awa and Whakatōhea over Ōhiwa lands, as well with Te Arawa over lands west of Tarawera river. In addition, among Tūhoe, Ngāti Awa and Ngāti Pūkeko over lands in Ōpouriao and Ōwhakatoro. The issue of tribal boundaries was to become a burning question for the administrators of confiscated lands and tribal groups alike to resolve.

In 1866, customary Māori titles over proclaimed lands were extinguished. This meant that subtribal groups with land interests in the confiscated area were dispossessed of their lands, irrespective of whether or not they were involved in acts of "rebellion" against the Queen's authority. The Crown, under the Settlements Act, could set aside portions of confiscated lands for settlement or dispose of them in

the form of grants or reserves as compensation to "loyal Māori" or "surrendered rebels". Under the Settlements Act, the onus was on the tribes to make representations before the Compensation Court to prove their innocence to gain compensation in land or money.

However, there were more pressing issues that confronted the Government in initiating the terms of the New Zealand Settlements Act. There was the desire that the aggregate area and location of lands forfeited should be known immediately. A commission had to be appointed to decide what lands should be forfeited, keeping in mind the "need for justice and moderation", and the need to ensure that lands of innocent people were "not appropriated without consent" The commission was relied on to guard the Māori from any severity "as it would be the last occasion on which any aboriginal inhabitant of New Zealand would be deprived of land against his will."[11]

A careful review of the above considerations seems to indicate that the authorities, while admitting the principle of confiscation, sought to confine it within prescribed bounds. The question of whether they adhered to these considerations as the process of implementation unfolded, needs to be examined as well.

To initiate the confiscation plans, a Select Committee was set up under the Chairmanship of Mr Crosbie Ward to report on the state of the confiscated lands. The Committee's report pointed to the difficulties in obtaining evidence of a full and reliable character as to the extent of the different districts and blocks of confiscated lands. In other cases, some areas were a matter of estimate, and in all cases the acreage had been arrived at only as an approximation. Mr Ward further admitted that in the Bay of Plenty there was the utmost uncertainty, as the Committee had not been able to obtain any definite evidence regarding areas. The Committee was not aware of any proposal or arrangement that had been completed for the disposal of the lands, as

required under the provisions of the Settlements Act. They understood that they were not required to initiate a plan, and they refrained from assuming the responsibility for doing so.[12]

As the Select Committee was unable to supply accurate information, it was not possible for the Government to remedy the situation, except by abandoning the Order-in-Council altogether. It was only out of expediency that the boundaries, which were incorrectly stated in the schedule of 17 January Order-in-Council, were amended and varied. This was done by re-issuing a new schedule to an Order-in-Council dated 1 September 1866.[13] The new schedule made it easier for surveying purposes. It did little, however, to alleviate the initial problems. Certain territories, in the eastern portion of the confiscated area, which were known to belong to tribal groups not associated with the events which caused the original Order-in-Council of January, were still included. These areas were to be subjected to the disposal procedure of the Compensation Court instead. Government needs for a more accurate return on the total area confiscated could not be realised within the short time desired. Apart from the topography of the lands of the confiscated area, there was a real fear among surveyors about venturing into the inland districts. Although Governor Grey, after his visit to Ōpotiki on 23 March 1866, wrote that the "Hauhau fanatics" were subdued and that tranquillity had been fully established, there was no guarantee for his hope that the existing tranquillity would remain undisturbed.[14] The surveyors probably shared Commissioner Clark's assessment of the state of the district. In his judgment, confiscation could only aggravate the relationship between Māori and Pākehā. He understood that, according to Māori custom, when land was taken by "the blade of a weapon", it was the duty of the original proprietors to regain their strength to retake the land of their ancestors.[15]

It is not known when Tūhoe as a whole came to learn about the confiscation of their lands. From the obvious delays in setting up the administrative procedures of the confiscation, it would appear that some months would have elapsed before Tūhoe realised that their lands had even been confiscated. The Māori translation of the Order-in-Council had only appeared in the **Kahiti** of 7 February 1866.[16] It is doubtful that its circulation reached Tūhoe people. Mr Francis Dart Fenton, the Senior Judge of the Compensation Court, in a letter to the Minister of Native Affairs dated 15 March 1866, indicated that even he had not seen a Māori translation of the Order-in-Council, nor was it circulated.[17]

Even when Tūhoe territories beyond the confiscation line were invaded by punitive expeditionary forces, Tūhoe did not react with an all-out mobilisation. For instance, in March 1866, Lieut-Colonel William Lyon led a force of 150 men up the Waimana Valley towards Kairākau settlement. This became the second expeditionary force to enter Waimana following the Te Kūini incident two months earlier. Unlike Te Kūini, the occupants of Kairākau were alerted and ready to defend their settlement. In spite of their readiness, the attack that came from the expeditionary force was short and swift. Four occupants were killed in the storming of the pā. A considerable quantity of alleged stolen European goods within the village was also confiscated by the expeditionary force.[18] This raid on Kairakau provoked Tamaikoha to unleash his wrath on "loyal Māoris", settlers and soldiers alike. His actions were kindled by a burning desire to avenge his kinsfolk at Kairakau.[19] Not all Tūhoe in the Waimana Valley, or adjoining valley of Rūātoki, joined Tamaikoha on his guerilla campaign. Many were still in favour of a "wait-and-see" policy that was suggested by the behaviour of another chief in Waimana, Te Anania Rakuraku of Ngāi Tūhoe subtribe.[20]

The scheme of operations adopted by the military occupation force at Ōpotiki enjoyed a certain measure of success and for a time secured the safety of the territories for military settlers. On the other hand, these punitive tactics had the effect of hardening the attitudes of certain subtribes in their resolution to strengthen resistance against Pākehā encroachments. The Governor could well have passed on his desires to the constabulary forces at Ōpotiki "to keep in mind the need for justice and moderation".[21]

The operations of the expeditionary forces in Ōpotiki compounded the delays to Government intentions for the immediate return of the aggregate area of lands forfeited under the Order-in-Council of September 1866. In the long term, it was the actions of the military forces which were to impede the administrative process of confiscation.

The Compensation Court was the official channel for confiscation procedures. In setting up this Court, a Crown Agent was appointed to do the fieldwork. Two Commissioners, Lieut-Colonel Lyons and Major Gilbert Mair, were appointed to supervise court proceedings. From the start, questions were raised concerning their appointment, particularly by Mr William Rolleston, the Under-Secretary for Native Affairs. Senior Judge Fenton of the Māori Land Court, supported Mr Rolleston, and suggested that a more experienced judge should be appointed to attend to the proceedings of the Court.[22] Commissioner Clark of Tauranga doubted his own ability to undertake the duties of Crown Agent for the Bay of Plenty district efficiently, though his concerns were more fixed upon the state of affairs in his own district of Tauranga.[23]

The tasks of the Compensation Court were, firstly, to dispose of confiscated lands to military and civilian settlers. Secondly, to process and settle claims for compensation and return tribal lands erroneously included within the confiscated district. Its most time-consuming task was the allocation of lands for the settlement of

dispossessed "surrendered rebels" whose lands were largely or totally within the confiscated district.[24] While the above tasks appear clear-cut, they had to be carried out according to set guidelines. Once Court proceedings began, the duties of the Commissioners and Crown Agent became more difficult to reconcile as new knowledge was gained about the general situation of tribal groups within the Bay of Plenty. In addition, attempts at reconciliation became nullified by military operations. The combination of these emerging factors demanded new considerations to resolve the apparent contradiction in the role of the Compensation Court on one hand and the punitive tasks of the military on the other. In time the tasks of the Compensation Court became less clear-cut and soon proved too onerous for its commissioners and administrative service.

The Compensation Court was not set up until 7 March 1867 and these delays allowed the initial confusion over the aggregate area of land confiscated and the unsurveyed boundaries to remain unchecked. While this state of affairs was to the disadvantage of some tribes affected by the confiscation, other tribes appeared to have taken advantage of the confused state of Government operations. They restaked tribal claims to lands where ancestral claims had been lost through tribal wars in previous centuries, or to lands where ancestral and occupational rights, no matter how remote, were re-established. It became apparent that the Compensation Court and the Crown Agent showed more favour towards "loyal tribes" than "rebel tribes". This was so where "loyal" and "rebel" tribes' claims clashed over particular territories.

The detail and significance of the above will become more apparent with the following comments into the proceedings of the Compensation Court, its Commissioners and Crown Agent. In examining the Commissioners, the study begins with their previous associations with the Māori people within the Bay of Plenty district. Both Major Mair and

Lieut-Colonel Lyons were actively involved in the expeditionary campaign despatched by the Government to engage the "Hauhau" and capture the principal men concerned with the killing of Volkner at Ōpotiki and Fulloon at Whakatāne in 1865.[25]

Major Mair led a force of Te Arawa into Matatā and Te Teko. This force was largely responsible for the defeat of Ngāti Awa and Ngāti Pūkeko subtribes in these districts. While under the control of Major Mair, Te Arawa forces followed up their success by looting houses and other property of the defeated foe. Many members of this force remained behind and occupied the lands around Matatā which were later granted to them by the Compensation Court.[26]

Lieut-Colonel Lyons was part of the expeditionary forces that landed at Ōpotiki in September 1865. In February 1866, Lyons was in charge of the expeditionary forces at Ōpotiki. The punitive expeditions into Waioeka and Waimana were carried out under his orders. On one of his expeditions into Waimana, he raided the pā of Te Anania Rakuraku, who later came before the Court to make claims to Ōhiwa. Lieut-Colonel Lyons, while acting as Judge, ordered Colonel St John to apprehend Te Mākarini and other Tūhoe living at Puketī in Ōpouriao Valley after an unsuccessful claim before the Court. Lieut-Col. Lyons had also enlisted Ngāti Pūkeko members into the constabulary forces to fight against "rebel factions" in Ōpotiki. After taking an oath of allegiance, Ngāti Pūkeko soldiers were made to swear to fight for the Queen. In return for their support, Lieut-Col. Lyons promised Ngāti Pūkeko, that he would have portion of their confiscated land returned to them.[27]

The implication is clearly that this history of contact casts doubt over the impartiality of Major Mair and Lieut-Colonel Lyons in their dealings with the tribes seeking compensation. Their experience had already been questioned by Mr Rolleston and Chief Judge Fenton. Further accusations of favouritism and incompetence were made by Whakatōhea and

Crown Agent Wilson against the Commissioners after an incident at the sitting of the first Compensation Court at Ōpotiki on 13 March 1867. The Ngāti Awa chief, Apanui, and his son, Wēpiha, though labelled as "tangata hara", received a portion of land at Ōhiwa through the Court. This decision was greeted with protests by people present from Ngāti Ira, Ngāi Tama, Ngāti Rua and Ngāti Patu of Whakatōhea. They complained that the judges were partial to Ngāti Awa (Apanui and Wēpiha's tribe). When asked directly by these tribal representatives why Apanui and Wēpiha obtained land from the court when they were not entitled, John Alexander Wilson, Crown Agent, came to the defence of the Commissioners by replying:

> The judge knew his own business best; the Government however was not responsible for the Court's decision, or had anything to do with it further than to accept it or else to appeal from it.[28]

Although "surrendered rebels" were entitled to have land given to them by virtue of the Governor's promise to extend clemency to them, Mr Wilson doubted that the Compensation Court was to be the disposer of a privilege that the Government might well have wished to retain in its own hands. In his own judgment of the case of Apanui, he found nothing in evidence to favour that grant. Mr Wilson wrote to the Honourable F. Whitaker, Agent for the Government, requesting that it intervene to reserve the right of appeal. In addition, was a request for a hearing before a fuller court as the decision was condemned by the Māoris at Ōpotiki. He pointed out that this did much to shake their confidence in the Court, a confidence the Government should desperately preserve.[29] Government intervened and held the Court's decision in abeyance, while an appeal to the Compensation Court to reverse the original grant was pending.[30]

The Compensation Court became involved in a similar case which required careful manoeuvring. It concerned the lands in the western portion of the confiscated district around Matatā. Claims for these

lands were not heard at Ōpotiki and were adjourned as the claimants from Te Arawa were prevented from attending the Court. The "disturbed state of the country" around Ōpotiki was given as the main reason. It would have been more realistic to suspect that the presence of Te Arawa at Ōpotiki would have caused an outbreak of violence. As a result, the next sitting of the Compensation Court to hear Arawa claims was set for Maketu. Mr Wilson raised some interesting opinions concerned with the change of venue. He pointed out that, while Maketu would provide better accommodation and be more convenient for the claimants, it would impose greater cost on the Government to transport Crown witnesses. However, of most interest was his comment that the change of venue would, above all, provide a convenient way to avoid the evidence of the occupiers of the soil, i.e. Ngāti Awa. For whatever reason, Te Arawa claims proceeded at Maketu on 8 July 1867.[31] The court awarded 87,000 acres to Te Arawa subtribes in consideration for the military services rendered by them during the campaigns of 1865. The minutes relating to this hearing did not state whether Ngāti Awa representatives were present at the hearing to contend the Court's ruling. If they were, it did not appear to have affected the final judgment. This decision remains a bitter and painful memory for Ngāti Awa people even to this day, as evident in the latest Ngāti Awa submission to the Government for compensation.[32]

It is worthy of note that the Crown Agent did not intervene to question the Court's decision. If any proceedings of the Court were to "shake the confidence of the Māori people in the court", it was this.[33] Senior Judge Fenton said in respect of the proceedings of the Compensation Court in the Bay of Plenty district:

> ... that I deeply regret having yielded to the pressure put upon me by Mr Whittaker when as Agent for the Government, which caused me to fix a Court for the District of the Bay of Plenty before I saw my way to providing for it the attendance of an experienced Judge.

> The proceedings of the Compensation Court for the District of the Bay of Plenty are the only proceedings that I cannot look back upon with some degree of satisfaction.
>
> In this case, I feel as if I had not the command of the question, and was unable either to understand the past or to guide the future.[34]

Later proceedings of the Compensation Court did not improve and there remained much to be desired. In the interim, the proceedings of the Compensation Court were suspended while Mr Wilson, the Crown Agent, was confronted with the task of furnishing a return showing the manner in which the confiscated lands in the Ōpotiki district had been disposed. In May 1867, the Civil Commissioner of Auckland, Mr James Mackey, set out seven areas for investigation in the confiscated area:

1. The amount of land given to "rebel" natives or awarded to them in compensation at Ōpotiki.
2. The amount returned to "loyal" natives or awarded to them in compensation at Ōpotiki.
3. The amount allocated to military settlers at Ōpotiki.
4. The amount already sold in each locality with the sum realised.
5. The amount still available for sale with its probable value.
6. The payments already made by way of compensation to friendly natives or settlers.
7. The sum expended in surveys, road-making and other works to make the lands accessible.[35]

In his report of 9 June 1867, Mr Wilson returned the following information. In reference to item 1. above, 96,000 acres were "given back" to rebels. This acreage, he admitted, however, had never been given up by them to the Government. Mr Wilson also admitted that the figure was only an estimate and that later surveys had shown that the acreage given back was 58,800. In item 2, Wilson referred to the 87,000 acres given to Te Arawa, for services rendered to the Government, while another 57,000 acres in the eastern portion of the district, were returned as confiscation was not enforced there. Reference was also made to 5,442 acres which were "given back to claimants by award and by

arrangement and abandoned". It is not clear who did the abandoning. Item 3 shows that 151,558 acres were retained by the Government. From this Mr Wilson maintained that all of the military settlers were provided for, which left 75,000 acres for sale. He estimated the value of the rural areas of this land to be £31,750 (item 5). No information was given for item 4 above. For item 6, Mr Wilson included two payments of compensation. The first refers to a sum of £200 with no indication of who received it. The second amount, £150, was paid to E. Fulloon.[36] (This was most probably to Elizabeth Fulloon, the sister of James.) No information was given for item 7.[37]

The state of the report indicates that, for whatever reason, Mr Wilson was unable to fulfil the specific requirement stipulated by Mr Mackey for investigation. Much remained to be done. The figures themselves should be viewed with some suspicion. Mr Wilson admitted a probable surveying error of 5,000 acres. In addition, the "unarranged" 38,000 acres was discovered later to have been grossly under-estimated. The possibility that Mr Wilson merely juggled with figures adding to the 440,000 acres everyone knew had been confiscated, cannot be discounted. There were repeated requests from the House of Representatives for clarification of the disposal of these confiscated lands. There was a subsequent series of returns, dated 1869, 1872, 1874, all different, which attempted to convey the position that existed to the House.[38]

Senior Judge Fenton's unhappy recollections of the proceedings of the Compensation Court, echoed the frustrations experienced by Tūhoe elders in dealing with their claims to Ōpouriao before the Court. It was not foreseen by Tūhoe leaders that their claims to Ōpouriao would be contested by Ngāti Awa and Ngāti Pūkeko. Nor were they aware that their claims for Ōpouriao before the Court at Whakatāne from 9-25 September 1867, were doomed from the start.

The fate of Ōpouriao had already been decided by an arrangement

between Mr Wilson, Crown Agent, and Ngāti Pūkeko at Raupōroa in Whakatāne. This incident will henceforth be referred to as the Raupōroa agreement.

Mr Wilson was appointed Crown Agent on 1 October 1866 as replacement for Commissioner Henry Tacey Clark of Tauranga. As Crown Agent, Mr Wilson was required to arrange meetings with "loyal" and "surrendered rebel" Māoris in Whakatāne and Ōpotiki districts to establish tribal and subtribal lands so lists of owners could be compiled. These lists were to be presented to the Compensation Court for confirmation and then published in the Gazette. The Crown Agent was then responsible for arranging the surveying of the reserves and awards granted by the Compensation Court. These completed schedules of awards were then forwarded to Parliament.[39] Mr Wilson was expected to apply the same principles to the provision of lands for military and civilian settlers within the confiscated district.[40]

According to the terms of his appointment, Mr Wilson arranged a meeting with Ngāti Pūkeko at their pā at Raupōroa in December 1866. Only one other tribal representative was invited to attend, that was Apanui, chief of Ngāti Awa. Here, Mr Wilson arranged that the Government should take all the lands on the eastern side of the Whakatāne River as compensation for the rebellion of the people and that the Māoris should be allowed to retain all those lands on the western side. Government, however, reserved the right to grant awards on the western banks in favour of loyal tribes, Ngāti Pūkeko and Ngāti Awa.[41]

Mr Wilson's proposal was accepted. However, he sought the agreement of Hori Kawakawa of Ngāti Awa who was not present at the Raupōroa meeting. When presented with the proposal, Kawakawa replied:

> But where is hope to live? Where is Ngāti Awa to have a place? There is but little they can claim on the western side of the river.

To which Mr Wilson replied:

> I will give Ōhope to Ngāti Awa and they will live in Ōrini also.

Hori Kawakawa gave his consent to the agreement.[42]

The Raupōroa agreement did not pass without incident. In 1867 the Government copy of the agreement was lost and the arrangements for implementing it were delayed. This delay was to have long-term repercussions which will be considered later. At the time, however, the Raupōroa agreement provided a useful guideline for the Commissioners in disposing of confiscated lands. Even as late as 1875, the Raupōroa agreement provided Government officials with a useful means of bringing about a solution to the resettlement of Ngāti Awa and Ngāti Pūkeko sub-tribes.

The Raupōroa agreement raised several points which need comment. It highlighted discrepancies in the implementation of some aspects of the procedures in the confiscation process. In the first instance, Mr Wilson confined his meetings with tribal groups in the Bay of Plenty to Ngāti Pūkeko and Ngāti Awa. This excluded Tūhoe and Whakatōhea from participating in arrangements which could well have alleviated the growing tension within those tribal groups over the confiscation of their lands. In addition, Mr Wilson's bias in favour of certain tribal groups, must have swayed not only his judgment, but also those of the Commissioners of the Court.

For Tūhoe, the Raupōroa agreement denied them an early opportunity to make representation for their land interest within the confiscated area. Had they been included, they would have been able to express a legal, as well as a strong, moral claim for justice after, in their view, the wrongful confiscation of their lands.

The first Tūhoe claimant for the Ōpouriao lands to appear before the Court was Akuhata Te Hiko of Ngāti Huri or Tamakaimoana hapū of Maungapōhatu. His claim was based on the ancestor, Ueimua (the eldest

brother of "The Tokotoru a Paewhiti"), and rights of conquest. The latter referred to the defeat of Ngāti Raka by Tūhoe in 1822.[43] Present at the Court hearing were Hōhaia, Hori Tūnui and Meihana of Ngāti Pūkeko. They were there in their capacity as Crown witnesses. In their evidence, they strongly denied that Tūhoe had any claim to Ōpouriao. To defend their claim, Ngāti Pūkeko put forward several historical precedents. Firstly, the lands to the east and west of the Whakatāne River, i.e. Te Pōroa and Ōpouriao, were acquired by them when Ngāti Awa and Ngāti Pūkeko defeated Ngāti Kareke at Te Pōroa in 1800.[44] Implicit in this claim was that all other occupants, such as Ngāti Raka and Ngāi Tākiri, were also driven out. Secondly, from the time of the fall of Te Pōroa pā, Ngāti Awa and Ngāti Pūkeko possessed the lands around Te Pōroa and Ōpouriao. Finally, was the assertion that the presence of Tūhoe in Ōpouriao was a result of an arrangement made possible only by the goodwill of Ngāti Pūkeko. This arrangement was to allow Tūhoe easier access to European trade. While Ngāti Pūkeko extended these privileges to Tūhoe, the mana of the lands remained firmly with Ngāti Pūkeko and Ngāti Awa.[45]

Akuhata Te Hiko's claim was dismissed. Following Akuhata was Hoani Takurua of Ngāti Rongo. His claims to Ōpouriao were answered by Ngāti Pūkeko. However, in his evidence, Hōhaia made accusations that all of Ngāti Rongo had been involved in rebellion.[46] Hoani Takurua's case was also dismissed. Te Mākarini, a prominent Tūhoe chief of the time, presented his claim to Ōpouriao through ancestral and occupational rights. He was then living at Puketī, a prominent landmark of Ōpouriao. He claimed he had been living at Ōpouriao well before the Tai Rāwhiti forces attempted to cross Arawa territory to go to the aid of Waikato in January 1864.[47] He was also living at Ōpouriao when the battle of Te Tāpiri occurred in May 1865, and at the landing of the expeditionary forces at Ōpotiki and Matatā in September 1865. Te Mākarini maintained

that his presence at Ōpouriao was not due to any arrangement with Ngāti Awa or Ngāti Pūkeko, but as of right, since those lands were occupied by Tūhoe subtribes after the wars with Ngāti Raka. What the Court could not, or did not, consider, was occupation - **ahi kā roa** (continuous burning fires). If conquerors did not sustain victory with occupation, claims to land would not be recognised.

The Crown witnesses in reply, not only reiterated Ngāti Pūkeko's claims as before, but Hōhaia again pointed an accusing finger at Te Mākarini and said that he had seen him carrying a gun. The implication of this statement was that Te Mākarini was involved in acts of rebellion and the case was dismissed.[48]

These Tūhoe cases raise several points for closer scrutiny. Ngāti Pūkeko and Ngāti Awa had an unfair advantage over Tūhoe where they were contesting claims to the same areas of land. As chief witnesses for the Crown, they were given status and official privilege. Such privileges added official sanctions to their perceptions of history. The Compensation Court could not have dispensed the judiciary principles of impartiality and fairness. With kinsfolk holding such positions as Crown witnesses, other Ngāti Pūkeko and Ngāti Awa claimants were at an advantage, especially if those claimants were of high standing within those tribes. Such was the case when Miria Te Mautaranui, the wife of Ngāti Awa chief, Apanui, made claim to land in Ōpouriao. The court's decision in her favour was no surprise, nor was it in the case of Tūtere of Ngāti Pūkeko. These points are further justified when one sees the frequency with which the names of the chief Crown witnesses appear on Crown grants for reserves for their tribes, as well as for individual allotments.[49] Ngāti Pūkeko appeared to have won the trust and acceptance of Government officials more than any other tribal group in the Bay of Plenty district. This could well have been a result of the Crown Agent, Mr Wilson's dealings at Raupōroa and subsequent recommendations:

> Ngāti Pūkeko had at this time (1866) the chief voice in these matters (land) in consequence, I believe, of the disgrace into which Wēpiha and his tribe had fallen - for the tribe shared the disgrace of its chief - by reason of his complicity or reputed connection with the Volkner and Fulloon tragedies.[50]

In a later statement, Mr Wilson extended his justification for favoured treatment of Ngāti Pūkeko because of the service they gave the Government when Te Kooti made a raid on Whakatāne in 1869.[51]

One other curious point was the way in which the Crown witness, Hōhaia of Ngāti Pūkeko, prejudiced Tūhoe claimants by deliberately labelling them as "rebels" without conclusive evidence. Even if they had not been, the Court's dismissal of Tūhoe claims soon after Hōhaia's utterances, pronounced them to have been so. Tūhoe's claims of non-involvement in the Rev. Volkner and Mr Fulloon killings have already been given in Chapter Two. Given the attitudes of the Commissioners and the Crown Agent, such accusations could not be lightly dismissed.

During the sitting of the Compensation Court at Whakatāne for the above hearings, the mood amongst a number of Tūhoe people had begun to change. This was largely in response to the changing circumstances brought about by the growing presence of Europeans so close to their boundaries, and to the knowledge that Tūhoe lands had been confiscated. In a letter to Lieut-Colonel St John, Tūhoe people at Rūātoki declared their intentions to fight to regain their lands, or at least to disrupt the settlement of those lands by outsiders.[52] Major Mair and Mr Clarke, Commissioner at Tauranga, were informed of these developments on 15 September 1867. In the light of this information, the Commissioners could well have been influenced in their judgment of Tūhoe claims to Ōpouriao.

Te Mākarini returned to Puketī in Ōpouriao after his Court hearing, obviously dejected and frustrated by his attempts to defend the mana of his tribe and subtribe over the lands that were in his guardianship. Te Mākarini, the man whose reputation within Tūhoe earned him the title of "Peacemaker", was forcibly removed from Puketī with several others on the orders of Commissioner Clarke and taken to Whakatāne where they were detained on 19 September 1867.[53]

Clarke's orders signalled for Tūhoe the beginnings of renewed military operations to push them back beyond the confiscation line and brought an end to all cooperation by them with authorities. Although it was not generally appreciated, Tūhoe cooperation up to this time had been quite considerable. During the surveying of the confiscation line from Pūtauaki to Waimana, under the supervision of Mr Robert H. Pitcairn, several Tūhoe people living at Ōpouriao acted as assistants. Among these were Himiona, Tarakawa and Hīkaia. In addition, an armed escort was provided for the survey party by Te Pūrewa the second and Ahikaiata. These two warriors also extended their services, as escorts into Te Urewera, to soldiers who were in pursuit of Kereopa. This cooperation was extended in hope of reciprocal consideration from the Government at a later date.[54] In Waimana, however, Tūhoe reactions to surveyors were different. While Rakuraku agreed to accompany the Pitcairn survey party, Tamaikoha openly declared his intentions to use force to stop them. Tamaikoha's opposition was successful in preventing a survey of Waimana in November 1866, as well as a renewed attempt in July 1867.[55]

Having realised the folly of pursuing claims through the Compensation Court, Tūhoe in Rūātoki directed its forces against European military operations. Tūhoe occupants of Ōpouriao, Pā Harehare, Kai Matahī and Hātupere were forced to move behind the confiscation line to the security of their kinsfolk at Ōtenuku, which was strongly garrisoned. This was used as a base from which to carry out incursions

against Ngāti Pūkeko, Ngāti Awa, settlers and soldiers. Lieut-Col. St John realised the strategic importance of Ōtenuku and proposed that it should be taken as a Government garrison.[56]

While Tūhoe people in Waimana and Rūātoki were involved in raids against settlers, their actions were not shared by those kinsfolk living further inland in Ruatāhuna, Maungapōhatu and Waikaremoana. This was clearly indicated at a tribal meeting held at Ruatāhuna in December 1867. At this meeting also were messengers from Ngāti Kahungunu at Wairoa and from the Māori King, Matutaera (Tāwhiao). The King gave two messages. One was to support Māori mobilisation against Europeans as the years of peace had ended. The other contained exhortations to the people to be steadfast in the face of adversity and an assurance that "a Lord's Saviour will come from the sea".[57] There was no agreement among the gathering as to what was exactly implied by the messages from Tāwhiao, nor were they clear as to what course of action should be taken by the whole tribe. Ngāi Tama of Waimana and Rūātoki subtribes, advocated a course of war, while those from Ruatāhuna preferred neutrality.

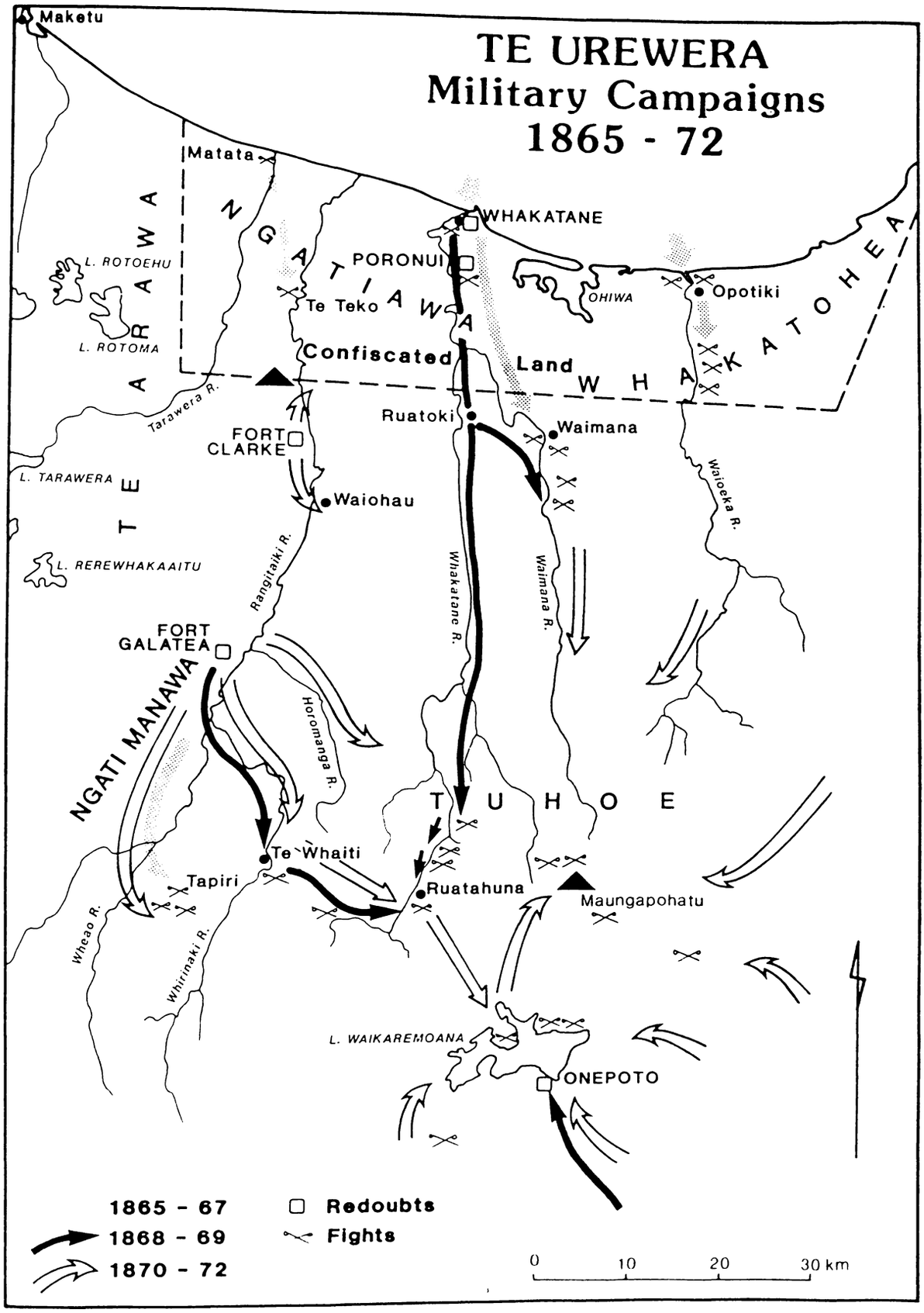
From 1867 to mid-1868 exchanges between Tūhoe and European forces, with their Māori allies, from Whakatāne and Rotorua tribes, intensified. From mid-1868 till 1872, Tūhoe people became subjected to the "scorched earth" policy of the military campaign in Te Urewera. The campaign caused enormous destruction and deprivation among Tūhoe people. The loss of life and damage to settlements, animals and cultivations were great.[58] Colonel George Stoddart Whitmore commented that the true strategical policy demanded their entering the mountains of Te Urewera by the best-known paths and destroying all the food that might be growing or stored at the native settlements.[59] Added to this was what Major Mair called the important lesson that their country, inaccessible though it might be, would not shelter them from punishment.[60] To

execute this policy, the Government enlisted the assistance of various Māori recruits. In the north, European soldiers were assisted by Ngāti Pūkeko, Ngāti Awa, Ngāitai, Whakatōhea and Te Whānau-ā-Apanui. To the west were the forces of Te Arawa. To the east was Ngāti Porou.[61]

The effects of this campaign were described by Col. Whitmore in the following manner on 9 August 1868:

> ... so hopelessly had the native inhabitants lost confidence in themselves and their fastness that they did not attempt to molest the foragers or combine to avenge themselves on the invaders, but scattered in small groups, occupied the hill tops, and made the mountains resound with their sorrowful tangis and lamentations.[62]

The scorched earth policy continued and Tūhoe were finally starved into "surrendering" to Government forces in 1872.


TE UREWERA
Military Campaigns
1865 - 72
Maketu
Matata
WHAKATANE
PORONUI
Te Teko
Opotiki
OHIWA
L. ROTOEHU
L. ROTOMA
Confiscated Land
Tarawera R.
FORT CLARKE
Ruatoki
Waimana
L. TARAWERA
Waiohau
Waioeka R.
L. REREWHAKAAITU
Rangitaiki R.
Whakatane R.
Waimana R.
FORT GALATEA
NGATI MANAWA
Horomanga R.
T U H O E
Te Whaiti
Tapiri
Ruatahuna
Maungapohatu
Whaeao R.
Whirinaki R.
L. WAIKAREMOANA
ONEPOTO
1865 - 67
1868 - 69
1870 - 72
Redoubts
Fights
0 10 20 30 km

Fighting in areas next to or within the confiscated districts of the Bay of Plenty greatly hampered the process of confiscation. However, while fighting did much to prevent the Government from realising the early benefits of confiscation for Pākehā settlement, it did not stop the process of disposing of confiscated lands. In the short term, the fighting made it obvious to the Government that it could not afford adequate protection for settlers who chose to take up allotments in remote areas.[63] Government military operations within Te Urewera led to the issuing of caution to its military officers to restrain from using excessive aggression. Coupled with this restraint was the suggested change in Government confiscation policy, which called for the extension of liberality already shown to the natives who had been dispossessed of portions of their lands as a consequence of previous aggression on their part.[64] Government policy of restraint and liberality was not as it seemed. It was largely a result of political expediency rather than genuine philanthropy. The call for military restraint in Te Urewera was in consideration of the political ramifications that might arise. What Government desired was, in fact, that aggression should be made to be seen on the side of the rebels.[65] The call for leniency was not extended to include Tūhoe. Instead, Government tolerance was confined to loyal Ngāti Awa and Ngāti Pūkeko who, at no time, were evicted from those territories within the confiscated district. They had merely moved into closer settlements on lands returned to them. The partiality of Government officials towards Ngāti Pūkeko and Ngāti Awa, for services rendered against Te Urewera forces, cannot be denied.[66]

In the long term, this fighting was given by officials as an explanation for the lack of progress in completing compensation awards and settlement between 1868-1872. However, the disturbed state of the district could not be entirely blamed for the delays. Officials and Government dealings could also be blamed. By the end of 1871, the Urewera campaign had virtually come to an end. Mr Wilson's report to the Native Minister in March 1872 revealed the problems which confronted Government officials.[67] Confiscated lands given to "surrendered rebels" in an unsurveyed and undivided manner naturally led to boundary disputes amongst hapū members which proved difficult to settle. There were many allotments and blocks of land for which Crown grants had yet to be prepared and issued. Not all the lands to be set aside for surrendered rebels were proclaimed. The backlog of unsettled lands became complicated by the need for alterations to earlier arrangements, due to the steady increase in population.

The practical explanations given by Mr Wilson for these delays ranged from the acute shortage of surveyors to unexpected rain and flooding. He omitted relevant personal details which had also contributed largely to the delays. Between 1866 and 1870, Mr Wilson held several positions of responsibility as a Special Commissioner in Ōpotiki, Crown Agent for the Bay of Plenty, General Agent for Northern Districts and Acting Civil Commissioner at Tauranga.[68] The demands of these positions would have taxed anyone. It is clear from the list of responsibilities that the Crown Agent's position alone would have constituted full-time work for a conscientious and able person. As it was, Mr Wilson had to endure personal hardship with delays in payment because of confusion over the exact salary he should have received.[69]

Among the various appointments Mr Wilson held between 1866-1870, that as Crown Agent for the confiscated Bay of Plenty district, has already been given special attention. His role in the implementation of

confiscation gives a good example of the difficulties faced by commissioners and later government officials in discharging their various duties. In 1870, Mr Wilson was dismissed as Crown Agent and was only reinstated by the intervention of Dr Donald Pollen, M.P. in 1871, to complete the schedules of awards made by the Compensation Court and Crown Agent to loyal and surrendered rebels.[70] He was, however, again dismissed after completing his report, but this did not mean the end of his involvement in the procedures of confiscation.

In 1875, Mr Wilson was appointed Land Purchase Officer for the East Coast. A study of his reports reveals that he was directly responsible for the purchase and sale of over 200,000 acres of Māori land for settlement. These reports also divulge the ways in which certain people in Parliament, or associated with Members of Parliament, took advantage of the uncertain state of the confiscated lands. Finally, due to the insistence of Mr John J. Davies Ormond, Member of the Legislative Council, Mr Wilson was dismissed from that post.[71] In 1878, Mr Wilson received a commission as Judge of the Native Land Court and later, in the same year, was gazetted Commissioner for Tauranga. Two years later he lost both these appointments.[72]

Mr Wilson's career attracted mixed reactions from his employers and those associated with his work. The Under-Secretary, Mr Clarke, described him as "a gentleman of great ability with considerable knowledge and experience in Native matters who always manifested zeal combined with unusual industry and capacity for work".[73]

The chiefs, Mita Hikairo, Parehara Tamahika and Henare Pukuatua of Te Arawa, held Mr Wilson's judgeship of matters in the Land Court in high regard.[74] Mr Fenton, the Chief Judge, on the other hand, objected to Mr Wilson's appointment. Indeed, Mr Wilson later accused Mr Fenton of official persecution, harassment and appropriating the credit of Mr Wilson's work for himself. According to Mr Wilson, Mr Fenton

deliberately set out to embarrass him in the Public Service and repeatedly denied him funds so as to impede his work.[75] In the final summary of the book he wrote about his dismissal, Mr Wilson said:

> As a Judge I have been cruelly treated when ill by one minister, and condemned without trial by another, although such things, one would think, are not easy of accomplishment in this enlightened age.[76]

In writing his case he hoped that "its publicity may prevent Judges and other servants of the public from judgement without trial".[77] It is ironic that Mr Wilson only came to the defence of liberty and justice when he lost his judgeship. He had shown no such concern for the same "unconstitutional and barbarous practices" in the dealings of the Compensation Court or those with Tūhoe.

Despite the work of the Compensation Court and Crown Agent Wilson at Whakatāne and Ōpotiki in allocating reserves for "loyal" and "surrendered rebel" tribes from the confiscated lands, many questions concerning such awards were left unanswered when Mr Wilson ceased his work as Crown Agent in 1872. Many of the problems which Mr Wilson was reappointed in 1871 to solve, remained unsolved. Māori leaders in the Whakatāne and Ōpotiki districts put forward many claims concerning such matters as undefined reserves, the allocation of shares in reserves among sub-tribes or individuals, the inclusion of names omitted from lists of owners, the division of rent monies and claims for larger reserves based on loyalty or services to the Government.[78]

These problems were left to Mr Herbert Brabant, Resident Magistrate at Ōpotiki, to investigate. Besides compiling lists of owners for various reserves at Waimana and Waiaua, he dealt with three main cases between 1874 and 1880. They were the subdivision of the Rangitaiki reserves among Ngāti Pūkeko, Ngāti Awa and Ngāti Patuwai; the subdivision of the Ōpape reserve and investigation of the title at Ōmataroa. The subdivision of the Rangitaiki reserve was the most

complicated of these cases and the one which is of particular interest to Tūhoe as the settlement of that case came to include land from Ōpouriao.

The original division of the Rangitaiki reserve was based on the Raupōroa agreement arranged by Mr Wilson and Ngāti Pūkeko in 1866. As has been mentioned previously, the delays in the drawing of the boundaries led to a disagreement between the two main interested parties of Ngāti Pūkeko and Ngāti Awa. The dispute arose as Ngāti Awa came to realise that the original agreement gave Ngāti Pūkeko an advantage of something in the vicinity of 30,000 acres.[79] When Mr Brabant became involved in this dispute, his first action was to reverse Mr Wilson's earlier arrangement. He divided the western lands of Rangitaiki into two, a northern and southern block. Each of these was again divided into three, from which two awards would be given to Ngāti Awa, Ngāti Pūkeko and Ngāti Patuwai.[80] While Ngāti Awa greeted the new arrangement with enthusiasm, Ngāti Pūkeko were far from happy. To appease Ngāti Pūkeko, Mr Brabant recommended that the Government grant them 100 acres at Ōwhataiti, "as an act of grace".[81] Te Meihana of Ngāti Pūkeko approached Mr Brabant and requested allotment 70, Waimana Parish at Puketī in Ōpouriao, containing 128 acres, instead. The request was forwarded to Mr Clarke, Under-Secretary of Native Affairs. In reply, Mr Clarke instructed that Puketī be reserved for Ngāti Pūkeko.[82]

Brabant's reaction to the granting of Puketī to Ngāti Pūkeko was a clear rebuke. He thought that they did not have "even a shadow of a claim to grants of more land" for several reasons. Ngāti Pūkeko had already received excessive grants of land before they were given Puketī and they did not only have enough land for cultivations, but had also leased out larger blocks.[83] These accusations were confirmed by Meihana's approach to Mr Brabant to remove restrictions on Puketī reserve to allow the Whakatāne Cattle Company to purchase it. Meihana's

request was not granted, although he persisted with letters to the Native Minister.[84]

The settlement for the lands west of Whakatāne River in Rangitaiki Parish was finalised in the following manner:[85]

Tribe or Subtribe		Allotments	Area in Acres
		Rangitaiki Parish	
Ngāti Awa		21	158
		28	2,510
		31	8,043
Ngāti Patuwai		29	1,350
		32	7,654
Patutohora	}	30	3,306
	}	33	6,864
	} Ngāti Pūkeko	42	77
	}	39	50
Rangataua	}	38	2,267
		41	4,877
		40	50
		43	75
		Waimana Parish	
Ngāti Pūkeko		70	128

In November 1878, the Whakatāne Grants Validation Act was passed to validate the lands west of the Whakatāne River. Some years later in 1882, Mr Brabant drew attention to the other problems of the confiscated district.[86] In some cases Crown grants were never issued to Māoris who were awarded lands in 1874. The matter had aroused the anguish of those concerned because it prevented them from receiving orders of succession to deceased owners and from selling or leasing blocks which the terms of the awards permitted.[87] Mr Brabant also pointed out that in some cases the lists of names in Mr Wilson's earlier schedules were, to some extent, obsolete because some of those named had since died. Children, now adults, were not included, nor those who were absent when the awards were made but who had since returned.[88]

While the Whakatāne Grants Validation Act did much to overcome delays in ordering the awards issued to tribal groups on the lands west of the Whakatāne River, it did little for the reserves and allotments of Māori people whose grants were east of the river. As a result, the administrative procedures for final settlement became compounded by prolonged legal litigation.

In the final session of Parliament in 1881, a Native Reserve Bill was prepared for the individualisation of titles through the Māori Land Court. It was believed that this Bill would alleviate the difficulties outlined by Mr Brabant. However, this legislation was not passed.[89] Further delays were imposed by the eruption of Mount Tarawera.

Although the Government implemented most of Mr Brabant's recommendations, some of the questions he raised with the Native Minister in 1881 remained unanswered until the turn of the century, because the issue of certain Crown grants and the demands for major changes by Māori grantees to the terms of some of their grants, were delayed by legal wrangles.

The process of implementing confiscation was to have been carried out according to the principles that were suggested by Governor Grey in 1866. These were:

1. The need for justice and moderation.
2. The need to ensure that lands of innocent people were not appropriated without consent.
3. The need to guard the Māori from any severity.[90]

The duration of the process of confiscation and subsequent administration spanned some 40 years. It is obvious from the proceedings outlined in this chapter that such guidelines were submerged under the mammoth tasks that confronted Government officials, both civil and military. From a Tūhoe perspective, the Government machinery set up to implement the process of confiscation failed to take into consideration the principles outlined above.

While the guidelines and principles governing the workings of the Compensation Court and the Crown Agent should have ensured equitable treatment of Tūhoe, in fact they did not. Commissioners Major Mair, Col. Lyons, Mr James Mackay and Crown Agent Wilson failed in their duty. The principles and intentions which were supposed to guide their actions became submerged under their personal biases. With this miscarriage of justice, the seizing of Tūhoe lands within the confiscated district began.

Footnotes to Chapter Four

1 AJHR 1928 G-7: p. 21.

2 NZG 1866: p. 17.

3 AJHR 1921-22 G-5: p. 27.

4 AJHR 1928 G-7: p. 21.

5 AJHR 1866 F-2: Report of Select Committee on Confiscated Lands.

6 This estimate is based on the Report of the Royal Commission on Confiscated Land 1921, AJHR 1921-22 G-5: p. 27.

7 C.A. Lawn, 1980: p. 12.

8 Raupatu Committee Minute Book, p. 20.

9 AJHR 1928 G-7: p. 21.

10 MA. 85/6 National Archives, Wellington.

11 AJHR 1866 F-2.

12 AJHR 1921-22 G-5: p. 22.

13 AJHR 1928 G-7: p. 21.

14 AJHR 1866 A-1: p. 93.

15 Webb, E.N., 1942: p. 85.

16 OCF, L. & S. Dept., 66/647, letter from Senior Judge Fenton to Compensation Court, 29 March 1866.

17 OCF, L. & S. Dept., 66/647.

18 Cowan, J., 1923: Vol. 2 p. 167. Also cited in E. Best 1972: p. 590.

19 Tamaikoha Te Ariari was a chief of Ngāi Tama hapū of Tūhoe inhabiting Te Waimana. See Cowan, J., 1923 Vol. 2: pp. 166-170.

20 OCF, L. & S. Dept., 67/1203, letter from Senior Judge Fenton to Compensation Court.

21 AJHR 1928 G-7: p. 2.

22 OCF, L. & S. Dept., 67/1203.

23 OCF, L. & S. Dept., 67/1203.

24 OCF, L. & S. Dept., 67/1549, letter from Civil Commissioner Clarke to Native Minister, 11 August 1866.

25 Cowan, J., 1923: Vol. 2 pp. 92-101. These incidents are also recorded in H.M. Mead, 1982: p. 9.

26 Cowan, J., 1923: p. 102.

27 WMB, 5A: p. 9.

28 **"Tangata hara"** literally means a person who committed wrong. The implications here refer to involvement in acts of rebellion against the Queen's authority, or in the case of the Bay of Plenty, of being associated in some way with the killing of Rev. C. Volkner or Mr J. Fulloon.

OCF, L. & S. Dept., 67/238. National Archives Wellington. Letter from J. Wilson to F. Whitaker, Agent for Central Government, 14 March 1867.

29 OCF, L & S. Dept., 67/238.

30 OCF, L. & S. Dept., Hamilton, 67/1455. Letter from Senior Judge Fenton to Colonial Secretary, 11 May 1867.

31 OCF, L. & S. Dept., 67/811. Letter from J.A. Wilson to Native Minister, 25 May 1867.

32 The Bed, the Blanket and the Pillow: 1983.

33 OCF, L. & S. Dept., 67/1203. Letter from J.A. Wilson to Compensation Court, 31 July 1867.

34 OCF, L. & S. Dept., 67/1203. Letter from Judge Fenton to Compensation Court, 31 July 1867.

35 OCF, L. & S. Dept., 67/450. Letter from James McKay to Civil Commissioner, 31 May 1867.

36 OCF, L. & S. Dept., 67/450.

37 AJHR 1867 A-18.

38 AJHR 1870 D-23; AJHR 1871 C-4; AJHR 1873 C-45: p. 5; NZG 1874: pp. 775-793.

39 MA 88/26, National Archives.

40 MA 88/26, National Archives.

41 OCF, L. & S. Dept., 74/4740. Memorandum relative to boundaries between Ngāti Pūkeko and Ngāti Awa on western side of Whakatāne River, by J.A. Wilson, 7 September 1874.

42 OCF, L. & S. Dept., 74/4740.

43 OCF, L. & S. Dept., Minutes of Compensation Court, 25 September 1867; Case 180, Akuhata Te Hiko; Case 275, Hoani Takurua; Case 165, Te Makarini.

44 OCF, L. & S. Dept., Minutes of Compensation Court, 25 September 1867.

45 Tamarau's MS, p. 40.

46 OCF, L. & S. Dept., Case 165, Te Makarini.

47 OCF, L. & S. Dept., Case 165, Te Makarini.

48 OCF, L. & S. Dept., Case 165.

49 C.T. Waimana Parish, L. & S. Dept.

50 OCF, L. & S. Dept., 74/4740.

51 OCF, L. & S. Dept., 74/4740.

52 AJHR 1867 A-8a: p. 5, letter No. 2.

53 AJHR 1867 A-8a: p. 5, letter No. 3.

54 Tamarau's MS: pp. 106-107.

55 MA 66/5225, National Archives, St John's Conference with Rakuraku, 22 November 1866.

56 AJHR 1867 A-8a: p. 5, letter No. 3.

57 AJHR 1867 A-8a: pp. 15-16, letter No. 20. The quote could have been interpreted as a prophecy of the coming of Te Kooti to Te Urewera.

58 Whitmore, G.S., 1902: p. 152.

59 Whitmore, G.S., 1902: p. 152.

60 AJHR 1869, A-10: p. 70.

61 Whitmore, G.S., 1902: pp. 164-166.

62 Whitmore, G.S., 1902: pp. 164-166.

63 a) WHSJ Vol. 20, No. 1 1972: p. 34.
b) St John, J.H.H., 1878: pp. 156-157.
c) AJHR A869 A-10: p. 56.

64 WHSJ Vol. 20, No. 1 1972: p. 34.

65 OCF, L. & S. Dept., 74/4740.

66 AJHR 1873, C-45: p. 5.

67 AJHR 1873, C-45: p.5.

68 Wilson, J.A., 1884: pp. 13-17.

69 Wilson, J.A., 1884: p. 14.

70 Wilson, J.A., 1884: p. 16.

71 Wilson, J.A., 1884: p. 13.

72 Wilson, J.A., 1884: p. 46.

73 Wilson, J.A., 1884: p. 2.

74 Wilson, J.A., 1884: pp. 18-19.

75 Wilson, J.A., 1884: p. 47.

76 Wilson, J.A., 1884: p. 49.

77 Wilson, J.A. 1884: p. 49.

78 MA 82/243 National Archives.

79 MA 76/4040 National Archives: p. 2.

80 MA 76/4040 National Archives: pp. 2-4.

81 MA 75/1510, National Archives: p. 7.

82 MA 75/1510, National Archives: p. 7.

83 MA 75/4120, National Archives.

84 MA 87/1510, National Archives: p. 9.

85 NZG No. 10, 3/1/1878.

86 MA 82/243, National Archives. Mr Brabant to Native Minister, 13 July 1882.

87 MA 82/243, National Archives: pp. 1-2.

88 MA 82/243, National Archives: pp. 3-5.

89 MA 82/243, National Archives. Mr Lewis to Mr Brabant, February 1882.

90 AJHR 1921/22 G-5: p. 26.

CHAPTER FIVE

PĀKEHĀ SETTLEMENT OF TŪHOE LANDS IN ŌPOURIAO AND WAIMANA

... ka muia te miere,
Te Tahora kua pūkai ...

The Pākehā scramble for land was like ants swarming to spilt sugar ...

Tūhoe attempts to secure their confiscated lands, or to check Pākehā military encroachment into their territory between 1867-1870, failed. Despite pleas for justice and accusations of wrongful attacks by Government forces, Tūhoe were unable to impress officials of their cause.[1] Mr H.T. Clarke, Civil Commissioner, when writing to the Under-Secretary of Native Affairs, after a number of Tūhoe chiefs were contemplating surrender, said:

> The Urewera had not a shadow of grievance to complain of, as they had taken part in every fight against us. That they had assisted Te Kooti, a man whose name was associated with murder of women and children, but that Government did not wish to destroy human life. All that had been done was in the punishment of crime and outrage, which it was resolved should be put down, and the perpetrators thereof brought to justice; that the Government intend to confiscate more of their lands so they had nothing to dread on that score.[2]

It was obvious that perceptions of experience Tūhoe endured remained within the framework of a Pākehā construction of reality. Indeed, it would remain so until a Tūhoe perception of history could be articulated.

After peace was established between Tūhoe and the Pākehā in 1870, Tūhoe came out of their heartland to the more open settlements of Rūātoki and Waimana.[3] However, Tūhoe could not proceed beyond the confiscation line.

Under the terms of the peace settlement accepted by Tūhoe at Rūātoki in 1870, Te Ahikaiata, in addressing Major Mair, said:

> Peace has now been laid down between us. You have mana on your side, I have mana on my side. If you trespass on our side you will be wrong. I shall be wrong also if I trespass on your side.[4]

As a consequence of this, a **pou arai** (carved boundary post) was erected on the roadside by the confiscation line. This carved post symbolised Tūhoe's defiance and determination to warn off the Pākehā. Tamaikoha later added a more explicit message on the pou arai;

> "Those that trespass will be relish for my food."[5]

On each side of the confiscation line, separate developments were taking shape. To the south, Tūhoe were preoccupied with the maintenance of their own tribal affairs, which they managed with little European interference. In the north, the process of settlement of Tūhoe confiscated land was finally becoming a reality.

In this chapter, the process of European settlement to the north of the confiscation line, will be covered. Tūhoe developments will be dealt with in Chapter Six. While the initial stages of development on either side of the confiscation line appeared to be separate, they inevitably affected each other. The actions and reactions in situations wherever and whenever Tūhoe and Pākehā development met, will also be examined in this chapter.

The disposal of Ōpouriao and Waimana lands for European settlement was first suggested by Crown Agent Wilson in the Rauporoa proposal of December 1866. Owing to the situation of these lands, they fitted in well with Government designs for military settlements. The military settlement schemes on confiscated lands were to enable the Government "to take efficient steps for the permanent security of the country and to inflict punishment on rebellious tribes so as to deter other tribes from attempting to carry out designs of a sinister nature".[6] It was envisaged by Governor Grey that by placing armed settlers upon confiscated lands, it would secure permanent peace of the country and eventually ensure control over confiscated districts for European settlement.

In the recruitment of military settlers, the advertisements did not make reference to the above role that they were expected to perform. Rather, the Government highlighted the personal benefits and rewards they stood to gain. Some of these included the following:[7]

1. Recruits from outside the North Island would receive free passage.

2. Each recruit would be entitled to rations and allowances according to rank.

3. On receiving land, recruits would be relieved from service.

4. On taking possession of their allotments, settlers would receive free rations for 12 months, would retain their arms and be supplied with ammunition.

5. Settlers not wishing to take up their allotments could dispose of their land to persons approved by Government.

6. Allotments were determined by rank:

- a Field Officer	400 acres
- a Captain	300 acres
- a Surgeon	250 acres
- a Subaltern	200 acres
- a Sergeant	80 acres
- a Private	50 acres

The realisation of such rewards and benefits was much harder to achieve and this was largely dependent on to what extent Māoris would cooperate.

Initial Tūhoe reception of the Surveyors, Mr Pitcairn and Mr Leonard Simpson, in Ōpouriao, was surprisingly hospitable. Not only did they provide labour, but also armed protection. This cooperation was given under the misguided notion that the survey was to their advantage.[8] It is doubtful that without Tūhoe assistance, the survey of Ōpouriao could have been completed so soon after confiscation. In Ōpouriao, military settlers were allocated their grants by 30 April 1867.[9] Tūhoe reaction to Mr Pitcairn, in Waimana, was divided. Rakuraku was quite prepared to extend to him the same service given by those Tūhoe in Ōpouriao. However, Tamaikoha issued more than just idle threats to stop the survey of Waimana. No doubt these threats impinged

upon the proceedings of the surveys there. This could well explain why the allocation of section settlements at Waimana was largely confined to the north-eastern portion of the Waimana Valley. The early survey failed to set out town settlements within Ōpouriao or Waimana allotments, nor was there any provision for the erection of stockades. Thus the protective role of the military township was overlooked. Whakatāne was some 20 kilometres to the north of Ōpouriao, and Ōpotiki some 30 kilometres away from Waimana. Grantees were not able to take possession of their allotments in Ōpouriao, because Tūhoe people were still living there. Ngāti Pūkeko attempted to take the matter into their own hands by informing Tūhoe that they would be pushed back over the confiscation line. The threat could have worked had not Major Mair intervened. Of this incident, he wrote on 17 April 1867:

> I rode up to Whakatane to the valley of Opouriao, the natives of which place I found in great consternation, they having been informed that it was the intention of Ngati Pukeko, with the permission of Major St John, and myself to drive them back to the interiors. It appeared that they had already received a message from Hohaia and Hori Tunui to that effect. Some of the friendly Uriwera [sic] had already left for Ruatoki and I arrived to prevent a general exodus ... .[9]

Further intervening circumstances prevented any grantee taking possession of his allotment in Ōpouriao and Waimana. On 19 September 1867, Te Mākarini and other Tūhoe living at Puketī, were physically removed and detained at Whakatāne by the constabulary. To prevent further Tūhoe incursions into confiscated lands, Lieut-Col. St John proposed that the Tūhoe stronghold of Ōtenuku in Rūātoki should be attacked and occupied by Colonial Forces as an advance post for the protection of Whakatāne and European settlements proposed for Ōpouriao. The proposal was dismissed as the Defence Minister did not wish to send any expeditions against "rebels" which were not necessary for the safety of Ōpotiki.[10] By March 1868, the attacks from Rūātoki on settlers and loyal tribes further north forced the Government to take more stringent

measures to check Tūhoe movements. A redoubt was ordered to be built on the right bank of the Waimana River at its junction with the Whakatāne River. The constabulary, the engineering company and a Te Arawa contingent under the command of Major Fraser, were posted to the redoubt as an advance force. There were strict orders that the force could transverse any part of the confiscated district, but not to proceed beyond it unless attacked or threatened by any large body of natives assembling in the vicinity with avowed or evident hostile intentions.[11] Tūhoe incursions were not halted by the presence of the redoubt, nor were they discouraged from attacking Ngāti Pūkeko road gangs at Puketī even when guarded by Major Fraser.[12] Rūātoki fighters crossed Taiarahia to link up with other forces in Waimana. Tūhoe movement here could easily avoid occasional expeditionary forces in the area.

Preventative measures adopted by Colonial Forces did not guarantee the safety of settlers in Ōpouriao or Waimana. The vulnerability of these areas to attacks deterred any would-be settlers. Even after 1870, when peace was concluded in Rūātoki and Waimana, the resolute mountain fighters of Maungapōhatu who remained with Te Kooti, kept Tūhoe confiscated lands off bounds to settlers.

Government military campaigns against Tūhoe were based on claims of harbouring Kereopa and Te Kooti, who were instigators of a general Hauhau uprising. In doing so, they were labelled as unsurrendered rebels and aggressors. It was Tūhoe who were rendered homeless, foodless, and by the confiscation of the land itself, stripped of their mana. The Government of the time could not conceive of any other way of dealing with them, but to conquer and disperse Māori from their lands. Such acts left an aftermath of bitterness which has never dissipated.

Tūhoe incursions could not be held solely responsible for the failure of the military settlement scheme in the Bay of Plenty. This has been borne out by Mr Paul Spyve's study in 1981 on the Military Settlement Scheme in the Bay of Plenty District.[13]

An account of the difficulties confronted by military settlers in the district is best illustrated in the writings of one military settler who had land allocated in the Ōpouriao Valley.

> People are leaving very fast and if they continue to leave at the same rate there will be no white men left here in six months. The Government plan of settlement seems to be a failure for several reasons. The first was that the men were not located on their land when their time was expired and another cause was that the officers had nearly all the best land. The men had for the most part land badly situated and in some instances the 50 acres are in such a position as to be of no use to anybody and allotments inaccessible. Then again men were murdered by the Hauhaus or driven off their land and others were afraid to go out and cultivate theirs and some had no chance to go on account of delay caused by unrest, while many never intended to settle at all and these fully two-thirds of the regiment composed. As soon as their pay and rations were done they sold up and left the country. We are now reduced in Opotiki to a very small number and two-thirds of them want to leave and some are selling for what their goods will fetch. 50 acres for 5 and many who have put up good houses and cultivated their town acres are getting out at great loss. So that it appears that the place will be left in a short time to the natives who will find good houses built for them and find acres fenced in and cropped or fit to crop.[14]

The desertion of the land allotted to military settlers created an avenue for cheap investment by speculators. It was these people with their access to capital who took up the process of land aggregation and brought in a small nucleus of Europeans who began to pave the way for further colonisation during the 1870s.

None of the objectives set out for the military settlement scheme in Ōpouriao and Waimana was achieved. In both districts, none of the original military settlers stayed on their allotments. Nonetheless, the permanent reality of confiscation secured confiscated Māori lands for the ultimate purpose of European settlement. Abandonment of military

allotments introduced a new phase in the process of European settlement, that of land aggregation. Certain military settlers, such as Major Swindley, Colonel Whitmore and Captain C.K.R. Fergusson themsevles became involved in the process of land aggregation in Waimana and Ōpouriao districts.

In 1874, Captain Fergusson formed the Whakatāne Cattle Company. A successful partnership with Messrs P.J. Kelly, J.S. MacFarland and P. Corniskey, allowed the Company to purchase all of the deserted military allotments from Poronui Mill (four kilometres south of Whakatāne) to the confiscated line in the south.[15]

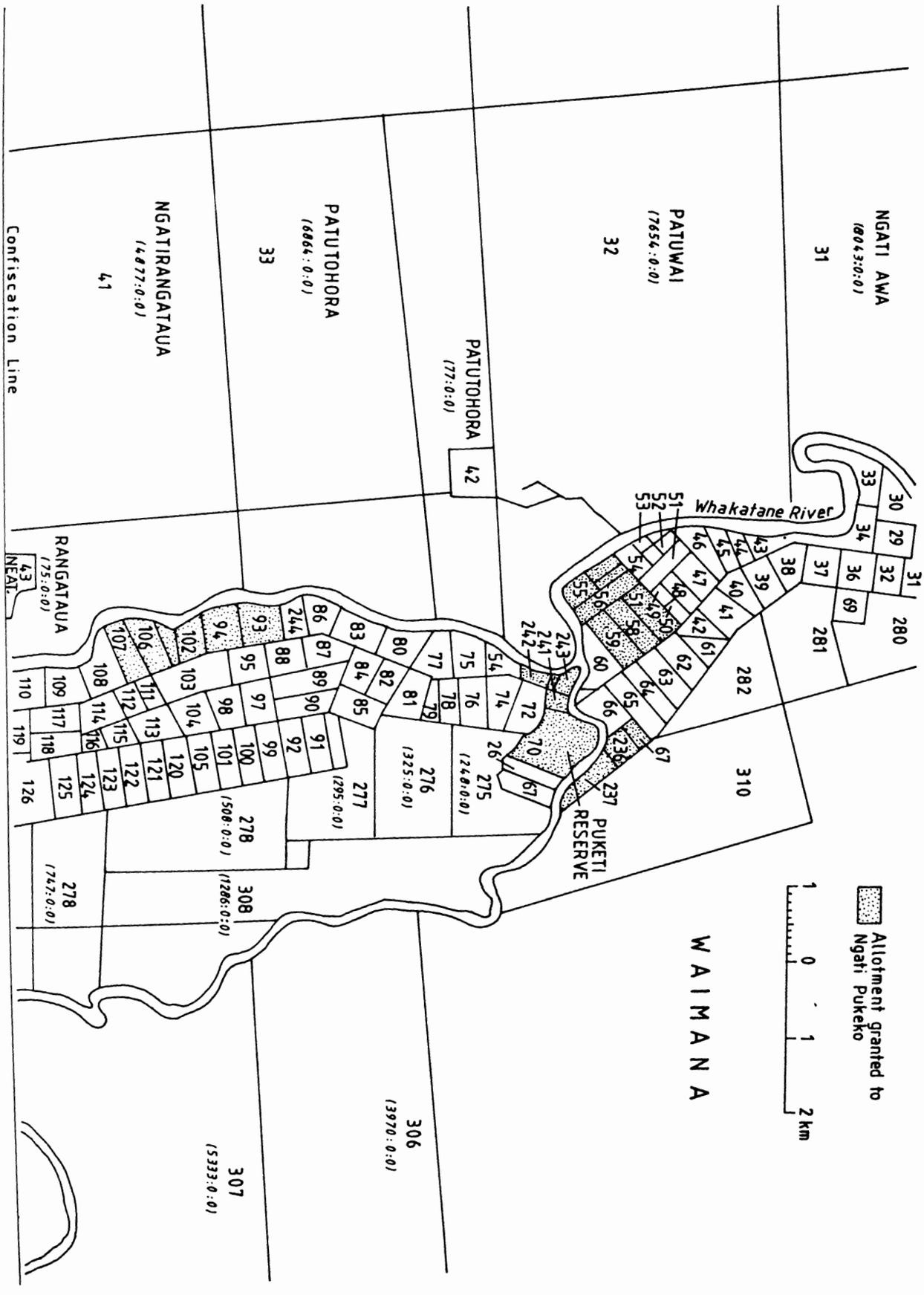
Scattered within the area acquired by the Whakatāne Cattle Company were other individual grants or reserves totalling 586 acres that were set aside for "loyal" Ngāti Pūkeko by the Compensation Court. Additional information concerning these allotments is summarised below:[16]

Allotments (Parish of Waimana)	Acreage	Grantees	Tribe
56	50-0-0	Hiketene	(N. Pukeko)
57	50-0-0	Pene te Huki	"
58	50-0-0	Wata Erangikotua	"
59	50-0-0	Hohaia Matatehoko	"
236	28-0-0	Meihana Koata	"
237	28-0-0	Kaperiere Te Matearehe	"
241	20-0-0	Timi Wata	"
242	20-0-0	Te Kehukehu	"
243	20-0-0	Te Wharau	"
244	20-0-0	Te Mataitau	"
93	50-0-0	Taumutu Te-Wai-te-Toarongo	(N. Pukeko)
94	50-0-0	Hamiora Te Puru	(Motiti)
102	50-0-0	Miria Te Mautaranui	(N. Awa)
106	50-0-0	Te Kohikohi	(N. Pukeko)
107	50-0-0	Peata & K. Reha	"
70	128-0-0	Reserve for N. Pukeko 1878	

16

Allotment 70 of Puketī was granted to Te Manohoaka, Meihana Koata, Tahawera, Romana Tautari, Tomo Te Timutarewa to hold in trust for Ngāti Pūkeko. As a reserve, Puketī was inalienable by sale, lease, gift or mortgage without prior consent of the Governor.

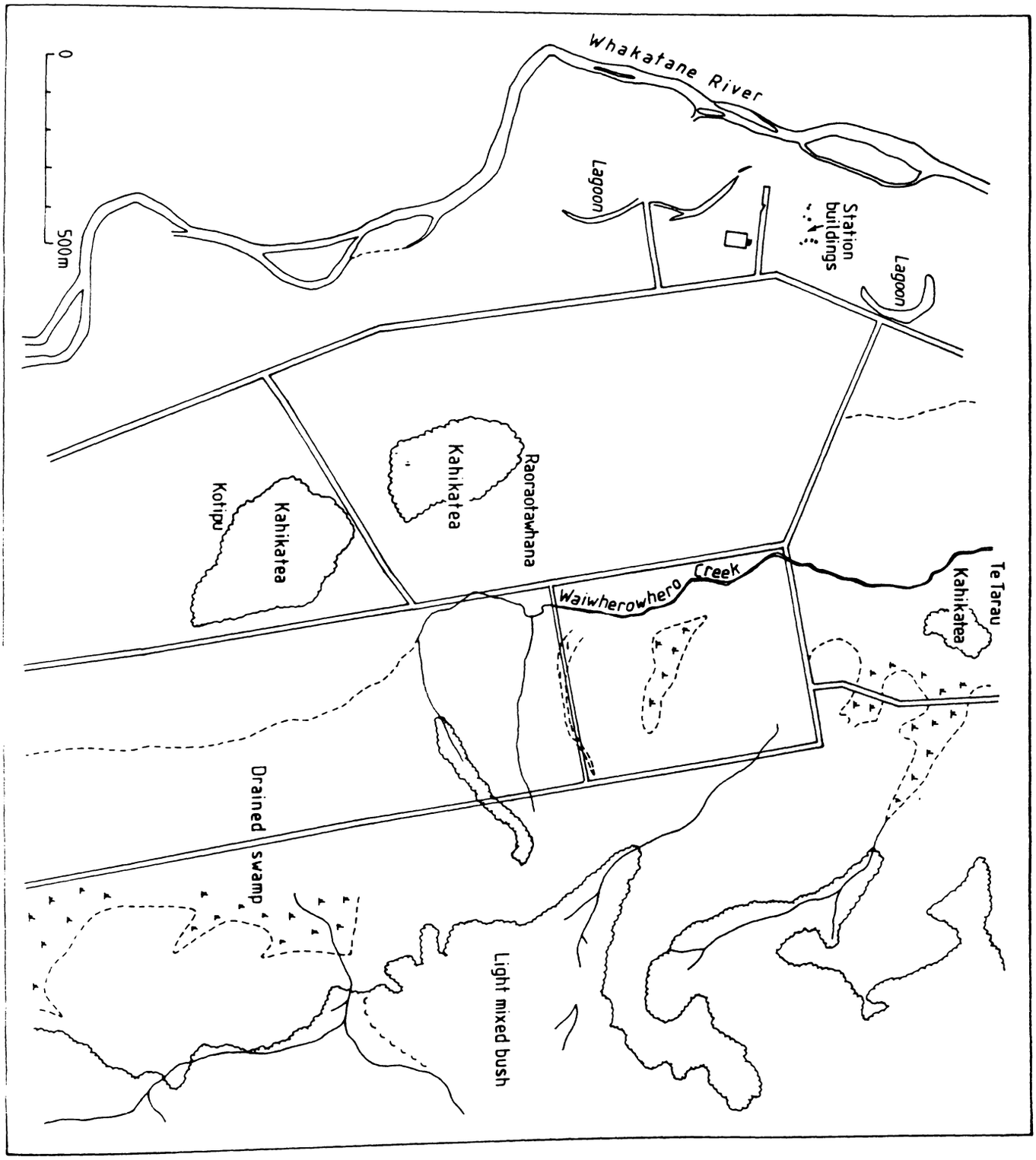
Map showing allotments granted to Ngāti Pūkeko and Ngāti Awa in Ōwhakatoro and Ōpouriao



The presence of the Whakatāne Cattle Company in Ōpouriao did not go unnoticed by Māori grantees and the likes of Hiketene, Pene Te Huki, Wata Erangikotua, and Hohaia Matatehoko soon sold their allotments, eventually to the Whakatāne Cattle Company. Captain and Mrs Fergusson soon left Ōpouriao to take up farm management in the lower Waikato at Karapiro. Management of the Ōpouriao Estate was left to Mr C.G. Murphy, and later, to Mr P.J. Kelly. After Mr Kelly's tragic drowning, Mr Pitting took over as Manager. After 18 months he was replaced by Mr C.S. Stafford, who successfully managed the Ōpouriao Station for some five years. In spite of the seemingly rapid turnover of managers, a large share of the Station's land was brought into first-class order with rye grass and red clover. Between 1880 and 1882, during the management years of Mr Pitting and Mr Stafford, Ōpouriao had a white population of 20 people with over 1,300 head of cattle, 3,000 sheep, 43 horses and about 150 fat bullocks.[17]

These agricultural endeavours were suddenly ended by the eruption of Mount Tarawera in 1886. The whole district was covered with volcanic ash, ruining the pastures and forcing Mr Stafford to sell all the stock. Sir John Logan Campbell took over the Station and soon after clearing, draining and fencing the property, it was sold again to Joseph and Jessie Gould of Christchurch.[18] It was at this time that the remaining Ngāti Pūkeko allotments around Taneatua and Ōpouriao were also acquired by sale. Of the original Crown grants issued by the Compensation Court in and around Ōpouriao, only Allotment No. 70 of Puketī Reserve remained intact. This was only due to the restrictions on its alienation and the Government's constant refusal of Meihana's demands to have them removed.

Map showing Whakatāne Cattle Company Station in Ōpouriao 1891

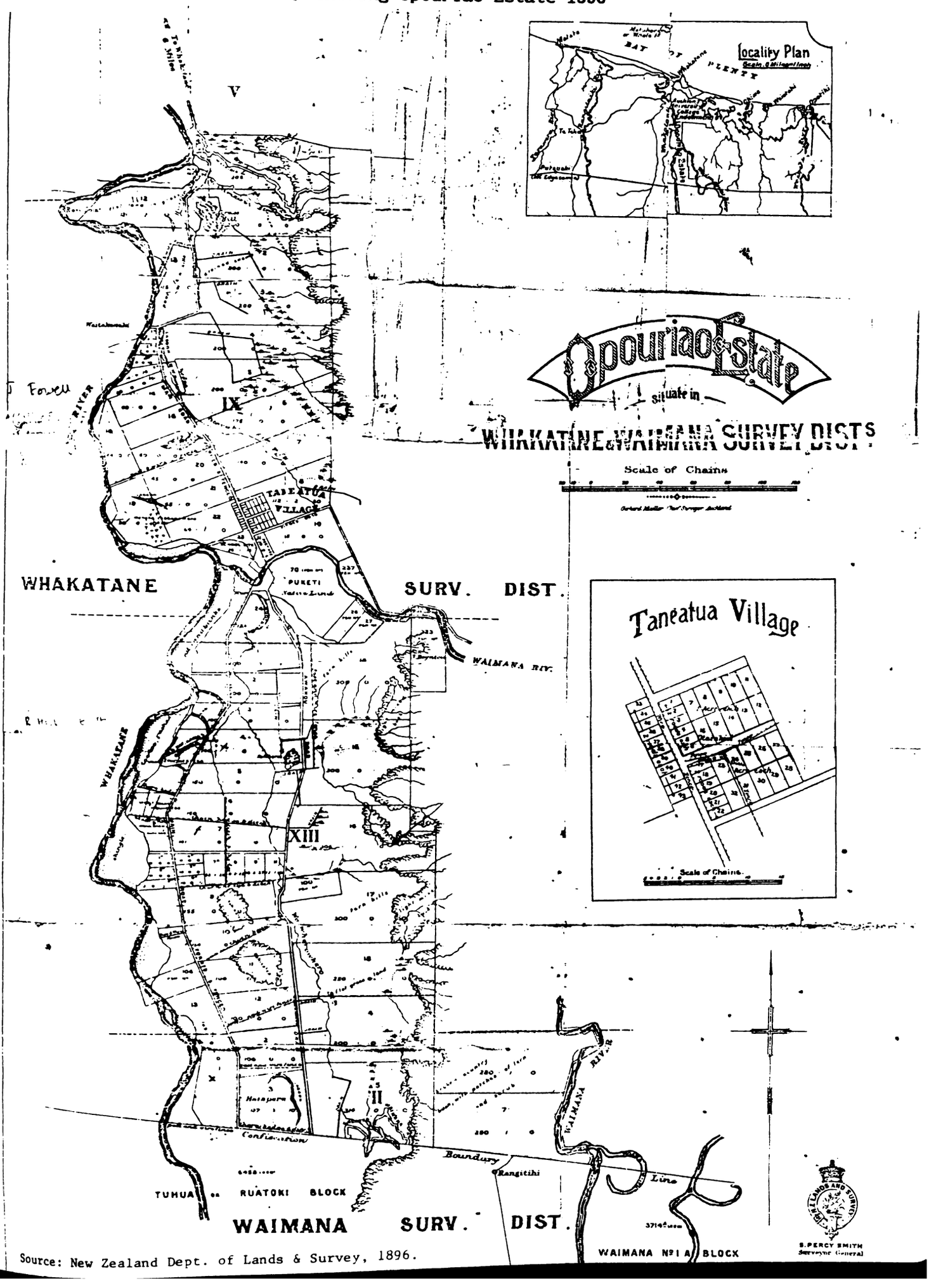


After only a week, Joseph Gould accidentally shot himself and Jessie Gould, left to manage the Station alone, soon became anxious to dispose of it. Five years later, in 1896, the Seddon Government purchased the Station under the 1894 Settlement Act for £24,261. The lands of Ōpouriao were described at the time as:

> ... river-flat land, famed for its richness, for it was all deep, alluvial soil composed of all that was best, gathered from the surrounding hills and ranges by the Whakatāne River. ... The grass-growing capabilities are of the best, the great depth of soil retaining the moisture even in the driest summers, so that for dairy farming or stock-fattening purposes it is not to be surpassed and rarely equalled by any land in the Auckland District.[19]

The property of Ōpouriao Estate was subdivided into 44 sections ranging from 60 to 300 acres, with 15 smaller ones, from 6 to 22 acres. A village of half-acre and one-acre sections was laid out near the junction of the Whakatāne and Waimana Rivers. Thus, the town of Taneatua was founded. The first ballot for sections, for which there were more than one applicant, was held on Friday, 14 February 1896, at the Land Office in Auckland. Possession was given on 2 March 1896. No deposits were required upon application, but each successful applicant had to pay a half year's rent and £1.1s lease fee immediately upon each application being approved. All the sections in the Ōpouriao Estate were bought on leases in perpetuity.[20]

Map showing Ōpouriao Estate 1896



Source: New Zealand Dept. of Lands & Survey, 1896.

In 1875 an incident took place which revealed that the principle of confiscation was far from forgotten by Tūhoe chiefs at Rūātoki. Cattle from Ōpouriao strayed across the confiscation line into Rūātoki.[21] Ahikaiata and Te Mākarini drove the cattle further inland with intentions of impounding them. Captain Fergusson, on hearing this, went to retrieve them. His attempt was blocked by the two chiefs who refused to give the cattle back unless they were paid for them. Only after Captain Fergusson approached Sir Donald McLean, on his arrival at Whakatāne, was the matter resolved. Both Ahikaiata and Te Mākarini were paid £10, thereupon releasing the cattle to Captain Fergusson. Soon after this, in June 1875, cattle from Ōpouriao strayed again into Rūātoki. Te Mākarini drove them away. Captain Fergusson, when informed by Ahikaiata that his cattle had been seized by Te Mākarini, ventured into Rūātoki with two of his men to reclaim his cattle. Captain Fergusson returned empty-handed. Captain Preece, Resident Magistrate, with Te Mākarini's approval, was approached to settle the dispute. A sum of money was paid for the release of the cattle. Te Mākarini claimed £4 was paid, while Captain Preece suggested that arrangements had been made by the Cattle Company for the sum of £10 to be paid, upon the understanding that no more cattle should be seized. Te Mākarini issued his own warning to Captain Fergusson that he would impound straying cattle on his block. Within a fortnight of this incident, a shepherd was placed on the boundary by the Cattle Company to check the movements of their animals across the confiscation line.

Te Mākarini's seizing of the cattle was an expression of his long and deep resentment, not only of Pākehā presence in Ōpouriao, but also of Ngāti Awa and Ngāti Pūkeko being there, as well as in Ōwhakatoro. He pointed out that his actions there were no different from those which prompted him to erect a pā at Ōwhakatoro to check Ngāti Awa and Ngāti Pūkeko movements. Nothing, however, came of this incident.[22]

Other people in Rūātoki were prepared to cooperate in developments at Ōpouriao to gain some advantages from road building to provide employment and easier access to their country. The road from Whakatāne, through Ōpouriao into Rūātoki, was proposed in 1874. In May 1876, Te Urewera people were still working on the road from Ōpouriao past the confiscation line through to Rūātoki. This action itself was a clear contradiction of the rulings of Te Whitu Tekau established in Ruatāhuna in 1872. Te Whitu Tekau (The Council of Seventy) was formed to prevent any application to the Māori Land Court for survey, or investigation, of titles. It forbade the building of roads, leasing of lands, or other forms of alienation of Tūhoe lands. It also aimed to prevent intrusion by magistrates and other undesirables. Te Whitu Tekau was also to operate as an arbitrator for internal tribal disputes so that the Government would not be given an excuse to interfere with affairs in their territory.[23] Te Whitu Tekau's rhetoric attempted to reflect the mood of the people and to give shape to their visions for their own future. Their attempt to win the confidence of all Tūhoe people, however, was not successful.

> "During the last hostilities with the Government," recalled Tamaikoha Te Ariari, "we filed back to the forest. My houses, my pa, my burial places were deserted behind us. Much of what I say refers to other places. After the close of the hostilities, I came back to Waimana and have lived there undisturbed. Te Anania Rakuraku and myself, all this time, our fires have burned unextinguished and undisturbed. I repeat, we have lived there, people have died and he and I have buried them by tens, by twenties up to two or three hundred. Some are still there, sixty or so. These are not my personal close relations, they are of all the hapu. When our burial places were filled up, we changed to another. It was only during the Pakeha war that we went away from here for a little while. I suffered much during my absence, the destruction of crops and the like.
> When troops left the land, I began anew and commenced to plant and rebuild. Then peace was made and we began to bring in the rest of my people. I lived there with Tūhoe (the sub-tribe) Ngai Turanga and Ngati Raka until we thought we would lease the land ..."[24]

Soon after the establishment of peace in Waimana in 1870, the unoccupied allotments within the confiscated district of Waimana were further subdivided and disposed of by ballot. Of particular interest to this study is Allotment 301 Waimana Parish to the north of the confiscation line and the land south of the confiscation line.

It is curious that Waimana lands to the south of the confiscation line should have caught the attention of Major Swindley. In the first place, much of the land within the confiscated district to the north remained unclaimed and readily available. Secondly, the lands beyond the confiscation line were occupied by a number of members of the Tūhoe subtribes of Ngāi Tama, Ngāi Tauranga and Ngāti Raka. Major Swindley undoubtedly speculated on the divisions and infighting among the Waimana-based landowners and their coastal relations of Ūpokorehe who were eager to restake their claims to Waimana.

Crucial to Major Swindley's eventual success, was the softening of Tamaikoha's attitudes towards Pākehā incursions into Waimana. The events of road construction from Ōhiwa to Waimana in 1873 illustrates this process. In June 1873, Mr Clarke reported that Tamaikoha, who was once the "scourge" of the district, had been employed under a Public Works Scheme to build a road from Ōhiwa to Waimana. The road was some 14 kilometres in distance. The work was apparently allocated to three chiefs from Waimana and each was charged with the responsibility of completing his respective section. Hēmi Kakitu was allotted four kilometres, Rakuraku about three kilometres, and Tamaikoha seven kilometres.[25]

The first section of the road, under Hēmi Kakitu and Rakuraku, was completed in a short time. When Tamaikoha became involved, he was less accommodating and delayed the completion of the road. This unwillingness was prompted by the realisation that the road would induce Pākehā settlers to live on confiscated lands. Mr Brabant, however,

managed to convince Tamaikoha that the road could be completed without his assistance. Tamaikoha gave in, but issued notice that he would take the road only as far as the confiscation line. Special mention was made by Brabant of the bridges erected by Tamaikoha which were especially noticeable for their substandard construction.[26]

Although Tamaikoha exhibited some caution, he did not show the traits that had earned him the reputation of the "notorious wild boar of Te Urewera". Nor were his dealings with Public Works officials in character with his stance against trespassers over the confiscation line at Rūātoki where he warned that those who did would be "relish for his food". This previous unnoticed mildness in the character of Tamaikoha was also evident in his dealings with Major Swindley and surveyors of lands in Waimana.

Major Swindley's initial move to secure a lease for the Waimana lands was made at a gathering of Te Urewera people at Ruatāhuna in 1874.[27] His request was refused and provoked Te Whitu Tekau to evoke prohibitions to prevent the alienation of Tūhoe lands by lease, sale or mortgage. At the meeting, Te Whitu Tekau appeared to have gained tribal support for its policies on Tūhoe self-determination. However, Te Whitu Tekau lacked a cohesive structure and organisation to enforce total commitment from all Tūhoe. This was evident in the dispute that flared up between Ūpohorehe and Tūhoe over Waimana. Each group claimed ownership and priority right to decide the best approach to gain revenue from the land.

There are several aspects to the nature of this conflict between the two groups which should be emphasised. Firstly, both groups chose to process their intentions through Government agencies. For the Tūhoe in Waimana this was a clear indication of their acceptance of Government created institutions to administer Māori affairs. It also indicated a change of policy, toward cooperation with European officials and

settlers. To effect the transaction of a lease, both contending parties made application for surveying in Waimana in 1877 after each had been in treaty with Major Swindley to secure his lease of the land.[28] Secondly, both parties sought to resolve the conflict of ownership of Waimana through the Native Land Court, rather than revert to traditional modes, or refer it to Te Whitu Tekau. The effect of these changes led eventually to the demise of the policies advocated by Te Whitu Tekau for Tūhoe. The contradictory nature of the Waimana people's actions over the lease and eventual loss of Waimana lands to Europeans, was made more poignant by the fact that they were executed under the leadership of some of Tūhoe's most ardent campaigners of the 1860s against European encroachments into Te Urewera.[29]

Tamaikoha had initially opposed the lease of Waimana and when he learnt that Ūpokorehe had taken money from Swindley for the lease of Waimana land, he went around and collected the total sum from them and returned it to Major Swindley. Subsequently, Tamaikoha agreed to lease to Major Swindley and was paid £100.[30] Tamaikoha soon changed his mind amd utilised all his influence to reassert Tūhoe ownership of the lands in question. Mr Joseph Kennedy of Ūpokorehe revealed some insights into Tamaikoha's methods of persuasion.

> "My brothers," Tamaikoha accosted the Kennedy brothers, Nathan and Joseph, as they were leaving the Resident Magistrate's office, "do not oppose me in Court about this land, as I want to establish my claim and if I do not carry my point in Court, I will deal with you privately."[31]

Having carried his point in Court, Tamaikoha did not have to deal with the Kennedy brothers privately. The Court acknowledged Tamaikoha's status and influence, as without his consent, the transaction of leasing Waimana to Major Swindley, would have been totally void. In addition, the Court established that Te Urewera or Tūhoe had had undisputed and paramount ownership and actual occupation of Waimana for upwards of 50

years before 1880. It was shown that any of Ūpokorehe who had lived in or near Waimana during that time, had acquired participative rights through matrimonial or kinship connections. The Judge ruled in favour of Tūhoe hapū of Ngāi Turanga and Ngāti Raka and those of mixed blood from Ūpokorehe, who were admitted through having rights along with the former.[32] Subsequently, a list of names was compiled and included in a memorial of ownership. Later the Waimana lands were subdivided into five separate blocks of varying sizes. No. 1A of 4,804 acres, 1B of 60 acres, 1C of 3,179 acres, 1D of 1,272 acres, and 1E of 636 acres. The validity of Major Swindley's lease was not dependent on the judgement of the Court. It became apparent, however, that the determination of ownership made it easier for him to initiate the second step from lease to ultimate purchase.[33]

Major Swindley, between 1882 and 1885, held most, if not all, the lands in the Waimana Valley from Ōhiwa through to the Waimana Estate south of the confiscation line, in lease or by purchase. Within Waimana, south of the confiscation line, Major Swindley's run in 1882 comprised some 16,000 acres. Most of the run was a flat which was "as level as a bowling green and thousands of acres in extent which was only awaiting the industry and indomitable will of the British yeoman to make it a veritable Garden of Eden."[34] The property carried some 4,000 sheep, 40 head of cattle and 10 horses. In February 1885, Major Swindley purchased the shares of Māori owners in Block A and thus became the proud owner of Waimana Estate of 4,850 acres, for which he paid £1,380.[35]

In addition to the Waimana Block, Major Swindley also leased another 11,000 acres of Māori-owned land to the north. The location of these lands cannot be accurately established, beyond the fact that they were situated to the north of Waimana Valley toward Ōhiwa. The property was accessible from two entrances, one by Ōhiwa and the other by the

Waimana Gorge road. These lands could well have been those north of Allotment 306 in the Parish of Waimana. The land was principally level and nearly all able to be ploughed, though in 1882 much of it was almost entirely in its "primitive state". Nonetheless, the land was able to run 300 head of cattle.[36]

These did not comprise Major Swindley's total land holdings in Waimana. In July 1884, he acquired Allotment 307 of Waimana Parish from Mr Thomas Morris. This land lay just north of the confiscation line and contained 5,333 acres.[37] To finance the development of his estates, Major Swindley borrowed money from the National Bank and Bank of New Zealand. Much of the literature on Major Swindley's land purchases and development mentions Major Whitmore. However, his actual contribution to these land schemes is not clear and his name does not appear alongside that of Swindley on the Certificate of Titles for the Waimana Block and Allotment 307.

Both Swindley and Whitmore carried on their land schemes until the fatal day in 1886 when the great eruption of Tarawera spread a coating of ash over the countryside. As with the Whakatāne Cattle Company in Ōpouriao, the setback caused by the eruption forced Major Swindley and Major Whitmore off the land. Major Swindley set out for Auckland, taking with him a bag of volcanic ash which he handed over to his bankers with the remark, "Here Sir, is your security. I come to surrender it."[38]

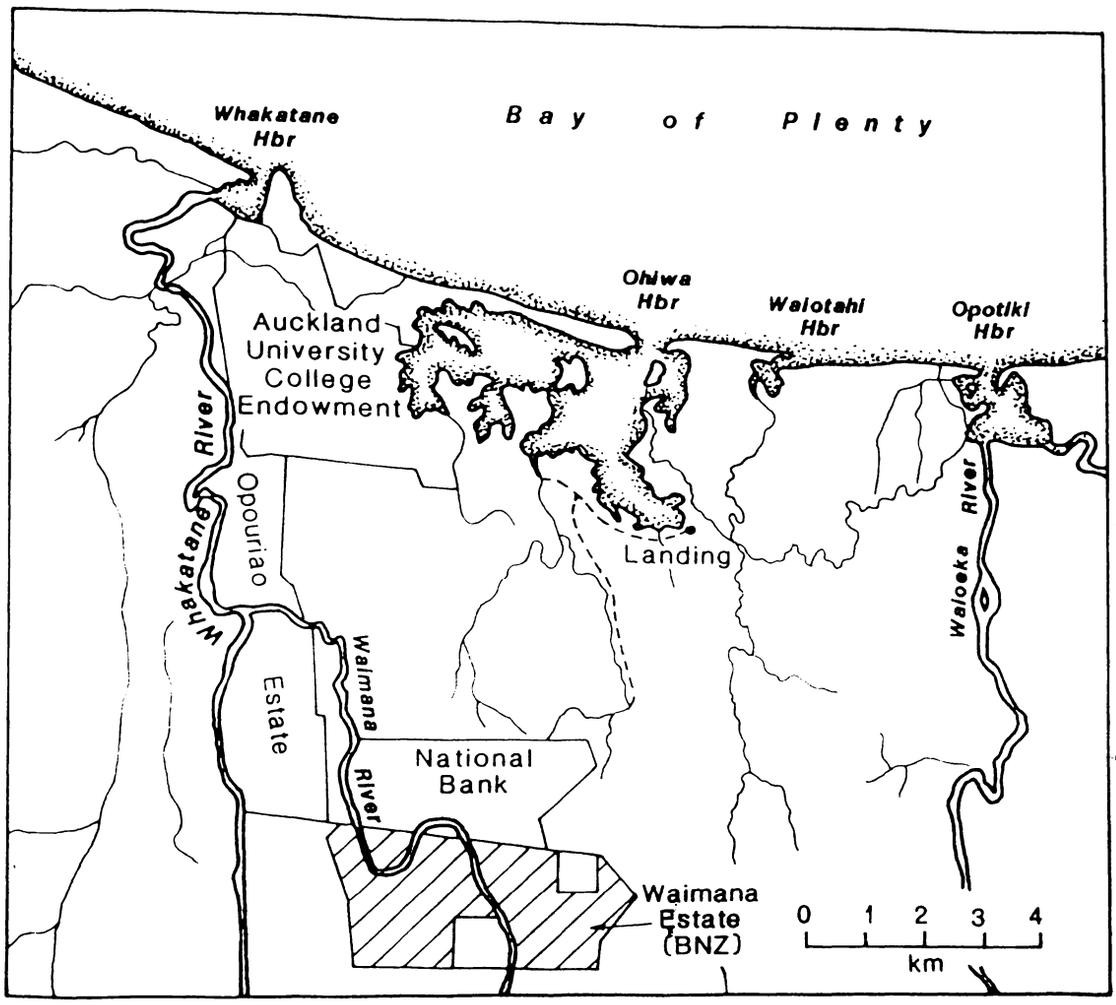
The Swindley properties on both sides of the confiscation line in Waimana fell into the hands of the banks. That on the north side, Allotment 307, was transferred to the National Bank. These lands were not farmed by the Bank, but were subdivided and eventually occupied by settlers. The fate of the lands further north is not known. Lands to the south of the Waimana Block came under the Bank of New Zealand. Although this Bank had intentions of subdividing these lands for

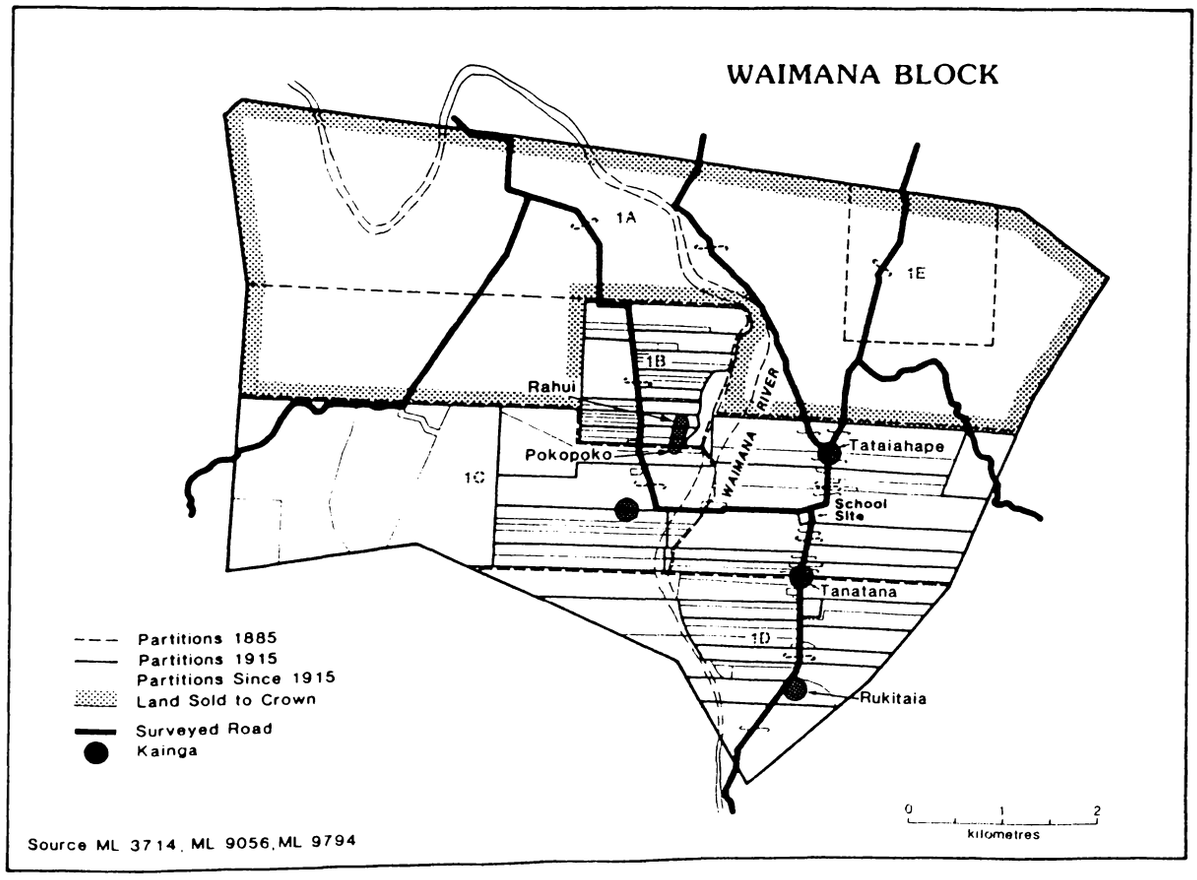
disposal through their Assets Realisation Board, its managers decided to continue the farming operations. It was not until about 1905 that the Assets Board decided to subdivide Waimana and offer sections for sale. In order to attract buyers, a dairy factory was set up to take milk from the herds of dairy cows newly established in the area.[39]

The first Waimana subdivision plan was prepared by Mr A.L. Foster who had done the Ōpouriao subdivision in 1896. Only two of the Waimana sections were sold, to Messrs O. Peebles and W. Phillips. There was the prospect that the remainder of the property would be sold as a whole. It was at this stage that the Government stepped in and gave notice of its intention to acquire the property in terms of the Land Settlements Act. Government surveyors prepared a new plan of subdivision, but it did not differ from the original prepared by Mr Foster. The price to be paid for Waimana was settled by arbitration and was fixed at £3.17.6 per acre. It was generally conceded to be a low figure, as Sir Robert Stout had remarked that too high a price had been paid for property in Matamata and "we [the Government] must avoid making a similar mistake with Waimana".[40]

As with Ōpouriao, Government intervention in Waimana marked the end of the phase of land aggregation. The eruption of Tarawera also facilitated the demise of this phase of land aggregation. Without these interventions, the process of closer settlement could not have been possible. The subdivision of Waimana and its opening for ballot on 10 August 1907, marked the second onslaught upon Tūhoe by farming settlers. Unlike Ōpouriao, Waimana settlement encroached beyond the confiscation line and onto Tūhoe lands which were the first to be lost through sale. For the Government, both Ōpouriao and Waimana provided an example of what could be obtained in ways not thought of previously.

Map showing subdivision of Waimana Estate 1885





The Ōpouriao and Waimana settlement experiences raise a number of points for discussion. What is most obvious is the difference in the attitudes of the Māori leaders in both areas to European settlement and its possible benefits.

Te Mākarini, Te Ahoaho, Te Ahikaiata and Kereru of Rūātoki, were more assertive in their stance against European encroachments. Tamaikoha, Hēmi Kakitu, Te Whiu and Rakuraku in Waimana were more accommodating than their Rūātoki counterparts. However, it should be pointed out that the latter group only restricted their policy to areas under their immediate jurisdiction. They never advocated their policy for the tribal group as a whole. Nevertheless, there was much they shared in common. Both groups realised the benefits road building would bring. It would provide employment and a means to coordinate community effort and cooperation in joint ventures; experiences and new skills in construction, especially of bridges. Roads would provid access for new modes of transportation and other European agricultural goods generally lacking in Te Urewera.

Where the two groups of leaders were radically different was in regard to the alienation of Tūhoe lands by lease or sale. Tamaikoha virtually forced the lease of Waimana Block and he was never opposed. In the sale of interests, the Waimana leaders willingly expressed their intentions to sell, and again they were never opposed.[41] The question of Tūhoe confiscated lands has remained a burning issue among Tūhoe people from 1866 to the present time. This is demonstrated by various Tūhoe attempts to gain redress for the confiscation.

In time of war the Waimana chiefs were very much to the fore and were the recognised champions of the Tūhoe cause in the 1860s. In times of "peace", the Rūātoki leaders remained resolute against Pākehā institutions gaining a foothold in Te Urewera affairs. Well to the end of the nineteenth century, this resistance forced the Government to make

concessions to Tūhoe feelings. The Urewera District Native Reserve Act 1896 was very much a result of Tūhoe's determination to look after their own lands and people. But while the Act may be viewed as an expression of Government commitment to Tūhoe aspirations in the Urewera, it also provided for conversion of Urewera title orders into titles under the Native Land Act and extended the jurisdiction of the Native Land Court into Te Urewera.[42] It became abundantly clear that Crown interest in Te Urewera lay solely in the acquisition of as much land as possible. The concept of "a permanent reserve and a place where the native race may live in their primitive state - where their customs and the native birds may be preserved" was soon abandoned.

Factions of sellers and non-sellers emerged. Land became a means of obtaining capital or ensuring self-sufficiency. Some sold land because it was the only way to obtain money for European clothes and food. Many others eked out a meagre existence and stubbornly refused to sell. Perhaps the tragedy of these transitional times is best expressed in the following account of Tamaikoha's last days, as recalled by Mr Frank Bell in 1907.

> The bent figure of the erstwhile old cannibal Tamaikoha, who invariably arrived in town wearing only a blanket around his waist, and his boots tied round his neck. The old fellow would walk immense distances in spite of his age. His two sons, Hakeke and Tiopira, unlike their father, farmed their lands and supplied the original cheese factory, but their tattooed father would have none of it. He preferred to wile away the hours sitting in front of the Waimana Post Office.[43]

Footnotes to Chapter Five

1 See Chapters Four and Six.

2 AJHR 1870, A-8b: p. 86.

3 OMB, No. 2: pp. 38-382.

4 WMB No. 4: p. 167.

5 WHSJ., Vol. 13.

6 Norris, H.C.M., 1963: pp. 16-17.

7 Norris, H.C.M., 1963: p. 17.

8 Tamarau's MS: p. 96.

9 AJHR 1867, A-20: p. 60.

10 WHSJ Vol. 20, No. 1: p. 28.

11 AJHR 1867, A-20: p. 60.

12 AJHR 1868, A-8a: pp. 3-4.

13 Spyves, P., 1981.

14 WHSJ, Vol. 20 No. 1, 1972: pp. 34-35.

15 WHSJ, Vol. 20, No. 1, 1972: pp. 34-35.

16 WHSJ, June 1965: pp. 82-83.

17 OCF L. & S. Dept.

18 WHSJ, Vol. 22, No. 1, 1974: p. 10.

19 Ōpouriao Estate 1894.

20 Ōpouriao Estate 1894.

21 This incident is recorded more fully in WMB No. 4, pp. 167, 168, 213 and Preece, NZ MSS., 109 Diary, Auckland Public Library.

22 AJHR 1873, G-7: p. 7.

23 AJHR, 1874, G-1a: p.2.

24 OMB, No. 2: pp. 38-382.

25 AJHR, 1873, G-1: p. 8.

26 AJHR, 1873, G-1: p. 8.

27 AJHR, 1874, G-1a, p. 2.

28 OMB, No. 1: p. 97.

29 OMB, No. 2: pp. 329-385.

30 OMB, No. 2: p. 382.

31 OMB, No. 2: p. 353.

32 OMB, No. 1: p. 97.

33 OMB, No. 2: p. 92.

34 WHSJ, Vol. 22, No. 1, 1974: p. 12.

35 C.T. 45/136, L. & S. Dept.

36 WHSJ, Vol. 22, No. 1, 1974: p. 13.

37 C.T. 38/202, L. & S. Dept.

38 WHSJ, Vol. 10, No. 3: p. 95.

39 WHSJ, Vol. 10, No. 3: p. 97.

40 WHSJ, Vol. 10, No. 3: p. 98.

41 OMB, No. 2: p. 382.

42 Stokes, E., J.W. Milroy and S. Melbourne, 1986: p. 41.

43 McCallion, A.J., 1956: p. 34.

CHAPTER SIX

HOPES, PRAYERS AND BITTER DISAPPOINTMENTS TŪHOE REPRESENTATIONS TO GOVERNMENT FOR THE SETTLEMENT OF TŪHOE CONFISCATED LANDS 1866-1985

Kāti māku ko te whakahoki
i ngā mahi kīkino a Te Kāwana
e patu nei i taku whenua.

Let it be known that I will
conquer the oppressive laws
of the Governor which rapes
our mother (land).

After the proclamation of 1 September 1866 confiscating the lands within the Bay of Plenty District, the difficulties and complexities inflicted upon tribes, making representations to the Compensation Court and other government bodies, were enormous. They had to be alert and anticipate every official procedure involved in the implementation of the provisions of the Settlements Act. Should tribal representations miss participating in any of the early procedures, their interests could be in jeopardy, or worse, they could be shut out totally from future attempts at redress. This point was alluded to by a Mr Taylor before the Commission investigating confiscation lands:

> If no application were made to the Court then I submit that such people are not now entitled to claim return of land.[1]

The procedures of the Compensation Court were, for many of the tribal representatives, new and unfamiliar. Certain "loyal" leaders, however, had an unfair advantage in that they had well-established contacts with Court officials before the sitting of the Court in Ōpotiki, or Whakatāne.[2] Obvious benefits stemmed from such contacts. Meetings between the Crown Agent and "loyal" tribes gave the latter advantages over others establishing claims to lands within the confiscated district. In Court "loyal" tribes were appointed as Crown witnesses to give evidence against other claimants. Certain judgements

in favour of certain chiefs did not go unnoticed by other claimants.[3] Such practices of the Court and its agents have already been outlined in Chapter Four.

Those tribes already associated with the killing of the Rev. Volkner and Mr Fulloon, or with resisting the expeditionary forces sent to capture their killers, were greatly disadvantaged in establishing claims against unjust confiscation, or claims to confiscated lands. The onus was on them to prove their innocence and establish land claims against the testimonies of Crown witnesses. Conflicting tribal land claims were never investigated or resolved in the Compensation Court. This was largely due to the fact that those who sat in judgement had insufficient local knowledge and relied largely on the testimony of Crown witnesses or the Crown Agent.

After the Court hearings, the passage of time did little to change the Government's attitude to the pleas of tribal groups denied favourable judgement in the Compensation Court. Indeed, the passage of time effectively blocked out the option of returning land as compensation for those whose claims had been found to be justified. Official response to later investigations was exemplified by the following statement in the report on the Bay of Plenty confiscation:

> It is probable that some of the hapus were loyal, but it is impossible at this distance to determine exactly the hapus concerned in the rebellion or to ascertain their respective interests in the land confiscated. It would be idle to discriminate now as to the complicity of the different hapus, and all that we can say is that it has not been proved to our satisfaction that the land of any innocent hapu has been confiscated. If any such land was confiscated, the hapu was entitled to compensation for it under the New Zealand Settlements Act 1863.[4]

However, there has been some indication recently that suggests a change in Government attitudes to tribal submissions. Whakatōhea have received some compensation for their confiscated lands. On 15 August 1983, the Government offered $320,000 cash, or a cash/land settlement to

settle Ngāti Awa grievances. Then, on 29 August, the Ngāti Awa Trust Board presented a counter-proposal which is still under negotiation.[5]

Before turning to Tūhoe's representations to Government for reconsideration of their confiscated lands, there remains a need to clarify and correct an item in a return submitted by Mr Wilson to Government in 1872.[6] The return in question contained 12 items, but what is of interest is item 11 which specified that 500 acres of land within the confiscated district were returned to surrendered Urewera. However, no schedule was attached to elaborate further. Research on this issue has only uncovered two records which relate to the matter in question. In a memorandum forwarded to the Native Minister on 7 November 1871, from Mr Wilson, is a reference to the mislaying of 16 schedules containing many hundreds of names for awards in the Bay of Plenty.[7] While Mr Wilson mentioned that he kept records of those, it cannot be established whether the missing schedules were all recovered. If they were, none of them gives a satisfatory explanation of the grants alleged to have been returned to Te Urewera.

In a schedule submitted by Mr Wilson in 1872 containing detailed information on grantees' sex, address, rank, locality and size of allotments, there was no reference to Tūhoe, Te Urewera, or any one of its many hapū. Another return titled "Schedules of Lands returned to the Ngāti Awa, Ngāti Pūkeko and Tūhoe tribes" provided no conclusive evidence either.[8] The schedule contained useful items listing allotments, location reference, size and names of individuals and tribes or hapū to whom they were awarded. In all, 86 allotments were listed. However, very little information can be deduced from the schedule relevant to Tūhoe or Te Urewera grants. Some of the individuals named lacked references to their tribal or hapū origins. Where tribal or hapū names have been listed, not one refers to Tūhoe or Te Urewera. Of all the tribes and hapū listed, Ngāti Awa, Ngāti Pūkeko, Patuheuheu, Ngāti

Whare, Pahi Poto, Ngā Maihi, and Ūpokorehe can be shown to share kinship ties with Tūhoe, as all can trace descent from the original ancestors of the Mātaatua canoe. However, the label of Tūhoe or Te Urewera cannot be given to any of the above as each claim autonomy, identity and allegiance. None of the above groups could be associated with the stance taken by Tūhoe during the 1860s. Again the question of awards to Tūhoe remain unaccounted for.

Were any lands within the confiscated district returned to Tūhoe? If so, which allotments were awarded and who were the grantees? Without any satisfactory clarification of Mr Wilson's early claim that confiscated lands were returned to Tūhoe, it can be stated that of all the tribes whose lands were confiscated in the Bay of Plenty, only Tūhoe's claims were never acknowledged by the Government. This was not for lack of effort on Tūhoe's part.

In retracing Tūhoe representations to the Government over the issue of confiscation, attention will be directed to successive claims from 1866 through to 1985. This study will concentrate on collective organised representations, as well as the individual initiatives to present Tūhoe grievances before Government representatives.

In 1866, soon after the confiscation of lands within the Bay of Plenty district, the Compensation Court issued a notice which announced the period for referring claims before it.[9] The period prescribed was for not less than three months, or more than six months, from the date the Proclamation of Confiscation was issued. In backdating the time of commencement, the Court effectively gave claimants only four months in which to submit claims for consideration. Added to this were the delays for publication and circulation of the notice to those concerned in the Bay of Plenty district. The announcement of venues and dates for court sittings were also issued. The first sitting at Ōpotiki did not pass without incident. The first of October 1866 was set for the first

sitting of the Compensation Court at Ōpotiki. However, this date was later postponed without a new date being specified.[10] Another notice was finally issued on 21 December announcing the sitting of the Compensation Court at Ōpotiki for 7 March 1867.

The sitting of the Compensation Court at Whakatāne was set for 19 September 1867. However, when it was published in the Gazette, the day was wrongly printed as the 9th.[11] Having considered the early administrative procedures necessary for the functioning of the Compensation Court, it is miraculous that a large number of claims reached it within the prescribed period. The files of the Compensation Court testify to those. However, it does not record any claims rejected due to their late arrival.

From among the schedules of claims heard before the Compensation Court at Ōpotiki on 9 March 1867, Te Arania Rakuraku appeared on behalf of Tūhoe to claim lands within the confiscated district through to the confiscation line in Waimana.[12] In his brief summary, Rakuraku alluded to the special relationship between Tūhoe and Ūpokorehe at Ōhiwa, who shared the occupation of lands described in his claim. He emphasised that the connections between Ūpokorehe and Tūhoe were much closer than those with other tribes of Ngāti Awa and Whakatōhea. Such connections extended back 12 generations to Tairongo. The land at Ōhiwa, he admitted, were fought over between the coastal and inland tribes many times, but each time it was retaken by Tūhoe and Ūpokorehe. Hirini of Ūpokorehe spoke in support of Rakuraku.

Giving evidence against Rakuraku's claim were two soldiers who accompanied Colonel Lyons (who sat as one of the judges in court) into Waimana in April and February of 1866. The context of their evidence bore no relevance to Rakuraku's ancestral associations and occupational claims to Ōhiwa and Waimana. Mr C. Jeffs, for example, only mentioned that guns were found in Rakuraku's pā after he had denied possessing

any. Mr B.F. Edwards made reference only to disarming Rakuraku. Other Crown witnesses from Whakatōhea stated their claims to Ōhiwa, as well as establishing their closeness to Ūpokorehe. But these claims lacked detail. On this evidence alone the case was closed and Rakuraku's, and therefore, Tuhoe's, claims to lands north of Waimana to Ōhiwa, were dismissed. The lands at Ōhiwa were awarded to Ūpokorehe, Ngāti Awa, Whakatōhea and even Te Arawa of Rotorua, who had fought with the Government forces.[13] It should be restated that it was at this court sitting that a furore broke out when a judgement was given in favour of Apanui's claims to Ōhiwa. The other claimants accused the courts of bias towards Ngāti Awa.[14]

Tūhoe claims before the Compensation Court hearing at Whakatāne between 9-19 September 1867, have already been dealt with in detail in Chapter Four and need not be repeated here. However, the appearance of Rakuraku, Te Mākarini, Ahukata Te Hiko and Hoani Takurua, before the Compensation Court, marked Tūhoe's first attempts to restake their tribal claims to Ōhiwa, Waimana and Ōpouriao. Both Rakuraku and Te Mākarini were Tūhoe chiefs of some authority who were accorded mana by their people and enjoyed similar status as well among neighbouring tribes. In examining their claims, they all focussed on ancestral and occupational rights which deserved further examination by the Court. Of course this was not done. Evidence before the Court was brief and insubstantial. This cannot be said only of Tūhoe claims. Counter-claims by other tribes were equally brief and without proper evidence. It became largely a contest of the word of one chief against another. Court officials, given their contacts and attitudes, tended to favour certain tribal groups over others.[15] In the evidence against Tūhoe claimants, Crown witnesses accused many of them of possessing guns. While this did prejudice their claims, it should not have, as the possession of guns by Māoris was not considered an act of rebellion.

Both Tūhoe chiefs failed. To add to their personal disappointment, Te Mākarini and Rakuraku were physically removed from their villages and taken captive. Te Mākarini was removed from Puketī in Ōpouriao and Rakuraku was taken from Waimana and held at Hokianga on the Ōhiwa Harbour where he was put under the surveillance of Ngāti Awa.[16]

After Rakuraku and Te Mākarini's peaceful attempts, other Tūhoe took up arms, not only to press home their tribal claims to their confiscated lands, but also to retain their mana and authority over their heartlands. While these causes were at the heart of Tūhoe's resistance against Europeans, the catalyst was the unwarranted attacks on Waimana settlements. The war effort did not win back any of the confiscated land; it merely delayed the disposal of those lands for settlement.

After peace settlements in 1870 and 1871, Tūhoe did not let the matter of their confiscated lands lie. Indeed, many of the meetings between Tūhoe and Government officials within their heartland at Ruatāhuna provided opportunities to raise the question of confiscation. One such occasion was on 23 and 24 March 1874 when Mr Brabant arrived at Ruatāhuna to attend a meeting of Te Urewera. Accompanying him were representatives from Ngāti Awa, Ngāti Pūkeko and Ngāi Tai of Ōpape, as well as Major Swindley, acting as interpreter. Mr Brabant was under Government instructions to attend the meeting and report on its proceedings.[17]

The mood of Tūhoe people was introspective. They were grimly determined to pick up the pieces left after the destruction of five years of fighting. Policies for the future were being organised by the leaders. Te Whitu Tekau was set up to rally Tūhoe unity towards the retention of land and to limit Government interference in their affairs. They also set up new approaches to the question of confiscation.

Kereru of Ngāti Rongo hapū, who was the emerging Tūhoe leader of the post-war era, pointed out that Mr Samuel Locke had promised that the confiscation line on the Bay of Plenty side would be shifted. As a gesture, he had ripped up the old confiscation map. Kereru also realised that Tūhoe remained outside of Pākehā political and legal institutional power. He emphasised the need to engage legal procedures to submit their case to the courts of the land, including the Court of Chancery in England. To aid this cause, solicitors would be employed to prepare and present their case. He also reiterated Tūhoe claims that their lands were taken by Government for crimes they did not commit.[18]

Tamaikoha took up Kereru's reference to Mr Locke's promise to pursue official avenues to shift the confiscation line. This, he emphasised, would allow the law to work in Tūhoe's favour for once. Tamaikoha went further to suggest that the law could also be employed to return allotments within the confiscated district to Tūhoe. He would not hesitate to take one if offered.[19]

In reply, Mr Brabant answered all of the points raised by Tūhoe. He assured them that the Government would not, under any circumstances, move the confiscation line. As to the granting of allotments within the confiscated lands, they could only be considered by the Government. To illustrate this point, Mr Brabant used the example of those tribal representatives who had accompanied him to Ruatāhuna. They had acquired lands, he said, because they remained loyal, while to others, lands were given for plantations. However, to raise Tūhoe hopes, Mr Brabant added that perhaps some of them could well possess lands like those of his friends.

> Government are not stingy with their lands as you are. If they see anyone, either European or native, who wants their land for actual settlement, they as a rule, give it to him.[20]

Mr Brabant, however, did not hold out much hope for Tūhoe's discussion of an appeal to the law or of carrying their case to England. He advised that, while these courses were open to them, Tūhoe would have to pay expenses which would be heavy. He himself was convinced that Tūhoe would fail. As to Kereru's doubting the Government's right to confiscate their lands, Mr Brabant simply bypassed it, by avoiding discussing it since the matter had already been settled. He countered Kereru's claim by informing the gathering that Tūhoe should have been thankful that the spot on which they stood was not confiscated as well.

The Ruatāhuna meeting failed to provide any resolution for Tūhoe grievances. Nothing much emerged for possible negotiation with the Government. The only hope for Tūhoe was the possibility of the Government granting them allotments in the confiscation district. But this was very much dependent on the goodwill of the Government. At that time, most, if not all, of the allotments in the confiscated lands, had already been accounted for.

What was of particular concern in Mr Brabant's report, was his open advocacy for Europeans to use whatever means they could to secure leases in Tūhoe.

> Mr Brabant claimed : "The Urewera, like the Waikato, appear to be inordinately fond of rum ... Of course, it can hardly be expected but that Europeans wishing to deal with them should take full advantage of this weakness.[21]

But for Tūhoe all was not lost. Kereru's ideas had left them pondering the possible merits of lobbying Pākehā political and judicial institutions. This eventually opened the way for Tūhoe petitions to Government. While it was Kereru who provided the idea, it was left to others to put it into practice. Kereru became more involved in the investigation and registration of Tūhoe land titles within their own territories.

Mr Brabant's visit to Ruatāhuna was followed by the visit of Mr Samuel Locke who was, at the time, a Native Land Purchase Commissioner. This meeting took place on 29 March 1874. The object of his visit was to discuss boundaries which Tūhoe shared with the neighbouring tribes of Ngāti Kahungunu of Wairoa, Ngāti Whare of Te Whaiti and Ngāti Manawa of Murupara. The opportunity to raise the question of confiscation was not missed by Tūhoe.

In replying to Tūhoe enquiries about the confiscated lands in the Bay of Plenty, Mr Locke simply let the matter rest on what Mr Brabant had already said and refused to elaborate further.[22] Mr Robert Price, who took notes on Mr Locke's visit, noted that Mr Brabant had explained to the Ureweras that none of the confiscated land in the Bay of Plenty would be returned.[23] Mr Price does not mention whether he or Mr Locke had had notice from Mr Brabant to that effect. Even if they had, this was not a true representation of what Mr Brabant had said to Te Urewera, judging from the notes on the meeting he forwarded to the Government. In Mr Brabant's report, he distinctly left Tūhoe with the hope that lands within the confiscated district could be acquired by Tūhoe as Ngāti Awa, Ngāti Pūkeko and Whakatōhea had acquired theirs.[24]

It can be noted in Mr Brabant's report that he had suspected Tūhoe could well have arranged that he and Mr Locke attend the Ruatāhuna meeting at different times. This would have allowed Tūhoe to compare their statements on confiscation and other government policies concerning Te Urewera.[25] Indeed, in comparing the statements issued by both officials, Mr Brabant's was the only one which contained any substance for Tūhoe's hopes. The contradictions evident in their statements could well have left Tūhoe feeling totally disadvantaged.

Both officials came with closed minds. They only perceived what the Government could gain at the expense of the native population. It was noted, for example, that this was the first time Tūhoe had agreed to arbitration of their grievances by Government without disturbing the peace of the country. This was seen by Mr Locke as the readiness of Tūhoe to enter into the spirit of the times and a desire to open up their country for settlement.[26] While Tūhoe were willing to make concessions, they received none in return.

Absent from both the above meetings at Ruatāhuna were Rakuraku and Te Makarini. A special note was made of this by Mr Brabant.[27] Te Makarini remained active in pursuing his own methods of bringing official attention to confiscated Tūhoe lands. His approach was two-fold. Firstly, he impounded straying cattle from the Whakatāne Cattle Company station in Ōpouriao. Secondly, he erected a redoubt at Ōwhakatoro to keep a check on Ngāti Awa and Ngāti Pūkeko who had received allotments in the adjacent lands to the north. Both these actions symbolised his resentment of the confiscation. However, they failed to impress Mr Donald McLean or Major Preece when they intervened to settle these cases. Neither took note of the underlying political intentions of his actions. Te Makarini was paid 10 in compensation for the cattle straying onto his land on condition he returned them to their rightful owner.[28] While Te Makarini received wide support for his actions from people in Rūātoki, it did not mean that they had completely abandoned seeking legitimate means for final settlement of their confiscated lands.

In 1878,the first petition to emerge from Tūhoe was launched by Te Takiwa Te Wakaunua of Rūātoki. Te Wakaunua highlighted that Tūhoe was one tribe who had suffered greatly at the hands of the Government. He was careful to point out that the fault lay with the previous Ministry which Donald McLean had served. Te Wakaunua endeavoured to ensure that,

in exonerating the new Ministry from blame, they would reconsider Tūhoe's appeal and right the injustices of the past. Te Wakaunua accused the previous Ministry of not once considering Tūhoe's rights concerning lands within the confiscated district. Instead, Ngāti Awa and Ngāti Pūkeko were granted rights to Tūhoe lands. In ending his case, Te Wakaunua suggested that Ngāti Awa and Ngāti Pūkeko be taken back onto their own lands.[29]

The new Ministry was no more sympathetic to Tūhoe's cause than previous ones. Mr Clarke's reply on behalf of Government was all too familiar. Te Wakaurua was reminded that the lands were confiscated for the "sins" of the tribes and that the decision affecting those lands was made with due consideration of the law and therefore was legally binding.[30]

In 1891, Tūhoe was visited by the former Governor, the Earl of Onslow, and later, in 1895, by the Prime Minister, Mr R. Seddon, and the Member of Parliament for Eastern Māori, Mr James Carroll. But the reports on these trips did not mention any discussions taking place on the question of confiscation. Even when Tūhoe elders paid a return visit to Premier Seddon in Wellington, the confiscation question was not raised. The reasons are obvious. Firstly, Tūhoe did not want anything else to harm their negotiations with Government so as to ensure the passing of the Urewera Reserve Act, which they realised would give them administrative control over their remaining lands. The second reason could well have been that Tūhoe failed to exploit opportunities of the visits to seek redress for the Bay of Plenty confiscations.

Rūātoki again took the initiative to spearhead Tūhoe attempts to raise the confiscation question, by forwarding a petition headed by Wi Te Purewa to the Native Minister in 1903.[31] This petition focussed on the wrongful confiscation of the Ōpouriao lands. It ended with a plea that the matter would be rectified.

In reply to the 1903 petition, Mr Waldegrave, the Under-Secretary, wrote:

> I am unable to afford any information on the subject. The petitioners seem to wish to challenge the confiscation after the war, but I submit that it is too late to re-open the question now.[32]

The year 1920 heralded the beginning of a large concerted effort by all of Tūhoe to push their claims to the attention of government. The approach initially took the form of a petition, which was signed by 238 of Tūhoe. Their petition, known as **Te Kapo's Petition,** contained five specific items. They maintained that Tūhoe was free from blame for the killing of Rev. Volkner and Mr Fulloon, and that they took no part in resisting the troops in Ōpotiki or Whakātane districts. While Tūhoe admitted that Kereopa sought refuge in Te Urewera, they were largely responsible for his eventual capture and handing over to Government for punishment. Mr Fulloon's death, Tūhoe petitioners claimed, was a deed carried out by members of Ngāti Houhiri of Ngāti Awa. Further, Mr Fulloon was of Tūhoe descent. Thus Tūhoe suffered two wrongs - the death of a kinsman and the confiscation of their lands. The petitioners pointed to a promise that was left unfulfilled. Mr McLean had promised the return of their confiscated lands, but owing to his death, the matter was not settled. To conclude, they expressed their disappointment at Government's response to Te Purewa's petition.

After receiving Te Kapo's petition, it took the Under-Secretary of Native Affairs, Mr F. Waldegrave, 15 months to make a report. On 29 November 1921, he simply wrote that he regretted being unable to afford any information on the subject and referred petitioners to his 1903 decision.[33]

While Government closed one door on Tūhoe, they opened another to Whakatōhea when they set up a commission to investigate Whakatōhea's complaints about the confiscation of their lands. The three Commissioners, Messrs R.N. Jones, J. Strauchon and J. Ormsby, in their

report after investigating Whakatōhea's complaints, stated that they had been unduly punished by losing so much of their lands. The penalty paid by the Whakatōhea tribe, great as was their offence, was heavier than their deserts.[34]

Tūhoe's efforts to push their claims for investigation by Government, continued to be characterised by optimism and enthusiasm. Perhaps Mr Waldegrave's report on Te Kapo's petition did not reach them. To back the points in Te Kapo's petition, Tūhoe established a Komiti Raupatu (committee on confiscation) in 1923. This Committee was responsible for the planning and directing of all tribal efforts towards the success of their petition of 1920.[35]

The Komiti Raupatu's first activity was to provide a scheme to raise funds for the preparation and presentation of their case. To this end they proposed that every elder and adult within Tūhoe donate a fixed sum of money set by the Komiti Raupatu. This sum ranged from 2/6d to 3/0d per person. All names and donations were dutifully recorded. In this way, all the families in Rūātoki, Waimana, Waiohau, Te Whaiti, Ruatāhuna, Maungapōhatu and Waikaremoana, became involved in the Tūhoe case. Tūhoe people in Auckland also contributed.[36]

In preparing their case, the Komiti Raupatu established a Council of Elders so that their knowledge, of the history of confiscated lands and Tūhoe perspectives on the events leading up to the confiscation, could be recorded. The Council of Elders was to choose from among their own ranks speakers on specific topics. Paiaka, for example, was chosen to speak on the killing of Mr Fulloon. Such a scheme was to avoid contradictory stories when they were required to appear before government hearings.[37]

To handle the legal aspects of their case, the Komiti Raupatu proposed to hire lawyers. Another strategy adopted by the Komiti Raupatu was to appoint a person to travel and stay in Wellington. This person was to be responsible for keeping an eye on the progress of the petition through the House of Representatives and to submit reports on it.[38] Obviously this person had very little contact with Parliament or he would have reported on Mr Waldegrave's reply to Te Kapo's Petition and saved the Komiti Raupatu much wasted energy. After 18 years, the Committee held its last meeting in Rūātoki on 13 September 1935.[39]

In 1924, Ngāti Kareke of Waimana, submitted a separate petition from Te Kapo. In the petition, Ngāti Kareke highlighted the hardship suffered by them when Government confiscated all their lands west of Ōpouriao and around Te Pōroa. They were now a landless people.[40] Government set up a Royal Commission to enquire into confiscation of native lands and other grievances in March 1927. The report of the Commission appeared in the Appendices to the Journal of the House of Representatives, 1928. The matters relevant to Tūhoe in that report formed the basis of Chapter Three. The points the Commission took into consideration to justify the confiscation of the lands of the tribes in the Bay of Plenty, have also been dealt with.

The year 1980 saw the re-emergence of the issue of Tūhoe confiscated land after 35 years of lying dormant. It took the occasion of the visit to Rūātoki on 23 August 1980 of the Honourable Mr Ben Couch, then Minister of Māori Affairs, for the subject to be raised. However, only the night before the visit did the issue of confiscation emerge for discussion among the people who had gathered on Tōtara Marae. As a result, little time was available to make a written submission for the Minister's consideration. Mr Kūpai McGarvey made an oral presentation of the case for Ōpouriao lands in his general speech of welcome to the Minister. It was difficult to gauge the Minister's

response, as the entire speech was presented in Māori, and due to the Minister's inadequacies in the language, most, if not all, of the presentation probably went unappreciated. What is more tragic is that all the knowledge and information collated by Kūpai McGarvey over the years, was never recorded, and was lost when he died.[41]

Since then, individual initiatives to raise the issue of Tūhoe confiscated lands have been sporadic and impulsive. Such an incident took place when elders and local representatives went to Wellington to present a petition requesting the return of the Secondary School Department to Rūātoki in November 1983. After the presentation to Labour members of the House, one of the elders, Mr Paul Kruger of Rūātoki, promised that when Labour came to power, Tūhoe would be back again to present Tūhoe claims for the wrongful confiscation of their lands.

In 1985, a notice of the Crown's intention to dispose of Puketī Section IX Part 27, Whakatāne Survey District, in Ōpouriao, was brought to the attention of Tūhoe people. As a result, an investigation was began and a submission drafted to reaffirm Tūhoe's ancestors' claims to these lands. What remains to be said is that the matter is now before the New Zealand Māori Council to make a decision on Ngāti Pukeko and Tūhoe claims to this block. That decision has not yet been made.

Of all the tribal groups whose lands were confiscated in the Bay of Plenty, only Tūhoe's land claims remain unresolved. With a more sympathetic approach adopted by recent governments and the desire to achieve moral justice, a review and settlement of claims have been possible. In the case of Tauranga, Government recognised that a settlement was morally justified. An offer was made of a cash settlement and paid to the Tauranga Moana Trust Board, which was established by legislation in 1981.[42] It should also be emphasised that

more recent Māori submissions have been a result of thorough research and skilful presentation before relevant statutory bodies.

The weakness of Tūhoe claims in the past was that the claims were not backed up with researched, written submissions. The people were unable to counter accusations brought against them, simply because they did not have access to the information. Where they did succeed in winning favourable judgements, it was before the Māori Land Court, where oral presentations were acceptable, and recorded and translated before judgement. Petitions had failed them because they lacked the skills to follow them up.

Their experiences in the past, as well as knowledge of other tribal procedures in presenting claims before Government, have given present Tūhoe people new insights into how to process their own submissions; and hopefully in such a manner that no Government can ignore or postpone resolution of them. Bitter disappointment has been the result of every previous Tūhoe attempt to obtain redress. Nonetheless, there has always been a determination to continue pressing for justice. Tūhoe have long memories.

Footnotes to Chapter Six

1 MA 85/1, N.A., Wellington.

2 OCF L. & S. Dept. 74/4740 Rauporoa Proposals.

3 OCF L. & S. Dept. 67/236 Apanui's Case.

4 AJHR 1928, G-7: p. 20.

5 The Bed, The Blanket and The Pillow, 1983.

6 AJHR 1873, G-48: p. 5.

7 MA 85/6, N.A. Wellington.

8 AJHR, 1872, C-4: p. 4.

9 OCF L. & S. Dept., Commissioner Clarke, Compensation Court. 15/3/1866.

10 NZG, 1866: p. 17.

11 OCF L. & S. Dept., Judge Fenton to Native Minister, 24/7/1866.

12 OCF L. & S. Dept.

13 NZG, 1874, No. 12: p. 775.

14 OCF L. & S. Dept.

15 OCF L. & S. Dept.

16 AJHR 1867, A-8a: p. 4.

17 AJHR 1874, G-1A: p. 4.

18 AJHR 1874, G-1A: pp. 4-5.

19 AJHR 1874, G-1A: p. 4.

20 AJHR 1874, G-1A: p. 5.

21 AJHR 1874, G-1A: p. 3.

22 Price R., 1891: p. 45.

23 Price, R., 1891: p. 44.

24 AJHR 1874, G-1A: p. 4.

25 AJHR 1874, G-1A: p. 5.

26 Price, R.. 1891: p. 47.

27 AJHR 1874, G-1A: p. 5.

28 Preece, NZ MSS 109, Diary: Auckland Public Library.

29 MA 13/100a, Letter from Te Takiwa Te Wakaunua to Native Minister, 23/7/1878.

30 MA 13/100a. Clark to Te Wakaunua, 9/4/1878.

31 AJHR 1904, I-3: p. 19.

32 MA 21/12, N.A., Wellington.

33 AJHR 1904, I-B: p. 19.

34 AJHR 1921/22, G-5: p. 5.

35 Raupatu Committee Minute Book: p. 5.

36 Raupatu Committee Minute Book: p. 8.

37 Raupatu Committee Minute Book: p. 10.

38 Raupatu Committee Minute Book: p. 21.

39 Raupatu Committee Minute Book: p. 51.

40 See Chapter One: pp. 11-13.

41 Nikora, T., 1983: Rotorua.

42 AJHR 1981, E-13: p. 12.

CHAPTER SEVEN

THE BASIS TO A JUST SETTLEMENT FOR THE CONFISCATION OF TŪHOE LANDS

Tēnei au te noho noa, he kai hau i te whenua kua weheruatia.

Here I sit with only air to sustain me, for the land is gone.

Tūhoe representatives of the 1980s argue that they should be given the opportunity to both present and negotiate a settlement, over these lost lands, with an authority nominated by themselves or by the Government. This representation would have two major objectives. First, to reiterate the grievances of the Tūhoe people. Second, to present the Tūhoe people's view of what would constitute a just settlement.

This Chapter will consider particular issues unique to the Tūhoe case, together with general issues evident in the grievances of other tribes. The submissions that follow are part of the continuing struggle for justice which has occupied Tūhoe people for 120 years. Tūhoe's sense of grievance began with the confiscation of their lands in 1866. By confiscation, some Tūhoe hapū of Te Urewera, Ngāti Koura, Ngāti Rongo, Māhurehure, Ngāti Tāwhaki and Ngāi Tūranga, lost part of their lands. In the case of others, such as Ngāti Kareke, Ngāti Raka, Ngāi Te Kapo, Ngāti Muriwai and Ngāi Tākiri, they lost all their lands. This loss included pā sites, village settlements, cultivations, cattle, agricultural implements, natural food sources and burial places. Tūhoe lands within the confiscated district were the most arable productive kūmara growing areas, as well as providing access routes to the sea resources of Ōhiwa Harbour.

Soon after confiscation was proclaimed, the task of determining and defining tribal boundaries created concern among the tribes involved. Confusion and conflict soon arose among them over land claims within the confiscated district. The question of tribal boundaries remains a primary, unsettled issue.

Tūhoe claims to lands within the confiscated district have been established in Chapter One. These claims were based on the principles of customary Māori land tenure. Governments did not acknowledge these claims from the time of confiscation, and the matter has now been revised with a resolve to obtain recognition of the injustices suffered by Tūhoe people since 1866.

Government estimates of Tūhoe lands that were confiscated were based on what was known as "Heaphy's Plan". "Tūhoe had originally 1,249,280 acres and were left with 1,235,549."[1] According to these figures, 14,731 acres of Tūhoe lands were within the confiscated district of the Bay of Plenty. Admittedly, when the Royal Commission of 1928 used Mr Heaphy's Plan to calculate their estimates of tribal lands, they noted that there was some dispute as to the correctness of the boundaries shown.[2] But they did not proceed any further with investigations on this point. Nor did the commissioners question the basis for Mr Heaphy's claims. If they were aware that the correctness of his Plan was in dispute, why was there no investigation?

Recent investigations into this matter revealed that Mr Heaphy's original estimate of Tūhoe territory in the confiscated district was 57,344 acres.[3] This came closer to Tūhoe claims of its traditional boundaries. Other questions also arise. Who, for example, amended Mr Heaphy's earlier estimate of Tūhoe lands from 57,344 acres to 14,731 acres? On what information was the change based? Changes were made to Heaphy's Plan; in particular to the total he credited to Tūhoe. This was considered a mistake and practically all the land shown on Heaphy's Plan as being confiscated from Tūhoe, was given to Ngāti Awa and Ngāti Pūkeko by the Compensation Court.[4]

Most of Tūhoe lands that were granted to Ngāti Awa and Ngāti Pūkeko were situated on the western banks of the Whakatāne River. Selected areas of the eastern lands around Taneatua and Ōpouriao were also given

to these tribes.[5] These lands were originally held by Ngāi Tūranga of Te Tini o Toi. Ngāi Tūranga territory extended from Ōwhakatoro to Te Tiringa at the northern end of Te Ikaroa a Tamatea ranges.[6] It was at Ōwhakatoro that Te Tokotoru a Paewhiti Ueimua, Tānemoeahi and Tūhoe grew up and eventually fought. Ueimua was subsequently slain and his forces defeated and forced to retreat seaward to Whakatāne. Permanent occupation was thus denied the descendants of Ueimua.[7]

Lands between the Ōwhakatoro River and Whakatāne were under the mana of Tāmango, while those east of the Whakatāne River at Hūrepo were held by Ngāi Te Kapo, and those in Ōpouriao were held by Ruapūruru. After the death of Tāmango which was brought about by Kahuki and his uncle, Ruapūruru, hia lands were occupied by Ngāti Kareke and Ngāi Tākiri.[8] After Ruapūruru's death, his lands came under the mana of Ngāti Raka. These three groups occupied and defended their lands for nearly two centuries until fighting broke out between Ngāti Kareke, Ngāti Awa and Ngāti Pūkeko.[9] This conflict was to have a great bearing on the claims to lands north of Ōwhakatoro, Hūrepo and Ōpouriao before the Compensation Court in 1867. Ngāti Awa and Ngāti Pūkeko maintained that, by succeeding in expelling Ngāti Kareke from their stronghold of Te Pōroa, they had rightful claim, not only to lands west of the Whakatāne River, but also to the lands in Ōpouriao. While their victory over Ngāti Kareke cannot be denied, Ngāti Awa and Ngāti Pūkeko did not, in any way, consolidate their right of conquest through occupation of Ngāti Kareke lands. Occupation became virtually impossible as a result of the disturbed state of the district due to the arrival of Ngā Puhi forces under Te Wera in 1818 and later under Pōmare in 1822.[10] Soon after the departure of Ngā Puhi from the Bay of Plenty in 1823, fighting broke out between Ngāti Raka and their close kin from Rūātoki. The defeat of Ngāti Raka ended their hold on Ōpouriao and on the western banks of the Whakatāne River.[11]

In establishing sovereignty over Ngāti Raka lands, the hapū with Tūhoe allegiance occupied land south from Hūrepo on the eastern banks of the Whakatāne River, as well as lands south of Te Tiringa on the western banks, by virtue of take tipuna or ancestral rights later sustained by raupatu or conquest and take noho or occupation. Tūhoe have not allowed the mana of the lands to be assumed by another tribal group. All these lands fall into the category of ahi kā roa, or the continually burning fires, signifying occupation of the lands by Tūhoe hapū. These claims were never in question until after the confiscation of 1866 when Ngāti Awa and Ngāti Pūkeko, through nefarious arrangements with Government officials, were awarded most of Tūhoe lands within the confiscated district.

But Tūhoe's sense of grievance did not stop with the proclamation of confiscation which extinguished fires on their territories within the confiscated district of the Bay of Plenty.

The inclusion of Tūhoe lands within the proclamation of 17 January 1866, showed that the Government had decided Tūhoe were guilty of involvement in the events which led to the enforcement of the New Zealand Settlements Act in the Bay of Plenty. It was established that Tūhoe lands were confiscated because of their involvement in the defence of Ōrākau at Waikato in 1864 and in the events which followed; the death of Rev. Volkner at Ōpotiki on 2 March 1865, Mr Fulloon at Whakatāne on 17 July 1865; and their participation in the resistance by Ōpotiki and Whakatāne tribes to the armed forces sent to capture the alleged killers of Rev. Volkner and Mr Fulloon.[12]

The history of these events having been examined, the following summary can be given in defence of Tūhoe. Their involvement in the defence of Ōrākau was pardoned by the Proclamation of Peace of 2 September 1865, which declared that the war which had commenced at Ōakura, was at an end, and that the Governor would not take any more

land on account of it.[13] In the large collection of material relating to the killing of the Rev. Volkner and Mr Fulloon, no Tūhoe presence in Ōpotiki and Whakatāne, prior to or after their deaths, was ever recorded by eye witness accounts of the above incidents. The Commission of 1828, reporting on their findings on the Bay of Plenty confiscations, admitted that the "murders" of Rev. Volkner and Mr Fulloon were not, in themselves, acts of rebellion. The Commission concluded that, had the natives of Ōpotiki and Whakatāne not resisted the armed forces to capture the murderers of Rev. Volkner and Mr Fulloon, there would not have been any excuse for confiscating their lands.[14]

Tūhoe did not take part in assisting their neighbours of Ngāti Awa, Ngāti Pūkeko or Whakatōhea when expeditionary forces landed at Matata or Ōpotiki. Nor was there any attempt at general mobilisation of Tūhoe forces. Tūhoe remained isolated within their own territorial boundaries. Tūhoe's first contact with the expeditionary forces took place in November 1865 when a Tūhoe pā, Te Kuini at Waimana, was attacked without warning. The expeditionary force was not under any threat. The attack was made at night while all the occupants were asleep. Te Kuini was not a fortified pā, but a kāinga or unpallisaded village. A second attack on a Tūhoe pā took place in March 1866 when the inhabitants of Kairakau in the Waimana Valley were attacked.[15]

Tūhoe representations to governments since 1866 have consistently maintained their innocence of the crimes they were accused of and have endeavoured to shake off the stigma of imposed guilt and blame. It has already been noted that little heed has been paid to Tūhoe claims.[16]

In Tūhoe's case, Government was not justified in confiscating their lands for acts of rebellion prior to the Proclamation of 1866. The act of confiscation convinced Tūhoe that the motive for it was the wholesale grabbing of Māori land without any consideration of who the owners were, or of their involvement in events which led directly to its implementation.

The opportunities for appeal under The New Zealand Settlements Act were limited. The burden of making representations before the Compensation Court for claims to confiscated lands was on the tribes themselves. There were no provisions within the Act for considering the question of the justice and principle of confiscation. Nor did it provide for the unfairness of the confiscations as a whole, which included lands of Tūhoe who were not implicated in the events that led to the confiscation in the first place.

Tūhoe's initial efforts to obtain justice for their confiscated lands through the Compensation Court have already been discussed in Chapters Four and Six. Clearly the attempts were frustrated by the negligent practices and contempt of officials and commissioners of the Compensation Court. The Compensation Court failed to keep in mind the need for justice and moderation and to ensure that lands of innocent people were not appropriated without consent.[17]

Tūhoe claims to territories within the confiscated district were dismissed and, as a result, they were driven off their confiscated lands south of the confiscation line, into Rūātoki and Waimana. Certain chiefs, Rakuraku and Te Makarini, were detained and held captive in Whakatāne.[18] It should be remembered that, while still occupying Ōpouriao, the chiefs, Purewa and Ahikaiata, as well as Himiona, Tarakawa and Hikaia of Tūhoe, had assisted Mr Pitcairn and Mr Simpson in their surveying of Ōpouriao lands. To prevent further Tūhoe reoccupation of their lands, Lieut-Colonel St John proposed that the Tūhoe stronghold of Ōtenuku beyond the confiscation line, should be occupied by colonial forces as an advance post for the protection of Whakatāne and European settlement within the confiscated district. To ensure Government hold on Tūhoe lands, a redoubt was built on the junction of the Waimana and Whakatāne Rivers. The occupying force, made up of the constabulary, engineering company and the Te Arawa contingent, were to patrol any part

of the confiscated lands and, if attacked or threatened by natives, could proceed beyond confiscated lands. Incursions of punitive expeditions into Urewera territory soon met resistance and were even repaid by incursions from Tūhoe themselves into confiscated lands.

Tūhoe were rendered homeless and foodless and, by the confiscation of their land itself, stripped of their mana. They were forced to enter into the struggle for their land, homes and lives.[19] The scorched earth policy of the military campaign in Te Urewera had caused great loss of Tūhoe lives and damage to settlements, animals, cultivations and foodstores. The gravity of destruction and deprivation of the campaign to Tūhoe finally led them into surrendering to government forces in 1872.[20]

Tūhoe grievances over the confiscation did not only concern the Proclamation of 1866. They were attacked without just cause by British forces. Their lands and property were confiscated as punishment for crimes in which they never took part. They were forced to leave their lands, homes and cultivations, while the people were subjected to further punitive military action. From their view, the pattern of unjust treatment continued well after hostilities ceased in 1872 as successive governments continued to ignore Tūhoe claims for recognition of their cause.

The history of events has been examined in the context of Tūhoe past grievances, so that their present concerns and hopes for a better future can be assessed in terms of what they have undergone. The question that is raised now, is what can be done to repair the damage already done? Obviously, the answer is to provide for the descendants who are still suffering from the non-settlement of their ancestors' cause.

Tūhoe are mindful of the time which has elapsed and the cumulative loss which has occurred for five generations. It is recognised that the lapse of time since the confiscation, and the subsequent settlement patterns, could be used to avoid the obvious remedy of returning the lands wrongfully confiscated. This time-lapse is certainly not the fault of Tūhoe, and, consequently, must not prejudice their case for compensation. Their many attempts to bring their claims before successive governments must be remembered.

The Compensation Court in 1867 failed to recognise Tūhoe claims to Ōwhakatoro, Hūrepo, Ōpouriao and Waimana confiscated lands, despite the fact that they were in occupation at the time. Later responses by Government officials to Tūhoe demands were marked by contradictions. Kereru, in addressing Mr Brabant at Ruatāhuna in March 1874, pointed out that Mr Locke had promised that the confiscation line in the Bay of Plenty would be shifted. Mr Brabant assured Tūhoe that Government would not move the line. However, he did add that Government could well consider the granting of allotments within the confiscated district to Tūhoe. Mr Brabant avoided Tūhoe questions concerning Government rights to confiscate their lands. In reply, he pointed out that Tūhoe should have been grateful that Ruatāhuna was not confiscated as well.[21]

On 21 October 1985, two Tūhoe researchers, on learning that the Crown intended to dispose of Puketī Section, Part 27, Block IX, Whakatāne Survey District in Ōpouriao, made submissions to the Hon. Koro Wetere, Minister of Lands, and the Commissioner of Crown Lands, for consideration of the Tūhoe claim to this particular block. After providing historical details on the occupation of Puketī and Ōpouriao, as well as a chronology of events tracing the alienation of Puketī, the submission maintained that Tūhoe had precedence over claims by other parties to Puketī. In due course, this submission was forwarded to the New Zealand Māori Council by the Land Settlements Board. Sir Graham

Latimer, President of the Māori Council, advised that the submission should be considered by a separate party such as the Waitangi Tribunal.[22]

Such a response has made it possible for a wider Tūhoe participation in preparing themselves in a more organised way to continue the cause of their ancestors.

The existence of Crown interests in Puketī, Part 27, Block IX, raises the possibility of investigating remaining Crown interests in other blocks within the confiscated districts. Should such interests lie within the traditional territories of Tūhoe, it could form part of the compensation sought by Tūhoe.

In the absence of a settlement in land, monetary compensation will have to be considered very carefully. To begin this investigation, a review of the value of Tūhoe lands at the time of confiscation, is necessary. Some documentation, on this matter, has been uncovered and included here to provide, in part, a basis for Tūhoe claims for compensation. However, these estimates cannot be taken at face value and the exercise of discretion is needed.

An estimate of land values in Ōpouriao can be found in Mr Brabant's memorandum to Mr Lewis, the Native Secretary, on 23 August 1866.

> I value 1,107 acres at five shillings per acre = £276.15.0. (These lands refer to those granted to Ngāti Awa and Ngāti Pūkeko on the western banks of the Whakatāne River.) The 128 acres at Puketī at 50/- per acre = £320.0.0 but in case my valuation (not that of an expert) may be questioned, I attach hereto a valuation by the District Surveyor of the 1,107 acres from which it will be seen that his opinion agrees with mine and in respect to the 128 acres at Puketī, the District Surveyor was not to value. But I have obtained an opinion from Mr Dimergue the property tax valuer for Whakatāne which I attach. It will be seen that he values the land as from £3.0.0 to £4.0.0 per acre which is considerably in advance of my estimate.[23]

This was later followed in 1896 by the Seddon Government purchase of the Ōpouriao Estate for £24,261.[24]

For Waimana lands, a valuation estimate figure was given when Major Swindley purchased the Waimana Estate of 4,858 acres for £1,380 in 1885. In 1896, when the waimana estate was purchased by Government under the Settlement Act of 1894, the price settled by arbitration was fixed at £3.17.6 per acre.[25]

While these value estimates exist, they have to be considered within the context of the times, as it is apparent that there were various ploys to deliberately keep land values down. For example, the value estimate fixed for the Waimana Estate at £3.17.6 per acre in 1896, was generally conceded to be a low figure. Sir Robert Stout had remarked that too high a price had been paid for property in Matamata and that Government must avoid making a similar mistake with Waimana.[26]

Indeed, when these estimates are compared with the descriptions of Waimana and Ōpouriao lands, the discrepancies between value estimate and actual potential, were inequitable. Lieut-Colonel St John described the lands in Waimana and Ōpouriao as "glades and flats of rich soil which will eventually form desirable sites for small farms". The lands of Ōpouriao in 1896 were described by government as "river flat land farmed for its richness as all of it was deep alluvial soil composed of all that was best, so that for dairy farming or stock fattening purposes, it could not be surpassed and rarely equalled by any land in the Auckland District."[27]

The Waimana flats were of equal potential. In 1882 these lands were referred to as "level as a bowling green and thousands of acres in extent which were only awaiting the industry and indomitable will of the British yeoman to make it a Garden of Eden".[28]

The above descriptions cannot be applied to all Tūhoe lands within the confiscated district. Indeed, much of it was entirely in its natural state.

By referring to the above value estimates, descriptions and explanation, certain deductions can be made. Obviously further negotiations will have to be carried out before any conclusive estimate for all Tūhoe confiscated lands can be made. However, Tūhoe could well use the following basis to adopt a stand from which negotiation could begin.

Mr Brabant's estimate, by his own admission, was not that of an expert and can be challenged as being unrealistic when compared with the potential of the Ōpouriao lands. Mr Dimergue's estimate, of £3.0.0 to £4.0.0 per acre for 128 acres at Puketī, remains unchallenged. This estimate is reasonable in the light of the potential of those lands. Perhaps the Puketī estimate could be fixed at £4.0.0 per acre, while the remaining lands in Ōpouriao at £3.0.0 per acre.

In Waimana, the prices fixed there in 1896, it cannot be denied were conceivably low. The potential of those lands was recognised and the price would have equalled that of Ōpouriao at £3.0.0 per acre. For the remaining areas of Tūhoe confiscated lands, the estimate value, used by the Royal Commission investigating confiscated lands in 1927, of 10/- per acre for unjustified confiscated lands, could be used.[29] This is preferred to the estimate given by Mr Brabant of 5/- per acre.

Based on these conservative valuations, the following summary can be made for Tūhoe confiscated lands of 57,344 acres.

Lands	A	R	P	Value per Acre	Total
Ōpouriao *	128	0	0	£5. 0. 0	£640. 0. 0
	6,376	0	0	£3. 0. 0	£19,128. 0. 0
Waimana *	5,333	0	0	£4. 0. 0	£21,332. 0. 0
	14,000	0	0	10. 0	£7,000. 0. 0
	11,963	0	0	10. 0	£5,981.10. 0
Western lands *	19,544	0	0	10. 0	£9,772. 0. 0
					£63,853.10. 0

* Estimates of acreage based on available figures on allotments Confiscation Map, Land and Survey Department, Hamilton.

It is difficult, if not impossible, to arrive at any value estimate of confiscated lands that would satisfy everyone concerned. But at least, a basis has been established to reach an equitable monetary compensation. It is important to stress that the value of confiscated lands cannot be based on monetary estimates alone. This point will have to be taken into account by the appropriate investigating authority. By confiscation Tūhoe lost lands, including villages and sacred places, and the use and enjoyment of their lands. What is more disturbing is the knowledge that other tribes, speculators, settlers and successive governments have profited from Tūhoe land during the past 120 years.

The question remains as to how a people can be compensated in money for the loss of lives, the denial of justice, and the deprivation of the opportunities for five generations of Tūhoe to develop an economic base from the most fertile of their ancestral lands. Although the concern of Tūhoe confiscated lands had been kept before Government attention, they have not acknowledged these claims in ways which they have done for other tribes whose lands were also confiscated.

From the time of confiscation all Tūhoe hapū, through systems of alliance, mutual responsibility and obligation, have continued to shelter Mataatua. In peace or war they maintained unity to regain confiscated lands. At times separate hapū made independent claims. Such initiative only emerged out of desperation in the hope that Government might be more sympathetic if fewer numbers of people had to be compensated for loss of lands.

As shown in Chapter One, the patterns of hapū occupation in Ōpouriao, Ōwhakatoro, Rūātoki and Waimana, were very much dependent on inter-hapū cooperation. It is in that spirit of coexistence and cooperation that the present submission is made on behalf of all Tūhoe people.

Footnotes to Chapter Seven

1 AJHR, 1928, G-7: p. 20.

2 AJHR, 1928, G-7: p. 21.

3 M.A. 85/6, N.A., Wellington.

4 M.A. 85/6, N.A., Wellington.

5 More detail in Chapter Five: p. 101.

6 Best, E., 1972: pp. 62-63.

7 Chapter One: pp. 5-6.

8 Chapter One: pp. 11-13.

9 Chapter One: pp. 16.

10 Smith, P., 1910: pp. 311-314.

11 Chapter One: pp. 16-17.

12 AJHR, 1928, G-7: pp. 20-21.

13 AJHR, 1928, G-7: p.20.

14 AJHR, 1928, G-7: pp. 20-21.

15 Chapter Three: pp. 58.

16 Chapter Six: pp. 129, 132-139.

17 Chapter Four: pp. 70-71.

18 Chapter Four: pp. 70-71.

19 Chapter Five: p. 105-106.

20 Chapter Three: pp. 58-59; Chapter Four: pp. 86-88.

21 Chapter Six: pp. 132-134.

22 Private correspondence, Mr J.W. Milroy, Waikato University.

23 M.A. 87/1510, N.A., Wellington.

24 Ōpouriao Estate, 1896.

25 W.H.S.J., Vol. 22, No.1, 1974: p. 12.

26 AJHR, A-1b: p. 50.

27 Ōpouriao Estate, 1896.

28 W.H.S.J., Vol. 22, No. 1, 1974: p. 13.

29 M.A. 85/1: p. 29.

CONCLUSION

Waiho te ture ki te Kuini
Tūhoe ko te waka e hoehoe nā
koutou ko te ture.
.

Let the Queen be the arbiter of
the law, Tūhoe the vessel over
which you have control is the law

In 1866 Tūhoe lands were confiscated on highly questionable pretexts by the Colonial Government. Although the State has since conceded that much Māori land confiscated, was unjustified, and have compensated Tūhoe's neighbours of Tauranga, Whakatōhea and Ngāti Awa in land or money,[1] Tūhoe, despite their representations, have received no such recognition.

Tūhoe territorial claims to lands within the boundaries outlined by Kūpai McGarvey in the confiscated district of Bay of Plenty were based on customary claims of take tīpuna (ancestral rights), take raupatu (conquest) and take noho (settlement). These territories fall into the category of ahi kā roa (continuously burning fires) signifying occupation by Tūhoe hapū over successive generations.[2] Their rights were never in question until the confiscation of 1866. In general terms, Tūhoe claims to their confiscated lands are based on an assertion of tribal rights from time immemorial. Government legislation alone deprived Tūhoe of their rightful territory.

Present Tūhoe claimants point out that past investigations by Crown Agent Wilson and the Compensation Court failed to exercise impartiality and fairness. Government officials in charge of implementing the process of confiscation had no knowledge or understanding of Māori land tenureship, traditional rights of alienation, or the extent of hapū or tribal boundaries within the confiscated district. They were dependent on information supplied by Ngāti Pūkeko and Ngāti Awa. New investigations have to consider several pertinent points.

Underlying Māori land tenure was the concept that the group which occupied the land and held military pre-eminence over another group also occupying the land, did hold a kind of sovereignty approximating to ownership with an overriding control over the nature and extent of alienation. Such questions as alienation to whom, under what conditions, and for how long, need to be considered as well. Hapū and members of the whānau of each hapū in order to obtain and maintain secure occupancy and use of land, needed to have established a claim through either the male or female line, including affinal links. They had to have continued occupancy and maintained working relations with the wider community sharing the land.

Transfers of land rights were conditional in that a transference could take from individual household or whānau heads certain kinds of rights under certain conditions, but that a residual or overriding interest lay with a wider group which included kins and heirs of those who transferred. In other words, the holder of a use-right could transfer only that right, a use-right and no more. A person could not transfer, nor could the transferee take an absolute right in perpetuity on the land. That right remained with the controlling political group.[3]

Tūhoe maintained that Ngāti Awa and Ngāti Pūkeko only exercised use-rights over certain areas of Ōpouriao at the time of confiscation. These use-rights were transferred by Te Purewa of Tūhoe at the time peace was settled between Ngāti Awa and Tūhoe in 1832. These rights included occupation, the use of lands for cultivation, and the provisions of its waters and forests.

In examining the justice of confiscation, careful consideration will have to be made of the terms of its application, its implementation and its underlying intentions. The New Zealand Settlements Act, together with the Suppression of Rebellion Act, in the view of Mr Henry

Sewell, Attorney-General of New Zealand in 1864, constituted a new native policy which was founded on a reversal of principles which had, up to then, guided governments.[4] This reversal, he contested, imposed upon the Māori the extreme vigour of the law of treason unmitigated by any of the statutory checks by which ordinary citizens were protected, and virtually sets aside all Māori rights to land as subordinate to the paramount object of colonisation and allowed it to be dealt with by the will of the colonial legislature. Mr Sewell suggested that, while arguments might be addressed in support of both measures, it would have been impossible to give effect to them without violating Government engagement with the Māori and provoking resistance on their part which could have certainly ended in a conflict disastrous to both and fatal to the weaker.[5]

The New Zealand Settlements Act authorised confiscations in cases only of natives who had been engaged in rebellion against Her Majesty's authority. When martial law was proclaimed in the Bay of Plenty and military operations were undertaken against them, Whakatōhea, Ngāti Awa and Tūhoe were not in rebellion. If anything, a few of Whakatōhea and Ngāti Awa could only be charged with being associated with the deaths of Volkner and Fulloon and should have been dealt with by civil authorities and tried in a civil court. There was little or no evidence to support Tūhoe's involvement to justify the confiscation of their lands. Tūhoe had been treated as rebels before they engaged in rebellion or resistance of any kind. Their lands were confiscated and war was later conducted against them. Under these circumstances, Tūhoe had no alternative but to fight for their own self-preservation.

The examination of the conditions for the application of the New Zealand Settlements Act in the Bay of Plenty, the role of the Compensation Court, its commissioners and field officers in the implementation of its terms, cannot be overlooked or ignored. The work

of the Compensation Court and Crown Agent Wilson left much to be desired. They failed to meet the guiding principles set out for their tasks, which were namely to ensure the need for justice and moderation, the need to ensure that lands of innocent people were not appropriated without consent and the need to guard the Māori from any severity.[6]

Present Tūhoe claimants for the reconsideration of Tūhoe grievances have examined submissions from other tribal groups which have been presented, or are still currently being examined by Government. There are ample precedents for present Tūhoe submissions to be seriously considered to rectify past injustices and decisions which will be binding on the Crown. Historical evidence, presently submitted, demonstrates that the confiscation of Tūhoe lands has been unjust, unwarranted and against all principles of natural justice. Measured against such experiences, the Tūhoe are fully justified in seeking retribution for their suffering. Since 1867 Tūhoe leaders have sought relief for their plight through negotiations with representatives of the Crown, deputations and petititions to Parliament.

Effort has been made here to document all the general, as well as the particular, issues unique to the Tūhoe case. The seizure of their land has occupied Tūhoe people for 120 years. Subsequent land dealings in Te Urewera have exacerbated their bitterness over the loss of ancestral lands. Here we can recall the words of Sir Peter Buck to Sir Apirana Ngata:

> As you remarked it is indeed fortunate that you were not brought up in an environment of raupatu and broken promises for you have thus escaped the tendency that exists in Pom[7] and I and the Irish people in Europe, to vapour and fume over past injustices, instead of making the most of what is left, or if there is nothing left, to start afresh at zero instead of below it. You can understand better now, the psychological block to progress that exists in the minds of those who sit in the murky atmosphere of past wrongs.[8]

The basis for a just settlement for the confiscation of Tūhoe lands can only begin if negotiations can be reopened to examine the question of Tūhoe confiscations. Tūhoe's claim for negotiation is a reasonable one based on clearly-established evidence. These claims fall into three categories. Firstly, is the request that old Tūhoe pā sites on confiscated lands be declared reserves and the guardianship of these be returned to their rightful owners. Secondly, is the request that remaining Crown lands within the confiscated Tūhoe boundaries be reinstated under Tūhoe ownership. Thirdly, is the request for fair monetary compensation for lands unjustly confiscated which cannot, without major disruptions to encumbent occupiers, be returned. The Tūhoe claim here is a reasonable one based on a conservative view of land values during those early years. Establishment of the value of Tūhoe lands is based on values and details of land sales within the district and gleaned from official records. References to these have been made in Chapter Seven.

Based on the claims alone, compensation is justified on the following grounds:

1. The unjust confiscation of 57,000 acres.
2. The wrongful arrest of Tūhoe people at Puketī and Waimana and their detention at Whakatāne and Hokianga in Ōhiwa.
3. The forcible removal of Tūhoe people from their homes and cultivations in Ōpouriao and Waimana to the south of the confiscation line.
4. That Tūhoe were treated as rebels, their lands confiscated and war declared against them before they had engaged in rebellion of any kind.
5. Many Tūhoe lives were lost in the wars. They were forced to struggle for home and property.
6. Te Whiu Maraki of Tūhoe was instrumental in the capture of Kereopa Te Rau. This fact has never been acknowledged.
7. It is important to recognise the fact that the confiscation of land and the subsequent events which followed, directly affected the social and economic welfare of Tūhoe people.

8. Earlier governments and settlers have profited from the sale of Tūhoe confiscated lands. Justice must now be done.

Tūhoe are mindful of the time that has elapsed, and the loss of benefits which would have accrued to them had they not been deprived of the ownership of their papakāinga, urupā, waterways, natural resources and cultivations. The question remains as to how a people can be compensated in money for the loss of lives, the loss of property and the denial of justice after so many years. The settlement of other tribal claims over confiscated lands highlights Tūhoe grievances yet to be settled. Tūhoe grievances over the wrongful confiscation of their lands can be overcome by providing much needed resources to help them meet the challenge of progress. Many demands are placed on Government to provide resources. It is considered that the settlement of this injustice should take priority as it remains a grievance of very long standing which has created untold suffering to the Tūhoe people for 120 years.

Footnotes to Conclusion

1 Tauranga Moana, 1981, received $250,000; Whakatōhea, 1949, received $40,000; Ngāti Awa and Ngāti Pūkeko are presently awaiting the result of tribal representation to Government.

2 Kūpai McGarvey's boundaries are cited at the beginning of Chapter Four.

3 For further discussion on customary claims, see Chapter One.

4 Layton, B., 1984.

5 Sewell, H., 1864: p. 47.

6 See Chapter Four.

7 "Pom" in reference to Māui Pōmare.

8 Sorrenson, M.P.K. 1986: p. 45.

CHRONOLOGY OF EVENTS RELEVANT TO CONFISCATION

Key a - approximate date

1350a	Mataatua canoe lands at Whakatāne.
1455a	Ueimua, Tānemoeahi and Tūhoe fight at Ōwhakatoro.
1500a	Sections of Ngāti Karetehe move from Ōwhakatoro to Ōhae, Ngā Taumata and Kānihi.
1550a	Tāmango, Ruapūruru and Kāhuki fight at Waiwherowhero, Ōpouriao.
1630a	Rongokārae moves to live at Kiwinui Pā.
1630a	Maruiwi expelled from Waimana and Ōwhakatoro.
1630a	Ngāti Raka, Ngāti Kareke and Ngāi Tākiri occupy lands west and east of Whakatāne River around Te Pōroa and Ōpouriao.
1800a	Ngāti Awa and Ngāti Pūkeko defeat Ngāti Kareke at Te Pōroa.
1818a	Ngāti Awa and Ngāti Pūkeko defeat Ngā Puhi forces under Te Wera at Ōkahukura, Rangitaiki River.
1819a	Fighting breaks out between Ngāti Awa and Ngāti Raka forces and combined Ngāti Rongo and Ngāti Huri. Defeat of Ngāti Raka at Ōtenuku.
1820a	Ngāti Raka renews offensive against Ngāti Rongo, the consequence being the Kohipī episode at Ōmāwake and the Maringi-ā-wai fight.
1822a	Tūhoe fight against Ngāti Kahungunu at Wairoa, Ngāti Pūkeko at Te Whaiti, and Te Arawa at Pukekaikāhu.
1822a	Pōmare, with his Ngā Puhi forces, ventures up Whakatāne River.
1822a	Pou o Urutake battle resuting in Ngāti Raka being expelled to Waimana and Ōpotiki.
1823a	Te Maitaranui travels to Taiāmai in the Bay of Islands to visit Pōmare.
1823a	Pōmare returns to Ruatāhuna, where peace between Tūhoe and Ngā Puhi is established.
1830a	Tūhoe acquire guns from Hauraki. Waiari killed at Piarere.
1832	Te Kaunga battle, peace being subequently secured between Tūhoe and Ngāti Awa.
1834a	Tūhoe hapū occupy Ngāti Raka land in Ōpouriao and Rūātoki.

1841 23 Dec. Rev. Father Claude Baty arrives at Ōnepoto.

1841 Dec. Rev. Colenso at Waikaremoana.

1842 1 Jan. Rev. Colenso at Ruatāhuna.

1842 First church is built at Rūātoki.

1843 28 Dec. Rev. Colenso revisits Ruatāhuna and travels down Whakatāne River.

1847 Rev. Preece establishes mission at Te Whaiti.

1858 June Pōtatau Te Wherowhero established as Māori King.

1860 March Waitara Purchase precipitates war.

1861 July George Grey succeeds Gore-Brown as Governor.

1861 12 Jul. Government troops invade Waikato.

1862 June Second Taranaki war.

1863 Ngāti Kahungunu attempt to seize Waikaremoana.

1863 New Zealand Settlements Act.

1864 19 Jan. 600 troops land at Te Papa, Tauranga.

1864 7 Mar. Tairāwhiti forces are pushed back by Te Arawa at Matatā with aid of two gunships.

1864 Apr. Tūhoe join forces at Ōrakau battle in Waikato.

1865 Feb. Pai Mārire arrive at Ōpotiki under leadership of Patara Raukatauri and Kereopa Te Rau.

1865 2 Mar. Rev. Carl Volkner is killed at Ōpotiki.

1865 6 Mar. Pai Mārire letter to government outlining reasons for Volkner's execution.

1865 June Te Tapiri fight at Te Whaiti between Tūhoe, Ngāti Manawa and Te Arawa forces.

1865 21 Jul. James Fulloon is killed at Whakatāne.

1865 2 Sep. Proclamation of Peace.

1865 4 Sep. Declaration of martial law in Whakatāne and Ōpotiki districts.

1865 8 Sep. Government expeditionary forces land at Ōpotiki and Matatā.

1865 19 Oct. Te Teko pā falls to Major Mair and Te Arawa forces.

1865 Nov. Te Kuini settlement at Te Waimana attacked by government forces.

1865 Dec. Alleged murderers of Volkner and Fulloon are killed or imprisoned. Kereopa alone remains free.

1866 17 Jan. 440,000 acres confiscated in Bay of Plenty.

1866 Mar. Compensation Court established.

1866 Mar. Raid on Kairākau settlement, Waimana.

1866 1 Oct. John Alexander Wilson appointed Crown Agent for Bay of Plenty district.

1866 31 Oct. Māori prisoners from Te Teko embark on **s.s. Sturt** for Ōpotiki.

1866 Nov. Trial of prisoners by court martial at Ōpotiki.

1866 Dec. Raupōroa agreement between Mr J.A. Wilson, Ngāti Pūkeko and Ngāti Awa.

1867 Jan. Survey of Ōpouriao begins assisted by Tūhoe people living at Puketī.

1867 4 Mar. Prisoners from Te Teko are tried before Chief Justice Arney, Supreme Court, Auckland.

1867 7 Mar. Compensation Court operational.

1867 April Military allotments completed.

1867 Sep. Compensation Court sitting at Whakatāne. Tūhoe representatives present.

1867 Sep. Te Mākarini, Hēmi Kopū, Te Ahoaho, Rakuraku and others arrested and detained at Whakatāne and Ōhiwa.

1868 Mar. Redoubt built at Puketī in Ōpouriao.

1868 Apr. Ngāti Pūkeko road gang under Major Fraser attacked by Tūhoe at Puketī. Rapaera of Rūātoki killed.

1868 May Col. St John marches into Te Urewera.

1869 8 Mar. Te Poronui (mill) sacked at Whakatāne.

1869 Mar. Te Kooti raid on Whakatāne.

1869 Mar. Surveyor Pitcairn killed at Hokianga in Ōhiwa.

1869 3 May Major Whitmore begins raid into Ruatāhuna.

1870 June Hamlin and troops occupy Mātuahu pā at Waikaremoana. Crops and plantations destroyed.

1870 25 Sep. Peace settlement at Rūātoki.

1870 Oct. Over 200 people die at Ruatāhuna from disease and starvation.

1870 Dec. Te Whenuanui and others see Hon. J.D. Ormond on peace mission in Napier.

1871 Apr. Peace settlement secured at Tātāhoata, Ruatāhuna.

1871 Sep. Ōpokere fight near Maungapōhatu.

1871 1 Sep. Kereopa Te Rau captured at Ngā Māhanga, Whakatāne River, by Te Whiu Maraki.

1872 5 Jan. Kereopa hanged in Napier gaol. Tareha Te Moananui takes body for burial.

1872 May Te Kooti moves to King Country.

1873 Tūhoe hapū return to occupy former settlements in Waimana and Rūātoki.

1873 June Tamaikōhā, Rakuraku and Hēmi Kakitū assist with building of Ōhiwa-Waimana road.

1874 Capt. Fergusson forms Whakatāne Cattle Company and buys up military allotments in Ōpouriao.

1874 23 Mar. Mr Brabant visits Ruatāhuna for meeting with "Whitu Tekau" and rest of Tūhoe.

1874 29 Mar. Mr S. Locke visits Ruatāhuna.

1875 June Te Mākarini impounds cattle belonging to Capt. Fergusson.

1877 Application lodged for survey of Waimana.

1878 Jan. Puketī awarded to Ngāti Pūkeko.

1878 Nov. Petition of Te Wakaunua of Rūātoki for the return of Ōpouriao.

1880 European population at Ōpouriao 20.

1883 Te Kooti pardoned. Sets up settlement at Te Horo in Ōhiwa.

1886 10 Jun. Tarawera eruption. Major Swindley surrenders land holdings in Waimana to Bank of New Zealand and National Bank.

1888 Apr. Te Whai-o-te-Motu, Ruatāhuna, dedicated by Te Kooti.

1891 Lord Onslow visits Rūātoki.

1892 20 Feb. Tūhoe meeting at Rūātoki opposing survey of Te Urewera.

1893 17 Apr. Te Kooti dies at Wainui, Ōhiwa.

1894 Mar. Prime Minister R.J. Seddon and James Carroll visit Te Urewera.

1895 Apr. Tūhoe resist survey party. Government sends force of artillery to Rūātoki and Te Whaiti. Tūhoe people prepare for war. Sir James Carroll intervenes.

1895 7 Sep. Tūhoe chiefs visit Wellington to meet with Prime Minister.

1895 Elsdon Best records local traditions at Ruatāhuna.

1896 14 Feb. Ōpouriao Estate offered for sale by ballot.

1896 Urewera District Native Reserve Act.

1897 May Road from Galatea to Ruatāhuna commences under Capt. Preece.

1897 Road from Wairoa to Ōnepoto completed.

1899 Road reaches Mokau Falls.

1903 31 Oct. Petition No. 804 of Wi Pūrewa and others against confiscation.

1904 Lord Ranfurly's farewell reception at Tauarau Marae, Rūātoki.

1905 Rua Kenana returns to Maungapōhatu. Organises community and founds religion "Te Wairua Tapu".

1906 14 Mar. Ngāti Raka's house, Taku-Tai-o-te-Rangi opens at Tātaiahope Marae.

1907 10 Aug. Waimana lands open for sale by ballot.

1908 Stout-Ngata Native Land Commission.

1909 Apr. Lork Plunket visits Tauarau Marae, Rūātoki.

1909 Urewera District Native Reserve Amendment Act.

1910 Ōpouriao Dairy Company establishes factory at Rūātoki.

1915 Aug. Lake Waikaremoana claim first heard in Māori Land Court.

1916 31 Mar. 84,770 acres acquired by Crown.

1916 2 Apr. Large armed police party arrives at Maungapōhatu. Rua Kenana arrested.

1917 31 Mar. 56,741 acres acquired by Crown.

1918 31 Mar. 64,303 acres acquired by Crown.

1919 31 Mar. 42,672 acres acquired by Crown.

1920 31 Mar. 29,996 acres acquired by Crown.

1920 4 Sep. Petition No. 324/20 Te Kapo-o-te-Rangi Keehi and 237 others for return of confiscated lands.

1921 31 Mar. 9,404 acres acquired by Crown.

1921 July 16,394 acres acquired by Crown.

1921 29 Nov. Government replies to Wi Pūrewa and Te Kapo's petitions. Too late to reopen case.

1922 Urewera Lands Act.

1926 18 Oct. Commission enquires into and reports on alleged grievances by Māoris under New Zealand Settlements Act.

1927 27 Jun. Report of Commission of Inquiry (AJHR G-7 1928).

1935 13 Sep. Raupatu Committee's last meeting at Rūātoki.

1980 23 Aug. Minister of Māori Affairs, Hon. B. Couch, visits Tōtara Marae, Rūātoki. Confiscation issue presented by Kūpai McGarvey.

1983 7 Dec. Application for objections called for transfer of Puketī, Part 27, Ōpouriao.

1984 Apr. Ngāti Pūkeko trustees appointed for Puketī Allotment 70A, No.2.

1984 Dec. Puketī Part 27 referred to Land Settlement Board.

1985 3 Nov. J.W. Milroy and S. Melbourne of Rūātoki lodge submission claiming Puketī Part 27 for Tūhoe.

1986 18 Mar. Sir Graham Latimer suggests that Puketī submission be sent to Judge E. Durie and the Waitangi Tribunal.

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