

# MAORI LAND IN HAURAKI

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## MAORI LAND IN HAURAKI

**Abstract:** *Imagining the Hauraki Peninsula to contain payable goldfields and knowing that land to the south of Thames had great agricultural potential, Pakeha were determined to acquire it, and were frustrated by what was considered to be 'Maori intransigence'. For their part, Maori landowners were justifiably concerned about losing their land, and hindered and delayed opening it to settlement for as long as possible. A major difficulty for officials seeking to acquire land was how to determine boundaries between different blocks and how to identify the true owners when there were rival claims put forward by hapu and individuals. Land purchase agents used a variety of means to get blocks through the land court and then to individualize the title, notably the controversial 'raihana' policy, which benefited some landowners at the expense of others. The expensive legal process involved often forced those who had proved their ownership to sell land to pay for their success, a success which resulted in grantees treating the land as their personal property rather than tribal property. Some Pakeha as well as many Maori protested at the unfair process; even James Mackay, the most effective practitioner of raihana, came to lament his success and its consequences for the younger generation of Maori (he blamed the system, not himself). When far too late, it was urged that land should have been leased rather than sold and that proceeds from sales should not have been squandered.*

*Instead of having commissions of enquiry, as some suggested, the land court system meant that judges determined ownership on the evidence presented to them, even though some owners were not present nor had their interests represented. Sometimes the evidence was false, as was admitted by some witnesses when their perjury was exposed. And in the case of the Ohinemuri district, for which the records survive, when the land was sold to the Crown some Maori received too much money, some too little, and some missed out altogether. The struggles to open Ohinemuri to miners and settlers is examined in detail, revealing that some rangatira expected economic gain and that Te Hira's party, who opposed the opening, were undermined by some of Te Hira's followers: being 'Hauhau', they refused to take money from the Crown but instead took raihana, meaning goods which were charged against their land in a way they did not understand. Nor did anyone fully understand the system apart from Mackay, whose policy was eventually repudiated by the politicians who had encouraged it previously.*

*Not all land was lost, but because the government did not assist landowners with advice and finance until well into the twentieth century what land that was retained could not be developed adequately.*

## PAKEHA DESIRE TO ACQUIRE MAORI LAND

In the early years of settlement, Pakeha were frustrated at being prevented from finding the gold they imagined riddled the Hauraki Peninsula. In 1854, surveyor Charles Heaphy<sup>1</sup> told an English geological society that a Canadian had told him that the Opitonui valley, across the range from the future Coromandel township, was rich in gold. ‘He could pick the gold out of the stratum’ with the point of his knife, but the area was ‘so closely watched by the natives, that it is not practicable for a man to work there now even covertly’.<sup>2</sup> Two years later, another surveyor, George Drummond Hay,<sup>3</sup> was appointed land purchase commissioner for the Thames-Piako district largely because of his ‘local knowledge and influence with local hapu’.<sup>4</sup> He gave Maori several ‘assurances’:

That no land would be purchased without ample notice being given, so as to afford every one who wished an opportunity of asserting his claim, and of protesting against the sale if there were good grounds for doing so; that on no account whatever would villages or homesteads be included in any purchase, without the consent of the occupants, and then only if provision could be made elsewhere; that no offer would be entertained if it appeared that the Natives offering the land had not received a sufficient quantity for their own purposes.

This last assurance was made to meet the possible objection in the case of a *hapu* wishing to sell their land that they would sell all they had, and fall back on the land of the other *hapus* for purposes of cultivation. At the same time, the Natives were told distinctly that if any Natives, however few, could prove a sound title to land which they wished to sell, the offer would be entertained; and that if opposed by the tribe on no better grounds than that the land should not be sold, such opposition would carry

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<sup>1</sup> See Ian Sharp, *Heaphy* (Auckland, 2008).

<sup>2</sup> Charles Heaphy [printed as Heapley], ‘On the Coromandel Diggings in New Zealand’, *Proceedings of the Geological Society*, 8 March 1854, printed in *Quarterly Journal of the Geological Society*, vol. 10 part 3 no. 39 (1 August 1854), p. 322.

<sup>3</sup> See *Lyttleton Times*, 17 May 1864, p. 3; *Nelson Examiner*, 26 September 1865, p. 2.

<sup>4</sup> Waitangi Tribunal, *The Hauraki Report* (Wellington, 2006), vol. 1, p. 172.

no weight with it; also, in the case of the whole tribe being concerned in the offer, some few individuals alone demurring, their title would be thoroughly investigated, and their rights respected, however much the tribe might insist otherwise.

They were also told that while the rights of the chiefs holding land, as the conquerors, would be always carried out where there was no injustice in doing so, the interests of the Natives in an inferior position would be strictly looked after.<sup>5</sup>

He did not explain how he had ‘thoroughly investigated’ every rival claim. Two years later, he reported that Maori preferred to sell small blocks, meaning under 1,000 acres, for high prices.

They also exclaim that they never have anything to shew for their land after it is sold, as - except in the case of one or two influential men who may retain large sums – the mass of the payment is divided amongst the tribe in trifling sums, which are spent, perhaps, immediately, and in a few months they regret having ceded their land....

The Ngatimaru have always been opposed to selling their lands, but their opposition, without being violent, is more determined than ever. There have been visitors from the Waikato amongst them lately, and from what I hear they were sent to try and confirm the Ngatimaru in their system of retaining their lands. I attempted to negotiate with them the other day for land on the West bank near the Aroha, but was told to consider their decision as final; that they would never sell a single acre to Government south of the mouths of Piako and Waihou. I told them, that, though of course their land was their own, I did not recognise their right to retain land which they do not, nor never will, cultivate, and part of which is debatable land, so that by selling their claims there they would do away with one source of dispute.<sup>6</sup>

In 1861, Hay had to report that land to the south of the mouths of the Waihou and Piako rivers was still ‘in the hands of tribes who are thoroughly opposed to’ its sale. He was negotiating with some tribes because Ngati Maru ‘alone utterly refuse to part with their land. Their claims are not extensive, but are scattered throughout the district’. The ‘only objections

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<sup>5</sup> G.W.D. Hay to Donald McLean (Chief Commissioner), 4 July 1861, ‘Commissioners’ Reports Relative to Land Purchases’, *AJHR*, 1861, C-1, p. 149.

<sup>6</sup> G.W.D. Hay to Donald McLean, 31 August 1858, ‘Commissioners’ Reports Relative to Land Purchases’, *AJHR*, 1861, C-1, p. 143.

raised' by others were 'mere questions of price, as they do not find the price in some instances an adequate compensation for what they look upon as the greatest sacrifice they can make, namely, total surrender of their land'. He outlined the difficulties of determining ownership:

The tribes in this district in former years were constantly at feud with each other; this, combined with their subsequent intermarriages, has rendered the title in many instances almost hopelessly intricate. The few scattered remnants of the original owners of the soil, who have till of late years been in the position of serfs, now frequently attempt to reassert their right to the land, in defiance of the chiefs' right of conquest; and as they have to be referred to concerning boundaries, and when the title is obscure, it requires considerable caution to avoid exciting the jealousy of the chiefs, while conciliating the vassals.

The numerous small claims into which the land is sub-divided, and which frequently have to be treated for separately; the irregular boundaries, which bring the lands straggling into each other, often entailing the necessity of dealing with two tribes at once, a proceeding always hazardous, and not infrequently fatal to the success of a negotiation: all tend to increase the difficulties, and render the negotiations unusually tedious. The title to land in this district is becoming more complicated every year; in some cases the Natives are in perfect ignorance of the real state of their title, until it is investigated as connected with land purchasing operations....<sup>7</sup>

From the nature of the district; the manner in which the tribes are scattered throughout it; the complication consequent on five distinct tribes having fought against each other with various success all through the district; their inter-marriages, the lines of collateral descent resulting therefrom; the intricate nature of the title, even in a single section of a tribe; the conflicting influences of the conquerors and conquered, chiefs and vassals: - all these require ... that the District Commissioner should devote himself entirely to the necessary investigation of title and boundary.

This work required 'frequent visits' to settlements and involving rangatira even if these had 'but meagre expectation personally as to the payment. Two or more large meetings are requisite under the most favourable circumstances to conclude a negotiation'.<sup>8</sup> Because of these

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<sup>7</sup> G.W.D. Hay to Donald McLean, 4 July 1861, 'Commissioners' Reports Relative to Land Purchases', *AJHR*, 1861, C-1, p. 146.

<sup>8</sup> G.W.D. Hay to Donald McLean, 4 July 1861, 'Commissioners' Reports Relative to Land Purchases', *AJHR*, 1861, C-1, p. 149.

complications, it was not surprising that not many large blocks in Hauraki had been purchased by 1865.<sup>9</sup>

In March 1865, the *New Zealand Herald* called for a ‘geological and mining and mining survey of the Thames Valley, and the mountain ranges from Cape Colville to Matamata’. The ‘unsettled state’ of this region had previously been used to explain why such a survey had not been made, but the newspaper has optimistic, indeed over-optimistic, news:

Those best acquainted with the district now assert that the natives are not only willing to have their lands “prospected,” but are desirous of disposing of the fee simple of any discovered metalliferous ground. Of course, objection would be taken to unauthorized and ignorant parties who in search of the precious metals would set all Maori customs and preliminary negotiations at defiance, and possibly abuse all their rights of hospitality. No step should be taken without the sanction and authority of the Native Lands Commissioners, either verbally or in writing; the exploring party in the first instance being sent out, at the expense of the Provincial Government, with full powers to negotiate for the purchase of lands and leases.<sup>10</sup>

Two months after the Thames goldfield opened, the government minister who arranged this warned diggers that Ohinemuri could not be opened. ‘The land belonged to the natives; and it was for the Upper Thames Maoris to declare when it was their pleasure to open their lands to the new comers. The Government could not interfere, as the original treaty gave the natives undisputed right to keep their land free from any European claim’.<sup>11</sup> Despite such discouragement, prospectors cared little about the niceties of land ownership and treaty obligations. In 1865, as an example of how the government sought to avoid conflict, Sir George Grey agreed to the request of Wiremu Tamihana,<sup>12</sup> of Ngati Haua, to forbid prospectors exploring his land.<sup>13</sup> But, cautiously at first, from the 1860s onwards the Crown steadily purchased land in Hauraki, eventually leaving very little in the hands of its

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<sup>9</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 1, p. 172.

<sup>10</sup> *New Zealand Herald*, 11 March 1865, p. 4.

<sup>11</sup> *Daily Southern Cross*, 28 September 1867, p. 4.

<sup>12</sup> See Evelyn Stokes, *Wiremu Tamihana: Rangatira* (Wellington, 2002).

<sup>13</sup> Wiremu Tamihana to Sir George Grey, 16 November 1865; Sir George Grey to Wiremu Tamihana, 30 November 1865, printed in Evelyn Stokes, *Wiremu Tamihana: Rangatira* (Wellington, 2002), p. 472.

original owners.<sup>14</sup> This paper considers the process and its consequences, as a prelude to considering the conflicts over the ownership of the Aroha Block and its subsequent sale. Unless indicated otherwise, all Maori and Pakeha mentioned had shares in mining claims in the Te Aroha district.

The Waitangi Tribunal summarized the ‘patterns of factors’ common to the land purchases:

- the difficulty Maori often had in translating their understanding of the landscape (as networks of the key locations of each whanau and hapu, sometimes interpenetrating or overlapping each other) into the alien concept of a continuous boundary with each group owning discrete territories on either side of the line;
- the purchase of some interests by the Crown agent before a court hearing, and the advancing of credit for a survey, charged against the land;
- the encouragement of a court application by one group in particular, which impelled other interested hapu also to become involved;
- the interests of the various parties being determined by the court (not to the satisfaction of all concerned), and the Crown acquiring a large part of the land to cover its advances for survey.<sup>15</sup>

## IMPACT ON MAORI

At a Ngati Maru hui held in Thames in mid-1867 to discuss opening the district for mining, one rangatira warned ‘that if the pakehas were allowed to dig they would swamp the Maoris and take all their land’. A correspondent noted complaints that ‘friendlies’ or ‘Queenites’ had taken advantage of the absence of ‘Kingites’ from their settlements

to put their land through the Court and sell it to the Europeans. The first thing that the real owners of the soil hear is that their lands are sold, and the money taken by friendly natives, who are but slight owners, and therefore had no right to dispose of it without the real owners’ consent. The sooner the Government try

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<sup>14</sup> For a very brief summary of the purchases, see Alan Ward, *National Overview*, vol. 3 (Waitangi Tribunal Rangahaua Series, Wellington, 1997), pp. 22, 25-27. A more detailed chronological summary is provided in Waitangi Tribunal, *The Hauraki Report*, vol. 2, pp. 805-816.

<sup>15</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, pp. 810-811.

and put an end of such an aggrieving and unjust practice, the sooner will prosperity be restored to these islands.<sup>16</sup>

Because of rival claims, patterns of behaviour changed. For instance, in 1889 one Maori told the court that ‘formerly it was the custom of Maoris to work on land that did not belong to them’, a custom that had ceased since its formation court because ‘men ceased to be willing that strangers should occupy their land – and so people left other people’s land ... people returned to their own particular lots’.<sup>17</sup> Paora Tiunga<sup>18</sup> agreed that Maori ‘would stay a year or so, then go away, and return again’ to the same blocks of land. ‘People don’t get born on a place, and stop there till they die’.<sup>19</sup>

The classes of owners compiled for each block considered by the court ‘usually’ comprised the following:

- (1) Persons with rights by ancestry and occupation;
- (2) persons with ancestral right, but no occupation;
- (3) persons put in as wives or husbands of rightful owners;
- (4) persons put in through “aroha;”
- (5) “herehere,” i.e., persons of foreign tribes taken captive in war in earlier times.

In 1907 the court gave the last category the right to pass their interest to their descendents, except when they had moved to another district and ‘permanently severed themselves from the tribe’.<sup>20</sup>

Whenever permitted, Maori tried to list the names of all the owners of even very small blocks. In 1877, one judge was so irritated by the time taken to sort out the ownership of several small blocks that he threw the cases out and told the claimants to decide outside the courtroom.<sup>21</sup>

## PAKEHA FRUSTRATION OVER DELAYS IN ACQUIRING LAND

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<sup>16</sup> Thames Correspondent, *Auckland Weekly News*, 1 June 1867, p. 12.

<sup>17</sup> Maori Land Court, Hauraki Minute Book no. 21, p. 195.

<sup>18</sup> See chapter entitled ‘Maori and Pakeha at Te Aroha: The Context: 2: Maori in Hauraki in the Nineteenth Century’.

<sup>19</sup> Maori Land Court, Hauraki Minute Book no. 29, p. 54.

<sup>20</sup> *Auckland Weekly News*, 15 August 1907, p. 20.

<sup>21</sup> *Thames Advertiser*, 3 July 1877, p. 3.

In the 1870s there were regular complaints by Thames residents of a lack of land for settlement, as for instance in *Thames Advertiser* in November 1875:

Nearly the whole country, as far as the eye can reach, is one vast wilderness, shut up from European enterprise by the native owners, and rendered valueless to the colony. Strangers who have never seen the Thames can scarcely believe that a road does not extend “up country” a single mile beyond the boundary of the borough. Yet such is the case.<sup>22</sup>

Potential settlers and politicians such as Sir George Grey did not want private speculators to acquire the land.<sup>23</sup> Public meetings at Thames demanded that the government provide land for settlement, and accused capitalists of obtaining all the best land and then locking it up.<sup>24</sup> In general, Pakeha were unsympathetic to Maori concerns and irritated by complications, as illustrated by a grumble in the *Observer* in 1883:

The Maoris always had very loose notions about territorial rights. Having as separate tribes acquired certain rights by conquest, they complicated the original basis of ownership by internecine war, intermarriages, sojourn, temporary or permanent, and founded claims to ownership on such frivolous grounds as that some remote ancestor had lighted a fire on the soil, had been killed and eaten or buried thereon, or had done some act or other which could be twisted into a proprietary right, according to their own chaotic notions of proprietary rights.

Some blocks had been paid for ‘many times over’ as claimants appeared with some sort of claim, assisted by ‘the skilful coaching of lawyers and pakeha-Maoris’.<sup>25</sup> Four months later, it repeated that land was sometimes sold ‘several times over that they couldn’t use and would not use if they could’.<sup>26</sup> Newspapers published examples of Maori receiving money to which they may not have been entitled, such as at Patatere, outside the

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<sup>22</sup> *Thames Advertiser*, 9 November 1875, p. 3.

<sup>23</sup> *Auckland Provincial Government Gazette*, 15 March 1876, pp. 96-104; *Correspondence Between the Superintendent of Auckland and His Excellency the Governor of New Zealand* (Auckland, 1876).

<sup>24</sup> For example, *Thames Advertiser*, 15 July 1875, p. 2.

<sup>25</sup> *Observer*, 14 April 1883, p. 51.

<sup>26</sup> *Observer*, 11 August 1883, p. 3.

Hauraki district, where ‘many of the blocks overlap, and the natives have taken money from all sides’.<sup>27</sup>

Pakeha wanted to ‘encourage the natives to individualize the titles to their lands’, for this would ‘save a vast amount of trouble’,<sup>28</sup> meaning purchase would be much easier. Impatience at delays in acquiring land was reflected in a Thames newspaper’s 1877 editorial welcoming the Native Lands Bill as the ‘thin edge of a very powerful wedge’ that would force owners to individualize their interests. By specifying that only ten owners should be listed, it ended the ‘very objectionable’ practice of putting all claimants into one grant:

In any thickly-populated native district so many claimants present themselves, and so many names find their way into the memorial of ownership, that any European attempting to deal with the land subject to such a memorial, finds that it is almost impossible to complete his title, for a conveyance is not legal unless all the owners agree to sell.

To illustrate how this system prevented negotiations from being concluded, it gave a theoretical example of a block granted to 30 Maori. Not only would they not be ‘exactly of one mind’, as illustrated by ‘obstructionists’, but the ‘intelligent aboriginal’ had discovered ‘an opening to further obstruct, and in many cases, extort’. After all the owners agreed to sell, two were ‘privately persuaded to reserve their signatures’ and the cost of obtaining their agreement was often ‘half as much’ as ‘was agreed upon for the whole original purchase’. The newspaper was glad that title was not granted only to the heads of tribes, because there was no safeguard ‘against any chief doing what he thinks fit with the money derived from the sale of tribal lands’. It anticipated the need to introduce a mechanism allowing the government or individual Pakeha holding ‘say four-fifths of the land under a memorial of ownership’ to apply for its division; until this was done, the district would not be opened for settlement.<sup>29</sup>

#### AN SAD TALE, RECOUNTED BY AN INTERESTED PARTY

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<sup>27</sup> *Thames Star*, 28 January 1880, p. 2.

<sup>28</sup> Thames Correspondent, *Auckland Weekly News*, 13 July 1867, p. 12.

<sup>29</sup> Editorial, *Thames Advertiser*, 16 June 1877, pp. 2-3.

In 1888, the owner of a sawmill at Turua, near the mouth of the Waihou River, Lemuel John Bagnall,<sup>30</sup> wrote about one of his 'earliest transactions', with an aged but 'influential chief' of Ngati Maru, without wife or family, and 'largely dependant upon the few remaining members' of his hapu. It was an example of how several old Maori spent their 'last days in misery from want of comforts and inattention, yet comparatively rich in lands' which 'cumbrous' legislative restrictions prevented them selling.

He was the acknowledged owner, according to Maori custom, of considerable areas of land in different parts of the Thames and Coromandel districts. By selling some of these he hoped to provide himself with necessary comforts in his few remaining years.

In 1881 he asked me to buy a small block which he said belonged to him; but, as it had not been through the Court, I could do nothing but advise him to apply to the Court to have his title settled according to law. In order to do this, the land had to be surveyed, and a serious difficulty at once presented itself to this owner of landed property; he was without money to pay the cost of the survey – about £25. At his earnest solicitation, as well as that of a well-known interpreter, I agreed to provide the necessary funds, and in due time the survey was made. But a long time elapsed (nearly two years) before any Court was held to decide the question of ownership. At length the long-looked-for Lands Court put in an appearance, and my friend's application, with some two hundred others, was to be heard by the Court at Shortland. At the appointed time and place, a great number of natives from all the region round assembled, my old chief amongst the number.

Persons who have not witnessed a Native Lands Court meeting, and noticed its surroundings, can have but a faint conception of the hardships which the natives have to endure, and the great injustice which they suffer in the ordeal of proving the ownership of their lands in the Court which the pakeha lawmakers have provided for that purpose. When a Court sits there are frequently 200 or 300 blocks gazetted for its consideration, and the natives interested make their way to the place appointed, so as to be all there on the opening day. They go in whole families, men, women, and children, taking their dogs and sometimes pigs with them. They are generally but scantily provided with food, and have no money in most instances to buy sufficient food or provide proper sleeping accommodation; they pass their nights in such huts or old houses as they can procure in the vicinity, and their days in and around the hotels drinking and smoking. Neither men nor

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<sup>30</sup> See *Auckland Star*, 30 April 1917, p. 4.

women have proper or sufficient food, and the children are sadly neglected. No one knows when the block in which he is interested will be called, so that all he can do is to wait with patience until his turn comes. In this weary waiting weeks, and sometimes months, are passed, and, unless the lands in which they are interested are of considerable value, more money is expended in securing them than they are worth. To make matters worse, during these long absences from their settlements their cultivations are neglected and often destroyed....

I must now return to my waiting applicant. He has arrived on the scene without food and without money, but through the influence of his interpreter friend, and backed by the fact that he has a block of land to go through the Court, which he was going to sell, he was taken in by one of the Shortland hotelkeepers, and, I believe, treated very well. After waiting several weeks, he expects his block will shortly be called, which it is necessary to be prepared with sufficient money to pay certain Court fees which the Court demands, and without which the case cannot proceed. How is he to get it? The generous hotelkeeper thinks that, having undertaken to provide the old man with food and occasional refreshment, he should not be asked for more; and when applied to, declines. I am again appealed to, and agree to furnish £5 for this purpose. In due time the case is called. The aged rangatira makes a statement of the grounds upon which he claims this land. The assembled natives acquiesce, and the Court awards it to him and his only remaining relative, a niece. On the following day I am sent for, and informed that the land is his, and that he is prepared to sell to me at once, so that he may obtain money to pay his debts and provide himself with food and other necessaries to take with him to his home, where he hopes to spend yet a short time in peace and comfort. Alas! for our old man's well-laid plans. Our wise legislators have just amended the law relative to the disposal of native lands – the Native Land Laws Amendment Act, 1883. Nearly six months must elapse and a notice must appear in the Gazette before any dealings can lawfully take place. So says this new law, but it takes a lot of explanation to get the old man to understand it; indeed, he refuses to understand. Why should he wait? The Court said the land was his. He had sold land before on the day after it had passed the Court. Why should he not now? "The law says you cannot." "Who made such a law? Why should I be put to all this trouble? I am now old and infirm. I have no money to keep me here, and no food to take with me to my home. I shall starve. I shall not return to my kainga; there is no food there." He did stay, but he did not starve; yet he suffered many privations. The poor old man decided to leave the hotel; the cost was too great. He took up his abode in a small hut in the back-yard of the hotel. Here he passed his nights and a great portion of his days on a wretched apology for a bed. His food was furnished,

at irregular intervals and in varying quantities, by a few pakeha friends at the instigation of the before-mentioned interpreter, who had a sincere regard for the broken-down chieftain, and pitied him in his misfortunes.

For five weary months he lived on in this wretched hut, sad and lonely, brooding over his troubles, his mind recalling the good old times, when he was surrounded by his wives and his young men, ready to do his bidding. I saw him frequently during this time, and was always met with the same question, "Had the notice appeared in the Gazette?" He seemed to feel his position so keenly that I often avoided him, and was pleased when I could announce to him that at last the time fixed by the Act had been accomplished, and we could proceed to complete the business which had been so long in hand. I found that during the long delay he had incurred a number of small debts, and his creditors were pressing their claims with great earnestness. I, therefore, had the necessary deeds prepared at once, and one morning, accompanied by a justice of the peace and a licensed native interpreter, met the old chief, according to appointment, in the drawing-room of a mutual friend residing in Shortland.

After the deed was explained and the money placed on the table, they were surprised when he told us very decidedly that he would not sign the deeds. "What," said he, "is the use of signing now? The money is all spent." He would be no better off than when he came, and his land gone'. After further argument, he finally signed, apparently because Bagnall soothed him by playing a small organ. After distributing the money amongst his creditors,

he had less than £20 left out of his share of over £100. He was very much grieved at the smallness of the balance, as it would do but little to provide him with a stock of provisions, blankets, clothing, and other needed comforts to take with him to his home. By an early opportunity he returned to his settlement, and I never saw him again. He fretted so much over his misfortunes and suffered so many privations that his mind became deranged. It was not many months until death put an end to his sufferings; but during these months he lived in misery, wretchedness, and want. Yet he died the owner of lands of considerable value, but not a shilling could he obtain, even were it to save his life.<sup>31</sup>

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<sup>31</sup> L.J. Bagnall, 'Incidents Connected with the Purchase of Native Lands', *Auckland Weekly News*, 15 December 1888, p. 7.

That this story was not unique is illustrated by an 1880 report that of eight Maori who had died in Ohinemuri in the past few months, six deaths were mainly due to starvation; their inability to sell land had meant they were ‘in a pitiable condition’.<sup>32</sup> Five years later, the *Thames Advertiser* stated that there was ‘more than one native’ with ‘a judgment summons issued against him, which he has no means of satisfying until he can realize upon some of his lands, which he is doing nothing to improve, nor does he intend to improve’. The moral was that the court took too long to enable Maori to sell their land.<sup>33</sup>

### CRITICISMS OF THE SYSTEM OF ACQUIRING LAND, AND SUGGESTED ALTERNATIVES

The methods used to separate Maori from their land were often criticized at the time, and improved methods recommended. The *Observer*, in 1883, wrote that the government by purchasing land incurred ‘all the ignominy and odium, of shady transactions, “takuha,”<sup>34</sup> “ground bait,” rum, debauchery, and chicanery’.<sup>35</sup> An example of how the land court system was flawed was described by the *Thames Advertiser* in June 1877 in relating ‘what we constantly witness’ about a case of disputed ownership:

The disputants appear and the judge takes down all the evidence. Days are sometimes consumed in this procedure. Cross questions between the disputants are allowed, so it is a very difficult thing for the presiding judge to stop much apparently useless talk. No advocates are permitted to appear. No evidence is prepared. The presiding judge listens to everything, sums up, gives his judgment, and subsequently a mistake is discovered – one or two wrong names have been admitted on the memorial of ownership. This, at most, is the error, but it is one that carries grave considerations to the native mind. For ourselves we know that the gentlemen who preside as native Judges do their utmost to “mete our fair justice to all.” They are entitled to our deepest respect, and we know of no instance in which a single native has doubted the strictly just intentions of the European judge. Such is the procedure. The question follows – is it a correct one? We think

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<sup>32</sup> *Thames Star*, 12 August 1880, p. 2.

<sup>33</sup> Editorial, *Thames Advertiser*, 7 August 1885, p. 2.

<sup>34</sup> This word has not been recorded in any dictionaries, perhaps being a short-lived slang expression or an incorrect spelling, but the sense is clear from the context.

<sup>35</sup> *Observer*, 30 June 1883, p. 228.

not. Too much work is thrown upon the Bench. Having to conduct the whole of the hearing unaided, liable to constant disruption, sitting in a wretched barn yclept by courtesy "Court," which carries neither dignity nor prestige in the native mind, in the midst of noise and constant disorder, how, let us ask, is it possible for the judicial mind quietly and calmly to weigh the evidence?

It recommended that commissioners investigate ownership in conjunction with 'influential native chieftains as assessors'.<sup>36</sup> Two days later it described court sittings as 'all noise and confusion', much like 'mere Maori meetings' with the judge 'no more than a chief listening to the dispute of his hapu. And what results? A vast amount of useless talk; constant delays, entailing heavy expenses and perjuries unnumbered'. It understood that one judge had stated 'that he really did not know which side was telling the greatest number of lies'.<sup>37</sup>

Later that year, Ratima Te Whakaete,<sup>38</sup> claiming to represent the view of all Maori in the Waikato, argued that only Maori judges could 'properly understand all native claims, and do justice to all those interested'.

Let the natives first settle all claims, and then let them be handed over to a European commissioner to see that everything is legally carried out according to their decision; and let the Government appoint some intelligent native chief to direct them and send in their report to the commissioner, and to see that all native lands offered for sale are properly advertised before being sold, and that no clandestine purchase takes place; and, that natives are not, as at present, induced to sign away their lands while in a state of intoxication.

Instead of the Native Assessors having 'no power' and being 'obliged to sit like fools' in the court, they should have the sole responsibility of deciding titles.<sup>39</sup>

In 1888, Edward George Britton Moss, a Tauranga lawyer and future parliamentarian,<sup>40</sup> (and who had the slightest involvement in Waiorongomai mining),<sup>41</sup> published a pamphlet highly critical of the courts:

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<sup>36</sup> *Thames Advertiser*, 9 June 1877, p. 2.

<sup>37</sup> Editorial, *Thames Advertiser*, 11 June 1877, pp. 2-3.

<sup>38</sup> See *Waikato Times*, 21 August 1873, p. 2; District Court, *New Zealand Herald*, 3 August 1882, p. 5; he had no involvement in Te Aroha mining.

<sup>39</sup> Letter from Ratima Te Whakaete, *Auckland Weekly News*, 1 September 1877, p. 16.

They are organized as law Courts, and in that character can only take cognisance of evidence brought before them. From the nature of things this evidence must be imperfect. The position would be more natural if they were organized as commissions, whose duty it would be to seek all possible evidence before coming to a decision.

The present system required Maori holding interests ‘perpetually to attend all Courts in their district lest advantage be taken of their absence to deprive them’ of their rights. Consequently, large numbers crowded together in temporary shelters ‘living on food to which they are not accustomed, tempted to drink, demoralized and ruined by spending weeks in idleness and excitement in a European town’. The most abused aspect was when the courts gave effect to ‘voluntary’ agreements:

A few natives will sometimes stand up and swear, or say (which is about the same thing, for Maori is not an exact language, and it is impossible to convict a native of perjury) that the whole tribe has come to a certain agreement. The Court calls for objectors, and if none come forward the agreement is accepted, and the grant settled accordingly. A few adroit conspirators can obtain in this way the entire block of land, to a part of which they were only entitled. How are those who may be defrauded to know what has been done? There is no newspaper in the Maori village, and the judgments of the Court are not published in the Maori or European Gazette. The chances are a thousand to one that when they do hear it is too late for legal redress. This is the chief reason such crowds of natives attend the Court, and wait for months, with wonderful patience and at ruinous cost. They cannot trust, and must watch each other.... Unhappily the present system of Land Courts offers continual temptation, which intensifies the evil: it merely gives facilities to the worst natives to rob others in this treacherous way.

Moss cited an 1883 example of four Maori obtaining a block, granted to nearly 400 owners in the previous year, through an alleged voluntary agreement. In these arrangements there was ‘none so great a sinner as the

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<sup>40</sup> See *Cyclopedia of New Zealand*, vol. 2, p. 846; *Observer*, 18 November 1905, p. 3, 2 December 1905, p. 3, 7 March 1908, p. 5, 22 March 1913, p. 5, 18 March 1916, p. 4; *New Zealand Herald*, 11 March 1916, p. 9.

<sup>41</sup> Te Aroha Warden’s Court, Register of Applications 1883-1900, application dated 28 October 1890, BBAV 11505/1a, ANZ-A.

Government, whose purchases have favoured the system in an exceptional degree'.<sup>42</sup> He also described the immoralities involved when individual Pakeha acquired land, for the legal safeguards were easily evaded, to the detriment of 'the most honest and confiding' Maori.<sup>43</sup> But the wrongs inflicted by Crown purchase were 'tenfold greater. The law permits an agent of the Government to make an advance upon land to any single native who may represent himself as an owner, before the investigation of his claim'. Although a notice in the *New Zealand Gazette* that the Crown was seeking to purchase this block meant that no private individual was permitted to negotiate for it, until 1884 there had been no penalty for anyone doing so. 'Rich companies or powerful syndicates' ignored this prohibition, trusting on political pressure to enable them to acquire the land, and often succeeded, making purchase 'a monopoly of the unscrupulously wealthy and politically powerful' and the price for Maori low. He gave another example of how prices were kept down:

The Government, after making advances to some claimant which shut out all competition for the whole block, offered the natives a price less than that which they knew private purchasers were willing to give, and which they therefore refused to take. Sometimes their necessities compelled them to sell, but with the firm belief that the Government was swindling them all the time.<sup>44</sup>

He gave examples of the government buying land cheaply before selling it almost immediately for several times the purchase price. Indebted owners were compelled 'to take what the only buyer they were allowed to deal with chose to give', and sellers had no redress against the Crown when 'wronged by its agents':

Even in matters of accounts the seller was helpless. The Government gives to no individuals an account showing how and to whom the purchase money has been paid. To petition Parliament is the only chance, and the stereotyped reply must be that the dispute was not one for Parliament to settle, and should be taken to the Law Courts in the usual way.<sup>45</sup>

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<sup>42</sup> E.G.B. Moss, *Native Lands and their Incidents* (Auckland, 1888), p. 2.

<sup>43</sup> Moss, pp. 2-4.

<sup>44</sup> Moss, p. 5.

<sup>45</sup> Moss, p. 5.

Moss explained the ‘unfair advantages’ enjoyed by the government:

In the Land Court it has a simple and summary means of cutting off by subdivision any land it has bought from any portion of a tribe, however opposed the rest may have been to the sale. It could also ... make advances to anyone alleging that he had the smallest interest in the block, before his claim had been investigated by the Court. So well did the natives at last understand this, that it became a practice among the more cunning to obtain an advance from the Government agents before their title had been submitted. They considered the advance to be a virtual acknowledgment of ownership, and believed it increased the chance of getting their claim admitted when it came before the Court.<sup>46</sup>

After providing more examples of government culpability in corrupt and immoral deals,<sup>47</sup> he made some ‘simple’ suggestions:

Let each native make his own bargain for his own interest in the land. Refuse to acknowledge bargains with, and disallow all payments hereafter made, to tribes or bodies of natives. Let the deeds be in Maori as well as in English. Compel the interpreter to give to each native a copy of the document he has signed. Also, a memo in Maori, stating the price agreed upon, how much of it has been paid, and how much he is still to receive and when. All chance of misunderstanding would then be obviated. Nearly all the troubles (which land speculators call “repudiation”) have arisen from misunderstanding as to what has been signed, and as to the terms of sale.<sup>48</sup>

He considered it was ‘easy to provide fairly’ for Maori by encouraging, indeed imposing, individualism:

Let all lands that they could possibly use be rendered inalienable, and, while making part of it a common ... let the remainder be individualized, so that each Native may have a piece of land of his own, and be encouraged to live as we do.

Let the natives be allowed to do as they please with the rest of their lands, either to sell or lease without restrictions, which only diminish the price they receive. To individualize these lands also

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<sup>46</sup> Moss, p. 5.

<sup>47</sup> Moss, pp. 5-6.

<sup>48</sup> Moss, p. 6.

as far as possible so that each owner can be independent of the rest. If the purchaser be compelled to deal with each native separately the natural acuteness of the native in making a bargain will save him from selling at too low a price....

The great immediate reform would be to change the Land Courts into Commissions and to send the Commissioners among the natives to seek information, instead of deciding merely on the information that natives bring before them.<sup>49</sup>

Historians have agreed with such criticisms. For instance, Paul Monin, a specialist on Hauraki history:

The Native Land Court system was inherently debt-generating. Maori had to meet expenses involving interpreters, surveyors, lawyers and protracted court sessions. The cost of survey, in the case of a small block, might be as much as a third of its market value. If not paid immediately, this cost was often registered as a lien on the title, a debt incurred even before the Crown grant was issued. The Native Land Court required all claimants to attend hearings personally, often in places at some distance from kainga; there were expenses to be met in travel, purchased food supplies, and lost agricultural production. Travel to European centres exposed Maori further to the European temptations of alcohol and gambling ... expensive pleasures, as well as damaging ones. In consequence, the owners of land under the new titles were compelled to sell a goodly portion of it immediately to clear the debt generated by the court system. This colonisation process, paradoxically, often required Maori to lose land in order to secure it.

Monin stressed how court hearings ‘deepened political divisions, pitting hapu against hapu, chief against chief and land-sellers against non-land-sellers. In Hauraki, historical antagonisms between Marutuahu and earlier groups were rekindled’.<sup>50</sup> The court’s ‘rigid and simplistic system’ encouraged grantees ‘to behave as private owners rather than as the trustees of tribal property’.<sup>51</sup>

The *Thames Advertiser* was aware of the problem of land being vested in rangatira, as for instance in its 1882 comment on Rewi Maniapoto:<sup>52</sup>

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<sup>49</sup> Moss, p. 7.

<sup>50</sup> Paul Monin, *This is My Place: Hauraki contested 1869-1875* (Auckland, 2001), p. 230.

<sup>51</sup> Monin, p. 231.

<sup>52</sup> See *New Zealand Herald*, 23 June 1894, pp. 3, 4; *Auckland Star*, 23 June 1894, p. 2; *Waikato Times*, 7 July 1894, p. 7.

Those who are not behind the scenes can hardly comprehend how Rewi comes to own so much of the land which should belong to his tribe. Karaitiana,<sup>53</sup> the other day, died worth many thousand pounds, and left all to his one son. How did he become possessed of them? The Maori has surely been taking a leaf out of the pakeha's book with reference to large estates, primogeniture, and entail. Great care will have to be exercised that the chiefs do not succeed in getting the land locked up for their own benefit and leave the people to starve.<sup>54</sup>

Individualizing ownership did have one benefit: the right to be an elector. All Maori owning property in Thames were on the roll of ratepayers and therefore entitled to be on the electoral roll for parliamentary elections, as were all having a freehold estate valued at £25.<sup>55</sup> And by legislation passed in 1912, some Maori were entitled to be classified as Europeans:

A native applying for this privilege must be acquainted with the English language, and be possessed of educational qualifications equal to the fourth standard, and must possess sufficient land or income for his maintenance, or must be able, by some special profession, trade, or calling, to earn an adequate maintenance.

Notwithstanding this reclassification, his 'legal rights as a Maori' were preserved.<sup>56</sup> The point was that, by becoming a European and having their land treated as European land, restrictions on its sale were removed, as illustrated by the Lipsey family.<sup>57</sup>

There was always an alternative to selling land, though one unpopular with Pakeha. In 1882, the *Thames Advertiser* recommended that Maori should lease their land, thereby increasing their income and avoiding money raised from sales being spent too quickly. If 'rescued from improvident habits and in possession of an ample and assured income from

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<sup>53</sup> Karaitiana Takamoans? See *Waikato Times*, 29 May 1873, p. 2, 16 October 1879, p. 2, 26 August 1884, p. 4; *Hawkes Bay Herald*, 25 February 1879, p. 2, 3 March 1879, p. 2, 21 February 1880, p. 3.

<sup>54</sup> *Thames Advertiser*, 2 March 1882, p. 3.

<sup>55</sup> A.J. Allom to G.T. Wilkinson, 27 February 1880, Thames Warden's Court, Mackaytown and Thames Letterbook 1876-1896, pp. 458-459, BACL 14458/1b, ANZ-A.

<sup>56</sup> *Auckland Weekly News*, 17 October 1912, p. 19; see cartoon, 'The New Pakeha: The Government applies the Whitewash Brush', in Supplement, p. 12.

<sup>57</sup> See paper on George Lipsey and his family.

their lands', Maori would have a good future.<sup>58</sup> This advice was given too late for most landowners on the Hauraki Peninsula.

### UNRELIABLE EVIDENCE

In 1869, James Mackay, a crucial figure in Hauraki,<sup>59</sup> noted how difficult it was to determine which hapu owned which areas. 'Their lands are very much intermixed, and there is hardly a tribal boundary which has not been the subject of dispute for some generations past'.<sup>60</sup> He later claimed that early Pakeha rivalry for their land first introduced chiefs to 'the school of deceit, robbery, and repudiation in land matters', making the 'naturally avaricious' Maori dishonest.

At a recent sitting of a Native Lands Court I heard a native misrepresenting a case which was within my personal knowledge; on his leaving the Court I expostulated with him on his conduct. He replied, "I was not giving evidence to you who knew the question, but to the Court who do not know anything about it."<sup>61</sup>

Three years later, George Thomas Wilkinson, a land purchase officer in Hauraki who became the native agent,<sup>62</sup> explained to his superior a case of 'base ingratitude' by one owner of the Ohinemuri Block:

It was his own proposal that I should buy him out before the block came before the Court, and as I knew enough of the old man's history to satisfy me that he had a good claim I paid him £30 he having already had £20 from Mr Mackay – Judge of my surprise when during the hearing of his block in Court he (prompted I have no doubt by his other relations) stood up and swore that he was an illegitimate child, and that he had no claim whatever upon any portion of the Ohinemuri block – Upon cross-examination however he broke down and as the old man would not give his own genealogical table, I fortunately was able to give

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<sup>58</sup> Editorial, *Thames Advertiser*, 27 February 1882, p. 2.

<sup>59</sup> Little has been written on his career; for a panegyric, see Norton Watson, 'Civil Commissioner James Mackay: A mighty man of valour', *Historical Journal: Auckland-Waikato*, no. 19 (September 1971), pp. 7-10.

<sup>60</sup> 'Report by Mr Commissioner Mackay Relative to the Thames Gold Fields', *AJHR*, 1869, A-17, p. 3.

<sup>61</sup> Letter from James Mackay, *Auckland Weekly News*, 8 September 1877, p. 15.

<sup>62</sup> See paper on Mereia Wikiriwhi and George Thomas Wilkinson.

it for him, and prove to the Court that he was properly descended from the Ancestor who originally owned the land. He admitted that he had had the money but tried to persuade the Court that he had no title to the land, and his last expression after about 3/4 hour cross-examination by myself was “I may be a liar but I am not a rogue and won’t deny having had the money.” The Judge at once told him that there was no necessity for him to admit that he was a liar, as the Court was satisfied that he was both a liar and a rogue, and would therefore order his name to be entered up as one of the owners of that block (Ohinemuri No. 1). So that in spite of himself he was proved to be a large landowner. His now claiming the balance of the purchase money is to say the least of it a proof that he tries to take advantage of every circumstance.<sup>63</sup>

Because of continued controversy over the leasing to the Crown of the Ohinemuri goldfield in 1875 for £15,000, Richard John Gill, under-secretary of the Land Purchase Department, visited Paeroa in 1882 to investigate payments made to each owner, some of whom were seeking more money. Investigation revealed that, in fact, some had been paid too much. Hohepa Kapene,<sup>64</sup> for instance, had signed the petition seeking more money, but had been over-paid by £251 17s 6d (he had received £294).<sup>65</sup> In 1876, when he had visited Mackay in Auckland in an attempt to obtain more advances on his land, Mackay declined

on the ground that it was better to complete matters already entered into and in progress. I also expressed considerable dissatisfaction at the action of other members of his tribe who, having received advances from the Government and signed agreements to sell their lands, had subsequently endeavoured to repudiate those arrangements, and procure further “sums on account” from European speculators acting adversely to the Government.

Hohepa told him that the speculators offered more and that he expected Sir George Grey would help them to repudiate the agreements and

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<sup>63</sup> G.T. Wilkinson to R.J. Gill, 12 October 1880, printed in ‘Maori Petitions re Hauraki Goldfield, 1935-1939: Statement of the Facts and Circumstances Affecting the Ohinemuri Block’, p. 35, Lands and Survey Department, LS 36/25a, ANZ-W.

<sup>64</sup> See Maori Land Court, Coromandel Minute Books, no. 1, pp. 242, 329-336, no. 3, pp. 140-141; Hauraki Minute Books, no. 11, pp. 167-169, no. 16, pp. 143, 149, no. 23, pp. 24-48, 138-130, 135-136, 143; no. 65, pp. 128-133.

<sup>65</sup> ‘Maori Petitions re Hauraki Goldfield, 1935-1939’, p. 34.

have their land returned. Mackay charged that speculators, assisted by ‘numbers of disappointed land agents and native interpreters, who had been thrown out of employment’ because the government had prevented private sales, had ‘fomented dissension among the natives, and used their utmost efforts to prevent the Crown getting the land’.<sup>66</sup>

In 1882, Hohepa denied selling his interest in Ohinemuri No. 17, but two vouchers issued in 1878 refuted his statement.<sup>67</sup> Three years later, William Gilbert Mair, a former native officer who had become a judge in the land court,<sup>68</sup> told his father that Maori at a hearing at Thames were ‘very nicely behaved – with one exception I have never felt in the least annoyed’. The exception was Hohepa, who had sworn that, at the hearing of an adjoining block to that being considered, he, as conductor for one hapu, had ‘arranged with another set of Counter-claimants to swear falsely so as to oust the claimants’ and that the evidence given was

all “tinotekaurawa”! [lies]<sup>69</sup> and further he very ingenuously stated that he had “explained all this to Mr [Judge Edward Marsh] Williams at the first hearing.” We however noticed differently to what Te Wiremu [Judge Williams] did for he actually gave this lying scamp an award, but we threatened him with proceedings, ordered him out of the witness box, and declined to take the evidence of any of the people who had been parties to the swindle.... It is a sample of what is constantly going on in the Court.<sup>70</sup>

Hohepa had been conducting the case for Ngati Hako and Ngati Tamatera for the Whangamata No. 6 Block. The court’s minutes recorded that he stated that, after his witnesses had given evidence, he had listened to that given by the other claimants:

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<sup>66</sup> *Thames Advertiser*, 10 April 1876, p. 2, letter from James Mackay, 14 April 1876, p. 3.

<sup>67</sup> Maori Land Court, Hauraki Minute Book no. 14, p. 271.

<sup>68</sup> For a brief summary of his career, see Ian Ward, *A Show of Justice: Racial ‘amalgamation’ in nineteenth century New Zealand*, rev. ed. (Auckland, 1995), pp. 170, 197, 200, 238, 282; for his years as a land court judge, see J.C. Andersen and G.C. Petersen, *The Mair Family* (Wellington, 1956), pp. 248-266.

<sup>69</sup> H.W. Williams, *Dictionary of the Maori Language*, 7 ed. (Wellington, 1971), pp. 410, 420.

<sup>70</sup> W.G. Mair to Gilbert Mair, 13 September 1885, Mair Family Papers, folder 8, MS 93, Alexander Turnbull Library.

I then saw the claims by my witnesses were weakened. I then asked the conductors of Na. Karau to answer favourable all questions I put to them. I asked them to state that Papiri was an old boundary. This was outside the Court. That is why they said Papiri was an old boundary. The questions put by others were contradicted. More witnesses spoke falsely in order to mislead the court. (This court refused to allow him to give evidence to contradict these statements).

The court stated they could not after such an admission place any confidence in the statement of the present witness.

Accordingly, he was withdrawn as a witness.<sup>71</sup> In 1893, Hohepa produced a witness to support his claim to another block. The judge noted, in red ink: 'From beginning to end the words had been put into witnesses mouth by the conductor and court would have interfered but it was evident that if the conductor did not do so witness would know nothing'.<sup>72</sup> In 1916, the court distrusted the evidence of Hohepa's widow, rejecting the whakapapa she provided and accepting an alternative.<sup>73</sup>

Kimokimo Pepene,<sup>74</sup> at an 1892 hearing, claimed that he had been tricked into giving false evidence over Whangamata No. 6. After claiming that he had forgotten the genealogy that Paora Tiunga, a rangatira of Ngati Hako, had taught him for an earlier case, the following questions and answers were recorded:

Was not Paora Tiunga opposing you in that case? Yes, but he told me outside the Court I was the only person entitled to that land. I then gave him the genealogy I gave in this court – he said put that aside and take this and then there will be but few people to oppose you – I did so, the one I have given now is the true one, I found out the other was incorrect, I was made a tool of – I was misled...

Did you not tell the Court at the hearing of Whangamata No. 6 that you had got that genealogy from your father? Yes, I did say so – whereas I got it from Paora Tiunga – I told the Court a falsehood on that occasion.<sup>75</sup>

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<sup>71</sup> Maori Land Court, Hauraki Minute Book no. 18, p. 191.

<sup>72</sup> Maori Land Court, Hauraki Minute Book no. 32, p. 168.

<sup>73</sup> Maori Land Court, Hauraki Minute Book no. 65, pp. 133, 138-139.

<sup>74</sup> See Maori Land Court, Hauraki Minute Books, no. 14, pp. 185-186; no. 23, pp. 15, 18-19; no. 28, pp. 13-14; no. 28A, p. 13; no. 28B, pp. 126, 167, 169, 174, 183-184; no. 29, pp. 27-28; no. 42, p. 141; no. 49, pp. 342-344.

<sup>75</sup> Maori Land Court, Hauraki Minute Book no. 29, pp. 1-2.

Giving judgment, the judge noted that Kimokimo had stated ‘that the evidence given by his father in different Courts is in very many instances absolutely false, but that the Evidence which he gives this Court is derived from his father – who he has told us to disbelieve’. His evidence contradicted others, and included the statement that ‘Te Kiku and Tuirī laid off the western boundary of this block, which is an absolute absurdity there being five generations between these two persons’. Accordingly, his evidence was dismissed.<sup>76</sup> (The last example of his evidence might have revealed genealogical confusion rather than deliberate falsehood.)

Five years later, Paora Tiunga,<sup>77</sup> blamed for tricking Kimokimo, was accused by Kingi Haira,<sup>78</sup> also of Ngati Hako, of using the court to grab land belonging to others:

You have had the putting of all our land through the Court, you have always carefully left me out.... You may only claim now in the strip along N. boundary, but if your case wins you will expect to be put in the whole block!...

You and one other got 300 acres of kahikatea out of Kaikahu, then you got Tiritiri I think all to yourself. I was as much entitled as you, so was any other uri [descendant]<sup>79</sup> of Taumata or Paretaki.... In Te Awaiti you, Tamehana Matihaini<sup>80</sup> and Wi Te Paoro<sup>81</sup> got 3000 acres of bush, you managed this in the Appellate Court, you proposed to do it in the first Court, but the Judge would not allow it. I opposed the idea of the valuable part of the block being vested in three persons, but you upheld it saying that it was done “by the people’s wish,” which was not true, for there were only half a dozen of us here at the time, and those included some of your own family.<sup>82</sup>

Later that year, another Maori claimed that Paora and another rangatira were

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<sup>76</sup> Maori Land Court, Hauraki Minute Book no. 29, p. 75.

<sup>77</sup> See paper on Maori in Hauraki.

<sup>78</sup> See Maori Land Court, Hauraki Minute Books, no. 36, pp. 45A, 140-141, 147, 153-154, 156-157; no. 45, pp. 261A, 288-290, 293-294, 297-298; no. 48, pp. 286-287, 290-292, 294; no. 49, pp. 3-7.

<sup>79</sup> P.M. Ryan, *The New Dictionary of Modern Maori* (Auckland, 1974), p. 49.

<sup>80</sup> Not traced; he did not invest in Te Aroha mining.

<sup>81</sup> Not traced; he did not invest in Te Aroha mining.

<sup>82</sup> Maori Land Court, Hauraki Minute Book no. 45, pp. 296-297.

in the habit of putting in his ... name and those of others of Ngatipaoa in the Piako blocks to seal their mouths against giving evidence in favour of Ngatimaru. Being admitted at that time to the Councils of Ngatihako he can speak positively on the point he knows; also that they used to select certain ancestors so as to keep certain people out.<sup>83</sup>

The following year, Hare Renata<sup>84</sup> accused Paora of trickery. 'You know it was understood that I should admit you to Wawenga's land. You never expressed a wish to keep the agreement, so I kept it as a check upon your trickery. I did not tell you of these lands of Wawenga because you deceived me about other land'.<sup>85</sup>

In 1907, Paora had to defend himself against criticism that he had misused his position as a trustee for one of his hapu, Ngati Mahu. According to his evidence, when told by William Grey Nicholls<sup>86</sup> that a Pakeha wished to buy Kaikahu No. 3, he claimed not to want to sell his 'bit' and had said he 'could not, as the Act of 1900 banned it, as there were now 4 owners'. On Nicholls' advice, he applied for a partition, and, with other owners, met with the purchaser, and received '£100 and signed the deed. I did not then hear anyone say that we were trustees for the tribe'. He had arranged to sell because 'I knew I was the owner and not a trustee'. Paora claimed that, later, Nicholls tried to prevent the sale.

In 1892 I acted as agent for N. Hako, my people. And have done so since. Don't know of any case where the owners have been made trustees.

In Pukemokemoke I put all the tribe in, & left myself out.

In Makumaku there were 6 owners only. It is over 400 acres. But they have not been asserted to be trustees. That was a part cut off; it contained bush, & was cut off to pay expenses.<sup>87</sup>

Cross-examined by the counsel for the counter-claimants, Paora explained that he had supported the claim of another rangatira, Ripikoi,<sup>88</sup> to part of the land because he expected to receive some of it as a gift.

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<sup>83</sup> Maori Land Court, Hauraki Minute Book no. 46, p. 182.

<sup>84</sup> See papers on Eta Mokena and the other children of Te Mokena Hou.

<sup>85</sup> Maori Land Court, Hauraki Minute Book no. 47, p. 111.

<sup>86</sup> See paper on William Grey Nicholls and Rihitoto Mataia.

<sup>87</sup> Maori Land Court, Hauraki Minute Book no. 55, pp. 285-286.

Q If the gift had been upheld, the tribe wd have lost the land.

A The Court rejected it.

Q You were acting agst the tribe. A. No.

Yes, the tribe wd not have got the land, if the gift had been upheld.<sup>89</sup>

After denying that the list of owners had been brought into the court and that Te Paea<sup>90</sup> had objected, Paora was asked why Hare Teimana<sup>91</sup> should 'state falsely'. After replying 'Can't say', he insisted it was 'not because it means money to me, that I am making the statements I do make'.<sup>92</sup>

Q Had the expenses all been paid – none due – would the 300 acres have been cut off for you.

A Can't say. Nothing was said as to that. It was Ripikoi who proposed to cut off the 300 acres. The people consented. The 300 acres were to pay the expenses of the case – all the expenses.

Q Have all the expenses been paid. A. Yes.

A Have you refunded to the tribe, the money they had subscribed.

A. No. That was not the idea.

Q Why did you say before the [Waikato Maori Land] Board that these 300 ac. were awarded to you bec[ause] you were the great men of the tribe.

A Because the Court placed in our hands the compiling of the lists.

Q Why did you not tell the Board that the 300 ac. were awarded to you to pay the expenses?

A I think I did say so (He did not.)

Q Was it not at the wish of the tribe that the 300 ac. was awarded to you, and not bec[ause] you are the great men of the tribe.

A (It is impossible to get any clear answer from the witness)

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<sup>88</sup> See *New Zealand Herald*, 16 July 1890, p. 5, 25 June 1892, p. 5, 9 October 1896, p. 4; *Ohinemuri Gazette*, 5 July 1907, p. 3; he did not invest in Te Aroha mining.

<sup>89</sup> Maori Land Court, Hauraki Minute Book no. 55, p. 286.

<sup>90</sup> See *Auckland Star*, 10 February 1936, p. 9, 13 February 1936, p. 9; *New Zealand Herald*, 13 February 1936, p. 13; she did not invest in Te Aroha mining.

<sup>91</sup> See letter from Kakawaero and eight other Ngaitirangi, *Auckland Star*, 30 March 1880, p. 3; *Waikato Times*, 26 June 1880, p. 2, 16 September 1886, p. 2; *New Zealand Herald*, 25 November 1882, p. 5; *Wanganui Herald*, 21 February 1883, p. 2; *Ohinemuri Gazette*, 5 July 1907, p. 3, 21 September 1908, p. 2; he had no involvement in Te Aroha mining.

<sup>92</sup> Maori Land Court, Hauraki Minute Book no. 55, pp. 287-288.

The people agreed we should have this 300 ac.<sup>93</sup>

After attempts to discover whether all the costs had been met and, if so, by whom, Paora listed those present at a meeting to discuss the block.

Did not see Maaka Patene<sup>94</sup> there. So I say he was not there.

Q Now Maaka took minutes, & has the book.

A I still deny that Maaka was there.

Q Suppose Meha Te Moananui<sup>95</sup> says Maaka was there, will you still deny it.

A I will, because I did not see him there. I consider he states an untruth, when he says he was there.

Q You say Te Paea did not object. A. She did not.

Q Four persons say she did.

A They are stating falsely. Kingi Haira was in jail at the time

Q You may be convicted for perjury.

A I know, but I still say Kingi was in jail.<sup>96</sup>

In later evidence, one Maori stated that in the early 1890s Paora was ‘trustworthy’ and ‘was trusted’.<sup>97</sup> In his concluding remarks, the lawyer who had cross-examined Paora pointed out that he had contradicted all the other witnesses, who had given good evidence. ‘But it was different, as regards Paora. Court had to constantly repeat questions to him: Paora was fencing the whole time while giving evidence’, and was forced to admit that he had been acting for Ripikoi, not the tribe, as the latter had supposed.<sup>98</sup> In his judgment, the judge felt ‘bound to place on record the fact that he gave his evidence in a most unsatisfactory manner, it being exceedingly difficult to get a straightforward answer to any question’. He decided that, ‘in view of the plain unequivocal evidence of disinterested witnesses, opposed only by evidence that was highly interested’, namely that given by Paora, the hapu had intended that the land be held in trust for it.<sup>99</sup> The lawyer acting for Paora’s opponents reported that £275 of the purchase price of £900 had been

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<sup>93</sup> Maori Land Court, Hauraki Minute Book no. 55, pp. 291-292.

<sup>94</sup> Not traced; he had no involvement in Te Aroha mining.

<sup>95</sup> See *Ohinemuri Gazette*, 20 July 1917, p. 2; he had no involvement in Te Aroha mining.

<sup>96</sup> Maori Land Court, Hauraki Minute Book no. 55, p. 293.

<sup>97</sup> Maori Land Court, Hauraki Minute Book no. 55, p. 310.

<sup>98</sup> Maori Land Court, Hauraki Minute Book no. 55, p. 314.

<sup>99</sup> Maori Land Court, Hauraki Minute Book no. 55, p. 361.

paid to Paora, and that he would try to 'get this money back for the tribe' if they wished him to act.<sup>100</sup>

As another example of a Maori witness who was disbelieved, in 1878 Tuwhenua Te Tiwha<sup>101</sup> applied, along with others, for a rehearing of Waiharakeke East and West.<sup>102</sup> Both a judge and an interpreter noted that all the names in the letter written by Tuwhenua were in his handwriting, wondered whether they had consented, and rejected his claims that the court was biased in favour of the rival hapu and that the assessor was related to it.<sup>103</sup> The chief judge, Francis Dart Fenton,<sup>104</sup> determined that there were no grounds for a rehearing. 'Every one who knows Tuwhenua has a prima [facie] feeling against his statements and requests, which he vainly struggles to resist. I have known him since he was a boy; and a more false, cantankerous and discontented mortal I never knew'.<sup>105</sup>

In 1882, Gill encountered several attempts 'to repudiate past payments. In some cases the signatures to vouchers were denied; in others it was alleged that no money had been received, or that the payments were for food etc and were gifts: that they ought not therefore to be charged on the land'. 'In many cases such denial was obviously untrue'.<sup>106</sup> An example of such denial was Timiuha Taiwhakaea<sup>107</sup> (sometimes Taiwhakaea), who gave the following evidence:

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<sup>100</sup> Maori Land Court, Hauraki Minute Book no. 56, p. 231.

<sup>101</sup> See Maori Land Court, Waikato Minute Books, no. 1, p. 93; no. 3, pp. 172, 273; no. 7, pp. 249-250, 330; no. 10, pp. 103, 228; no. 12, pp. 351, 354, 363, 372, 375, 378, 380, 385-386, 389; no. 13, pp. 248, 297.

<sup>102</sup> Maori Land Court, Memoranda Book 1867-1879, p. 234, BAIE 4307/1a, ANZ-A.

<sup>103</sup> Memorandum by J.J. Symonds, 6 November 1878, Maori Land Court, Memoranda Book 1867-1879, p. 235, BAIE 4307/1a, ANZ-A.

<sup>104</sup> See W.L. Renwick, 'Francis Dart Fenton', *Dictionary of New Zealand Biography: vol. 1: 1769-1869* (Wellington, 1990), pp. 121-123.

<sup>105</sup> Memorandum by F.D. Fenton, 9 November 1878, Maori Land Court, Memoranda Book 1867-1879, p. 236, BAIE 4307/1a, ANZ-A.

<sup>106</sup> R.J. Gill to Native Minister, 29 July 1882, printed in 'Maori Petitions re Hauraki Goldfield', pp. 42, 44.

<sup>107</sup> See Maori Land Court, Hauraki Minute Books, no. 10, pp. 62-63, 196, 205; no. 11, p. 291; no. 13, pp. 101-102; no. 22, pp. 186-188; no. 23, pp. 292-293; no. 36, pp. 88, 132-133, 153-157, 246-250; no. 45, p. 261A.

I deny that I signed the deed attested by James Mackay and George [Thomas] Wilkinson. I do not know who signed my name. I absolutely swear I did not sign. (A voucher for £140 was here produced by Mr Gill.) I acknowledge this as my signature. (Mr Gill here produced another voucher for £1000.) The signature is something like mine but I did not write it. (Mr Gill here produced an agreement.) I did not write that signature nor did I authorize any one to do so for me – I was in Shortland in 1878 – I agreed verbally to the sale of the Ohinemuri Goldfield @ 4/- per acre, but did not sign any document.<sup>108</sup>

After hearing evidence from a Maori and a Pakeha who witnessed his receiving money, the judge stated that he was ‘quite satisfied as to the genuineness of the signature, and if Timiuha wishes to resist this it will be a case for the Supreme Court. The Court has no doubt but that Timiuha is perjuring himself’.<sup>109</sup> No action was taken against him for perjury, nor was any taken against Maori who denied the undeniable. His brother Watene Te Taiwhakaea<sup>110</sup> claimed to have received only £20, not the £75 the files recorded. Although the true value of his interest was shown to be £38 6s, he was not required to repay the over-payment, the judge merely commenting that, as he had signed both the vouchers and the deed, there was no doubt he had received ‘at least as much as he originally agreed for’.<sup>111</sup>

In 1893, at a sitting in Paeroa, a land court judge stated that it was ‘one of the unpleasant but necessary duties of this court to expose and condemn the many instances of falsehood and collusion which have occurred in the cases heard’.<sup>112</sup> At that time one rangatira was trying to obtain others’ land by inventing false claims of conquest by an ancestor.<sup>113</sup> The following year, after listening to conflicting evidence, the judge decided that his evidence was ‘the most consistent’ and awarded him the block.<sup>114</sup>

Four years later, a Maori living at Te Aroha revealed another example of how owners could be cheated. In thanking a judge for sending a letter asking whether he wished to be included in one of the Aroha blocks, he

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<sup>108</sup> Maori Land Court, Hauraki Minute Book no. 14, p. 239.

<sup>109</sup> Maori Land Court, Hauraki Minute Book no. 14, p. 240.

<sup>110</sup> See Maori Land Court, Hauraki Minute Books, no. 13, p. 280; no. 19, pp. 171-172; no. 36, p. 156; no. 48, pp. 199-201, 206, 209-210, 212; no. 63, p. 49.

<sup>111</sup> Maori Land Court, Hauraki Minute Book no. 14, pp. 253-254.

<sup>112</sup> Maori Land Court, Hauraki Minute Book no. 31, p. 5.

<sup>113</sup> Maori Land Court, Hauraki Minute Book no. 31, pp. 8-9.

<sup>114</sup> Maori Land Court, Hauraki Minute Book no. 36, p. 193.

commented that his sisters living near Thames may have treated their sisters living at Morrinsville ‘in the same manner as they have treated me, by not letting them know about the Case coming on’.<sup>115</sup>

According to James Mackay, the principal land purchase agent in Hauraki for much of the 1870s, wills made by Maori were ‘often very vague, and not properly attested’, and Maori were ‘not at all particular about signing the names of other people without their consent being first obtained’.<sup>116</sup> ‘Many of these so-called wills bar the rights of persons who are next of kin’ and justly entitled to succeed under both Maori and Pakeha custom.<sup>117</sup>

Alan Ward has pointed out how ‘lying and false evidence’ became common in all land court hearings as those with rival claims, and in some cases no justifiable claim, competed to obtain their land or someone else’s land. As the court based its decisions ‘only upon evidence presented before it’, those who were not present to defend their interests were easily cheated.<sup>118</sup>

#### JAMES MACKAY’S EXPERIENCES AND RECOMMENDATIONS

Mackay was crucial for the opening of Hauraki in general and Ohinemuri in particular for mining and settlement, especially because he had the confidence of many leading Maori. In 1871, writing of a ‘great meeting’ at Piako, a reporter praised his role. ‘In all that I have myself seen of the Thames natives, and I suppose that is as much as most people, no person has exercised so much influence, or been so readily obeyed as he seems to be’.<sup>119</sup> When he died in 1912, the *Observer* assessed his career:

James Mackay, known all over the goldfields as “Jimmy,” is dead at the age of 81. He was a remarkable man – almost Napoleonic

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<sup>115</sup> Punia Parata Wuru to Judge Mair, Native Land Court, Thames, 20 October 1897, Aroha Block V Section 7, Block Files, H 1340, Maori Land Court, Hamilton.

<sup>116</sup> James Mackay, *Our Dealings with Maori Lands, or, Comments on European Dealings for the Purchase and Lease of Native Lands, and the Legislation Thereon* (Auckland, 1887), p. 16.

<sup>117</sup> Mackay, *Our Dealings*, p. 17.

<sup>118</sup> Ward, pp. 185-187, 213.

<sup>119</sup> Special Commissioner, ‘The Great Meeting of Natives at the Piako’, *New Zealand Herald*, 1 May 1871, p. 2.

in a small way, physically quite fearless, and mentally most acute. Perhaps James Mackay's success as an early administrator was due to his instinctive summing up of men, either white or brown, and the fact that he never hesitated about anything. When he made the agreement with the Maoris in 1867 under which the Thames goldfields were opened, he effected some masterly coups, and, it is said, had difficulties that almost led to bloodshed, going in risk of his own life. Warned that there was danger to himself in approaching a certain tribe, he simply went amongst them and quelled their turbulence by the mere force of his personality and his extraordinary command of their language. He was the first man in charge of the district, and the first Warden of the Thames goldfields at a time when a person of individuality and strength was most needed. Wherever James Mackay went – and his keen face with the hooked nose was one of the chief features of the mining district – there was bound to be a mob of admiring Maoris anxious for his advice. It is hardly likely that James Mackay died a wealthy man, for he lived his life very fully and strenuously – and is rather a nice example of the triumph of the strong mind and the strong body over difficulties that wipe the weaklings off the earth.<sup>120</sup>

One historian has described Mackay as a 'closet statesman' who initiated as well as implemented policy, and occasionally was a law unto himself.<sup>121</sup> And he made a good living from his official tasks. In August 1875, when officials were discussing whether to alter the method of paying him, the payments he had received from the government were calculated. When the government agent based in Cambridge (as a consequence of the murder of Timothy Sullivan) from 1 May 1873 to 30 June the following year he was paid £800 plus travelling expenses and a gratuity of £500, making a total of £2,176 14s 8d. As the agent for opening the Ohinemuri goldfield, from 1 March to 31 May 1875, he received a salary of £200. And as a land purchase officer since January 1872 he received £2,071, making a grand total of £4,447 14s 8d.<sup>122</sup> In 1880, two years after he had ceased to purchase land for the Crown, he petitioned parliament because, 'in settlement of his account with the Land Purchase Department', he had been 'compelled to

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<sup>120</sup> *Observer*, 19 October 1910, p. 4.

<sup>121</sup> R.C.J. Stone, 'The Economic Impoverishment of Hauraki Maori through Colonisation, 1830-1930', in Hauraki Maori Trust Board, *The Hauraki Treaty Claim* (Paeroa, 1997), vol. 11, p. 47.

<sup>122</sup> Memorandum by R.J. Gill, 31 August 1875, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

take less than he was justly entitled to'.<sup>123</sup> In response, the under-secretary in charge of land purchases provided a detailed summary of his work since appointed in 1872 to purchase land. The arrangement that he receive 4d per acre once title had been completed was ended in January 1878, when the government abandoned the commission system. For incomplete purchases of 775,436 acres, he had earned £8,413 9s 4d; as most of this amount had been paid previously, he accepted the balance of £2,105 14s 7d on 26 February 1878. In addition, he had received another £2,402 0s 10d for finalizing the purchase of 144,150 acres and £1,652 3s 9d when Ohinemuri was opened. Mackay claimed that he had paid money on account for purchases but had kept no receipts, and a previous Native Minister had agreed, verbally, to compensate him for whatever this amounted to. Mackay's clerk was to have determined what was owed, but after being retrenched did not do so. Apart from this unknown sum, Mackay had received £12,468 3s 1d for completing land purchases between 1872 and 1878, and for acting for the government in such matters as the Timothy Sullivan murder had been paid £1,433 6s 8d plus travelling expenses of £743 0s 8d. For issuing the first miners' rights for Ohinemuri, he had been paid £200. Since leaving Hauraki he had also received £800 a year as warden at Hokitika and been paid an unspecified amount for information provided after leaving the government service. Should he provide vouchers for the money he claimed he was owed, he would be paid;<sup>124</sup> as none were provided, the committee decided that he had been 'paid in full'.<sup>125</sup> In 1882, officials attempting to trace his financial dealings considered that he might have been guilty of fraud by not paying storekeepers for goods provided to Maori. John Bryce, the Native Minister, noted on the file: 'Mackay's private and Government transactions are so mixed together that I am convinced a prosecution would have no result'.<sup>126</sup>

The parliamentary investigation of 1875 into the Tairua Block, obtained for the Crown by Mackay, in October described him as being 'in a singularly undecided position. At one time he is admittedly a Government officer, at another he claims to be in an independent position, conducting land purchases for the Government on commission'. It was critical of his

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<sup>123</sup> 'Reports of Native Affairs Committee', *AJHR*, 1880, I-2, p. 28.

<sup>124</sup> Petition no. 326, Legislative Department, LE 1, 1880/6, ANZ-W.

<sup>125</sup> 'Reports of Native Affairs Committee', *AJHR*, 1880, I-2, p. 28.

<sup>126</sup> Memorandum of John Bryce (Native Minister), 7 August 1882, 'Maori Petitions re Hauraki Goldfield', p. 61.

employees being able to use information they obtained about government land purchases for their own financial benefit, and recommended that ‘in future all persons employed by the Government as agents for the purchase of land, no matter whether paid by salary or commission, and all persons in their immediate employment, should be taken to be Government officers, and subject to the ordinary rules of the Civil Service’.<sup>127</sup> Anticipating its verdict, in mid-June Donald McLean suggested that, instead of buying land on commission, Mackay should receive a yearly salary of £800. In expressing his willingness to accept this offer, Mackay sought repayment of the money he had spent in his current negotiations, requesting £5,000 which, after deducting his expenses, would give him £2,000. ‘If the Government decline to accept this proposition I shall most reluctantly be compelled to decline doing any work’ for the government apart from purchasing land.<sup>128</sup> In response, McLean told him that the arrangement reached in 1872 whereby he received 4d per acre commission ‘should not for the present be disturbed – on the distinct understanding that no new negotiations will be carried on without the sanction of the Government [being] first obtained’.<sup>129</sup> In October, in suggesting ways of meeting his liabilities on uncompleted purchases, Mackay told McLean that he was owed more than the government admitted. As the parliamentary committee had objected to purchasing on commission ‘I would prefer to relinquish the business – provided I receive reasonable compensation for so doing; and am allowed to recover the advances made privately by me’.<sup>130</sup> Officials continued to assess how much was owing, trying to reduce the amounts he claimed to be owed.<sup>131</sup>

In November, McLean informed Mackey that ‘in the interests of the Public Service’ it was ‘highly desirable’ that he purchases should be concluded ‘with as little delay as possible’, and no new negotiations were to

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<sup>127</sup> ‘Report of the Tairua Investigation Committee; Together with Minutes of Evidence and Appendix’, *AJHR*, 1875, I-1, p. xi.

<sup>128</sup> James Mackay to Donald McLean, 18 June 1875, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

<sup>129</sup> R.J. Gill to Donald McLean, 23 June 1875; Donald McLean to James Mackay, 8 July 1875, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

<sup>130</sup> James Mackay to Donald McLean, 29 October 1875, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

<sup>131</sup> Especially memorandum by R.J. Gill, 1 November 1875, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

be started, specifying Aroha and Patatere,<sup>132</sup> the latter in the present-day Litchfield area. Mackay immediately responded that he had ‘no desire to enter any fresh negotiations for the sale of land to the Government, as the occupation is not of a remunerative character, and I would decline to undertake any new work in the Thames and Hauraki districts, on the present terms’. He would continue with negotiations for the Aroha and Patatere blocks because he did not anticipate any ‘insurmountable difficulty’. ‘Having incurred considerable expense in the employment of Agents, and expended a large amount of my own time on these questions, I must, in justice to myself, object to the negotiations being stopped, and my thereby suffering a heavy pecuniary loss’. He was willing to stop negotiating for the Aroha block if the money he had paid to owners was refunded.<sup>133</sup> Both McLean and the Agent of the General Government wanted him to resume and complete his deals with the Aroha, Ohinemuri, and Patatere blocks, but on condition of his accepting ‘a distinct understanding that no such compromise as that made in the Ohinemuri business can ever again be agreed to, and that he must accept strict personal responsibility for all his proceedings’. And all landowners must be paid in cash.<sup>134</sup> Mackay responded that as he assumed that the government did not want a lease, ‘even if offered, and only to entertain the question of purchase’, he needed to know the maximum rate per acre it would pay. He was willing to accept personal responsibility ‘if left unfettered as to my mode of proceeding’, and wanted the commission of 4d an acre. As his ‘outlay in purchasing land has to the present time been very considerable, and I have sustained some losses’, he wanted to conclude his negotiations soon.<sup>135</sup> When he continued to ask for more money, McLean noted that he thought ‘that all the difficulties private and public in which Mr Mackay has involved himself have arisen from an attempt to compress work which under ordinary circumstances would occupy some years into a few months’. McLean would

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<sup>132</sup> Donald McLean to James Mackay, 12 November 1875, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

<sup>133</sup> James Mackay to Donald McLean, 13 November 1875, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

<sup>134</sup> Donald McLean to Daniel Pollen, 23 November 1875; Daniel Pollen to Donald McLean, 24 November 1875; Donald McLean to James Mackay, n.d. [24 November 1875], Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

<sup>135</sup> James Mackay to Donald McLean, 25 November 1875, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

not permit 'further extravagance. All these points upon which he claims consideration from the Government are simply faults and indiscretions of his own'. Mackay should be given more money 'if he will adopt a different and more rational course of dealing with Natives and one which will be safer for himself and for the Government – the interference of private individuals of which so much is made is just "bosh" '.<sup>136</sup>

In October 1876 Mackay told the Premier that an advance of £10,000 was 'very urgently required to complete' several purchases.<sup>137</sup> Six months later, in an implied rebuke he claimed it was

impossible for me to state what purchases can be completed during the present month – as the question of the final extinguishment of the Native title over any block depends on the caprice of the Native owners; the political action or exigencies of the Government; and more frequently on the furnishing of the purchasing agent with adequate funds at the time required.<sup>138</sup>

At the end of the following May, James Watkin Preece<sup>139</sup> was asked to go to Thames 'at the first opportunity' to complete the Hauraki purchases.<sup>140</sup> On the same day, Mackay was told that, because the government wanted purchases completed speedily, Preece had been appointed, and was asked to provide him with full details of negotiations; he was assured he would be paid whatever he was owed.<sup>141</sup> Unsurprisingly, Mackay was offended at being offered assistance (as he expressed it), because it was not true that he had too much work in hand. Failure to complete negotiations stemmed 'from circumstances over which I had no

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<sup>136</sup> James Mackay to Donald McLean, 2 December 1875; memorandum by Donald McLean, 3 December 1875, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

<sup>137</sup> James Mackay to H.A. Atkinson (Premier), 9 October 1876 (telegram), Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

<sup>138</sup> James Mackay to Attorney General, 4 May 1877, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

<sup>139</sup> See *Auckland Star*, 12 August 1878, p. 2.

<sup>140</sup> Under-Secretary, Native Office, to J.W. Preece, 29 May 1877, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

<sup>141</sup> Under-Secretary, Native Office, to James Mackay, 29 May 1877, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

control', as he explained in detail.<sup>142</sup> Preece, the son of a missionary, was praised in the press for being 'conscientious and painstaking', 'strict', and 'honest-dealing';<sup>143</sup> clearly some officials believed some or all of these attributes were lacking in Mackay's case.

As negotiations for several Hauraki blocks dragged on, in June there were complaints that 'these troublesome negotiations' had been 'so delayed' and were still unresolved. Preece had been appointed to supercede Mackay in part because Mackay had gone 'to Taupo on business for private parties' when he should have been concluding such negotiations. A Thames correspondent, in recording the 'split' between Mackay and the government, pointed out that Preece would have a 'difficult task':

One of the mischiefs of the land-purchase system has been that directly an agent was appointed to a district, he made payments all over it so scattered and complicated that henceforward the Government were at his mercy, he having in his hands all kinds of receipts, deeds, agreements, and vouchers, besides having made innumerable verbal agreements with natives, which must be kept. Supposing a land-purchase agent to become rusty, and to refuse any assistance, his successor would have a very difficult and prolonged business before him.<sup>144</sup>

Mackay responded to the charge of neglect by explaining his difficult task:

I am not an officer of the Government receiving salary, but am an agent purchasing land on a commission of 4d per acre. It, therefore, is to my interest to complete the Government title to lands in the Thames as speedily as possible, and it does not pay me to be idle or to keep my clerks and interpreters in that condition.

He described the difficulties caused by court adjournments and inter-tribal conflicts. 'I have nothing to gain by delaying any land purchase in which I am engaged, but have heavy current expenses in paying agents, clerks, and interpreters, which have to be met'. He considered that those buying land elsewhere had a much easier task, complaining that he had got

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<sup>142</sup> James Mackay to J.D. Ormond (Minister of Public Works), 31 July 1877, *AJHR*, 1877, G-7, p. 7.

<sup>143</sup> *Auckland Weekly News*, 2 June 1877, p. 4; *New Zealand Herald*, 12 August 1878, p. 2.

<sup>144</sup> A Thames correspondent, *Auckland Weekly News*, 2 June 1877, p. 4.

the Thames work through 'foolishly' tendering 4d per acre, 2d less than a rival tender. He was

not aware that it is intended to supersede me. If my proceedings are not satisfactory to the Government or the public, they have only to pay me a commuted commission for the work done or in progress, and I shall be most happy to retire into my old position as a private land agent, and leave the Thames natives to be dealt with by more competent persons, who, however capable and energetic they may be, will not repose on a bed of roses, and will not be able to complete the purchases without much trouble and numerous delays. The Thames Native land titles are the most complicated in the country, which may account for the fact that the Chief Land Purchase Commissioner (the late Sir Donald McLean) and his department were never able to complete any purchases in that neighbourhood.

He concluded that the possibility of 'immediate pecuniary advantage' would not induce him 'to improperly hurry negotiations when political difficulties are likely to arise, which can probably be tided over by a little judicious delay'.<sup>145</sup>

At the beginning of July, Preece complained that Mackay would not provide any details of his negotiations. He thought Mackay should be 'glad' to receive what he had been owed and to pass on the work, and, at the under-secretary's suggestion, had written to Mackay offering to do all the negotiations in the Auckland Province apart from East Cape and Poverty Bay. He was confident he could complete purchases quickly and more cheaply, being 'well acquainted and on good terms with' all Maori. Although he had a 'high opinion' of Mackay's ability as a negotiator, he felt he should be paid for his services and then go into private business.<sup>146</sup>

Late in August, the auditor-general reported Mackay's imprest account, expressing concern that he had been receiving advances 'without his being required to give Security for the faithful discharge of the pecuniary trust confided in him as agent of the Crown'. The government had 'not considered it necessary his payments to complete sums in open meetings of the Natives called for the purpose' but had been satisfied if the land was purchased eventually. The auditor-general was concerned about

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<sup>145</sup> Letter from James Mackay, *Auckland Weekly News*, 9 June 1877, p. 9,

<sup>146</sup> J.W. Preece to Frederick Whitaker (Attorney General), 3 July 1877, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

the 'very numerous and irregular advances scattered among the Natives' because almost all of these were 'wholly unvouched for'. He noted that 'no objection has hitherto been made to the practice of seizing every opportunity of making advances to Natives in trifling sums or of discharging their liabilities with a view of securing the purchase of their lands', and anticipated Mackay would argue that 'no other course is practicable'. Whilst claiming to have no doubt that Mackay had made 'bona fide transactions', he wanted 'proper securities' such as a bond.<sup>147</sup>

In September, Mackay asked for £5,000 to complete all his purchases. 'I have great difficulty in carrying on my land purchases as I have exhausted my private means'.<sup>148</sup> Told that Preece would take over negotiations for the Aroha Block, he responded by asking for money to complete the purchase. 'I decline Mr Preece's assistance in the matter. I am a commission Agent & not an officer of the Government & do not admit your right to dictate who shall assist me'. Describing Preece as 'a personal friend' with whom he had worked with previously, he opposed having him 'thrust' upon him. If the government was dissatisfied with him it should pay him what he was owed and employ someone else.<sup>149</sup> In response, John Davies Ormond, the Minister of Public Works, asked the solicitor general to provide the agreements under which Mackay worked, commenting that he way of acquiring land was 'anything but satisfactory. He has over a course of years received large advances', and 'paid away considerable sums on numerous Blocks & in very few cases has he completed' their purchase. Although accepting that he had done 'a considerable amount of work in connection with incomplete purchases', he had not accounted for the large sum he held. 'He has also been frequently called upon to render complete account for advances he has received but has failed to do so'. As to his latest request, it was 'not considered desirable to make further advances until he has accounted for the sums already advanced'. As Mackay was refusing to accept Preece as an assistant, Ormond feared some purchases might 'never be completed at all', concluding that it was 'absolutely necessary to place

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<sup>147</sup> Charles Wright (Auditor-General), Report on James Mackay's Imprest Account, 21 August 1877, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

<sup>148</sup> James Mackay to J.D. Ormond, 6 September 1877, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

<sup>149</sup> J.D. Ormond to Under-Secretary, Native Department, 12 September 1877; James Mackay to J.D. Ormond, 14 July 1877, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

the arrangements with Mr Mackay on more clear & satisfactory footing' and to have 'his present position defined'.<sup>150</sup>

After the Grey Ministry was formed shortly afterwards, in January 1878 it ended the purchasing of land on commission. Once purchases on which he was still working were completed he would receive his outstanding commission, which was assessed at £4,306 14s 9d.<sup>151</sup> Until paid the amount he claimed, Mackay refused to hand over the deeds and other papers, although he did agree to give the government 'the portion of the time that would be necessary for completing the purchases upon which he had entered'.<sup>152</sup> In December an Auckland newspaper was pleased to report that this conflict had been resolved.

It was absolutely necessary that something should be done, as no progress was being made, and no land was becoming available for settlement. Mr Mackay has arranged to hand over all the documents in his possession with respect to land purchase operations, with a clerk who is conversant with the details. The purchase of land on commission is now to cease, and henceforward all the Government business will be conducted by salaried officers.

It welcomed this change, for it was 'universally admitted' that the previous system had 'utterly failed'.<sup>153</sup>

In later years Mackay complained he was underpaid, petitioning parliament in 1880 for what he was 'justly entitled to', to be told that he had been paid in full.<sup>154</sup> Remaining supremely confident about his abilities, in January 1885, being informed that the government would 'probably require the services of some persons who are thoroughly conversant with Native affairs', he applied for an appointment in connection with the central North Island railway. He claimed to have 'great influence with' Waikato, Maniapoto, Whanganui, and Taranaki iwi, and that the government had

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<sup>150</sup> J.D. Ormond to Solicitor General, 17 September 1877, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

<sup>151</sup> Deed signed between John Sheehan (Native Minister) and James Mackay, 17 January 1878, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

<sup>152</sup> *Auckland Weekly News*, 16 March 1878, p. 16.

<sup>153</sup> *Auckland Weekly News*, 8 December 1877, p. 8.

<sup>154</sup> Decision of Petitions Committee, 24 August 1880, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

‘reluctantly accepted’ his resignation in 1869. Subsequently he was, he could

employed in important and delicate matters; and can confidently say that my proceedings invariably met with the approval of the Government. I can also unhesitatingly assert that no trouble or difficulty ever arose through any of my transactions with the Natives, during the whole course of my official career; but on the other hand my services were frequently called into requisition in troublesome times, or when other officers had made mistakes, or failed in carrying out the duties entrusted to them; when I generally succeeded in arranging the question at issue, or removing the obstruction.<sup>155</sup>

For this rewriting of history he was assured that ‘the subject will have consideration’, but his offer was ignored.<sup>156</sup>

#### MACKAY BLAMES THE SYSTEM

Mackay was not one to admit to any personal failures, but was very ready to blame other individuals and, especially, the system. In September 1877, he wrote that he had anticipated that the land court system would pauperize Maori and had provided an alternative system. As he wanted ‘to disabuse the mind of the natives of the idea that we wish to deprive them of all their lands’, as a first step permanent reserves for them should be formed. To give owners ‘a marketable title’ to their remaining land, seven boards with three commissioners each should be established for the North Island. The commissioners would visit each settlement, ‘ascertain the area of land which was actually required for reserves for their occupation’, survey its boundaries, and record the owners’ names on the title; all reserves ‘should be rendered strictly inalienable’. The commissioners would then determine the boundaries of the land belonging to each hapu. Mackay admitted that this would be ‘the first great difficulty’, as many boundaries were disputed.

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<sup>155</sup> James Mackay to Native Minister, 17 January 1885, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

<sup>156</sup> Under-Secretary, Native Land Purchase Office, to James Mackay, 26 January 1885, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W [this ended the file].

The commissioners would then have to decide the question, or suggest some compromise. Native disputants will frequently accept the mediation of Europeans in their quarrels about land, whereas when left to themselves neither like to give way. In arranging for the cession of the Thames and Ohinemuri lands for gold mining, there were upwards of forty questions of this kind to settle. The process I adopted was to go on the ground with the opposing parties and ask each to point out the extent of their respective claims. I next inquired, "how long has this been the subject of dispute?" If it was found to have existed for three or four generations, the natives would generally agree to the debatable ground being equally divided, but in cases where the disagreement occurred during the present generation I inquired carefully into the circumstances, and gave such decision as appeared to be in accordance with the merits of the case.

As the land court was, generally, not a good method of resolving conflicting claims, 'the parties generally adjourn outside and accept the mediation of some Native Department official, land agent, or interpreter'. Under his system, once boundaries were determined, the commissioners would order a survey and ascertain the owners, who should select not less than five and not more than ten trustees for the hapu, all members of which would be listed on the deed of grant. 'The trustees should have the power to alienate the land by sale or lease, but not by mortgage', proceeds to be apportioned amongst the hapu under government supervision, to prevent misappropriation. As Maori would obtain much higher prices from private rather than government purchasers, private sale should be permitted, although the amount that could be purchased by 'any settler or speculator' should be limited.

I have had innumerable consultations with natives in various parts of the country on the subject, and they all agree that the system of making the permanent and inalienable reserves in the first instance is correct, and they infinitely prefer the idea of the commissioners going to the ground and settling the hapu title, than being dragged to a sitting of the Native Lands Court, which possibly may be held at a place where they cannot attend without great trouble and expense. The only point of importance raised by the natives is in the case of absentees; but this could be overcome by the commissioner giving a *Gazette* notice that on a certain day he would be at a central settlement on the block, and the claim of the hapu would be investigated. The absentee claimants are generally not numerous, and it would be easier for a few of them to attend on the ground than to take a large number to some

distant European settlement at great expense. Ample notice could be given as to the necessary preliminary surveys of external boundaries.

He denied his method would be too time consuming.<sup>157</sup> Subsequently, he described the current process as ‘cumbrous and expensive’ and ‘very unsatisfactory to all parties’.

There may be one hundred grantees selling a block of land, and each of these, whatever may [be] the distance from his place of abode to the nearest Resident Magistrate’s Court, or Native Lands Court, must be taken before either a Resident Magistrate or a Judge of the Native Lands Court, who has to attest the signature of the deed, and satisfy himself as to the due payment of the money.

He was aware of claims that, under the 1865 Act, fraudulent deeds had been made by interpreters and others and that ‘too frequently’ Maori who were trustees had appropriated all or most of the purchase money.<sup>158</sup>

In 1887, first in the Auckland press and then in a pamphlet, Mackay criticized land dealings. He was particularly concerned about the ‘extraordinary provision’ in the 1865 Act which directed the court to issue a certificate of title to only ten owners, unless they owned over 5,000 acres, when they could obtain a tribal certificate. ‘This section has done incalculable injury to private purchasers of native lands, and has inflicted gross injustice and robbery on numerous persons of the Maori race, and has been a fruitful source of ruinous litigation’. He gave a notional example of a block of land owned by 60 owners from four hapu, who were required to select ten of their number to be recorded on the certificate, thereby leaving 50 ‘out in the cold’. The argument that the ten were trustees for the latter ‘was not the case either in law or in fact’. There was provision to apply for four more certificates, each with ten names, but Maori at first ‘knew nothing of the working of the Native Lands Act’. Neither the court nor intending purchasers enlightened them, ‘the former because the majority of the Judges had a noted aversion to “subdivisions of hereditaments,” on account of the large amount of trouble involved in investigating and deciding such cases; the latter, as the fewer natives to deal with the better for them’. The ten ‘who should have been trustees, in most instances treated

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<sup>157</sup> Letter from James Mackay, *Auckland Weekly News*, 8 September 1877, p. 15.

<sup>158</sup> Letter from James Mackay, *Auckland Weekly News*, 22 September 1877, p. 16.

the estate as if it was their sole property, and sold or leased it and pocketed the proceeds, ignoring the other owners'. And 'we taught the natives to repudiate agreements entered into in good faith between themselves and Europeans'. At first it had been 'the custom' for Pakeha to advance money when agreement was reached to sell or lease land for which title had not been obtained. Then 'unscrupulous persons, who were desirous of ousting the original negotiator', told the owners that these agreements were legally invalid and no action could be taken to recover such advances. Finding this to be true, Maori 'had no scruple in ignoring agreements and payments on account' and then tried to upset legal sales and leases.<sup>159</sup>

Mackay praised his own skills in sorting out rival claims between the four tribes owning the Hauraki Peninsula. 'Their possessions were all mixed up and intermingled in every direction. Between Cape Colville and Te Aroha there were upwards of fifty disputed boundaries which all had to be arranged before the lands could be opened for gold mining'. Despite these complications and his duties on the Thames goldfield, 'the whole of these disputes were thoroughly settled within eighteen months, without the intervention of the Native Lands Court, and by one person only'. Although it took longer to open land for settlement, the boundaries remained fixed 'and no question has since arisen about any of them'.<sup>160</sup> It had not been easy dealing with 'uncivilized races', for it was impossible to make them 'conform to our views' in one or two generations.<sup>161</sup>

We are always too prone to consider our own methods are the best, and that we cannot learn anything from foreigners, but in dealing with Maori lands it might have been of service to all parties if we had taken the Natives into our confidence and conjointly arranged a system which would have been more consistent with their ideas, and not trammelled and hampered with formal Courts and conflicting legal enactments.<sup>162</sup>

'Little by little, and step by step, by imposing restrictions of various kinds', statutes had 'been gradually lessening the powers conferred on the Maoris, to deal as to them seemed best with their lands', the latest one

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<sup>159</sup> James Mackay, 'Our Dealings with Maori Lands', *Auckland Weekly News*, 28 May 1887, p. 34.

<sup>160</sup> Mackay, *Our Dealings*, p. 59.

<sup>161</sup> Mackay, *Our Dealings*, pp. 59-60.

<sup>162</sup> Mackay, *Our Dealings*, p. 60.

being 'highly unpopular and ill advised'.<sup>163</sup> He even went to the trouble of drafting his own 'New Zealand Native Lands Titles Settlement and Determination Act',<sup>164</sup> which was ignored.

In 1891, when giving evidence to a parliamentary commission investigating the land laws, Mackay described his method of sorting out rival claims between hapu in Hauraki in the early 1860s:

I firstly walked the ground, getting individuals from each tribe to accompany me. I would say, "Now, then, where is that boundary?" Sometimes they would agree as to where it was; at other times they would not. I eliminated from it all they agreed upon, and then took the disputed points. I will give you an instance of how we settled these things; it relates to only a small piece of ground. The disputed portion began about a mile from the beach. They agreed as to the boundary from the spur to the main ridge. Then one party contended that the ridge was the boundary, while another held that a neighbouring stream was the boundary, the distance between the two places being only 44 yards. I asked how long they had been disputing about this. They said, "about seven generations." I remarked that it was a trumpery piece of land to be disputing about for seven generations. I ascertained that the dispute began shortly after the intermarriage of a man and a woman, one each of the contending tribe; and it seemed that the man had gone upon the woman's land, and the woman upon the man's land. As a rule the husband acquired no right to his wife's land: they separately remain and are known as the man's land and the woman's land. After discussing the affair for half the day I put in my peg midway across the disputed portion – 22 yards from the ridge and stream – and thus settled the dispute.<sup>165</sup>

Like other land purchase officers, he 'simply used to call meetings of the Natives, telling them we were willing to give so much money for certain land'. When agreement was reached and reserves delineated, the deed was signed by 'every one you could get hold of', including women and children.<sup>166</sup> Whereas some rangatira kept the purchase money for themselves, he had seen many instances where 'the chief has handed over everything perhaps but £1 to the tribe, and left them to divide it amongst themselves. I have

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<sup>163</sup> Mackay, *Our Dealings*, p. 23.

<sup>164</sup> Mackay, *Our Dealings*, pp. 33-57.

<sup>165</sup> 'Report of the Commission Appointed to Inquire into the Subject of the Native Land Laws', *AJHR*, 1891, G-1, p. 39.

<sup>166</sup> 'Report of the Commission', p. 39.

seen Moananui, at the Thames, do that'. He wanted committees chosen by Maori to devise an equitable distribution of money received from sales or leases, money which until then would be held in the Public Trust Account.<sup>167</sup> The 1873 requirement to include the names of all owners took the regulations to 'the other extreme', and he agreed with a questioner that instead of the owners being tribes they became 'mere lists of individuals'. In some cases there were so many owners that it would be 'utterly impossible to get a title' because of the numbers involved, some of whom would die and whose successors would have to be determined and added to the title. He wanted commissioners negotiating directly with representatives of the owners, with extra legal safeguards, thereby abolishing the need for the land court.<sup>168</sup> He gave 'a good simile. I have had a great deal to do with goldfields in my time, and the disputes about claims, and these were always more satisfactorily settled when the Wardens went on to the ground and determined the disputed points there and then'. He considered this should apply to disputes between rival hapu, for the rivals 'would look on the Commissioner as an arbitrator between them'. A 'very troublesome case' could involve two commissioners. 'On many occasions I conversed with influential chiefs on the subject and described this scheme to them, and I never found them make any objection to it. They said it was a good plan and agreed with their desires'. His method would avoid the past 25 years of conflict between Pakeha and Maori.

The expense to the Natives would be very much curtailed, because they now have to assemble in towns at great distances from their places of abode, and to stay there at a greater cost of living than they would be at if they remained near to their own settlements. This, too, would curtail the drinking that accompanies their assembling in the towns, and the consequent demoralisation which takes place at all Land Courts. Infirm and imbecile people also are not able to attend the Courts.<sup>169</sup>

Should Maori committees determine boundaries at meetings attended by all relevant tribes, rivals would be more likely to give true evidence. 'If due notice were given of the Commissioners going to settle certain boundaries the Natives would assemble there, and would not be able to say,

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<sup>167</sup> 'Report of the Commission', p. 40.

<sup>168</sup> 'Report of the Commission', pp. 41-42.

<sup>169</sup> 'Report of the Commission', p. 42.

as they do now, “Oh, we did not see the *Government Gazette*.” Constant complaints are made on that score’.<sup>170</sup>

Reserves must not be ‘sold or disposed of in any way’, for under the present system a few owners could have the restriction making land inalienable removed by claiming that all others agreed. Should the Trust Commissioner ask if those interested had other lands, ‘in nine cases out of ten the applicants would lie and say they had lands elsewhere. Many an old Native who has no children will say, “I am sick now; I am going to eat this land, and I am not going to leave it to the rest of the tribe” ’.<sup>171</sup> He had always wanted inalienable reserves, for instance in 1872 urging that ‘it will probably be found necessary to make’ reserves for residence, occupation, and cultivation inalienable.<sup>172</sup> The Minister for Public Works ‘cordially’ endorsed this suggestion, but noted that the consent of the owners should be required.<sup>173</sup>

Mackay’s supreme self-confidence in his ability to resolve any issue by his strength of personality without input from judges and lawyers and interpreters was clear, but by the 1890s his days of trouble-shooting for the government were long over. After being warden and resident magistrate in Greymouth from 1879 to 1881, he retired from government service, aged only 50. An attempt to enter parliament in 1887 failed.<sup>174</sup> A year after giving this evidence, because of his complicated personal life his lack of self-respect was such that, at the age of 61, he was taken to the Auckland hospital ‘suffering from a severe injury, self-inflicted, of a character which cannot be fully described’, but were ‘shocking acts’ of ‘self-mutilation’ of ‘a most serious character’.<sup>175</sup> As these euphemisms implied, he had tried to castrate himself.<sup>176</sup> He had been living with a woman who was not his wife, and after ‘some quarrel’ had ‘fallen so low as to commit this dreadful act of self-mutilation’. The police had to use ‘considerable force’ because he refused to leave his blood-soaked bed to go to the hospital. The newspaper, in

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<sup>170</sup> ‘Report of the Commission’, pp. 42-43.

<sup>171</sup> ‘Report of the Commission’, p. 43.

<sup>172</sup> James Mackay to Minister of Public Works, 24 January 1872, *AJHR*, 1873, G-8, p. 5.

<sup>173</sup> Under-Secretary, Public Works Office, to James Mackay, 4 March 1872, *AJHR*, 1873, G-8, p. 6.

<sup>174</sup> Monin, p. 247.

<sup>175</sup> *Auckland Weekly News*, 31 December 1892, p. 19.

<sup>176</sup> Auckland Hospital, Register of Admissions 1884-1893, p. 229, no. 3901, ZAAP 15288/1a, ANZ-A.

summarizing his career, stated that 'his talents were so widely and favourably known that he might have attained to any position in the colony', but he had 'succumbed to temptations which have been the ruin of many'. No one had anticipated the 'mad frenzy' in which he committed 'the shocking act from which he is in great danger of his life'.<sup>177</sup>

Mackay survived, living until 1912 and dying aged 81 in relative obscurity in Paeroa,<sup>178</sup> where he had settled in about 1896. There he dealt privately in Maori land sales.<sup>179</sup> Possibly because he had plumbed the depths in his personal life, and certainly because of continued controversies over methods used to separate Maori from their land, in 1896 he published, in both Maori and English, a pamphlet describing and justifying his role in opening Hauraki for mining. Originally an address to Ngati Maru, and dedicated to 'my old friend, Wiroke Hoterene Taipari',<sup>180</sup> he commenced by lamenting the deaths 'of my friends the old chiefs', amongst them Te Karauna Hou.<sup>181</sup> They were unlike some of the younger men 'who sell the land to-day to one European, and to-morrow sell it to another. But I will make this excuse for you young people, the Native Land Court did not exist in New Zealand in the days of the old chiefs, hence they were not acquainted with the methods of fraud which you now practice'.<sup>182</sup> After describing how he made the agreements and giving many critical statements by rangatira about him, Mackay responded to recent criticisms:

I hear some of the young men have stated that they lost all their lands through me. I did not do anything with their lands. A very extensive area was reserved for them outside the goldfield. The Governor got the hills only. I did not purchase these lands, they, themselves, subsequently sold and conveyed them to the Europeans.<sup>183</sup>

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<sup>177</sup> *Auckland Weekly News*, 31 December 1892, pp. 19-20.

<sup>178</sup> Death Certificate of James Mackay, 10 October 1912, 1912/9282, BDM; *Ohinemuri Gazette*. 11 October 1912, p. 2, 14 October 1912, 23 October 1912, p. 2.

<sup>179</sup> Monin, p. 247.

<sup>180</sup> James Mackay, *Whakaaturanga o nga Tikanga o te Whakapuraretanga o Hauraki mo te Mahinga Koura: Narrative of the opening of the Hauraki District for gold mining* (Auckland, 1896), p. 19.

<sup>181</sup> See paper on his life.

<sup>182</sup> Mackay, *Whakaaturanga*, p. 20.

<sup>183</sup> Mackay, *Whakaaturanga*, p. 29.

In 1902, Mackay invited 16 rangatira of Thames and Ohinemuri to a meeting and subsequent dinner at Paeroa to discuss 'the unsatisfactory state of the land question in this district' because the King Movement was opposing the establishment of a Land Council. His advice was to test the new Act by putting forward a block to sell and another to lease. 'The law has been passed and is in operation, and you cannot alter it; my advice is to accept it, and give it a trial. A man can kick sand with his foot, and sustain no injury, but if he tries to kick a wall of rock he hurts his foot and makes no impression on the stone'. He was 'sorry for the Waikato people' because their land was confiscated; 'all they have is what I arranged for them when Crown Agent in the Compensation Court'. After those present accepted William Grey Nicholls'<sup>184</sup> suggestion of forming a committee to consider the issue, Mackay stated that he wanted to raise a question that was even more important:

It was this. He was disgusted with some of the rising generation of Maoris. They were idle, passing their time in cigarette smoking, billiard playing, football, drinking, etc. If anyone died, and they wanted to buy food for a cry over the deceased, they never thought of working for it, but immediately went to their various European tenants, and asked for six or at times two or three years' rent in advance, and some of them subsequently disputed these advances, and said they were contrary to the Native Lands' Act. It was conduct of this kind that prevented them getting higher rents or prices for the land.... Instead of these able bodied young Maoris lolling about in billiard rooms and public houses, it would be more to their advantage if they set to work and fenced in their lands now laying idle, and cleared them of sweet briar and laid them down in grass to keep sheep and cattle. Also when they dug a crop of potatoes why not lay the land down in grass at once instead of leaving it to be overrun with docks and noxious weeds. There was great earth hunger among the Europeans in the colony now, and they wished to settle on the land. If the Maoris continued to allow large areas of their land [to] lay waste, unprofitable and unoccupied, they must not be surprised if the Government take possession of it, and paid them compensation, leaving them just enough for their actual wants, and cut up the remainder for settlement by the Pakeha. Before the [Waikato] war the Maoris were an industrious people and cultivated large areas, supplying Auckland with a great deal of wheat. Since the war they had become apathetic and only thought of selling land when they required cash or supplies.

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<sup>184</sup> See paper on William Grey Nicholls and Rihitoto Mataia.

Only one rangatira responded to these charges, agreeing with Mackay: 'the loafing young Maoris should be sent to prison. It is useless talking to them'.<sup>185</sup>

Despite his claims of sympathy towards Maori, Mackay tried to purchase their land at the cheapest possible price. In 1875, when questioned about the acquisition of the Tairua block, he stated that he knew 'that nearly all the land is auriferous, and will be come valuable for gold mining. I think the Government have got the lands very cheap. I have got lands for 2s 6d [per acre] for which private individuals would give 5s. I have bought some land for 3s, land alongside of which has been sold for 15s'.<sup>186</sup>

#### PURCHASE BY INDIVIDUALS OR PURCHASE BY THE CROWN?

In 1872, private trade in land from Cape Colville to Te Aroha was forbidden.<sup>187</sup> This decision to give the government the sole right of purchase provoked Maori in Thames to 'unanimously condemn the proclamation' preventing private sales and to petition parliament to repeal it because the government's prices were too low.<sup>188</sup> Two years later, another meeting held there urged that Maori 'should retain the power to sell their lands to any Europeans who choose to purchase. The Government ought to have power over only that land which has been sold to it'.<sup>189</sup> Mackay responded that, under the Treaty of Waitangi, 'the Crown acquired a pre-emptive right to purchase all lands which the natives were willing to sell'. The government did not force any owners to sell, and if the seller considered the price too low 'he is not obliged to take it. Private persons may occasionally give a higher price per acre for a small and valuable piece of land than the Government, but the private person does not purchase the mountain and bad pieces, which the Government acquire as well as the good'. The average price paid in sales registered by the Trust Commissioner in Auckland did not exceed

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<sup>185</sup> *Ohinemuri Gazette*, 14 November 1902, p. 2.

<sup>186</sup> Evidence of James Mackay, 'Report of the Tairua Investigation Committee', 11 October 1875, *AJHR*, 1875, I-1, p. 6.

<sup>187</sup> *New Zealand Gazette*, 31 July 1872, p. 637, 10 October 1872, p. 763.

<sup>188</sup> *Thames Advertiser*, n.d., cited in *Auckland Weekly News*, 24 August 1872, p. 4; *Thames Guardian and Mining Record*, 29 August 1872, p. 3.

<sup>189</sup> *Thames Advertiser*, 11 November 1874, p. 3.

that paid by the government.<sup>190</sup> Despite such explanations, discontent continued. In 1876, Meha Te Moananui and 165 other Maori petitioned parliament that ‘certain lands have been shut up by the Government, and that they suffer loss and inconvenience thereof’. In response, the Native Affairs Committee resolved that the system of dealing with Maori land was ‘exceedingly unsatisfactory’ and should receive ‘the serious consideration of the House’.<sup>191</sup>

When private purchase was permitted, Mackay explained that usually a Maori owner offered to sell to a Pakeha, but sometimes the latter first ‘expressed his desire to purchase’.

A native land purchase agent was consulted, and he probably advised the would-be purchaser to advance a sum of money to the native, part of it being a deposit to bind the bargain, and the remainder to defray the expenses of survey – this, as a general rule, was represented to be a payment to defray the expenses of survey, and the investigation to the title by the Native Land Court, and as such, a lien over the land was taken in accordance with the provisions of the Native Land Act. After survey, the title was investigated by the Court, and the European completed the purchase by handing the balance of the consideration money to the persons found to be the owners.<sup>192</sup>

In 1876, in responding to complaints that he did not obtain more land more quickly, Mackay explained that private individuals trying to negotiate with Maori

were joined by numbers of disappointed land agents and native interpreters, who had been thrown out of employment through the Government having taken the purchase into their hands alone. These men have ever since fomented dissension among the natives, and used their utmost efforts to prevent the Crown getting the land. Where other means fail groundless charges are brought against the land purchase agents, in order that purchases may be obstructed and delayed until the period of two years, for which the proclamation is in force, shall have lapsed, and they can complete their private transactions.

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<sup>190</sup> Letter from James Mackay, *Thames Advertiser*, 14 November 1874, p. 3.

<sup>191</sup> ‘Reports of Native Affairs Committee’, *AJHR*, 1876, I-4, p. 6.

<sup>192</sup> James Mackay, Memorandum to Colonial Secretary, 7 July 1875, printed in *Auckland Weekly News*, 14 August 1875, Supplement, p. 1.

These speculators prolonged proceedings by convincing Maori their land was more valuable than it was.<sup>193</sup> But it was worth more than he was authorized to pay for it, as Monin noted: ‘Forced to deal only with the Crown in transactions involving large areas of land, Hauraki Maori were thus denied the higher prices their land might have fetched through smaller transactions on the open market’.<sup>194</sup> In 1877, Mackay explained that one reason he had been unable to complete the purchase of Hauraki land was

that very high prices have been paid during the past two years to the European holders of land at Waikato, Upper Piako, and Waitoa, by purchasers from the South Island and elsewhere, which is well known to the Natives. Land agents and interpreters now find it greatly to their interest to outbid the Government purchaser, and thus induce the Natives to repudiate agreements which have previously been undisputed. As a rule, the private purchaser offers at least twice the sum agreed to between the Native and the Government Agent, and in cases of very eligible blocks sometimes five or ten times the amount.<sup>195</sup>

Although Mackay publicly complained about private purchasers, in a private letter to Donald McLean written in June 1876 he noted that land purchase officers

were for a considerable time subsequent to the late war unable to deal with the Hauhau and semi-rebellious Natives for their lands, and private persons were able to effect purchases when the Crown was not, and in many cases the agreements and sales thus made have been advantageous to the colony, and have paved the way to the acquisition of blocks for the public, and the extension of settlement in the interior of this island.<sup>196</sup>

In 1877, probably referring to Wiropé Hoterene Taipari, Mackay quoted an unnamed ‘wealthy and intelligent chief, who is a large land-owner, has always been loyal to the Government, and receives a large salary as an assessor’, complaining that the government prevented the sale of land to anyone but itself. ‘I always thought they wished to take all our

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<sup>193</sup> Letter from James Mackay, *Thames Advertiser*, 14 April 1876, p. 3.

<sup>194</sup> Monin, p. 234.

<sup>195</sup> James Mackay to Minister for Public Works, 31 July 1877, *AJHR*, 1877, G-7, p. 8.

<sup>196</sup> James Mackay to Donald McLean, 8 June 1876, McLean Papers, MS Papers 0032, folder 421, Alexander Turnbull Library.

lands away, and now I believe it. They want to get a profit by reselling the lands they purchase from us, and that is why they step in and prevent ordinary pakehas from buying our lands. This is very wrong, and will cause great trouble'.<sup>197</sup> Ten years later, William Australia Graham, then mayor of Hamilton, the son of a philo-Maori and regarded as a philo-Maori himself,<sup>198</sup> publicly opposed the government's treatment of Maori landowners:

How would the Europeans who own the lands alongside the line of the Auckland-Puniu or Auckland-Rotorua Railway like the conveyancing to be suspended over lands to coerce them to sell to the Crown at a nominal figure because the public wanted the railway? What is sauce for the goose is fitting sauce for the gander.

There is no longer any fear of war with the natives, therefore there can no longer be any excuse for withholding from the natives the liberty to deal with their lands, and it will be a wise policy to allow them to do so. It is our duty, as white men, to give them greater facilities for dealing with their lands, and not less.... How can the Crown sit in judgment upon disputes arising between itself and the Maoris, over their land transactions, in which the Crown is the interested party? Yet such is expected. As a New Zealander, if I can do no more, I do denounce the Crown traffic in Maori lands as Foul Trade, and derogatory to British Fair Play and Honour. It is confiscation dressed in a cloak.

But it is said, "The Crown should make the profit out of the Maori land traffic." It was once thought that by issuing licenses slavery and privateering could be made holy and profitable to the State, but it was found to be the reverse, and is now condemned and abhorred by Englishmen. What have the Government ever made out of their native lands? Nothing but ill blood between the races, and disappointment to those very men who, with the best of intentions, saw the evils it entailed.

Based both on his 'knowledge of Maori character' and a recent court case, Graham denied that Maori could not 'look after themselves'; therefore

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<sup>197</sup> Letter from James Mackay, *Auckland Weekly News*, 22 September 1877, p. 16.

<sup>198</sup> For his father, George, see *Cyclopedia of New Zealand*, vol. 2, p. 104; for his sympathy for and involvement with Maori, see *Cyclopedia of New Zealand*, vol. 2, p. 740; *Auckland Weekly News*, 12 July 1890, p. 28, 29 September 1894, p. 36; *Observer*, 2 May 1903, p. 17, 1 August 1903, p. 4, 18 June 1904, p. 4, 28 October 1905, p. 4; *New Zealand Herald*, 10 May 1916, p. 5.

they should be 'placed in undisputed possession of their rights to deal with their lands'.

It may be said that private dealers will rob the Maori. So they might the heathen Chinees, but not so much as the Crown dealer in land.

It may be said that private dealings in Maori lands may lead to war. It has never done so in the past, but the Bay of Islands War was caused by Government dealings in land, and so were the Taranaki and Waikato Wars.<sup>199</sup>

Maori might indeed receive more income from private sales. In 1872, for example, when the government was offering 2s an acre for land in Ohinemuri, amounts previously paid on the open market had ranged from '£2 and upwards to £100 per acre'.<sup>200</sup> But many private purchasers were no more scrupulous than government agents. In 1870, one 'Kurapae' (correctly kurupae, meaning a beam),<sup>201</sup> in a letter about Ohinemuri, noted one of the strongest arguments for ending the Crown's pre-emptive right of purchase:

The constant intermeddling of the Government with native lands, and their incessant teasing of the owners to induce them to sell large blocks of land at nominal prices, had created disgust and apprehension amongst the natives, and had driven them to combine and form land leagues for the avowed purpose of preventing further cessions of territory. There is no doubt Government land buying led to the formation of the league, and the league led first to the Waitara, and secondly to the Waikato wars.

Despite the abolition of the Crown's pre-emptive right being expected to create 'a Maori millennium', official attempts to open Ohinemuri had failed.

Private speculators, by the score, have also tried their hands. One appealed to the patriotism of the natives by an offer of £20,000 to secure their independence. Others tempted native cupidity into offers of untold thousands down, and large sums by way of annual rental; whilst others, doubtless most disinterested believers in the amalgamation of the races, have sought to accomplish their object

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<sup>199</sup> Letter from W.A. Graham, *Waikato Times*, 28 June 1887, p. 3.

<sup>200</sup> *Auckland Weekly News*, 17 August 1872, p. 9.

<sup>201</sup> Ryan, p. 23; the sense is of shedding a beam of light on these murky transactions.

by professions of friendship, by marrying native women, and by generous offers to open up and manage the whole upper country on behalf of the native owners, for a small consideration.

The only result of these efforts was 'to keep the natives from day to day busy holding meetings, and to fill the minds of the more thoughtful and far-seeing of their number with alarm at the frantic eagerness of the Pakeha'. Nearly all 'the really influential chiefs, and the great majority of the people', opposed opening Ohinemuri, not from selfishness, 'but from a deeply rooted conviction that the giving up of the lands for gold-mining purposes will be followed by consequences disastrous in the highest degree' to themselves, for they had carefully observed what had happened at Thames:

They have seen their brethren of Kauaeranga killing themselves with ardent spirits, wasting their means in expensive squabbles and litigation over lands, - the men given up to drunkenness, and the women to prostitution, - the wealthiest of their landowners going landless and penniless through the Bankruptcy Court, and many of their most influential chiefs compelled to take to the bush to avoid the desecrating touch of the bailiff's fingers, and the disgrace of the debtor's prison.

In a foretaste of what would happen in Ohinemuri, he noted that 'the young men' visiting Thames on business returned 'with but this idea - the acquisition of money and the consumption of grog'. Owners wished to avoid 'the evils which had befallen the Thames natives' and believed that if their land was opening to mining they would be forced to leave and settle on the land of other Maori 'fortunate enough to be without any auriferous territory'. As Te Hira would not yield, the government had 'wisely refrained' from further negotiations, but private speculators had

not shown the same wisdom. Failing to deal with the men whom in their own hearts they knew to be the real owners, they have in many instances got hold of some second rate chief, some with small claims to land, and others with none at all - but all, whether land owners or not, possessing an unbounded capacity for rum. In the parlours of public houses, and in other similar places, transactions to large amounts, and for large tracts of the Ohinemuri country, have taken place. We ourselves have been present at one such negotiation at the Thames. A rum bottle was on the table, and was frequently used by the native vendor, who in the course of a short time, became of that frame of mind, that he would sell or sign anything. In the course of half an hour, he

had sold or leased the very hair on Te Hira's head, together with the bulk of the land on both sides of the Ohinemuri river. A day or two afterwards, a claim was formally filled up, and sent in to the Native Lands Court office by this same native, who was aware that the Court was to be held in Auckland, and that Te Hira and his people would not attend. To our own knowledge, this man, though he had claims which would be recognised upon the sale of land and division of the proceeds, had no more right to become a vendor of Ohinemuri than we. When the transaction reached the ears of the Ohinemuri people, they proceeded in a body to the settlement of the vendor, with the intention of expelling him from the district; but he, wisely apprehending that he was "in for it" had gone into voluntary exile. It is no exaggeration to say that, in the above manner, the whole of Ohinemuri has been bought two or three times, and we know a number of speculators who go about, each fondly hugging himself with the idea that he carried Ohinemuri in his pocket.

The 'intrigues of these private speculators' with 'a mere minority, eager to share in the wealth and intemperance of their Shortland friends', was likely to lead to 'another miserable war'. He urged the government to delay investigating Ohinemuri for years if necessary rather than let it be acquired 'by fraud or violence'.<sup>202</sup> 'Waihoa Taihoa' [delay, 'wait a while']<sup>203</sup> agreed, even though personally 'interested in the opening of Ohinemuri more than many'. To stop it being 'taken up by a few monopolists', he wanted the government to suspend private dealings, thereby protecting both the public and 'the real owners' from 'the action of false claimants in smuggling their lands through the Court, while they themselves have no desire for the expensive luxury of Crown titles'.<sup>204</sup> Five years later, a leading rangatira of Ngati Maru, Hoani Nahe,<sup>205</sup> told Sir George Grey that Hauraki Maori opposed 'the restriction against our selling our lands' and wanted 'to have all matters concerning their lands in their own hands'.<sup>206</sup>

The 1884 Native Land Bill produced a Maori petition opposing the government controlling the sale of their land, for it intended giving the majority of owners the power to sell despite opposition from the minority. The petition expected a repetition of the 'evil doings' of the government in

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<sup>202</sup> Letter from 'Kurapae', *New Zealand Herald*, 15 October 1870, p. 3.

<sup>203</sup> Ryan, pp. 40, 49.

<sup>204</sup> Letter from 'Waihoa Taihoa', *New Zealand Herald*, 20 October 1870, p. 3.

<sup>205</sup> See paper on the Aroha Block to 1879; he had no involvement in Te Aroha mining.

<sup>206</sup> *Thames Advertiser*, 6 December 1875, p. 3.

acquiring land in such ‘noticeable instances’ as the Patatere, Moehau, Ohinemuri, and Te Aroha blocks, for the provision that the majority could force a minority to sell meant that ‘a great injustice would be done to the real owners’. The court permitted ‘a large number of persons of unequal interests to be entered on one certificate; a great many indeed are entered upon it through love. These people who have small interests are the most likely to sell, while those with large interests are they who wish to keep the land’, and the new rules would mean the ‘real owners would be entirely at the mercy of the Government’.<sup>207</sup>

One interpreter, farmer, and (briefly) a prospector at Te Aroha, Harry Roberts Burt,<sup>208</sup> in 1880 complained that the system was unfair to both Maori and settlers. He accused land purchase officials of purchasing the shares of a small number of grantees, forbidding private individuals from dealing with these blocks, and then doing little to complete the purchases. This meant that the other owners were unable to sell their interests to Pakeha offering ‘perhaps double’ the government’s price, as in a block he sought to acquire in Ohinemuri. Potential settlers were unable to purchase land, and settlement was retarded because the government was ‘in no hurry to buy the remainder of the land at its fair price, when they know they can acquire it some time after at almost any figure they like’.<sup>209</sup> Burt’s fraudulent land dealings in the Bay of Plenty revealed the reality of his stated desire to be fair to Maori.<sup>210</sup> According to an Ohinemuri correspondent, confusion and delays in land sale meant that ‘the poor Native Interpreters’ were ‘so hard up’ that they were ‘obliged to try and sell over again the lands’ that they had already ‘negotiated once or twice before. Such is life’.<sup>211</sup> Private ‘native agents’ were regarded similarly: Judge

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<sup>207</sup> ‘Maori Petition Against the Native Lands Bill’, *Auckland Weekly News*, 14 June 1884, p. 19.

<sup>208</sup> For his prospecting, see Piako County Council, Letterbook 1893-1899, p. 885, Matamata-Piako District Council Archives, Te Aroha; *Mining Standard*, 6 March 1897, p. 5, 13 May 1897, p. 4. For his life, see *Bay of Plenty Times*, 2 April 1917, p. 2.

<sup>209</sup> *Thames Advertiser*, 4 October 1880, p. 3.

<sup>210</sup> See Judith Binney, ‘Te Umutaoroa: The Earth Oven of Long Cooking’, in *Histories, Power and Loss: Uses of the Past – a New Zealand Commentary*, ed. Andrew Sharp and Paul McHugh (Wellington, 2001), pp. 149-151, 153-154, 162-164.

<sup>211</sup> Ohinemuri Correspondent, *Thames Advertiser*, 6 October 1880, p. 3.

Gillies commented, nearly four years later, that anyone who used them to purchase land would ‘find himself, not to say cheated, but fleeced’.<sup>212</sup>

Some Pakeha in a position to do so tried to protect Maori from unscrupulous purchasers and agents, as for instance Charles Colclough,<sup>213</sup> a justice of the peace. When witnessing signatures on sale deeds, ‘I am always careful to see that there is no misunderstanding. I always take rather the side of the Maori than the Europ. purchaser. It wd be impossible that a native should sign agst his will – before me’.<sup>214</sup> Warden Harry Kenrick<sup>215</sup> was admired by Hauraki Maori because ‘their position under his administration was vastly improved to what it was’ under his predecessor.<sup>216</sup> On several occasions they expressed support for him.<sup>217</sup> In 1883, he took swift action against Sergeant Albert Russell,<sup>218</sup> in charge of the police and also clerk of court at Paeroa, because he had attested to signatures made by one whanau for people who either were not present or were dead. Russell’s excuse was that he was new to the work and accepted the assurance of the interpreter, John William Richard Guilding,<sup>219</sup> that ‘it would be quite correct for the natives to sign as they were authorized so to do’. Kenrick requested his immediate removal,<sup>220</sup> adding that as he was ‘reported to be mixed up in mining speculations at the diggings nearest to Paeroa’ he should be removed to another district, a view supported by Russell’s superior.<sup>221</sup> Russell had invested in Ohinemuri mining since 1881, in Te Aroha since 1880, and in one Thames mining company,<sup>222</sup> whereas

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<sup>212</sup> Supreme Court, *Auckland Weekly News*, 9 April 1884, pp. 14-15.

<sup>213</sup> See *Ohinemuri Gazette*, 18 October 1909, p. 2.

<sup>214</sup> Maori Land Court, Hauraki Minute Book no. 50, p. 266.

<sup>215</sup> See paper on his life.

<sup>216</sup> *Thames Advertiser*, 3 August 1886, p. 2.

<sup>217</sup> For example, *Te Aroha News*, editorial, 26 September 1885, p. 2, 22 December 1930, p. 4; *Thames Advertiser*, 4 August 1886, p. 2; *Waikato Times*, 19 December 1886, p. 3.

<sup>218</sup> See *Auckland Weekly News*, 14 February 1907, p. 23.

<sup>219</sup> See paper on his life.

<sup>220</sup> Harry Kenrick to Native Minister, Superintendent Thompson, and Minister of Justice, 6 February 1883, Coromandel Warden’s Court, Receiver of Gold Revenue Letterbook 1878-1892, pp. 277-280, ZAAAN 14143/1b, ANZ-A.

<sup>221</sup> Memorandum by Inspector Thomson, n.d. [February 1883], Justice Department, J 1, 83/998, ANZ-W.

<sup>222</sup> For his Ohinemuri investments, see Thames Warden’s Court, Register of Licensed Holdings 1875-1882, folios 143, 161, 165, 182, BAAC 14397/10a; Register of Claims 1880-

Kenrick had no investments in any field after becoming a warden and magistrate.<sup>223</sup> Russell was ordered to move to the West Coast of the South Island ‘without delay’.<sup>224</sup>

### TRYING TO OPEN OHINEMURI TO MINING

Many miners were frustrated at being kept out of Ohinemuri, and their frustration was believed to have the potential to start another war. In 1868, the magistrate for the Waikato district warned that he had

reason to believe that if the gold fields at Ohinemuri and Te Aroha are thrown open to Europeans by the friendly Natives residing there, that serious disturbances, if not war, will be the result. The opening of a gold field there will, I am informed, be accepted as a *casus belli* by Tawhiao, and the Natives living with him. That any disturbance could be confined to Hauraki is impossible.<sup>225</sup>

In 1875, the warden, William Fraser,<sup>226</sup> wrote that ‘an incursion of the diggers into Ohinemuri against the will of the Native owners would probably have resulted in events which would have caused disturbance and disquietude throughout the colony’.<sup>227</sup> As early as October 1867, Mackay had had considerable difficulty coping with some ‘political agitators’ who encouraged miners ‘to take forcible possession of Ohinemuri’. At public meetings

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1882, claim 963, BACL 14397/13a, ANZ-A; *New Zealand Gazette*, 18 August 1881, p. 1088, 3 November 1881, p. 1442, 20 July 1882, p. 988. For his Te Aroha investments, see Te Aroha Warden’s Court, Register of Te Aroha Claims 1880-1888, folios 201, 203, BBAV 11567/1a; Register of Licensed Holdings 1882-1887, folios 25, 47, 62, BBAV 11500/9a, ANZ-A. For his Thames investment, see Thames Magistrate’s Court, Complaint Book 1881-1884, 300/1882, BACL 13737/12a, ANZ-A.

<sup>223</sup> See paper on his life.

<sup>224</sup> Albert Russell to Harry Kenrick, 30 March 1883, Thames Warden’s Court, Inwards Correspondence 1879-1892, BACL 13388/1a, ANZ-A; *Waikato Times*, 1 May 1883, p. 2.

<sup>225</sup> William N. Searancke, ‘Report on the State of the Waikato District for the Quarter ending 30th September 1868’, *AJHR*, 1869, A-10, p. 8.

<sup>226</sup> See paper on Harry Kenrick.

<sup>227</sup> William Fraser to Under-Secretary, Public Works Office (Gold Fields Branch), 1 April 1875, *AJHR*, 1875, H-3, p. 4.

I had to speak very plainly as to the course which would be pursued in the event of a rush to Ohinemuri being attempted. It is due to the majority of the miners to say that, under all the circumstances of the case, they behaved well, and that the agitation was got up either for political purposes by a few, or by new arrivals from the Middle [South] Island, who could not understand “a Native difficulty,” and were not easily convinced that they were not as free and unrestrained at the Thames as in the wilds of Australia, Otago, or the West Coast.<sup>228</sup>

When some ‘malcontents’ went onto land in the Kauaeranga valley that a chief had refused to open to mining, ‘I determined to teach these men a lesson, and sent Detective Crick and three Native Police, all well armed, with carbines and revolvers, and ordered them to bring back the trespassers. This had the effect of stopping further proceedings of this kind’.<sup>229</sup> In September 1868, he informed the Native Minister that

fortunately at the present time the miners are not much inclined to trespass on lands owned by Natives which have not yet been ceded to the Crown for goldmining purposes, but should they be so disposed there is nothing to prevent their doing so and involving the Colony in war with the Hauhau tribes.

He urged the addition of a clause to the Gold Fields Act imposing a penalty of £50 on anyone mining on Maori land without the permission of the owners, and in default of payment six months’ imprisonment with hard labour. Such penalties were needed

to prevent the Colony being plunged into a frightful war of extermination. It has been argued by some persons that the best plan to settle the Native difficulty would be to allow the miners to rush the upper Thames Country. An unarmed undisciplined body of men would speedily be driven back by the Natives, and murderous onslaughts would be made which would effectively prevent mining operations being carried on, and destroy the confidence of capitalists who are now beginning to visit the country and assist in the development of the resources of the field.<sup>230</sup>

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<sup>228</sup> ‘Report by Mr Commissioner Mackay’, pp. 6-7.

<sup>229</sup> ‘Report by Mr Commissioner Mackay’, p. 7.

<sup>230</sup> James Mackay to Native Minister, 3 September 1868, Legislative Department, LE 1, 1869/133, ANZ-W.

A month later, he reported that unemployed Thames miners were talking of rushing Ohinemuri; about 20 had gone there to prospect, illegally. There was ‘a great deal of excitement’ in Thames ‘principally caused by men recently arrived from the West Coast, who talked openly of taking possession of Ohinemuri, some four or five of whom walked about with guns on their shoulders and said that was the way to do it’.<sup>231</sup> He had discouraged ‘friendly’ Maori from opening land for mining, fearing clashes between ‘friendlies’ and Hauhau and between Pakeha and Hauhau; should there be a rush, he would swear in 100 special constables to stop it.<sup>232</sup>

There was no rush. Later attempts by miners to open Ohinemuri were contained, prospectors being ordered off by rangatira, supported by Mackay, and violence was avoided.<sup>233</sup> Some men continued to ignore the prohibition, even applying for protection of their finds and being listened to sympathetically by the provincial authorities.<sup>234</sup> The Colonial Secretary over-ruled the latter, pointing out in March 1875 that ‘during the last four years the peace of the Colony has been endangered and the opening of the Goldfield delayed by the persistent determination of certain persons to trespass on the land of the natives at Ohinemuri in breach of the law, and, so to say, in defiance of the Government’. All discoveries by prospectors had been ignored, for it would not be justifiable to allow ‘such persons to profit by their own wrong to the detriment of others who were restrained by their respect for the rights of ownership and for the law’.<sup>235</sup>

#### RAPATA TE POKIHA AND OPENING OHINEMURI

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<sup>231</sup> James Mackay to Native Minister, 9 October 1868, Legislative Department, LE 1, 1869/133, ANZ-W.

<sup>232</sup> James Mackay to Native Minister, 24 October 1868, Legislative Department, LE 1, 1869/133, ANZ-W.

<sup>233</sup> See J.L. Hutton, ‘“Troublesome Specimens”: A study of the relationship between the Crown and the Tangata Whenua of Hauraki 1863-1869’ (MA thesis, University of Auckland, 1995), pp. 124-156.

<sup>234</sup> See Daniel Leahy (for self and Michael Marriman) to Superintendent, Auckland Province, 19 December 1873; C.F. Mitchell and Daniel Leahy to Superintendent, 18 December 1873, and reply on same date; James Smith to Superintendent, 8 January 1874, Auckland Provincial Government Papers, ACFM 8180, 906/75, ANZ-W.

<sup>235</sup> Daniel Pollen, Colonial Secretary, to Deputy Superintendent, Auckland Province, 24 March 1875, Auckland Provincial Government Papers, ACFM 8180, 906/75, ANZ-W.

As Monin has noted, in his attempts to open land for settlement Mackay adopted the divide and rule strategy ‘used so extensively in the European colonisation of indigenous peoples. Yet it stood no chance without the willing participation, or active agency, of some chiefs’. At Thames, the leading ‘Queenite’ rangatira who assisted Mackay was Taipari.<sup>236</sup> Up-river, at Ohinemuri, his equivalent was Rapata Te Pokiha, earlier known as Rapata Te Arakai, and even earlier as Te Kakewa.<sup>237</sup> Rapata (sometimes Ropata) was a transliteration of Robert. Pokiha means ‘fox’,<sup>238</sup> but it has been argued that this variant might mean someone with ‘an ambitious and cunning disposition’.<sup>239</sup> But would he willingly use a name so critical of his character?

Rapata had an impressive whakapapa,<sup>240</sup> and was a member of four hapu: Ngati Hinerangi, Ngati Huruhuru (a branch of Ngati Paoa), and Uriwha and Matewaru, both hapu of Ngati Tamatera.<sup>241</sup> He and Riki Paka<sup>242</sup> were ‘the old men’ of Ngati Uriwha,<sup>243</sup> although Riki considered himself to have greater mana: after being criticized by Rapata at a meeting, ‘Riki told Rapata he had better “shut up,” as he (Riki) was the superior chief’.<sup>244</sup> Mackay stated that the principal owners of Ohinemuri were Te Hira, Rapata, and Te Moananui.<sup>245</sup> Te Hira Te Tuiiri,<sup>246</sup> the leader of Ngati

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<sup>236</sup> Monin, p. 210.

<sup>237</sup> Maori Land Court, Hauraki Minute Book no. 12, p. 119.

<sup>238</sup> Ryan, p. 34.

<sup>239</sup> Hutton, pp. 100, 169.

<sup>240</sup> Maori Land Court, Hauraki Minute Books, no. 11, p. 326; no. 13, p. 247; no. 14, p. 173.

<sup>241</sup> Maori Land Court, Waikato Minute Book no. 4, p. 181; Hauraki Minute Books, no. 9, p. 447; no. 11, p. 296; *Auckland Weekly News*, 12 March 1870, p. 19.

<sup>242</sup> See *Daily Southern Cross*, 28 October 1868, p. 4, 23 November 1868, p. 3, 5 January 1870, p. 5, 8 February 1870, p. 4, 23 February 1870, p. 3, 10 May 1870, p. 2; *Auckland Star*, 14 May 1873, p. 2; *New Zealand Herald*, 12 March 1877, p. 3; *Thames Advertiser*, 4 June 1877, p. 2; *Te Aroha News*, 24 November 1888, p. 2; he had no involvement in Te Aroha mining.

<sup>243</sup> Maori Land Court, Hauraki Minute Books, no. 30, p. 112; no. 49, p. 5.

<sup>244</sup> *Thames Advertiser*, 8 May 1873, p. 3.

<sup>245</sup> *Auckland Weekly News*, 27 February 1869, p. 22.

<sup>246</sup> See paper entitled ‘Maori and Pakeha at Te Aroha: The Context: 2: Maori in Hauraki in the Nineteenth Century’; he did not invest in Te Aroha mining.

Tamatera, was one of the principal opponents to opening Ohinemuri.<sup>247</sup> Te Hira and Rapata were both members of the Matewaru hapu,<sup>248</sup> and there were limits to how far Rapata would challenge him, as explained by Mackay in 1870. ‘Rapata has been endeavouring to open up Ohinemuri nearly as long as Taipari has been using his influence here; but not holding the same position in the Ngatitamatera tribe as that held by Taipari in the Ngatimaru tribe, he has never been able to accomplish it’.<sup>249</sup> Tanumeha Te Moananui had supported Pakeha during the conflicts of the 1860s, but would not open his land for settlement in the subsequent decade.<sup>250</sup>

‘I do not know my age’, Rapata told the land court in 1879.<sup>251</sup> The previous year, when treated for a lung disease in Auckland hospital, he had given his age as 60.<sup>252</sup> When he had remarried in 1875, he gave his age as 55. He may have lowered his age for that occasion to disguise the age gap with his new bride, who even with this reduction was 30 years younger.<sup>253</sup> When he died in 1885, his age was given as 85.<sup>254</sup>

Rapata’s approval of the ways of the Pakeha was revealed in other ways besides officially registering his marriage and using a hospital. In 1869 he was one of the rangatira who attended the Governor’s Ball in Auckland.<sup>255</sup> Because of his support for the Crown’s efforts to open Ohinemuri, in 1870 he was appointed an assessor, at an annual salary of £50.<sup>256</sup> In 1872 he signed a request that the government keep ‘our favourite canoe’, namely the steamer, working on the Waihou River.<sup>257</sup> He would die on a river steamer when about to return from Thames to Paeroa.<sup>258</sup> His rejection of earlier beliefs was illustrated by his intervention when a Maori

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<sup>247</sup> For a summary of his life and attitudes to Pakeha intrusion, see Hutton, pp. 170-171.

<sup>248</sup> *Auckland Weekly News*, 12 March 1870, p. 19.

<sup>249</sup> ‘Evidence to Goldfield Discovery Reward Investigation’, Auckland Provincial Government Papers, box 21, Session 26, p. 285, MS 595, Auckland Public Library.

<sup>250</sup> See Hutton, p. 171; he did not invest in Te Aroha mining.

<sup>251</sup> Maori Land Court, Hauraki Minute Book no. 12, p. 119.

<sup>252</sup> Auckland Hospital, Register of Admissions 1870-1885, 361/1878, ZAAP 15287/2a, ANZ-A.

<sup>253</sup> Marriage Certificate of Rapata Te Pokiha, 19 July 1875, 1875/1670, BDM.

<sup>254</sup> *Thames Advertiser*, 28 September 1885, p. 2.

<sup>255</sup> *Auckland Weekly News*, 29 May 1869, p. 22.

<sup>256</sup> Legislative Department, LE 1, 1871/139, ANZ-W.

<sup>257</sup> *Thames Guardian and Mining Record*, 26 July 1872, p. 3.

<sup>258</sup> *Thames Advertiser*, 26 September 1885, p. 3.

was accused of causing the death of Te Moananui by makutu. Rapata ‘sent information by steamer’ to the native agent in Thames, ensuring that the accused was taken to safety.<sup>259</sup> In 1881, he assisted in arranging for the vaccination of his people, and was a returning officer for the Western Maori electorate.<sup>260</sup> He assisted to organize sports and horse races at Paeroa.<sup>261</sup> In 1875, he was a member of parties of Maori who owned two claims at Karangahake, and in 1880 of another party of mainly Maori investors with a claim at the Tui district at Te Aroha.<sup>262</sup> In the early 1880s, he sold land at Paeroa for a hotel, and gifted sections there for public offices and a Wesleyan church,<sup>263</sup> yet was initially reluctant to donate or sell land for a cemetery. ‘His argument was this – “The Europeans have the land all round. Why don’t you go to them?”’.<sup>264</sup>

When an Anglican missionary re-visited Ohinemuri in 1866, he met ‘the only Native Teacher (Rapata) in these parts who had not gone over to the Hauhaus; he and two or three others are the only Maoris here who have remained faithful to the Church’.<sup>265</sup> The missionary was concerned to be told that he was ‘given to drink’, but did not discover the truth of this report. ‘I exhorted him to remain faithful’,<sup>266</sup> which he seems to have done, later gifting land for a church but for a rival denomination. Perhaps the main reason he supported Pakeha settlement was his sister’s marriage to John Turner<sup>267</sup> and his daughter’s marriage to John William Richard

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<sup>259</sup> Ohinemuri Correspondent, *Auckland Weekly News*, 24 November 1877, p. 8.

<sup>260</sup> G.T. Wilkinson, diary, entries for 23 October 1881, 8 December 1881, University of Waikato Library.

<sup>261</sup> *Thames Guardian and Mining Record*, 26 July 1872, p. 3; *Thames Advertiser*, 24 November 1875, p. 3, 8 December 1876, p. 2, 6 March 1880, p. 2; Thames Magistrate’s Court, Plaintiff Book 1880-1881, 181/1880, BACL 13737/11b, ANZ-A.

<sup>262</sup> Te Aroha Warden’s Court, Register of Ohinemuri Claims 1875, folios 9, 29, BBAV 11568/1a; Register of Te Aroha Claims 1880-1888, folio 203, BBAV 11567/1a, ANZ-A.

<sup>263</sup> ‘Return of Alienations of Native Land from 1 April 1880 to 31 March 1883’, *AJHR*, 1883, G-4, pp. 4, 7.

<sup>264</sup> Special Reporter, *Thames Star*, 21 January 1881, p. 2.

<sup>265</sup> T.S. Grace, *A Pioneer Missionary Among the Maoris 1850-1879: Letters and journals*, ed. S.J. Brittan, G.F., C.W., and A.V. Grace (Palmerston North, 1928), p. 153.

<sup>266</sup> Grace, pp. 153-154.

<sup>267</sup> See Maori Land Court, Hauraki Minute Book no. 13, pp. 248, 251; Turner did not invest in Te Aroha mining.

Guilding.<sup>268</sup> In 1868 a close relative, Lizzie, aged 15, was given in marriage, briefly, to a visiting German,<sup>269</sup> another indication of his family's willingness to enter into the most intimate of associations with Pakeha.

In contrast to these examples of friendly contact, Rapata charged one settler with not paying the full amount for land purchased, consequently continuing to cultivate it.<sup>270</sup> He obtained £5, half the amount sought, from this settler for damaging his fishing net.<sup>271</sup> A Paeroa publican was sued for 'Damages by Cow', and a contractor for removing stones without permission.<sup>272</sup> In 1879, when the council decided to erect a bridge over the Ohinemuri River at Paeroa, thereby damaging his cultivations, he opposed this until, after interviewing the Native Minister at Cambridge, he was promised that the government would erect a house for him. When this agreement was not fulfilled, he petitioned for the house, or £200 in its stead; the council was instructed to build the house.<sup>273</sup>

Even before Thames was opened to mining, Rapata led the opposition to King Tawhiao's supporters preventing Pakeha settlement in Ohinemuri. At a meeting called by Mackay there in April 1867, Rapata 'said he was glad to see Mr Mackay – he had done well in coming. He considered Te Hira and his people were to blame in not coming to the meeting, after they had promised to do so. Mr Mackay was not to blame, for he had always tried to make peace. The shame would remain with Te Hira'.<sup>274</sup> As one of the 'friendly chiefs', Rapata visited Auckland in July 'to have an interview with' the superintendent of the province, John Williamson.<sup>275</sup>

Later that month, he gave an interpreter, John White, a sample of gold that he said had been found when his land was ploughed to plant

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<sup>268</sup> See Maori Land Court, Hauraki Minute Book no. 11, p. 327, and paper on Guilding's life.

<sup>269</sup> *Auckland Weekly News*, 24 October 1868, p. 7.

<sup>270</sup> Maori Land Court, Hauraki Minute Books, no. 11, pp. 327-328; no. 12, pp. 117-118, 120-123, 142-144.

<sup>271</sup> Shortland Magistrate's Court, *Auckland Weekly News*, 14 March 1868, p. 7.

<sup>272</sup> Paeroa Magistrate's Court, *Plaint Book 1881-1896*, 8/1883, 1/1884, BACL 13745/1a, ANZ-A.

<sup>273</sup> 'Reports of Native Affairs Committee', *AJHR*, 1882, I-2, p. 21; *Thames Star*, 6 April 1881, p. 2.

<sup>274</sup> *Auckland Weekly News*, 20 April 1867, p. 11.

<sup>275</sup> Thames Correspondent, *Auckland Weekly News*, 13 July 1867, p. 12.

kumara.<sup>276</sup> (Three years later, he claimed a share of the £5,000 reward for the discovery of a payable goldfield at Thames, but as Ohinemuri had neither been declared open nor shown to be payable, his claim was fruitless.)<sup>277</sup> The press was told that both he and Te Hira, whose land adjoined, wanted to come to terms with Williamson ‘for the opening of their lands for prospecting and working by Europeans’;<sup>278</sup> this report was correct for Rapata, but not for Te Hira.

Once Thames was opened, Rapata attempted to open Ohinemuri as well. In early August 1867 he was rumoured to be about to visit Thames to arrange this with Mackay.<sup>279</sup> When he did visit in October, he was taken on a tour of the principal mines by Williamson and the government surveyor to give him ‘the opportunity of seeing the gold in its virgin state as taken from the ground’ before being treated in the retorts. He was given specimens to take back to Ohinemuri to ‘convince Te Hira that the Europeans will do more to his advantage for working the country than leaving it idle’.<sup>280</sup> As Te Hira was not tempted, he had to inform Williamson that Te Hira would not meet him.<sup>281</sup> In November, a journalist assessed his position amongst his fellows:

Rapata is a quiet, sagacious man, who has stood aloof from the extreme party of his countrymen, but who has hitherto abstained from doing anything which might break himself from them. It is quite evident that he was not inclined to assume the sole responsibility for taking a steamer up the Thames [Waihou River], and alone assisting his Honor to open up the Country up that river.... Rapata has been severely blamed by many of the up-river natives for having given to Mr John White the specimens of gold which was found on analysis to be much superior in quality to any of the metal found in the neighbourhood of Kauaeranga.<sup>282</sup>

Despite the opposition of the ‘Kingites’ to a steamer using the river, Rapata accompanied Williamson on one to a meeting at Ohinemuri. A special reporter explained his stance:

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<sup>276</sup> *Daily Southern Cross*, 24 July 1867, p. 4.

<sup>277</sup> *Auckland Weekly News*, 2 April 1870, p. 12.

<sup>278</sup> *New Zealand Herald*, 24 July 1867, p. 5.

<sup>279</sup> *Auckland Weekly News*, 10 August 1867, p. 9.

<sup>280</sup> *Auckland Weekly News*, 26 October 1867, p. 5.

<sup>281</sup> *Auckland Weekly News*, 26 October 1867, p. 11.

<sup>282</sup> *Auckland Weekly News*, 2 November 1867, p. 11.

Some time ago, it seems that he made a promise that he would not give up the land to be worked for gold till the whole of the natives were willing. It is thought that, if the rest of the tribe were to do anything to break him from them, he would consider himself absolved from his promise, and stand upon his right to throw open that land which belongs to his own hapu.<sup>283</sup>

At this meeting, Rapata admitted having 'brought evil' in the form of the steamer, and told the King party that he would 'not now excuse myself'. They could 'now see what we have been afraid of all these years [the steamer]. Tell me all your thoughts of blame to me. I can answer for myself', and asked them to criticize him openly, not 'in the bush'. When criticized for bringing the steamer that could be the prelude to the government obtaining access to the gold, he responded:

I am as a stranger now in the midst of my own people. I am as one cast off.

NGAKUKU: No, you are a chief still. Do not say you are cast down.

RAPATA: Tell me all you think of me. You blame me when I am away; but now is the time.

NGAKUKU: Let the Europeans have their say now.

RAPATA: No, they cannot say all that is to be said. I must have the charges against me cleared up.

They were not, for attention shifted to Williamson's speech and Te Hira's allies' response that they would not open the land.<sup>284</sup> After the meeting concluded, Rapata took the steamer to his house, 'which is nearly opposite the house of Te Hira'.<sup>285</sup> From there he wrote to Williamson:

Friend, Mr Williamson – Salutations to you. O father, we are still working in respect to the object of your talk with us. This is the word of Te Hira, "If Mr Williamson does come again I will see him. The people (iwi) have led me to do wrong." O father, great is our work, but do you keep to your thoughts (as expressed to us) because this work is to guide us right.<sup>286</sup>

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<sup>283</sup> Special Reporter, *Auckland Weekly News*, 9 November 1867, Supplement, p. 17.

<sup>284</sup> *Auckland Weekly News*, 9 November 1867, Supplement, pp. 17-18.

<sup>285</sup> *Auckland Weekly News*, 9 November 1867, Supplement, p. 18.

<sup>286</sup> Rapata Te Pokiha to John Williamson, 7 November 1867, printed in *New Zealand Herald*, 16 November 1867, p. 3.

Te Hira immediately denied the words put in his mouth.<sup>287</sup> At a meeting held in Ohinemuri in December, Rapata pugnaciously said that he would listen to his opponents for only three days and ‘would then speak out and do what he wished with his own land’.<sup>288</sup> His reason for wanting Pakeha to search for gold was ‘that all the Maoris that were now so poor would then have plenty’. Wanting to open the district ‘without making the Hauhau portion very dark about it’, he asked Tawhiao to permit mining.<sup>289</sup> Early in 1868, he told two Hauhau chiefs living ‘near the Aroha’ that when Te Hira returned from meeting Tawhiao ‘he’, apparently meaning Te Hira, would ‘call a very large meeting of natives, and then inform them that he means to open all his gold-bearing land to Europeans’.<sup>290</sup> When Rapata went to Auckland to further his mission to open Ohinemuri, a meeting ordered him to return.<sup>291</sup> He then informed another meeting that ‘he would not consent to his lands being handed over to the King or the Governor, but that he meant to keep them in his own hands, and then, if he wished to lease them for gold or otherwise, he could do so, without any talk, as they were his own’.<sup>292</sup> The following month, when Te Hira wished to close the road from Ohinemuri to the east coast, Rapata opposed this plan, to be told by one of Te Hira’s advisers that ‘Te Hira was very dark with him’.<sup>293</sup>

Rapata, a loyal chief, says it will all end in talk. Three Europeans and a half-caste were on their way to Tauranga, and could have been stopped and turned back but for the action of this chief, who followed them to the Paeroa and told them to go on before the other natives came up to turn them back. The Hauhau natives, when they found that Rapata had sent the travellers on, were exceedingly angry.... Some of the Hauhaus said they would leave the district, to which Rapata said, “They could go if they liked.”<sup>294</sup>

Three months earlier he had assisted some canoes to transport goods upriver to Josiah Clifton Firth’s farm at Matamata despite the Kingites

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<sup>287</sup> *Auckland Weekly News*, 7 December 1867, p. 22.

<sup>288</sup> *Auckland Weekly News*, 7 December 1867, p. 8.

<sup>289</sup> *Auckland Weekly News*, 14 December 1867, p. 14, 18 January 1868, p. 8.

<sup>290</sup> *Auckland Weekly News*, 1 February 1868, p. 7.

<sup>291</sup> *Auckland Weekly News*, 28 March 1868, p. 19.

<sup>292</sup> *Auckland Weekly News*, 18 April 1868, p. 12.

<sup>293</sup> *Auckland Weekly News*, 30 May 1868, p. 12.

<sup>294</sup> *Auckland Weekly News*, 6 June 1868, p. 6.

closing the river.<sup>295</sup> They were not to be conveyed by any members of his tribe ‘so that the King could not blame him for breaking the aukati [boundary line]’.<sup>296</sup>

Throughout 1868, Rapata continued to provoke his opponents, as at yet another meeting, in October, held at his settlement Puketea Wainui or Pukateawairahi, on the opposite bank of the river to Te Hira’s Te Pai o Hauraki meeting house, then on the (later) Paeroa side of the river.<sup>297</sup> He responded belligerently to attacks from Kingites:

I was told by you some time ago that I and Te Moananui were to go down the coast if we wished to lease land and there lease it. I did so, because I had some love and consideration for Te Hira; but whilst I was there you blamed me wrongfully and falsely, by saying that I had handed all my lands up here to the pakehas; I therefore returned very dark about it. I have had great and long consideration for you, and now I think that every man can do what he likes with his own mountain or piece of land. I therefore say I will have no more consideration for you. My word to you is, let the pakehas have the gold, and all you who are against it had better make haste to clear out while the road is clear.

After this meeting, the followers of Te Hira and Tukukino were ‘very savage with Robert and the other principal landowners’ for ‘attempting to open their land’, and ‘noisy discussions’ were being held ‘by the Hauhaus and Queenites, resulting in the discomfiture of the former’.<sup>298</sup> When Kingites protested that some owners had handed over land, Rapata responded: ‘You appear foolish on this subject. Do you think that when we have given our lands over to Mr Mackay we want them returned. No they are gone out of our hands’.<sup>299</sup> A correspondent wrote that he had ‘taken a stand in favour of the Europeans that has astonished old and young. He declared at a general meeting that his portion of the country would be shortly available for the purpose of gold-mining’.<sup>300</sup> Rapata told Mackay

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<sup>295</sup> Hutton, p. 120.

<sup>296</sup> Upper Thames Correspondent, *Daily Southern Cross*, 25 March 1868, p. 3.

<sup>297</sup> *Auckland Weekly News*, 10 October 1868, p. 7, 12 February 1870, p. 16; Ohinemuri Correspondent, *Thames Advertiser*, 11 November 1874, p. 3; Taimoana Turoa, *Te Takoto o te Whenua o Hauraki: Hauraki landmarks* (Auckland, 2000), pp. 167-168.

<sup>298</sup> Ohinemuri Correspondent, *Auckland Weekly News*, 3 October 1868, p. 9.

<sup>299</sup> Ohinemuri Correspondent, *Auckland Weekly News*, 17 October 1868, p. 16.

<sup>300</sup> Ohinemuri Correspondent, *Auckland Weekly News*, 10 October 1868, p. 6.

that his party was in the majority, asked him ‘immediately to enter on possession of his lands’, and warned that if Mackay did ‘not assent to this, he will hand them over to some other Pakeha’. Mackay was more cautious, not wishing to do anything further at the moment because the court’s investigation of the Aroha Block would open up the country anyway.<sup>301</sup>

In that month, a *Thames Advertiser* visited what he described as ‘the chief settlement of the district, where the great chief Rapata, or Pokiha, holds sway. We were most cordially received by him and his wife. This chief is a most prepossessing-looking man, of engaging manner’, who ‘regaled us most hospitably, and intimated the pleasure it afforded him to be visited by the pakehas’. Yet again he ‘expressed his anxiety that the Upper Thames should at once be opened’, and explained that Te Hira was the obstacle. He hoped the steamer would ‘make frequent visits to his dominions, assuring us at the same time that he would ensure the protection of any visitors she might contain’.<sup>302</sup> He publicly admitted having asked Mackay to make immediate arrangements for opening his land for mining.<sup>303</sup>

Shortly afterwards, a deputation of miners who visited Ohinemuri to ask for its opening were ‘cordially received’ by Rapata ‘and his people’.<sup>304</sup> Rapata’s first question was pointed: ‘How does it happen that you are strong enough to come here, superseding the Government?’ When the delegation criticized Mackay’s handling of the issue and proposed its own arrangements, Rapata replied that he ‘would prefer that the Government should take such matters in hand’. Rum, brandy, and beer provided by the deputation was ‘very soon’ drunk, although Maori considered that food should also have been given. Afterwards, when Te Hira’s sister, Mere Kuru, as fervent as her brother in opposing Pakeha encroachment, told Rapata that he was ‘doing wrong by allowing these white men to come here’, he replied: ‘You are right’. After she ordered them to leave, ‘Rapata expressed in very decided terms his dissatisfaction with the whole procedure’. Those Maori present decided that Rapata and others should visit Auckland to discuss ‘all these confusions’ with Mackay. When he departed, the deputation ‘seemed to feel rather queer’ and asked when he would return

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<sup>301</sup> James Mackay to Donald McLean, 24 October 1868, Legislative Department, LE 1, 1869/133, ANZ-W.

<sup>302</sup> *Thames Advertiser* correspondent, reprinted in *Auckland Weekly News*, 24 October 1868, p. 7.

<sup>303</sup> *Auckland Weekly News*, 24 October 1868, p. 9.

<sup>304</sup> *Auckland Weekly News*, 31 October 1868, p. 4.

and whether they should leave. He bluntly replied, 'What do I care about what you do? You come here without being invited, and it is not necessary for you to ask my consent to go'. Rapata claimed that all the owners had 'agreed to abide by any arrangement that he may make', but the reporter noted that Te Hira still claimed the right 'of resisting the opening of the land'.<sup>305</sup>

As the deputation claimed this press report misrepresented them, they issued their own version; although the wording of Rapata's statements differed, the content was the same. He wondered what 'fault' they found in the government's attempts to open the land, and asked how they could protect the interests of landowners. He did not like their 'pressing the Government' and intervening when the latter was making arrangements. After returning from Auckland, Rapata addressed the deputation, 'in the presence of Te Hira's representative':

The Government advised me not to open any land until Te Hira and his party agreed to open theirs, which, I think, can be arranged before long, if left to myself. I am desirous of avoiding bloodshed between the Kingites and Queenites. The Superintendent wished to come with me to-day, but I told him to remain where he was – that I would send for him and Mr Mackay when I wanted them. I purpose calling a large meeting of all the chiefs, to consider the best means of opening the land for gold-digging, and afterwards call up the Superintendent and Mr Mackay to effect arrangements with them. Then, if Te Hira's party still refuse to co-operate, I will give my final answer in so far as I and my party are concerned.

Having portrayed himself as pivotal to the negotiations, Rapata recorded the names and addresses of all the deputation so that he could 'communicate with them upon mining matters, and with reference to opening the land', and invited them to future meetings. He urged them to 'keep back all Europeans from wandering on to or over native lands, as such a course would materially tend to delay the opening up of the country'.<sup>306</sup> In a letter to the delegation, he asked that Pakeha 'give us time to consider the matter over ourselves quietly'.<sup>307</sup>

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<sup>305</sup> Special Reporter, 'Failure of the Miners' Deputation to Open the Upper Thames', *Auckland Weekly News*, 31 October 1868, p. 5.

<sup>306</sup> *Auckland Weekly News*, 7 November 1868, p. 5.

<sup>307</sup> *Auckland Weekly News*, 7 November 1868, p. 6.

Asked by Te Moananui not to open the land, Rapata declared that 'he would never consent to go backward in his dealings and work'.<sup>308</sup> When Williamson visited Ohinemuri in November, he referred to Rapata as a 'man who had never received one penny from the government' and had 'given his word, and was trying to do his best to throw open the lands for the pakehas'. At the start of a meeting at Rapata's settlement, the British ensign was flown, but later was taken down to avoid offending the Kingites across the river.<sup>309</sup> In welcoming the Hauhau, Rapata said it was 'well that we have given you an opportunity of expressing your opinions ... in the presence of the whole of the people assembled here'. In response to their refusal to open their land, he said, 'If I make evil myself it is good. I did not go to other places to obtain my ideas, these ideas are my own. I have commenced this work (i.e. the opening up of the country for mining purposes) and have made some remarks for your consideration'. Pineaha<sup>310</sup> replied,

You have gone on your own path, and I will not listen to what you say.... You are the persons who originated evil. You say you are giving up your own land, and are speaking on it. Cut up my land, and you cut up my body.... Do not be dark about what I say to you Europeans. I am not angry with you. You come here for the good of us all. (Addressing Rapata:- Neither the land, gold, nor leasing will be allowed.)

In his concluding remarks, Williamson referred to the criticisms of Rapata:

Some of you charge Rapata with deceit. I cannot listen to that. Rapata is a good man. He has never deceived the Queen; he has never deceived the Governor; he has never deceived me; nor has he ever been deceitful towards his countrymen. I have known him, when you did not know it, to be your advocate and staunch friend.<sup>311</sup>

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<sup>308</sup> *Auckland Weekly News*, 21 November 1868, p. 13.

<sup>309</sup> *Auckland Weekly News*, 28 November 1868, p. 13.

<sup>310</sup> He did not invest in Te Aroha mining.

<sup>311</sup> *New Zealand Herald*, 24 November 1868, p. 5.

With others, Rapata went to Auckland at the end of the month to discuss the opening with Williamson and Mackay.<sup>312</sup>

Mackay encouraged Rapata, particularly by telling him of the financial rewards to be obtained from mining, and possibly by giving him supplies 'on account'. After discussing developments with him in November, Rapata returned to his settlement by steamer with 'considerable quantity of flour, biscuit, sugar, and other stores';<sup>313</sup> paid for by Rapata, a gift from Mackay, or raihana to be repaid in land, as explained below?

In mid-December, a meeting was held at Te Hira's meeting house Te Whaka Haere o Hauraki, 'or the place for the administration of the affairs of Hauraki', which Pakeha were reminded was 'on the opposite side of the river to Rapata's settlement, which is looked upon as Hauhau territory'. After three Hauhau and Mackay had made introductory remarks, Rapata welcomed the 'Hauhau party':

You are welcome. There is nothing new for me to communicate to you at present. You all know my views and intentions; if we discuss them there is no object to be gained, for you will find that they are the same as before laid down. I have no new ideas or intentions.

Later, the following exchange took place:

TENI (or Tewi) TE KOPARA<sup>314</sup> said: ... You are the hard people. Rapata, are you still heard. Leave off your work lest you cause blood to flow here. Perhaps Mackay will say we natives are to blame; perhaps we are (that is for the difficulties that arise about the land.)

RAPATA: Mine will be given up. That is the cause of Mackay coming.

TE KOPARA said: You are the cause.

RAPATA: If Mr Mackay had not come, would this place have quiet?

TENI: No. But the Gazette has fixed the boundaries.

RAPATA: Yes, but the gold has broken through.

TENI KOPARA: I say you broke through what the *Gazette* laid down. What is greater than the law?

RAPATA: Gold is greater.

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<sup>312</sup> *Auckland Weekly News*, 28 November 1868, p. 13, 5 December 1868, p. 11.

<sup>313</sup> *Auckland Weekly News*, 7 November 1868, p. 18.

<sup>314</sup> See *Daily Southern Cross*, 19 December 1868, p. 4; not traced; he had no involvement in Te Aroha mining.

WANO TE PANA<sup>315</sup> said: The land belongs to me; it is mine and Rapata's, and I don't mean to give it up....

RAPATA: It is my land will be given. What is the use of Mackay coming? If he had not come would this place be quiet?

Mackay declared that 'Rapata and his people handed over their lands to me, and I accepted it on behalf of the Government, but in doing so I said that I should use my own discretion as to when I should occupy it. I gave no money'. He responded to Kingites attacks on Rapata, which must have included the 'personalities', not reported, that were 'freely indulged in' and nearly caused a fight. 'You talk very much about Rapata being hard; but you are just as obstinate in withholding the land as he is in opening it. If you would give way to Rapata to a certain extent, I have no doubt that he would also try to meet your views. There is nothing to be gained by this obstinacy on both sides'.<sup>316</sup>

Rapata did not participate on the second day, when he and other owners agreed to open their land to mining.<sup>317</sup> In the words of the *Auckland Punch*, Rapata 'graciously agreed to accept [a] £1,500 bonus'.<sup>318</sup> Just prior to this meeting, this journal had mocked him in a paragraph headed 'Fashionable Intelligence':

His Excellency, Rapata, and suite, accompanied by Mr Mackay, left town for Shortland on Friday, *en route* to his estate at Ohinemuri. We are informed that his Excellency intends spending Christmas in the Upper Thames, and will receive Pakeha deputations only that are accompanied by contributions of rum and other condiments during the ensuing week; after which the remainder of the spare time of this illustrious chieftain will be occupied in negotiations pending relative to the propriety of letting Europeans enter the sacred territory of the "Hau Haus."<sup>319</sup>

As Donald McLean was later informed that the agreement signed by Mackay with Rapata and the others willing to open the land 'only had

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<sup>315</sup> Not traced; he had no involvement in Te Aroha mining.

<sup>316</sup> *Thames Advertiser*, 18 December 1868, reprinted in *New Zealand Herald*, 19 December 1868, p. 5.

<sup>317</sup> Special Reporter, *New Zealand Herald*, 21 December 1868, p. 3.

<sup>318</sup> *Punch, or the Auckland Charivari*, n.d. [January 1869?], p. 111.

<sup>319</sup> *Punch, or the Auckland Charivari*, 12 December 1868, p. 35.

reference to the north bank (proper right bank) of the Ohinemuri Stream',<sup>320</sup> the Waitangi Tribunal considered that there was 'doubt as to the precise intentions of Rapata and his co-signatories'.<sup>321</sup>

At the beginning of 1869, miners were still camping on the Thorp family's Belmont farm, the only Pakeha farm in the district,<sup>322</sup> waiting for a goldfield to be opened, but all the landowners, 'Rapata's tribe as well as the others', prevented any prospecting 'pending the final opening'.<sup>323</sup> In mid-January, Rapata wrote to these frustrated miners:

Friends the Europeans.... Take my advice and do not go on the hills. Stop quietly at the place you are living at, on account of Te Hira, until such time as we know more about it (the land), as I know it will not be for long. – From your most loving friend.  
Rapata Pokiha.<sup>324</sup>

As Te Hira continued to prevent prospecting, the miners were forced to return to Thames. Then, in July, Mackay announced to a large Maori meeting at Thames that Te Hira was permitting prospecting now:

Rapata said he had been intent for a long time to open Ohinemuri, but that in consequence of the action taken by the people he had not been able. Since Mr Mackay's statement, however, he felt himself relieved from responsibility, and considered it his duty to tell the meeting that he should commence to survey his lands. The meeting must not blame him, but Te Hira, into whose hands Ohinemuri had been entrusted.<sup>325</sup>

Shortly afterwards, some Maori, 'acting under Te Hira, took possession of a piece of land said to belong to Rapata and others'. Rapata 'promptly sent them off, and placed his own people on it, saying "he had not given Te Hira jurisdiction over his land"'.<sup>326</sup>

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<sup>320</sup> E.W. Puckey to Donald McLean, 19 October 1869, *AJHR*, 1870, A-19, p. 4.

<sup>321</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 415.

<sup>322</sup> Jessie Thorp, 'The Thorp Family Came to New Zealand in 1840', *Auckland-Waikato Historical Journal*, no. 38 (April 1981), pp. 20-22.

<sup>323</sup> *Auckland Weekly News*, 9 January 1869, p. 18.

<sup>324</sup> Letter from Rapata Te Pokiha, printed in *Auckland Weekly News*, 23 January 1869, p. 22.

<sup>325</sup> *Auckland Weekly News*, 24 July 1869, p. 12.

<sup>326</sup> Ohinemuri Correspondent, *Auckland Weekly News*, 31 July 1869, p. 20.

In August, when visiting Auckland to see Daniel Pollen, the agent of the central government, about opening Ohinemuri, Rapata was told that it did not want to take any action at the moment, to avoid bloodshed. Rapata responded 'that he was getting tired of waiting for the Government to open all his auriferous lands, and that he would cease to trouble them in the matter, as they did not wish to open his lands'. When offered money by a 'clique' of land speculators, 'Rapata told them he would not yet consent to their words, as he wished to see what the Government meant to do'.<sup>327</sup>

In March, Rapata warned Mackay that Te Hira was inviting Te Kooti to come to Ohinemuri.<sup>328</sup> He gave a Pakeha settler a rifle to defend himself.<sup>329</sup> Five months later, hearing rumours that Te Kooti was coming, 'Rapata's people commenced extensive preparations for giving Te Kooti a warm reception, by cleaning and loading firearms and planting sentries. They were on the *qui vive* [alert]<sup>330</sup> all night'.<sup>331</sup> His supporters were still 'under arms' in the following January 'every night, fearing an attack from Te Kooti'.<sup>332</sup> Puckey informed McLean that Rapata was 'extremely anxious that a few stand of arms and ammunition should be sent to him at once'; these could be taken to his settlement 'unknown to any one, in the absence of the Hauhaus'. His 'party' was 'in a very defenceless state'.<sup>333</sup> Te Kooti and some of his followers had in fact secretly visited Te Hira's village in late 1869 to acquire arms and ammunition, but they did not threaten Rapata;<sup>334</sup> and he did not return.

On 1 October 1869, Edward Walter Puckey, the government's Thames-based native agent, told McLean that he had returned from Ohinemuri to Auckland

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<sup>327</sup> *Thames Advertiser*, n.d., reprinted in *Auckland Weekly News*, 21 August 1869, p. 22.

<sup>328</sup> Rapata Te Arakai to James Mackay, 31 March 1869, Legislative Department, LE 1, 1869/133, ANZ-W.

<sup>329</sup> H.F. Way to James Mackay, 2 April 1869, Legislative Department, LE 1, 1869/133, ANZ-W.

<sup>330</sup> *The Concise Oxford Dictionary* (Oxford, 5 ed., 1964), p. 1011.

<sup>331</sup> *Auckland Weekly News*, 28 August 1869, p. 18.

<sup>332</sup> *Auckland Weekly News*, 22 January 1870, p. 10.

<sup>333</sup> E.W. Puckey to Donald McLean, 20 January 1870, 'Correspondence Relative to Ohinemuri and Native Matters at the Thames', *AJHR*, 1870, A-19, p. 15.

<sup>334</sup> Judith Binney, *Redemption Songs: A life of Te Kooti Arikirangi Te Turuki* (Auckland, 1995), p. 201.

accompanied by the Chief Rapata, more generally known amongst the Natives as “Te Pokiha;” he came on private business, and as we came down the Waihou River we had a long talk. He went fully into the whole question of the opening up of Ohinemuri, and expressed himself as quite of the opinion, that had proper steps been taken at first, the Upper Thames would have been open to the Miner long since.... He returned to-day intending to consult with his own immediate relatives; and if they were of the same mind as himself, of which he said he had no reason to be doubtful, an application would at once be sent to the Native Land Court in respect to their lands at Ohinemuri.<sup>335</sup>

Almost three weeks later, Puckey wrote about another visit to Ohinemuri, where some owners yet again opposed ceding land to the government. ‘This was replied to by Rapata’s people, by saying that the benefits that would result from leasing the land would be substantial, and would be enjoyed by themselves and their children for many years, whilst now they were gaining no advantage whatever’. Rapata said that ‘the understanding in respect of their lands leased to the Government’ applied only to ‘lands on the north bank’ of the Ohinemuri River, as Te Hira and the Kingites owned the land on the other side.<sup>336</sup> At the end of the month, Rapata wrote to McLean:

My reason for finding fault with the Europeans who are working at Ohinemuri is that they are searching for gold in an unauthorized manner. I have no power to send them back, as I hold no authority from you to do so. (Had I such an authority) my voice would have weight when I speak to them. It would be much better to delay searching for gold till the field is properly benefited. This would be well. Do you make clear my words [translate them] and send them to the Press in order that our impatient friends in search of gold may see them.<sup>337</sup>

At a runanga held at the beginning of December, Rapata and his supporters ‘spoke strongly on the wrong and injustice of trying to restrain them from utilizing their own land for present and future benefits’, said

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<sup>335</sup> E.W. Puckey to Donald McLean, 1 October 1869, ‘Correspondence Relative to Ohinemuri and Native Matters at the Thames’, *AJHR*, 1870, A-19, p. 4.

<sup>336</sup> E.W. Puckey to Donald McLean, 19 October 1869, ‘Correspondence Relative to Ohinemuri and Native Matters at the Thames’, *AJHR*, 1870, A-19, p. 4.

<sup>337</sup> Rapata Te Pokiha to Donald McLean, 28 October 1869, printed in *Auckland Weekly News*, 6 November 1869, p. 24.

they were ‘fully determined’ to give up their lands to McLean and that ‘this was the last time they would ask any runanga for consent to do so’. If refused permission, ‘it made no difference, as their mind was made up on the subject’.<sup>338</sup> At another meeting held on 9 December, attended by McLean and other officials, Rapata repeated his position:

You have heard the proposal I made with reference to this place. I have no other. All my friends feel the same as I do.... A man cultivates his own plot of ground. Each should be allowed to do as he likes with his own. I am weary with carrying out the measures of Te Whakahaere o Hauraki, but persevere in them: the plans, however, of the other party end in death. I am most anxious to have this matter arranged as it is impossible to prevent what will most surely follow.<sup>339</sup>

The following day, when McLean met Maori who wanted to cede their lands for mining at Rapata’s settlement, they said they would be guided by him. ‘They did not wish to create disturbance, but rather to maintain their peaceful yet firm attitude and win over the opposition party’.<sup>340</sup>

Also in December, some Maori threw into the river timber and goods brought to Paeroa by a man who intended to erect a store and hotel. ‘The chief Rapata then came up, and kindly offered a spot near his own whare to store the damaged goods, &c. He may allow the unfortunate speculator to erect his store there’.<sup>341</sup> Two months later, when storekeeper Edward Wood<sup>342</sup> was in conflict with Mere Kuru over the surveying of the proposed township of Paeroa, he was living with ‘his friend’ Rapata, who, with others, had leased the land to him.<sup>343</sup> One of the three men employed to do the surveying recalled that ‘Rapata treated us very well while we were at his settlement, but he could not do more, as he did not want to fall out with his

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<sup>338</sup> *Auckland Weekly News*, 4 December 1869, p. 5.

<sup>339</sup> ‘Notes of a Meeting Which Took Place at Ohinemuri, on 9 December 1869, with D. McLean and H.T. Clarke’, *AJHR*, 1870, A-19, p. 10.

<sup>340</sup> ‘Notes of a Meeting’, p. 11; *Auckland Weekly News*, 18 December 1869, p. 19.

<sup>341</sup> *Auckland Weekly News*, 12 February 1870, p. 16.

<sup>342</sup> See paper on Lavinia and Henry Dunbar Johnson.

<sup>343</sup> *New Zealand Herald*, 8 February 1870, pp. 4-5.

neighbours, although they were Hauhaus, so by his advice we had to go back to Shortland'.<sup>344</sup>

In March, Rapata was accused of having leased land to a 'certain company of Auckland gentlemen' who had 'means of obtaining special privileges from others high in office'. He denied leasing it, but did admit 'having borrowed a small sum of money on the security of his interest' in the land, 'being much in want of money, having waited so long for the opening, and spent money and time in trying to get it opened – his interest is our interest, he could only pawn himself. The other five owners declare they are not pawned, and would not allow Rapata to sell them'.<sup>345</sup> This issue prompted the *Thames Advertiser* to publish details provided by a man 'intimately acquainted with the facts', who claimed that 'Ohinemuri natives have repeatedly spoken in severe terms of disapproval of the undue prominence given to Rapata' during Mackay's negotiations. They claimed it was part of Mackay's 'programme to make another Taipari of Rapata – a thing the Queenites, especially Ngatikoi, would not tolerate for a moment'. He listed three other rangatira who represented 'the loyal owners of auriferous lands in the Waihi and Upper Ohinemuri districts', who were leaders of Ngati Koi and Ngati Tara and 'independent of, and distinct from, Te Hira and the Matewaru hapu, from Rapata and the Uriwha hapu, and from Tukukino and the Kirewera hapu'. The government had prevented the court from considering the land they had surveyed. 'Unfortunately for Rapata, he is related to Te Hira in his hapu, and connected with him in his claims to auriferous lands'; as a member of Matewaru, Rapata's claims would 'probably be obstructed by Te Hira' in the court. Rapata had not surveyed his lands but had 'let them on a royalty of 1-10th to certain capitalists in Auckland' linked to Mackay. 'These gentlemen have advanced Rapata a considerable sum of money'.<sup>346</sup>

In late 1870, in a dispute over the Te Tawa Block with Te Moananui, who had taken possession and erected a house, Rapata announced that he would 'not interfere, but will get the Crown grant quickly and then take the law for it';<sup>347</sup> he did not carry out his stated intention. In the following year he tried to assist the government when Te Hira prevented mail being

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<sup>344</sup> James Stitchbury, 'The Opening of the Upper Thames. A Curious Incident', *Auckland Weekly News*, 15 March 1890, p. 8.

<sup>345</sup> Ohinemuri Correspondent, *Auckland Weekly News*, 5 March 1870, p. 13.

<sup>346</sup> *Thames Advertiser*, n.d., reprinted in *Auckland Weekly News*, 12 March 1870, p. 19.

<sup>347</sup> *Auckland Weekly News*, 17 December 1870, p. 9.

carried through Ohinemuri to Tauranga: a Pakeha farmer volunteered to make another attempt, accompanied by Rapata, but both were turned back.<sup>348</sup> In July, an Ohinemuri correspondent cited ‘many’ Maori claiming that the opening of the district ‘might have been disposed of’ when McLean visited Hauraki in March<sup>349</sup> ‘but for the interference of Rapata’, who was accused of ‘endeavouring to undermine them to a certain extent’. His latest plan was to open ‘an accommodation-house for natives and Europeans’.<sup>350</sup>

In April 1872, the Governor, accompanied by McLean, visited Ohinemuri at the time of the tangi for Taraia and participated in a korero. Rapata gave the third speech of welcome, and concluded by saying that ‘nothing’ could ‘be done now beyond bidding you welcome’, a reference to the on-and-off negotiations to open the district. When Te Hira welcomed the Governor, he stated that ‘when I find that I can dwell quietly and without being disturbed on my own place, then perhaps I shall see my way clear to do as the others have done’, a possible hint that he had come to accept some of Rapata’s reasoning. It was noted that ‘Union Jacks were hoisted in every place where formerly floated Hauhau flags’.<sup>351</sup> In October, Rapata and his tribe were still ‘very anxious’ for Ohinemuri to be opened for mining.<sup>352</sup> But they were also interfering with Pakeha surveyors because of a dispute over the boundaries of the Whangamata Block.<sup>353</sup>

At the beginning of 1874, Rapata’s letter to Williamson was translated by officials with explanatory notes:

I have received your Circular dated 2nd Decr /73 cautioning persons not to cut Timber on Native lands that have not passed through the Court – I approve of this law – it is right.

Friend – I also approve of your communication to me of the 10th Decr requesting me to co-operate with you. I accede. I may state that I have already acted in similar matters – which you are aware of – 1st I endeavoured to arrange for the opening of Ohinemuri for gold mining. Next – I arranged for the carrying of the Mail (between this and Tauranga). Next – I made the necessary arrangements for the Telegraph in which I was assisted by Mr Mackay – And lastly a short time since – Te Hira

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<sup>348</sup> *Auckland Weekly News*, 18 March 1871, p. 17.

<sup>349</sup> See *Auckland Weekly News*, 1 April 1871, p. 15.

<sup>350</sup> Ohinemuri Correspondent, *Auckland Weekly News*, 29 July 1871, p. 10.

<sup>351</sup> *Auckland Weekly News*, 4 May 1872, p. 9.

<sup>352</sup> Ohinemuri Correspondent, *Thames Advertiser*, 21 October 1872, p. 3.

<sup>353</sup> *Auckland Weekly News*, 26 October 1872, p. 5.

having directed that the Road should be made, and sent some men to make it – the work was afterwards stopped by him (Te Hira) – Like an insane person – He stopped it because he heard from some person that it was you who gave instructions for the road to be made. He subsequently received a letter from Mr Puckey the Commissioner, explaining that it was not you who directed that the Road should be made. Te Hira told me he was satisfied as the Superintendent had nothing to do with the road. And that the road would be proceeded with by and by – Friend, I am thoroughly disgusted at his proceedings.

Friend I am very anxious to see you as I have certain thoughts to express to you.

Enough.

From your loving friend

Rapata Te Pokiha.<sup>354</sup>

When the final meetings about opening Ohinemuri took place late that year, Rapata again emphasized both his support for the government and his intention to earn income from mining whilst retaining the land. He ‘would be perfectly satisfied to leave all matters in connection with the Moehau and Waikawau block’, at the northern end of the peninsula, in Mackay’s hands.

It would be for them now to consider the means of settling the balance which would remain after Mr Mackay had deducted the amount squared off by the outside land. The two questions – gold and land – were intimately bound up, now they are divided. Of course it was all very well for them to try to make the best arrangements for themselves, they must recollect that the cash advance of Mr Mackay entitled him to some consideration. Let the matter be settled now....

Two ways had been discussed – land and gold – and the conclusion arrived at by the majority was that the gold should be given and the land kept.<sup>355</sup>

When Te Hira and Te Moananui reluctantly agreed to open the district in December, Rapata and other owners who had ‘all along been most anxious to have the land opened’ were infuriated at not being told and considered they had been tricked. They went to Ohinemuri ‘loudly

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<sup>354</sup> Rapata Te Pokiha to Superintendent, Auckland Province, 3 January 1874, Auckland Provincial Government Papers, ACFM 8180, 1874/539, ANZ-A.

<sup>355</sup> Ohinemuri Correspondent, *Thames Advertiser*, 9 December 1874, p. 3.

exclaiming' that not only would they open their land for mining but they would also sell it.<sup>356</sup> (Their rage did not lead to any concrete actions.)

Rapata had not been ensnared by the raihana policy of encouraging Maori indebtedness that forced so many to part with land, as explained below. Not until November 1874, shortly before Ohinemuri was to be opened, did he receive £72 10s for part of his interest, and another £250 was paid in the following February.<sup>357</sup> When Richard John Gill, in charge of the Land Purchase Department, investigated the confused payments made for Ohinemuri, he interviewed Rapata on 1 June 1882. 'This old man has great influence with his people, and I felt that his assistance in the work, when before the Court, would be of value'.<sup>358</sup> Gill noted that they 'went into accounts: he did not dispute any items but wished to have a document showing his total liability. He stated that he had ascertained that some of the debts which he understood had been settled by amounts included in' the £15,000 owing to the government 'he was still liable for – storekeepers had made demands'. After 'a long talk', Gill offered to cancel 'all his advances made on Ohinemuri'.<sup>359</sup> Told that his shares were worth £95 17s 6d, Rapata 'objected to part with his land, saying that the payment was not enough'. Gill pointed out that Mackay had paid him £96 10s on Waihou East and West,

and asked him whether he was prepared to give land in value for that money, or to repay it. He answered, "If the land is there, pay yourself." This was a safe reply on his part, as he well knew that the land had been absorbed in other Blocks. I proposed that if he would part with his land he should be considered specially; that the payment made to him on the Waihou lands should be cancelled, and that he should be paid sixty five pounds seventeen shillings and sixpence.

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<sup>356</sup> Thames Correspondent, *Auckland Weekly News*, 26 December 1874, p. 16.

<sup>357</sup> Register of Payments to Individuals for Purchase of Land 1873-1880, Ohinemuri Block, 11 November 1874, Maori Affairs Department, MA-MLP 7/7; 'Statement of the Facts and Circumstances Affecting the Ohinemuri Block', Appendices G, H, Lands and Survey Department, LS 36/25a, ANZ-W.

<sup>358</sup> R.J. Gill to Native Minister, 29 July 1882, 'Statement of the Facts and Circumstances Affecting the Ohinemuri Block', p. 62, Lands and Survey Department, LS 36/25a, ANZ-W.

<sup>359</sup> 'Ohinemuri Goldfields: Notes and Memos by R.J. Gill, Paeroa, May-June 1882, p. 62, Maori Affairs Department, MA 13/54b, ANZ-W.

To this after a long talk, he agreed; but would not then take the money, promising to do so when he should be satisfied as to the reserves to be made for him and his people.<sup>360</sup>

Gill noted that Rapata had 'at all times given his aid to the Government' and appeared 'to have had charged to him moneys for food supplied to his tribe'. Had Rapata not agreed to 'this settlement he would have insisted that his acres should be cut out for him, and the Court would I think have agreed to it'.<sup>361</sup> On the following day, Rapata 'spoke about the matter of his pension', about which he had written to the government; Gill promised to speak to the Native Minister, 'but could not hold out any hope of success'.<sup>362</sup> Presumably he had lost or was afraid of losing his pension because of financial stringency; if so, he was successful, for he was still receiving his annual £50 when he died in 1885.<sup>363</sup>

Although he 'had been ailing for some time', Rapata's death in September 1885

was shockingly sudden and unexpected. He was at the Thames, attending a sitting of the Native Land Court, and was about to return to Ohinemuri for the purpose of taking back the body of a woman of his tribe who had died at the Thames during the sitting of the Court. The deceased woman's body had been conveyed on board the steamer that was to take it from Shortland to Ohinemuri, and Rapata was in the act of walking across the street to where the steamer was lying at the wharf, when he fell down apparently dead. He was carried on board the steamer, and

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<sup>360</sup> R.J. Gill to Native Minister, 29 July 1882, 'Statement of the Facts and Circumstances Affecting the Ohinemuri Block', pp. 42-43, Lands and Survey Department, LS 36/25a, ANZ-W.

<sup>361</sup> 'Ohinemuri Goldfields, Meetings at Paeroa, May-June 1882, of Under-Secretary with Ohinemuri Claimants', p. 238, Maori Affairs Department, MA 13/54a, ANZ-W.

<sup>362</sup> 'Ohinemuri Goldfields, Notes and Memos by R.J. Gill, Paeroa, May-June 1882, of Under-Secretary with Ohinemuri Claimants', p. 70, Maori Affairs Department, MA 13/54a, ANZ-W.

<sup>363</sup> *Thames Advertiser*, 26 September 1885, p. 3; *Waikato Times*, 29 September 1885, p. 2; G.T. Wilkinson to Under-Secretary, Native Department, 25 May 1886, *AJHR*, 1886, G-1, p. 10.

every attention paid to him, but it was found that life was extinct.<sup>364</sup>

His age was given as 85.<sup>365</sup> He was praised as a ‘firm friend of the Europeans’ from the earliest days of the Thames goldfield, ‘and was one of the warmest advocates of the opening’ of Ohinemuri for mining.<sup>366</sup> Mackay stated that, if it had not been for him and a few others, ‘the Government might not have gained a foot in there at all’.<sup>367</sup> George Thomas Wilkinson, Puckey’s successor as native agent, considered it was ‘mainly through his assistance’ that this goldfield was opened.<sup>368</sup> His consistent support for the government confirmed the earlier comment of an Ohinemuri correspondent that his word was ‘to be relied on’ and of Puckey that he was ‘trustworthy’.<sup>369</sup> Another illustration of this was in 1879, when he attempted to convince the man who had shot Daldy McWilliams to surrender, as explained below.<sup>370</sup>

His daughter and granddaughter had predeceased him, leaving an 18-year-old grandson as his only descendent.<sup>371</sup> Despite his years of supporting the government and hopes of receiving income from a goldfield, his personal estate consisted of a horse a plough worth about £4 and £9 18s in an Auckland bank.<sup>372</sup>

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<sup>364</sup> G.T. Wilkinson to Under-Secretary, Native Department, 25 May 1886, *AJHR*, 1886, G-1, p. 10.

<sup>365</sup> *Thames Advertiser*, 28 September 1885, p. 2.

<sup>366</sup> *Thames Advertiser*, 26 September 1885, p. 3.

<sup>367</sup> *Waikato Times*, 29 September 1885, p. 2.

<sup>368</sup> G.T. Wilkinson to Under-Secretary, Native Department, 25 May 1886, *AJHR*, 1886, G-1, p. 10.

<sup>369</sup> Ohinemuri Correspondent, *Thames Advertiser*, 13 December 1870, p. 3; E.W. Puckey to Daniel Pollen, 3 May 1873, Agent General Auckland, ACFL 8170, 73/565, ANZ-A.

<sup>370</sup> *Thames Advertiser*, 19 September 1879, p. 3, 20 September 1879, p. 3, 22 September 1879, p. 3.

<sup>371</sup> Maori Land Court, Hauraki Minute Books, no. 24, p. 25; no. 29, p. 184; *Thames Advertiser*, 19 April 1875, p. 3.

<sup>372</sup> Maori Land Court, Hauraki Minute Book, no. 19, p. 183.

SEPARATING MAORI FROM THEIR LAND: THE OHINEMURI  
EXAMPLE<sup>373</sup>

In mid-1867, a Thames correspondent reported that part of Ohinemuri was to remain outside government control:

The natives of Ohinemuri say they will not allow any of the Ngatimaru, or any policeman, to go up that river to catch any native or European offenders; the boundary between the friendly and the King natives they have fixed at Hiku [Hikutaia?]. Any native committing a robbery, &c, amongst the friendlies, and fleeing to the King natives, will be punished by a light fine, but he will not be given up to his own people; but in the case of a murderer he will be told to flee away and hide himself, as they will not protect him. In all other cases their land is to be a land of refuge, and they will kindly treat the Europeans living amongst them, according to the words of William Thompson,<sup>374</sup>

meaning Wiremu Tamehana of Ngati Haua. ‘The southern boundary of the Thames goldfield was fixed at the Omahu Stream (north of Hikutaia) in 1868’,<sup>375</sup> when there were ‘only some twenty Europeans’ in the Ohinemuri district, living there ‘with the consent of all parties’.<sup>376</sup> The Crown would seek ‘the freehold of the land as much as a mining agreement’, contrasting with the opening of the Thames goldfield when the emphasis was on the gold. The leading opponent of opening the land to either mining or settlement was ‘Te Hira Te Tuira of Te Matewaru hapu Ngati Tamatera, a Kingitanga supporter from at least 1862’. He had remained at Ohinemuri during the Waikato War and ‘was not particularly belligerent but staunch in his desire for Maori to retain significant areas of land, and autonomy within them from the Crown’. He was strongly supported by ‘Tukukino, rangatira of Te Kiriwera hapu of Ngati Tamatera, who in the post-war years during which Ohinemuri remained closed to mining, repeatedly declared his willingness to fight in defence of the land’. As the Waitangi Tribunal noted, Ohinemuri was ‘a stronghold for supporters of the

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<sup>373</sup> For an 1875 ‘Sketch Map of Ohinemuri’, see Waitangi Tribunal, *The Hauraki Claim*, vol. 2, p. 410.

<sup>374</sup> Thames Correspondent, *Auckland Weekly News*, 6 July 1867, p. 13.

<sup>375</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 409.

<sup>376</sup> *Thames Advertiser*, 8 October 1868, reprinted in *Auckland Weekly News*, 10 October 1868, p. 7.

Kingitanga before goldmining became an issue. A political boundary or aukati would probably have been established around it even if there had been no gold'.<sup>377</sup> Maori displaced by confiscation of land in the Waikato and Bay of Plenty had already found refuge there, and Te Kooti and the Pai Marire movement had supporters at the highest level.<sup>378</sup> Despite continual disagreement between them about opening Ohinemuri, it seemed that Te Hira had 'cordial respect for Mackay as an adversary, and in 1870 Mackay was to represent him' in the land court.<sup>379</sup>

During 1868, Mackay tried to open Ohinemuri for mining whilst at the same time preventing the district being rushed by impatient miners.<sup>380</sup> His warnings that a rush would provoke conflict 'contributed' to the sections of the Gold Fields Act Amendment Act of 1868 'which banned prospecting on Maori customary land without a prospector's license, which in turn required the landowners' consent', provisions that he used to remove miners illegally exploring Ohinemuri.<sup>381</sup> He told a meeting at Rapata's settlement in October that he 'desired to make proper arrangements so that there might not be trouble' and promised that landowners 'would be paid the same terms' as at Thames, but the Hauhau response was 'a point-blank refusal to open the land'.<sup>382</sup> At this meeting, in Mackay's words 'a quarrel arose between the Hauhaus and friendly Natives', prompting two of the latter, one of them Wikiriwhi Hautonga, to offer their lands for mining.<sup>383</sup> Wikiriwhi, a rangatira of Ngati Tamatera,<sup>384</sup> would be appointed an Assessor for the district of Hauraki in 1871.<sup>385</sup> The offer 'was seconded by the loyal chief Rapata Te Arakai and his people, to the great dismay of the Hauhau party, who left the meeting in anger and disgust at these proceedings'.<sup>386</sup> Feelings were so strong that, at a subsequent meeting, those who wanted to open their land were armed, making their opponents

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<sup>377</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 409.

<sup>378</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, pp. 409-411.

<sup>379</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 413.

<sup>380</sup> 'Report by Mr Commissioner Mackay', pp. 8-9.

<sup>381</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, pp. 411-412.

<sup>382</sup> *Auckland Weekly News*, 10 October 1868, p. 7.

<sup>383</sup> 'Report by Mr Commissioner Mackay', p. 9.

<sup>384</sup> See Maori Land Court, Hauraki Minute Books, no. 5, pp. 301-302; no. 13, pp. 123-125, 246.

<sup>385</sup> *New Zealand Gazette*, 13 April 1871, p. 164.

<sup>386</sup> 'Report by Mr Commissioner Mackay', p. 9.

‘very dark’.<sup>387</sup> Although Mackay, according to a special reporter, had the ‘utmost confidence’ of most Maori,<sup>388</sup> he was unable to alter the opinions of those opposed to opening. When Superintendent Williamson visited Ohinemuri for the fourth time in November, Te Hira declined to attend the meeting with him at Rapata’s settlement and complained that Mackay had ‘told him that unless he opened the land for gold-mining the Europeans would come up and take it. This he resented, and considered that it was like taking a man’s coat forcibly off his back because he refused to sell it’. Divisions between owners willing to open their land and those opposed, ‘by far the least numerous’ of those attending, were very evident. Williamson tempted them with a description of how Taipari had ‘become a very wealthy man’ by permitting mining, which they could emulate both through obtaining mining revenue and by selling food to the miners. ‘Whatever arrangement is made shall be one that will be advantageous to you, as well as to ourselves’. Some rangatira insisted of their right to decide what to do with their land; in the words of one, ‘My property is my own; it will be for me to speak for it’. Some explicitly opened their land; others explicitly stated that they would never do so, and two wanted Pakeha to ‘leave the ground when the gold has been taken from it’.<sup>389</sup>

‘Nearly 500 persons’ attended the subsequent meeting, but neither Te Hira nor Tukukino did, the latter because of his wife’s death.<sup>390</sup> If that total was correct, ‘a majority of the adults’ of the district would have attended.<sup>391</sup> Half were estimated to be Hauhau, who insisted that ‘it will not do for two or three to consent, the land belongs to the whole of us’.<sup>392</sup> They were assured that ‘after a number of years’ the Thames goldfield would ‘revert to Taipari and the other owners, when a new arrangement can be made’. A rangatira who described himself as a Hauhau and a Kingite insisted that the armed prospectors seen in the hills must be removed, and warned to ‘be careful of men who are giving lands here or at Te Aroha. Be cautious’. Another said that ‘the gold will have to be taken from me by force’. And another warned Williamson not to be ‘deceived’ by Rapata’s group. After some soothing words from Williamson about Queen Victoria loving ‘all her

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<sup>387</sup> Own Correspondent, *Auckland Weekly News*, 10 October 1868, p. 16.

<sup>388</sup> Special Reporter, *Auckland Weekly News*, 31 October 1868, p. 5.

<sup>389</sup> *New Zealand Herald*, 19 November 1868, p. 5.

<sup>390</sup> *New Zealand Herald*, 23 November 1868, p. 5.

<sup>391</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 413.

<sup>392</sup> *New Zealand Herald*, 24 November 1868, p. 4.

subjects, European and Maori', he urged them to 'try to advance mutually each other's interests, and we shall have peace and prosperity in our midst'. In conclusion, he called on all the Pakeha present 'to give three hearty cheers for the chiefs of Ohinemuri, and for the prosperity of the district'. His request 'was heartily responded to be about 50 Europeans who were present, and who had listened most attentively to the day's proceedings'.<sup>393</sup> The Waitangi Tribunal noted that he raised a 'potentially divisive' issue, 'foreshadowing dealings on a hapu-by-hapu or individualized basis'.<sup>394</sup> This implication was clear:

The occupation of no land will be taken from the owners without their consent, but I must find out the owners. I will ask those who offer the land for their names, in order that they may be known. I will ask the Governor, if you apply to have your claims heard, for a Lands Court to be held here. The judges of that Court will investigate the title, and find out the true owners of the land.... After that the owners will be known, and the Government and others can treat with them.<sup>395</sup>

In mid-December, Mackay again went to Ohinemuri, taking with him, as he later explained,

the whole of the Ngatihura hapu of Ngatipaoa, who had a joint interest in the lands claimed by Te Hira, in the hope that their presence would aid in the negotiation. Several days were spent in the preliminary arrangements for the meeting, which fairly commenced on the 16th December, and lasted for the whole of that day and the two following days. The opposing party at Ohinemuri were ably supported by all the Hauhaus who could be mustered from Piako and the adjacent districts; but in despite of all their efforts, Rapata Te Arakai, Wikiriwhi, and their people, would not be put down, and they continued firm in their determination to lease their own lands for gold-mining purposes. On the 19th December, sixty-three Natives interested in the lands at Ohinemuri signed a preliminary agreement to hand over all their lands to the Governor for gold-mining purposes.<sup>396</sup>

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<sup>393</sup> *New Zealand Herald*, 24 November 1868, p. 5.

<sup>394</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 414.

<sup>395</sup> *New Zealand Herald*, 24 November 1868, p. 5.

<sup>396</sup> 'Report by Mr Commissioner Mackay', p. 9.

The 'question of a bonus' being raised, Mackay 'thought it expedient to agree to pay a sum of £500 under that head, and to advance a further amount of £1,000, repayable from the miners' rights fees received for that gold field when proclaimed'.<sup>397</sup> This outcome came after a brief letter from Te Hira was read out by one of his followers: 'Ohinemuri must not be broken. It is sacred. It is a small piece. Cease the talking. Tell Mr Mackay he must go back and not return'. Mackay responded that he would listen to Te Hira 'face to face' but would pay no attention to the letter because there was no proof it had come from him. 'I shall not end the talk, neither will I go away. I shall remain'. The response was equally direct:

On the conclusion of this the Hauhaus rose in a body, with their flag in their centre, a hymn was sung, and the whole company marched away.

Mr MACKAY, addressing: Listen. Although you have thus broken up this meeting, I shall still hold the pieces of land which have been given to me by Robert [Rapata] and others, and I now give you, Robert, this money on account of that land. [Mr Mackay here handed to Robert the money.] After which he enquired – addressing the Queenites: Do you all agree to hand over your lands to be dug upon? An unanimous chorus of "yes" was the reply. The meeting then dispersed.<sup>398</sup>

According to the Anglican clergyman at Thames, who was present, Mackay had 'got angry' when a message came from Te Hira ordering all the Maori who had come from Thames to leave, and 'turning round to Rapata suddenly said: I accept the offer of your land and here give you £1000 (handing him a cheque for that amount) as part payment'.<sup>399</sup> That Mackay had the cheque already prepared indicated that his act was not spontaneous. After the meeting in October when 'friendly' Maori had handed over their land for mining, Mackay had explained to the Native Minister, Donald McLean, that Rapata, who had 'always endeavoured to aid in opening up his own and the other land here, suggests that at least £2000 should be paid as a deposit on the land, or rather as an advance in anticipation of Miners Rights paid'. Mackay had considered this would have

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<sup>397</sup> 'Report by Mr Commissioner Mackay', p. 10.

<sup>398</sup> Special Correspondent, *New Zealand Herald*, 21 December 1868, p. 3.

<sup>399</sup> *The Thames Diaries of Vicesimus Lush, 1868-82*, ed. Alison Drummond (Christchurch, 1975), p. 43.

‘a very good effect and would materially assist in thinning the ranks of the opposing party’, and requested the money.<sup>400</sup>

On the day following the December meeting, an agreement for the payment of £1,500 ‘was substituted for the pencil memorandum’ containing Mackay’s promise;<sup>401</sup> that it was first made in this form does suggest he hastily made the offer just as the meeting was about to be aborted. Mackay gave Rapata ‘a guarantee’ that he would receive £1,500, £500 being a ‘bonus for opening the land’,<sup>402</sup> which, therefore, would not have to be repaid. Some Queenites were so excited by developments that they ‘offered to resist any attempts to keep the lands closed by challenging the Hauhaus’, but Mackay ‘would not hear of anything so foolish, and intimated if anything of the kind occurred he should feel called upon to take the side of the Hauhaus against them’, which was ‘sufficient to cool their zealousness on behalf of the Queen’s cause’.<sup>403</sup> Mackay obtained signatures of 63 rangatira agreeing to open their land, despite some being closely related to Te Hira. Rapata was the first to sign.<sup>404</sup> Taraia Ngakuti<sup>405</sup> wrote his own letter to the Governor, phrasing it carefully: ‘I have consented that the gold of Ohinemuri shall be yours, but I still have my land, you have the gold only’.<sup>406</sup>

Mackay warned miners that, although negotiations had ‘so far been very successful’, they were ‘not completed’, and ‘any attempt to take possession of these lands will retard the completion of the question, and endanger the peace of the country’. All ‘right-thinking persons’ were asked to stay away, and anyone found prospecting outside the boundaries of the existing goldfield would ‘be prosecuted according to law’.<sup>407</sup> As Mackay and his supporters amongst Ohinemuri landowners proved unable ‘to shake the determination of the Hauhaus to keep the country shut against the

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<sup>400</sup> James Mackay to Donald McLean, 9 October 1868, Legislative Department, LE 1, 1869/133, ANZ-W.

<sup>401</sup> *Thames Advertiser*, 21 December 1868, reprinted in *New Zealand Herald*, 22 December 1868, p. 6.

<sup>402</sup> *Auckland Weekly News*, 27 February 1869, p. 22.

<sup>403</sup> *Thames Advertiser*, 21 December 1868, reprinted in *New Zealand Herald*, 22 December 1868, p. 6.

<sup>404</sup> ‘Report by Mr Commissioner Mackay’, p. 10; for the agreements, see pp. 32-33.

<sup>405</sup> See *New Zealand Herald*, 21 March 1872, p. 3, 29 March 1872, p. 2.

<sup>406</sup> Taraia Ngakuti to Governor, 19 December 1868, *AJHR*, 1869, A-17, p. 33.

<sup>407</sup> Notice by James Mackay, 19 December 1868, printed in *New Zealand Herald*, 21 December 1868, p. 3.

enterprise of the gold miner', and fearing conflict, he 'swore in thirty-five friendly Natives as armed special constables' and compelled all Pakeha apart from existing settlers to leave the district.<sup>408</sup> As the government did not wish to provoke conflict, it dishonoured the cheque for £2,000, and Ohinemuri remained closed, to the annoyance of settlers.<sup>409</sup>

In October 1869, Puckey attended yet another meeting about opening the land to mining. When Te Moananui called for a vote, there was a clear majority for opening, but Te Hira remained opposed. 'The chief argument made use of by those opposed to ceding the land to Government was, that that course would eventuate in the loss of their land – the mana of the Queen would light down upon the land – their mana would be gone, and they would lose the land'.<sup>410</sup> Two months later, Te Hira told Donald McLean that he would not consent. 'Of what is the use of the land after it is broken? When the land is broken, the owner perishes.... This is my place, why do you seek after it? It is only a little piece. Let it remain to me'.<sup>411</sup>

Four months later McLean, believed that 'the large number' of the owners wanted 'at once to receive a money payment as an advance on account of the future receipts of fees on miners' rights', and that 'about £5,000' was required to meet their request. He told the Superintendent that it was 'not expected that the payment of this sum will operate at once in overcoming the opposition of the party which has persistently set itself against the opening of the district' but it could encourage 'greater exertion' by those willing to sell.<sup>412</sup> Whilst the Superintendent was willing to provide this sum, he felt that until some 'tangible' terms had been decided it was not 'prudent to make any advances to the friendly Natives, who appear to be unable to open even their own lands without the consent of their opponents'. He would prefer to lease land for mining and settlement rather than provide mining revenue.<sup>413</sup> McLean agreed, but felt 'so strongly' that Ohinemuri should be opened that he was prepared to accept 'such terms as

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<sup>408</sup> 'Report by Mr Commissioner Mackay', p. 10.

<sup>409</sup> For example, Charles Featherstone Mitchell: *Thames Advertiser*, 30 April 1873, p. 3.

<sup>410</sup> E.W. Puckey to Donald McLean (Native Minister), 19 October 1869, *AJHR*, 1870, A-19, p. 4.

<sup>411</sup> 'Notes of a Meeting which took place at Ohinemuri on 9 December 1869', *AJHR*, 1870, A-19, p. 10.

<sup>412</sup> Sir Donald McLean to T.B. Gillies (Superintendent, Auckland Province), 8 February 1870, *AJHR*, 1870, A-19, pp. 15-16.

<sup>413</sup> T.B. Gillies to Sir Donald McLean, 9 February 1870, *AJHR*, 1870, A-19, p. 16.

the Natives are willing to agree to'.<sup>414</sup> But as he was 'now very sensitive to strategic considerations and engaged in diplomatic approaches to the Kingitanga', he did not press for signatures to opening the land.<sup>415</sup>

In 1873, 49 Maori owners asked parliament to purchase the district and open it for mining. The *Thames Advertiser* reported that they represented 'about four-fifths in acreage and about four to one in number of those opposed to the opening'; many had 'never before taken any part as to opening the country'. Their petition pointed out that agreements had been made with Mackay in December 1868 and subsequently to open the land, Mackay giving Rapata, 'on behalf of all who had agreed to open their hill lands for goldmining purposes', an order for £1,000 as deposit on 'fees recoverable for miners' rights'. (No mention was made of the £500 bonus.) This order had not been honoured by the government, and the petitioners, 'being anxious to participate in the benefits to be derived' from the 'rich deposits of gold in this district which will prove highly payable', wanted parliament to declare their lands open.<sup>416</sup> As they did not provide any evidence that Mackay was negotiating with them to open their land, the Native Affairs Committee deemed it 'inexpedient to offer any recommendation on the subject except that the Government should look into the matter as the subject is one of considerable importance'.<sup>417</sup>

From the earliest days of the Thames goldfield, miners had wished to search for gold and farmers to acquire land there. A visitor to 'the far-famed Ohinemuri' in 1870 reported on its potential for farming and mining, and noted the condition of its owners:

The present Maori cultivations are upon a very limited scale, growing very little more than they can barely exist upon. Six working bullocks appear to be their whole stock of horned cattle, in addition to a few pigs and horses; the latter of a very weedy description. The whole place appears completely poverty-stricken. I give my assurance that it is the most woe-begone Maori district I was ever in.<sup>418</sup>

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<sup>414</sup> Sir Donald McLean to T.B. Gillies, 9 February 1870, *AJHR*, 1870, A-19, p. 16.

<sup>415</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 418.

<sup>416</sup> *Thames Advertiser*, n.d., reprinted in *Auckland Weekly News*, 6 September 1873, p. 8.

<sup>417</sup> Native Affairs Committee, 1 October 1873, Legislative Department, LE 1, 1873/10, ANZ-W.

<sup>418</sup> 'ZZZ', 'A Holiday at Ohinemuri', *Thames Advertiser*, 31 August 1870, p. 3.

Noting the arrival of two boatloads of visitors on Easter Monday in 1872, a Thames newspaper commented that ‘repeated visits’ by Pakeha was ‘day by day tending to familiarize the natives with the fact that they are making a mistake in not opening up the country’.<sup>419</sup> There was anger that the government was delaying its opening.<sup>420</sup> Mackay told a deputation that land was being purchased, but political issues meant that he could not provide details, and that dealings must be kept secret, partly to keep the price down.<sup>421</sup> And to avoid conflict: for instance, the sale in April 1874 of the 880-acre Komata North Block to ‘a private party’ by seven of the eight owners caused ‘a great deal of excitement’ there, ‘some of the Hauhau party’ threatening ‘an appeal to arms to enforce obedience to their wishes’. Overruled, they occupied the land ‘against all comers’, and refused to allow the land to be subdivided.<sup>422</sup> As an indication of why the land was sold and what happened to the money received, Wikiriwhi Hautonga,<sup>423</sup> one of the sellers, used up to £300 of the £800 received ‘in purchasing provisions to give a large feast to all the tribes of Ohinemuri’ for the tangi of a leading rangatira.<sup>424</sup>

#### MACKAY USES THE RAIHANA SYSTEM

Mackay was described by Monin as ‘the very model of a colonial agent, able to straddle the two cultures for the benefit (in the final analysis) of his paymasters’.<sup>425</sup> Robyn Anderson is more critical, accusing him of ‘a move of questionable integrity’ in manipulating rangatira to obtain the opening of

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<sup>419</sup> *Thames Guardian and Mining Record*, 2 April 1872, p. 2.

<sup>420</sup> For example, *Auckland Weekly News*, 19 April 1873, p. 13; *Thames Advertiser*, 9 December 1873, p. 2.

<sup>421</sup> *Thames Advertiser*, 12 December 1873, p. 3.

<sup>422</sup> E.W. Puckey to Under-Secretary, Native Department, 29 May 1874, *AJHR*, 1874, G-2, p. 5.

<sup>423</sup> See Maori Land Court, Hauraki Minute Books, no. 5, pp. 301-321; no. 11, p. 58; no. 13, pp. 123-124, 246-247, 260-262; no. 15, p. 162; no. 16, pp. 192, 195, 198-203, 206, 221, 361; no. 22, 310; no. 23, pp. 64-65, 68, 70, 79, 95, 109, 136; no. 24, p. 334; no. 30, p. 232.

<sup>424</sup> A Correspondent, ‘Ohinemuri – The Maori Land Quarrel’, *Thames Advertiser*, 30 April 1874, p. 3.

<sup>425</sup> Monin, p. 218.

the Waiotahi Block at Thames for mining in 1867.<sup>426</sup> Appointed in 1872 as an agent for the Crown on a commission basis, his suggestion that 4d per acre purchased was 'a fair remuneration' was accepted.<sup>427</sup> Between 1872 and 1878 he earned £10,400 in commission plus a 'considerable income' from being a private land agent also.<sup>428</sup> There were accusations at the time that he had acquired land for himself that should have gone to the Crown.<sup>429</sup> And Anderson has criticized his making payments in advance to some owners, especially his making large payments of goods at tangi and hui 'in a deliberate exploitation of Maori custom'.<sup>430</sup>

Mackay, in his 1896 self-justification, fudged the issue of how Ohinemuri was opened:

The officers of the Government commenced dealing with that land in 1868, but no advance was made in completing it, owing to the obstinacy with which it was held. This continued until Dr Pollen, Sir Donald McLean, and myself went to Ohinemuri in 1875. In consequence of my persistent arguments, it was agreed to open this long locked up box (land) for gold mining purposes. This was on the 3rd March, 1875.<sup>431</sup>

In January 1872 Mackay explained his negotiations in Hauraki.

As a general rule I do not think that any of the blocks will be purchased in the first instance by the unanimous consent of the owners, but that the claims of hapus and individuals will have to be acquired as opportunity offers. I do not however approve of paying more money in the form of deposits than is absolutely necessary but only such small amounts as will prevent the Natives going to private persons and getting advances.

He then outlined how he would operate:

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<sup>426</sup> Robyn Anderson, *The Crown, the Treaty, and the Hauraki Tribes, 1800-1885*, in Hauraki Maori Trust Board, *The Hauraki Treaty Claims* (Paeroa, 1997), vol. 4, p. 141.

<sup>427</sup> James Mackay to Minister of Public Works, 24 January 1872; Minister of Public Works to James Mackay, 4 March 1872, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

<sup>428</sup> Monin, p. 234; Alan Ward, *A Show of Justice: Racial 'amalgamation' in nineteenth century New Zealand*, rev. ed. (Auckland, 1995), p. 340.

<sup>429</sup> For example, *Thames Advertiser*, 15 April 1876, p. 2.

<sup>430</sup> Anderson, *The Crown*, p. 201.

<sup>431</sup> Mackay, *Whakaaturanga*, p. 30.

On finding any Natives willing to survey their lands, to then arrange for the survey, taking a lien over the land for the amount to be expended and for the estimated costs of investigating the title. In cases where the Natives are willing to sell at the time of their applying for a survey, the arrangement as to terms of purchase could be made in the first instance, and a small deposit given to bind the bargain.

Maori would 'agree to survey their lands long before they will consent to sell them; but the survey once completed the difficulty of repaying the money advanced for the survey will probably compel them to sell part of it'. He needed cash advances to pay surveyors and purchase land, these vouchers to be provided before payment was made. 'As delay in the payment of money is often fatal' to purchases, 'standing authority should be given to the Agent of the General Government at Auckland to advance to me on requisition such sums as may be required'. It was 'highly desirable' that he was told the maximum the government would pay for each block 'as a guide for my proceedings'. He would endeavour 'to purchase the lands at the most reasonable rate obtainable', and 'in most instances' would make reserves inalienable. He expected that it would take some years to pay for large blocks.<sup>432</sup>

Two months later, he informed the Superintendent that, despite making progress in acquiring land throughout Hauraki, no purchases had been finalized. 'I have made considerable advances on account of these purchases, having either paid for, or made myself privately responsible for, goods and stores amounting to £1,367 1s 5d'. He had applied to the government to recoup money paid from his private funds.

Unless the General Government can make some alteration in financial matters, so as to make it as easy to purchase for the Crown as for private persons, the acquirement of these lands will be tedious and difficult. The great point in buying land from Natives is to be able to have money at command to take advantage of favourable opportunities.<sup>433</sup>

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<sup>432</sup> James Mackay to Minister of Public Works, 24 January 1872, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

<sup>433</sup> James Mackay to T.B. Gillies (Superintendent, Auckland Province), 20 March 1872, printed in *AJHR*, 1873, G-8, p. 7.

In response, the Superintendent advanced him £2,000 to enable him to negotiate when attending Taraia's tangi, held in Ohinemuri, for being able to conduct negotiations 'promptly' meant a great saving to the colony.<sup>434</sup> A settler estimated that Mackay spent £3,000 at this tangi, and Mackay later explained how he had exploited the situation. Although Kingite Maori would not take 'the Governor's money', they 'joined the friendly natives (secretly) in procuring some thousands of pounds worth of flour, sugar, tobacco, tea, bullocks, sheep and clothing'.<sup>435</sup>

When Mackay's methods were investigated in 1939 it was shown that he allowed owners 'to obtain goods from storekeepers as advances' on the purchase of Ohinemuri land, storekeepers sending him accounts for the goods supplied, for which they received promissory notes.<sup>436</sup> A form enabling owners to obtain goods from a Paeroa storekeeper had been produced in the land court:

To James Mackay Esq,  
Agent Native Land Purchases,  
Immigration & Public Works Act.

Please pay Mr C.F. Mitchell the sum of ----- and charge the same against my lands at Ohinemuri which I agree to sell to you on behalf of the Queen.

Signed.<sup>437</sup>

In January 1875, the *Thames Advertiser* reprinted an article in the *Otago Daily Times* highly critical of the use of the raihana system in the North Island:

The natives, generally speaking, are extremely loth to part with their land, especially in large areas; and it is only by dint of continued and long importunity on the part of the Government agents that they are induced to sell. This badgering is often carried to an aggravating extent. The solicitations of a smart life insurance agent are a joke compared with it.... Frequently ... the

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<sup>434</sup> T.B. Gillies to Colonial Secretary, 4 April 1872, printed in *AJHR*, 1873, G-8, p. 7.

<sup>435</sup> Evidence of John Thorp, n.d., and memorandum of James Mackay, 26 August 1875, cited in Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 423.

<sup>436</sup> 'Maori Petitions re Hauraki Goldfield', p. 59; see pp. 59-66 for investigation into whether Mackay then paid these accounts.

<sup>437</sup> Maori Land Court, Hauraki Minute Book no. 14, p. 233.

practice of making “advances” in the shape of goods is resorted to for the purpose of facilitating the purchase. We believe, in fact, that in rare instances alone are purchases effected without “advances” having been made. A negotiation is often begun in this way. The Maoris in a kainga get hard up, usually because they are too lazy to work, whereupon a Land Purchase Commissioner, or some other native official, appears on the scene, and the distress is relieved by the distribution of orders upon neighbouring storekeepers for food and clothing. They are fairies’ gifts. They are not earned, and the recipients are sure to have to repay them at some time in an unpleasant fashion. It is understood that the goods are to be paid for when the natives get in more prosperous circumstances; but somehow or other these circumstances never arrive. On the contrary, fresh “advances” are needed periodically, until at length the natives are hopelessly indebted to the Government. Meanwhile the Commissioner seizes the opportunity, now and again, to have a talk about “the land,” and, when all things are ripe, the Government puts the screw on, and the natives see some coveted block drift out of their possession.... So far as the natives are concerned, there could be nothing more unfair than this system of advances. It is, in many cases, to describe the process in plain English, tricking them out of their land.... The real objection to the “advances” is that they are part and parcel of a system by which land is acquired from the natives in an indirect manner, instead of the frank dealing required by the dignity of Government and common honesty.<sup>438</sup>

This Thames newspaper understood the consequences, as a June 1874 editorial indicated:

As an instance of how the money goes, we must say that a host of natives have been living here for weeks past, patronizing the storekeepers, publicans, and drapers most lavishly, and it is believed that the money is coming from the government payments on land in a vague way. The bills which the natives run up are, we believe, sent in to Mr Mackay, who the other week paid £250 to one draper for goods obtained by the natives.<sup>439</sup>

At the end of August, Mackay wrote a memorandum about his dealings with several blocks. In 1872 two-thirds of the chief owners of Ohinemuri, members of Ngati Tamatera, were Hauhau, the remainder being ‘loyal’. The Superintendent was exerting ‘great pressure’ to buy the land and open it for

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<sup>438</sup> *Otago Daily Times*, n.d., reprinted in *Thames Advertiser*, 26 January 1875, p. 2.

<sup>439</sup> Editorial, *Thames Advertiser*, 15 June 1874, p. 2.

mining, but Hauhau refused to take 'the Governor's money'. Then Taraia Ngakuti died.

As usual on such occasions a very great feast was contemplated, and although the obstructives would not take money they joined the friendly natives (secretly) in procuring some thousands of pounds worth of flour, sugar, tobacco, tea, bullocks, sheep and clothing. The cost of these supplies was arranged to be placed against the Waikawau block in the first place, but as some members of the tribe had no interest in it portions of the first and subsequent advances were charged to the Moehau and Ohinemuri blocks. Subsequently large numbers of the Hauhau party for the first time openly joined in the land purchase negotiations which were progressing most favourably and the price was nearly arranged with them, and some signed a preliminary deed for the Waikawau block, when the murder of Timothy Sullivan at Waikato in April 1873 threw everything into confusion and the ultra Hauhau party for a time became troublesome. I at the request of the Government went to Waikato as their Agent, and was there engaged for about fourteen months.... The natives at Ohinemuri having at the time of Taraia Ngakui's death acquired a taste for European food and clothing, became clamorous for further payments, and when these were refused went to storekeepers, procured goods, and gave orders on me for payment, which they directed to be charged against one or other of the three blocks (Ohinemuri, Moehau and Waikawau). I left Waikato at the end of June 1874 and at once endeavoured to complete these questions, which had all to be gone over again. Before I could satisfactorily arrange matters on the original basis, I was compelled to devote my whole attention to the Ohinemuri question, as the then Superintendent of the Province and the mining population had become excited about the opening of the block for settlement and mining purposes.

As a consequence, Ohinemuri was acquired, with McLean's assistance, 'after many long and weary discussions'.<sup>440</sup> In November, in response to public criticisms of raihana, which he translated as 'meaning orders for goods, taken from the word license; or from orders for rations, raihana, during the war', Mackay publicly justified his policy:

I have never asked any native to take orders for goods in payment for his land in lieu of cash. I have, although a Land Purchase

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<sup>440</sup> Memorandum by James Mackay, 26 August 1875, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

Agent, very seldom asked a native to sell land to me. The difficulty I have to contend with is of a very different class. It is, to withstand the innumerable applications made to me for money and goods, and to find out which of the persons asking for payment or preliminary deposit is entitled to the land. The result of giving orders for goods is not at all satisfactory to me as seen from a pecuniary point of view. I have to pay the storekeeper whether I get the land or not; and I frequently lose money by mistakes in accounts, and by natives repudiating the receipt of articles which they have applied for on behalf of their friends and relatives. I gain no advantage by giving orders for goods, as I claim neither profit on them or interest on the money, which I frequently pay to storekeepers long before it can be charged directly against the land, and be refunded by the Government. I have heretofore given these orders to oblige the natives, and to enable me to obtain lands which they would not sell for money down. It must not, however, be assumed that I have paid for land with goods only. Many blocks have been purchased for cash, and nothing else; in all other cases the payment has been in money and goods. Now as regards the goods given, the articles for which the natives have been charged are blankets, coats, trousers, waistcoats, shawls, pieces of print, flannel, calico, boots, hats, and other articles of clothing; all of which would be approved of by the Trust Commissioner. All he would require would be to know the amounts paid for goods. This does not trouble or afflict me, as my books show the exact amounts I paid to the storekeepers, and no more. No profit or interest has been charged on the transaction, and not one penny of commission or discount has been received by me, directly or indirectly, from any person supplying stores on my orders. Next comes the question of things eatable and drinkable. I have charged for tons of flour, sugar, rice, biscuit, and potatoes (for food and seed) supplied to meetings or food in bad seasons. Now as to waipiro: the only fermented or spirituous liquors ever supplied through my agency and charged were for two celebrated uhungas [funerals, one being for Taraia] which took place in 1872. I have given many a native a glass of beer, wine, or spirits, or even a bottle, at his earnest solicitation, or through friendship, but I never put these down in his account against his land, but paid for them out of my own pocket.<sup>441</sup>

The newspaper did understand the practical justification. ‘The difficulty was to induce them to take money, although they had no objection to receive goods. The Hauhaus had bound themselves not to take money,

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<sup>441</sup> Letter from James Mackay, *Thames Advertiser*, 14 November 1874, p. 3.

but had no scruples about receiving money's worth, hence the raihana system'.<sup>442</sup>

In September 1875, when parliamentarians examined the methods used to open the Tairua block, considerable evidence was produced about land acquisition throughout Hauraki and beyond by Crown agents. One land purchaser, William Henry Grace,<sup>443</sup> was blunt about Mackay's dealings:

The Natives in the Thames have received a great deal of money through orders. I know one instance where a Native had got an order from Mr Mackay, and I went to the store with him, and told him not to produce the order till we knew the price of the goods. We selected the goods, and he told us the price. When the Native pulled out the order, the storekeeper said that he could not supply the goods at the price he had named on an order from Mr Mackay. One piece of woollen stuff, I recollect, was named at 2s 6d per yard; but the storekeeper said he must charge 3s 6d a yard for it on an order. He said, "I cannot supply the goods unless at that price. If cash were paid I could sell it at 2s 6d; but as it is an order from Mr Mackay, you must pay 3s 6d." In several instances storemen have offered me commission if I would take to them all the orders I could get.

Are these orders made upon any particular storemen? – All orders for flour or sugar, or articles of that kind, were made upon Mr [Joshua Walter] Adlam [a grocer];<sup>444</sup> while Goldwater, Williams, or Wilson [three drapers], always received the orders for drapery goods.

Could you have taken orders to any other? – No; the order was made out upon the particular storekeeper.

Who made these orders out? – [Gerald Richard Disney] O'Halloran [Mackay's clerk and brother-in-law]<sup>445</sup> used always to make them out. I know that a private individual at that particular time was dealing with Natives, and he said they might have flour and sugar. They got it at £16 a ton, while Adlam was

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<sup>442</sup> *Thames Advertiser*, 23 December 1874, p. 3.

<sup>443</sup> See *Observer*, 11 June 1910, p. 4; *King Country Chronicle*, 25 October 1913, p. 5; *New Zealand Herald*, 9 June 1933, p. 12.

<sup>444</sup> See *Thames Advertiser*, 3 March 1877, p. 3, 17 May 1879, p. 3, 29 July 1879, p. 2, 10 October 1879, p. 3, 24 October 1879, p. 3, 30 October 1880, p. 3, 12 March 1888, p. 2, 3 February 1899, p. 2.

<sup>445</sup> See *Thames Advertiser*, 7 August 1875, p. 2, 30 August 1875, p. 3, 13 October 1875, p. 2, 15 October 1875, p. 3.

charging the Natives for flour – not first-class flour - £20 a ton on these orders.

Are these orders given for goods, or are they for any particular amount of money on the face of them? – These orders state that so and so wants so many yards of cloth, or so many blankets and shawls. No price was put down. The Native took that order; of course, he never saw the bill.

Were these orders given in payment for land? – Yes; the Natives were not paid in money but by these orders. I have known Natives say “Give me money,” and to be told that the Government had not sent any money, and that they could not have any.

Do not the orders purport to be for articles to such an extent? – No; I never saw an order made in that way. I have made out a list of orders. I used to assist O’Halloran, as he did not speak Maori. The Maoris were asked what they wanted, and they would say so many shawls, and that would be put down, and so on, in the order. The Native never knew how much money he was going to get.

Grace explained that, ‘when it came to a settlement, it was found that this particular tribe owed so much money, and the question came, what land it was to be charged to. When these orders were given the land was probably not surveyed, and it was impossible to tell how much each was entitled to’. He had declined to accept any commission from storekeepers, and ‘would not like to say’ that Mackay or O’Halloran had received commission.

Do the Natives generally take the orders themselves? – Yes.

And they did not know what they paid for the goods? – No, unless they asked the storeman....

I understand from your evidence that the Government at least have a great power of patronage in selecting the people on whom these orders are given? – Yes, the Natives knew that they could not give a good title to a private individual, but by coming to the Government they would receive some money at any rate. When they came to settle up, all the money was mixed up in a total and charged to land....

The Natives could not go to any shop they liked; they had to go where the orders were directed to.<sup>446</sup>

Gerald O’Halloran described Maori obtaining ‘advances for goods’ from Mackay, or, in his absence, himself. Sometimes he accompanied Maori when

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<sup>446</sup> ‘The Tairua Investigation’, *AJHR*, 1875, I-1, pp. 33-34 [names of questioners and numbers given to questions omitted].

they went to the storekeeper, and denied that any particular storekeeper was favoured, though agreeing that some received more orders than others.

How did these people get paid? – They used to bring in the accounts, and sometimes Mr Mackay would give them promissory notes for the money when he had no Government funds; at other times he paid cash. The orders accompanied the accounts.

They can all be found then? – Most of them, I think.

Were the orders sent to Wellington? – No.

What papers were sent to Wellington? – Simply the vouchers, which were on the Treasury form, the Contingency Form. The Natives acknowledged to have received a certain sum of money on account of the purchase of a certain block.

Were the orders you gave the Natives orders for so much money or for goods? – For goods.

There was no specified amount of money? – No.

He claimed that Maori ‘arranged with the storekeepers as to the price, and if not pleased they sometimes would come back and have their orders changed from one place to another’. He denied knowing they were charged more for their goods, and said they never complained to him. ‘Have you yourself taken any trouble to see whether the Natives got articles at a fair price? – I have always considered that the charges made were fair. I have looked through the accounts to see if there were any overcharges’. Asked whether storekeepers offered him a commission to have orders sent to them, he responded: ‘I think they have. I can hardly be sure’. He insisted he had never taken a commission, and was not aware of any of Mackay’s staff receiving these. Asked if he had ‘any idea of the total amount’ paid by orders, he could not give a figure, but agreed it might be ‘several thousand pounds’, paid over ‘three or four years. Sometimes large sums were paid to them in cash’, as in the case of Tairua. He denied that either himself or Mackay benefited ‘directly or indirectly’ from raihana.<sup>447</sup>

After this evidence was given, Mackay made a statement to the investigation committee denying that he or any of his staff received any financial advantage.

The only reason which actuated me in giving orders for goods to Natives were either for their own convenience, or to enable me to ultimately obtain land for the Government by that process, because there were many Hauhaus who refused absolutely to

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<sup>447</sup> ‘The Tairua Investigation’, pp. 35-37.

receive the money, as they said it was marked with the superscription of the Queen, and they would not acknowledge her authority; but, nevertheless, they had no objection to taking goods either directly themselves or indirectly through their relations, the price of which was eventually to be charged against their lands. I have also caused to be built some eighteen substantial weather-boarded houses for Natives, at prices varying from £100 to £400, and in many cases procured the furniture for the same at the owner's request. I have supplied numerous boats, agricultural implements, and large quantities of wire and other fencing, which have been of great advantage to the Natives, and more likely to yield them permanent advantage than direct money payments, which would have been immediately squandered in drink.... I have purchased several blocks of land for cash only – among others, the Tairua block, which forms the subject of this investigation – and would prefer that to any other system as being less troublesome and expensive to me, though I doubt if it is as advantageous to the Natives. I have always endeavoured, as far as lay in my power, to see that articles supplied to Natives on my order were of good quality and of reasonable price.... The Hon. the Native Minister has recently issued instructions that no advances in the shape of goods are for the future to be made on Native lands. The circumstances of the case are now altered, and the most obstinate Hauhaus who formerly took goods and would not touch money have lately accepted it. In the first instance, it was the only way to break down the barrier of exclusiveness set up by the King party.<sup>448</sup>

After this enquiry into Mackay's dealings, the *Thames Advertiser* condemned 'the obnoxious system' established in 1872, described it as a 'Government trap' set with 'enticing bait':

A certain number of would-be sellers found it easy to obtain unlimited supplies of goods from the privileged commissariat staff of the Land Purchase Officer, and by these means something may be said to have been paid to a few owners of nearly every block extending from Cape Colville to Te Aroha.... The real owner or owners may find that others who have little or no claim have sold their lands for them.<sup>449</sup>

Maori also complained about the system. In December 1875, after the damage was done, Hoani Nahe told Sir George Grey that they were 'very

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<sup>448</sup> Statement of James Mackay, 7 October 1875, 'The Tairua Investigation', p. 45.

<sup>449</sup> Editorial, *Thames Advertiser*, 23 November 1875, p. 2.

indignant at the practice of the Land Purchase Agent paying for the land by “raihana”’. Te Moananui, an opponent of land selling, complained that ‘in some cases a pipe or a glass of grog only was given, and when the storekeepers made out the account they put in what they liked, and my land had to go’. Tukukino,<sup>450</sup> another ‘obstructionist’, told Grey that ‘Ohinemuri was not paid for in a proper way. It was taken out in adultery with women, and in rum and flour’. Some of his land was sold without his knowledge. Grey assured them he would answer their complaints, later,<sup>451</sup> but never did.

With prices for consumer goods high and for Maori land low, much land could be lost for a small return.<sup>452</sup> The expensive tangi for Taraia in 1872 was estimated to have cost ‘some 20,000 acres of land at 3s per acre. Having removed the free market in land, the Crown was the body setting this price per acre’.<sup>453</sup> As some recipients of raihana had interests only in Ohinemuri, acceptance of goods opened the way for Mackay to force its opening.<sup>454</sup> This process began with a large meeting at Whakatiwai, on the western side of the Firth of Thames, in August 1874. This great feast was believed to be ‘perhaps the greatest that has ever taken place in the Hauraki district within the memory of Europeans. Mackay, ‘the moving spirit’, helped to arrange where tents should be erected, nearly causing a walk-out by Ngati Maru when he pulled down Te Karauna Hou’s<sup>455</sup> tent for being erected in the wrong place. He was described as ‘shouting here, cajoling there, and ordering (uncharitable people would say bullying) everywhere’.<sup>456</sup> Amongst those attending was Wiremu Turipona,<sup>457</sup> an Anglican deacon based in Thames, who wrote a brief and remarkably benign report of events (apart from his regrets at the lack of interest in attending worship). He estimated that ‘2,000, or more’, were present, and was impressed with the amount of food supplied, estimating it would have

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<sup>450</sup> See paper entitled ‘Maori and Pakeha at Te Aroha: The Context: 2: Maori in Hauraki in the Nineteenth Century.

<sup>451</sup> *Thames Advertiser*, 6 December 1875, p. 3.

<sup>452</sup> See prices in Monin, p. 237.

<sup>453</sup> Monin, p. 238.

<sup>454</sup> Monin, p. 239.

<sup>455</sup> See paper on his life.

<sup>456</sup> Special Correspondent, ‘Whakatiwai: The Native Meeting’, *Thames Advertiser*, 14 August 1874, p. 3.

<sup>457</sup> See *Thames Star*, 24 September 1896, p. 2; he had no involvement in Te Aroha mining.

cost £3,000. 'Mackay was very liberal in feeding this great gathering. In my opinion the Pakeha spent much money in buying food for them. Beside the large gift of food, he gave them food every day, a ton of potatoes and two cows. This is a kind Pakeha to the Natives of New Zealand'.<sup>458</sup> It did not occur to him that Mackay was not really being 'kind'. Once the korero started in earnest, Mackay 'startled them not a little':

He told them plainly that if they took care of themselves the land was sure to be well looked after; but that there was not a portion of it from Moehau (Cape Colville) even up to the Aroha that had not been dealt with by him in some way or other. He said that he had only been a short time at Whakatiwai, but he already had his pocket full of receipts from natives for value received, whereupon he produced them out of his pocket, and threw them on the ground, so they could assure themselves of the fact. He said they must not blame him, for they (the natives) actually forced themselves on him, and did not believe they would take nay unless he would knock them on the head with a tomahawk.

Even when he was in Waikato, owners kept going to storekeepers and obtaining provisions 'to the extent of £50, £70, and £300, and then write to him and tell him to pay it. This shook some of the anti-land sellers from head to heel, and there were loud cries for him to give up the names of the natives who had acted in this way, but he did not gratify their curiosity'. He emphasized that 'it was not a case now of a few wanting to sell, and the majority against, but the majority had now sold, and the few only were against. A speech of this sort set them all talking at once'.<sup>459</sup> After the evening meal, Maori 'took themselves to their tents, and there talked each tribe by itself' about the charge that they had secretly sold interests in Ohinemuri and Aroha. A chief of Ngati Maru was heard 'exhorting the others to up and tell all, as it was foolish now to attempt to keep the matter secret'; after a long pause, some spoke of taking raihana for other blocks. A correspondent who was present considered that it 'certainly cannot be the police of the Government, to have these native land purchases carried on in any secret or underhand way' or in a manner 'prejudicial or offensive to the principal native chiefs'. As Mackay's absence in Waikato during the

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<sup>458</sup> Rev Wiremu Turipona to 'Friend Bishop', 1 September 1874, printed in *Church Gazette*, 1 October 1874, p. 147.

<sup>459</sup> Special Correspondent, 'Whakatiwai: The Native Meeting – Mr Mackay's Doings', *Thames Advertiser*, 20 August 1874, p. 3.

previous 15 months had 'to a certain extent precluded him from holding periodical meetings with the Thames tribes, and informing them as a body of what lands were being sold or tendered for sale by some of their people', he felt Mackay should clarify the matter. A 'thorough explanation' would show that they had 'only themselves ... to blame', and reveal which lands they retained. Mackay's 'sneering assertion' that every block had been 'treated for' made it

all the more necessary that some information should be given to the tribes, so that they may know whether or not their lands had been sold by themselves, in a way fair and creditable to both them and the purchaser, or whether others, having perhaps no right or claim, have, whilst incited by the greedy love of gain, bartered away to a not too particular and over-worked land purchase agent, or his ignorant employees, lands to which they had no title, and the inheritance and property of others.

Mackay providing this information 'would tend to allay the fears and distrust of the natives, and be the cause of making the land purchases, whatever they are, more binding'. As Te Hira had stated that Ohinemuri 'must not go as payment' for raihana, and that those who received payments 'must find land for it elsewhere', unless Mackay was 'fortunate enough to have the old gentleman himself in his books he will still prove to be, as he always has been, an almost unconquerable obstacle'.<sup>460</sup> (As indeed he remained; in the following February Mackay stated that Ohinemuri was 'like a box. Te Hira holds the key, and the name of the key is "hold fast"').<sup>461</sup>

On the last day of the meeting, Taipari supported Mackay's stance:

We have done now with talking about love and kindness; we have already been two or three days talking about that. We must talk now about this trouble that has arisen through these raihana or orders. It is like a man who has a horse when he is brushed; if well done and made his skin shine, someone wants to buy it, which after he has done and paid his money, he cannot, when the horse looks bad and gets a rough coat, go and demand his money back. Again, if water and salt is put in the one box, and the water

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<sup>460</sup> Special Correspondent, 'Whakatiwai – The Native Meeting', *Thames Advertiser*, 21 August 1874, p. 3.

<sup>461</sup> *Auckland Weekly News*, 20 February 1875, p. 11.

gets in contact with the salt, you can no longer find the salt; it is lost amongst the water.

When Te Hira stated that he did not interfere in others' land and that nobody had any right to sell his, Mackay responded that his sister, Mere Kuru, and his grandchildren and nephews had received money, implying that Te Hira was obtaining money indirectly. Te Hira responded that it was 'wrong for you to charge me with what Karepe and others of my relatives have done', and insisted that only the Governor and Donald McLean could settle the dispute. Mackay insisted that he could settle it, but despite declaring that Ohinemuri was 'open now' was unable to produce the exact amount advanced for land from Cape Colville to Te Aroha, merely estimating it to be 'something like £20,000. If you agree to give the lands that were intended as payment for the money, we can meet together at a future day, and separate the amounts for each block'. Told that he should have put a stop to raihana whilst in Waikato, Mackay responded that he did, 'but they went on the sly' to a Paeroa storekeeper 'and got what they wanted'.<sup>462</sup>

A *Thames Advertiser* editorial noted the 'strong disinclination on the part of leading Ohinemuri chiefs' to discuss their lands 'in the presence of strangers and listeners' and their 'implacable opposition' to part with any land. Clearly many owners had bartered away their interests, but it was 'not quite convinced that the result achieved justifies the means that have been used to obtain it'. It disapproved of 'the vicious system' of raihana that permitted Maori to 'run up a debt in buying their lands by means of stores; or as one of the natives sarcastically described the goods supplied – by means of "rum, matches, and needles" '. Many of those who had obtained raihana had been 'following Europeans about' offering land for sale, 'whether they own any or not', and their interests 'could have been bought at any time'. It disapproved of the 'miserably lame attempt', not in accordance with a 'spirit of fair-play', to prove that Te Hira was involved 'because his grandchildren had taken some of the stores so liberally offered' or because he benefited from land sold outside the district. The meeting had revealed the methods used:

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<sup>462</sup> Special Correspondent', 'Whakatiwai – Termination of the Native Meeting: The Important Land Discussion', *Thames Advertiser*, 24 August 1874, p. 3.

Allow certain drunken and unprincipled natives to enter at will into stores and take whatever they thought proper. The storekeepers' accounts seemed then to have been taken and recognised by the government, at once charged the same against the lands and the natives, and thus by buying, as it were, the storekeepers' debts, the Government of New Zealand obtained Liens out of the Ohinemuri country.

Because Mackay's friends claimed he was 'not responsible for the peculiar manner' in which Maori were encouraged to become indebted to certain storekeepers because his work required him to leave the district 'and leave the work without supervision or control', the newspaper agreed that the government had committed a 'great blunder' by allowing him 'to retain two appointments, and to carry land purchasing by deputy'. There was too much 'mystery' about land purchasing, with private individuals buying land 'over the heads of government agents' and Maori neither being dealt with openly nor being paid in money only. 'Why can't the land transactions take place with large meetings of natives, where every one interested can be present and hear what is going on'. The editorial concluded with advice for the landowners, and especially Te Hira and his followers:

If they wish to keep the bounds of their lands, they will at once open Ohinemuri. It must be apparent to them that they will lose every acre if they continue the present system and the only way to save the remnant is to adopt the policy pursued by the Shortland natives, who are now wealthy land owners. They cannot stem the tide, and the only chance for them is to go with it.<sup>463</sup>

The subsequent editorial considered that Ohinemuri could be opened 'if the government will speak the word' because the owners had accepted this argument. They could 'in the course of time become wealthy landlords, and enjoy splendid incomes without parting with their birthrights'.<sup>464</sup>

At the beginning of September a letter-writer reported that Te Hira had told him that he would 'do nothing through Mackay, on account of the raihana truck system, and whatever he may do will be done through Donald McLean. He does not believe in the bounding style of Te Make [Mackay] and

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<sup>463</sup> Editorial, *Thames Advertiser*, 24 August 1874, p. 2.

<sup>464</sup> Editorial, *Thames Advertiser*, 25 August 1874, p. 2.

his “toru kapa mo te eika”’,<sup>465</sup> meaning ‘three coppers for the acre’,<sup>466</sup> coppers being pennies. Nor would McLean have anything to do with raihana, insisting, when Mackay was authorized to conclude his negotiations for the Aroha Block, that ‘the system of assuming liabilities for debt which natives may contract is to be discontinued’ and they must be paid ‘in Cash’.<sup>467</sup>

### THE FINAL NEGOTIATIONS

In early November, Mackay held a meeting of all Maori living on the peninsula as far south as Te Aroha to decide which lands would be given up. By then, the *Thames Advertiser* was less sympathetic to the owners:

For the last few years, the natives of this district have been living off the Government apparently as much as from the labour of their hands, and of course this must come to an end sometime. They have gone from one “Uhunga,” or crying match [lament, mourning],<sup>468</sup> to another, and on each occasion there has been unlimited flour and sugar, and generally unlimited beer and rum. The Government now wants to “square up,” and to see how much land they are to get. Ohinemuri must go; the natives have not land enough elsewhere to pay for what they have received.<sup>469</sup>

An Ohinemuri correspondent rejoiced that its opening was almost accomplished. A preliminary meeting of a few rangatira, ‘all confirmed “opening” men’, was to be held, and reportedly Te Hira had ‘given the Open Sesame,’ so it must be all right’.<sup>470</sup> ‘Unpleasant rumours’ of interference by ‘certain Pakeha-Maoris – in combination with one or two land-sharks in Auckland’ prompted the *Thames Advertiser* to hope that they would not prevent the opening. ‘A small printed circular – got up in Auckland we are told and printed there’, had been circulated in Ohinemuri, and although

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<sup>465</sup> Letter from ‘Only three ’Possum Power’, *Thames Advertiser*, 1 September 1874, p. 3.

<sup>466</sup> Ryan, pp. 10, 17, 26, 46.

<sup>467</sup> Donald McLean to James Mackay, n.d. [c. 24 November 1875], Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

<sup>468</sup> Ryan, p. 48.

<sup>469</sup> *Thames Advertiser*, 4 November 1874, p. 3.

<sup>470</sup> Ohinemuri Correspondent, *Thames Advertiser*, 9 November 1874, p. 3.

their plans were ‘likely to miscarry’, these ‘mischievous individuals’ should be exposed.<sup>471</sup> The circular, written in Maori, read:

Hold on! Hold on! Hold on! – Wait the arrival of Mr McLean. He is the principal man; he is the Minister for the Maori side. He will consider the correct regulations for the welfare of the people. The practice of issuing licenses is very wrong. It is a treacherous proceeding. It has neither head nor tail. – From Mr DICKSON.<sup>472</sup>

(Licenses meant raihana.) The author, E.V. Dixon,<sup>473</sup> an experienced local miner,<sup>474</sup> then went on to hint at Mackay’s ‘sharp practices’.<sup>475</sup> At a Thames meeting, some Maori praised Dixon ‘for showing forth the evil of the work of issuing licenses. It is a treacherous practice. That notice is quite right’.<sup>476</sup> In printing his circular, the *Thames Advertiser* commented that it was now too late to argue about raihana.

The licenses have been issued, and have been taken by those very Maoris who are now denouncing them. The only question respecting them is, whether the Maoris shall now give value in land for the money and goods they have received. We never heard the Maoris say a word against the system of licenses until these documents had accumulated to a considerable amount. They are now much in the same position as a lot of thriftless men who should meet to denounce the system of promissory notes after they had given a number.<sup>477</sup>

The *Thames Star* noted that ‘no one is better acquainted with the temper of Maori than Mackay, who was ‘perfectly aware’ that they had ‘very little scruple about repudiation when they can see the slightest chance of trying it on successfully’. It reported a belief that had been ‘put up to this by intriguing pakehas, who have ends of their own to serve which are unmistakably inimical to public interests, and calculated to seriously

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<sup>471</sup> Editorial, *Thames Advertiser*, 10 November 1874, p. 2.

<sup>472</sup> Printed in editorial, *Thames Advertiser*, 11 November 1874, p. 2.

<sup>473</sup> First names not known; not listed in Thames electoral roll either as Dixon or, as sometimes recorded, Dickson.

<sup>474</sup> See *Ohinemuri Gazette*, 12 January 1921, p. 2.

<sup>475</sup> *Thames Advertiser*, 14 November 1874, p. 3, letter from E.V. Dixon, 17 November 1874, p. 3, 19 December 1874, pp. 3-4.

<sup>476</sup> Report ‘from the whole tribe of Ngatimaru’, *Thames Advertiser*, 11 November 1874, p. 3.

<sup>477</sup> Editorial, *Thames Advertiser*, 11 November 1874, p. 2.

embarrass' Mackay's efforts. Such persons 'deserve to be held up to public opprobrium', As for Dixon, 'by his own confession' he had 'no private grievance to ventilate: his impudent interference in a public matter of such moment is therefore without excuse, and is deserving of general condemnation'.<sup>478</sup>

Pakeha living in Ohinemuri expressed 'great indignation' at the efforts of 'certain parties' in Thames to upset Mackay's plans. Maori had 'never been deceived as to the fact that they would have to square up for all cash and goods which they have received'; Mackay had 'never pressed them to take anything', and indeed had 'frequently refused to allow them to go in as heavily as they were disposed to do'.<sup>479</sup> One reporter attending the meeting was 'surprised' at Dixon's claim that most owners were against settling anything until McLean arrived: 'from my own experience the contrary is the fact'.

It is a great pity that private individuals are permitted to interfere in delicate land purchase questions with the natives. Mackay has the ball this time at his feet, I think; but there is "many a slip between the cup and the lip." If he should meet with any temporary check now, it can only be through the ill-timed interference and malice of disappointed land speculators. Should any such persons appear here just now, I reckon they'd have to clear out pretty smart, and one person especially, were he to show his face, would not be made too comfortable.<sup>480</sup>

(In December, Dixon was condemned for writing a letter for Te Moananui to send to McLean that included describing Mackay as a 'snake wriggling in the grass'.<sup>481</sup> And two rangatira, Tinipoaka Te Ngako<sup>482</sup> and Wi Koka (or Kotra) Unahi,<sup>483</sup> condemned him for taking (and publishing) details of their accounts, having extracting the information from one of

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<sup>478</sup> Editorial, *Thames Star*, 14 November 1874, p. 2.

<sup>479</sup> Ohinemuri Correspondent, *Thames Advertiser*, 13 November 1874, p. 3.

<sup>480</sup> Ohinemuri Correspondent, *Thames Star*, 13 November 1874, p. 2.

<sup>481</sup> Editorial, *Thames Star*, 12 December 1874, p. 2.

<sup>482</sup> See *Thames Star*, 14 September 1878, p. 2, 8 June 1881, p. 2; *New Zealand Herald*, 10 March 1879, p. 2; *Thames Advertiser*, 8 October 1880, p. 3, 2 September 1882, p. 2; he had no involvement in Te Aroha mining.

<sup>483</sup> See *New Zealand Herald*, 19 November 1868, p. 5; *Daily Southern Cross*, 4 January 1872, p. 3; letter from Wi Kotra Unahi, 1 February 1872, printed in *Auckland Star*, 3 February 1872, p. 2; he had no involvement in Te Aroha mining.

them when he was drunk, to undermine Mackay by claiming, falsely, that they did not understand them and had not received the goods.<sup>484</sup> Dixon defended himself against the charge of taking information when Tinipoaka was drunk, attacked Mackay's use of raihana to acquire land, and claimed the rangatira 'could not understand how their debts could have reached the amounts asked for'.<sup>485</sup> In response, Mackay's assistants insisted that when selling their interests Maori 'invariably went into every item of the account and were perfectly satisfied as to its correctness, before signing an acknowledgement to that effect'. Far from being mostly paid in food or raihana, Tinipoaka received '£508 17s in cash to himself or to his order', and Wikoka received £934 5s 4d. 'In every instance the accounts were gone into item by item and fully explained'.<sup>486</sup> Tinipoaka and Wikoka described Dixon's statements as 'false; that man invented all that statement', and 'false throughout; that statement is his own. Do not listen to that talk, it is very untrue'.<sup>487</sup>

At this meeting with Mackay, held at Rapata's settlement, a committee was formed to sort out ownership rights, with Rapata being one of the four representatives of Te Uriwha.<sup>488</sup> The policies of both sides were clear to the *Thames Advertiser*. Mackay wanted to charge 'as much as possible' of the £26,000 paid in raihana

on lands at Ohinemuri, and to leave the blocks between this and Cape Colville, on which moneys have been paid, over for the present. The natives, however, are not very easily caught; they see the "move," and adopt exactly the course best calculated to meet it. Mr Mackay says, "Let us settle about this £26,000, and begin at Ohinemuri and work downwards towards Cape Colville." "Oh, no," say the natives, "let us begin at Cape Colville and work upwards towards Ohinemuri. £26,000 is a big sum, but by the time you pay all that is due on Waikawau and on other blocks you will not have much left to charge upon Ohinemuri." This Mr Mackay will no doubt resist, for we understand that most of the

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<sup>484</sup> *Thames Advertiser*, 18 December 1874, p. 3.

<sup>485</sup> Letters from E.V. Dixon, *Thames Advertiser*, 19 December 1874, p. 3.

<sup>486</sup> Letters from Gerald O'Halloran and J.R. Guilding, *Thames Star*, 19 December 1874, p. 2.

<sup>487</sup> Letters from Tinipoaka Te Ngako and Wi Roka Unahi, *Thames Star*, 19 December 1874, p. 2.

<sup>488</sup> Ohinemuri Correspondent, *Thames Advertiser*, 11 November 1874, p. 3, 27 November 1874, p. 3.

licenses issued bear that the amounts are to be charged on lands at Ohinemuri.<sup>489</sup>

Because the district would not be opened if the government waited until every owner gave consent, the newspaper suggested proclaiming the ranges as a goldfield and paying those opposed to the opening the same amount received by other Maori for similar land.<sup>490</sup> Mackay wrote a long justification of his policy of raihana, demanding that his Maori critics either carry out the arrangements made for selling their land or refund ‘the money and goods advanced to them’.<sup>491</sup> When some owners delayed coming to his office to determine the amounts owing, Mackay lost his temper and told them that he ‘did not mean to be humbugged’.<sup>492</sup> Possibly as a result of this display of temper, ‘Te Moananui and his people’ did check their accounts.<sup>493</sup> McLean sent a telegram stating he was unable to visit Hauraki soon and urging rangatira to ‘conclude your talk (business)’ with Mackay. A reporter who travelled from Thames to Ohinemuri ‘could not help seeing’ that the owners there ‘were in a state of great complexity and trouble. They were amazed at the “dimmed total” of their indebtedness. They have been living nice pleasant lives lately, and have never thought of a day of reckoning, and are now astonished when they are pulled up sharp’. Those opposing opening the district were ‘tortured to think that the soil they almost worship must go, and yet cannot see any other way of escape. They will certainly attempt every subterfuge, and will propose every kind of compromise’, trying to give up the hills, which might or might not contain gold, and retain the flat land which could be cultivated.<sup>494</sup>

The *Thames Advertiser* felt this was ‘a most inopportune time for discussing’ raihana, a system it had always opposed because of ‘the liability to malpractices’ and because the land could have been ‘more easily acquired by other means’. Nevertheless, the money had been paid and Maori had got the goods and ‘used them, or wasted them. The natives never discovered any evils in the “raihana” till they were called upon to pay’. As Maori would

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<sup>489</sup> *Thames Advertiser*, 12 November 1874, p. 3.

<sup>490</sup> Editorial, *Thames Advertiser*, 14 November 1874, p. 2.

<sup>491</sup> Letter from James Mackay, *Thames Advertiser*, 14 November 1874, p. 3.

<sup>492</sup> Ohinemuri Correspondent, *Thames Advertiser*, 17 November 1874, p. 3.

<sup>493</sup> Ohinemuri Correspondent, *Thames Advertiser*, 19 November 1874, p. 3.

<sup>494</sup> Own Reporter, ‘Ohinemuri’, *Thames Advertiser*, 18 November 1874, p. 3.

receive 'ample reserves' of the best land, they would be 'well treated'.<sup>495</sup> Mackay opened another long meeting by stating that

his object was now to obtain a settlement and to ascertain what land was to be given as payment. He would propose that they should first find out what land in those blocks belonged to others; second, that they should find reserves for the different hapus of Ngatitamatera; and thirdly define what land was to be conveyed to the Crown. If this plan were adopted everything would be plain sailing, and there would be no confusion.

Argument immediately erupted, with Te Hira refusing to part with any land. He had told Mackay 'long ago not to allow the people to get cash and goods on account of this land, as I would not let it go'. Mackay repeated his key point: 'The money had been paid, and they would have to provide land as payment'. He claimed that 'it was only because he had positively refused to advance any more that the debt had not increased in amount since squaring the accounts'. And 'it was useless wasting so much time in holding meeting after meeting. Let the matter be settled once for all'. He wanted ten representatives to work with him 'to ascertain the interests held by the different hapus and individuals, what the amount of debt [was] due by each, and what land belongs to the other tribes, or has been already alienated'. When one rangatira claimed that, as 'Europeans would persist in advancing cash and goods', they 'were to blame' for the indebtedness, Mackay responded that he had received cash and goods. 'Who had tried to force goods and cash upon him?' As well, he had signed the deed conveying Waikawau to the government. After a meal, Mackay again urged them to appoint a committee. 'They would not find him hard to deal with', but 'if they would not come to terms peaceably, they would find him a difficult customer to deal with. Let them try, and see who would be strongest in the end'. Criticized again over raihana, he said that those who told him to cease this 'were among the first to apply for more. He would rather have paid them in cash, but they themselves had pestered him for orders to get goods'. After more 'altercation', Mackay said that 'if they would not come to reasonable terms he would take action to secure what was due to him, and would exact the last penny. It would be far better for them to meet him half way, and settle the matter quietly'. Later, he 'read out some of the letters which had been written to him, asking for money, in which they had stated

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<sup>495</sup> Editorial, *Thames Advertiser*, 20 November 1874, p. 2.

that the amounts were to be chargeable against their land in the Ohinemuri block'; when challenged, he provided more names and amounts.<sup>496</sup>

Over several days the ownership of particular blocks was determined, but as progress was slow Mackay's suggestion that two men from each hapu be elected to confer with him was accepted.<sup>497</sup> When some hapu stated that they would give up land to meet their debts, as they had no interests in land elsewhere, Te Hira 'retreated in disgust' and it was predicted that he would take no further part in discussions. 'He will not give his consent to the opening', but if other owners came to terms with Mackay, 'he will not try to stop them. He considers that he is not to blame for their having got into debt, and that, if Ohinemuri has to go in consequence, the fault will not be chargeable to him'.<sup>498</sup> In fact, Te Hira did continue to challenge Mackay, at the subsequent meeting warning, 'We are all killed by this demand. Hold on to it. Never mind if the pakeha is vexed. This is the end of the talk'. Mackay responded that his nephews had promised, in writing, to give up land. One rangatira said, 'I held fast to Ohinemuri till now, but Ohinemuri has killed itself. It is not the pakeha's fault; the natives themselves are alone to blame'. Another agreed that Pakeha were 'not to blame. You took his things easily enough, but now refuse to give him the land'. As some rangatira insisted on their right to determine what to do with their land, their 36 delegates worked with Mackay to determine ownership and reserves.<sup>499</sup> Te Moananui failed in his efforts to dominate deliberations, apart from reducing the number of delegates by ten,<sup>500</sup> but the runanga's attempt to obtain 10s an acre pleased him:

Formerly they had been fools, and sold their land for less than it was worth. They had more sense now. He supported the action of the runanga.

Mr Mackay then went in heavy. He said that when they had the cash and goods it was stated that the payment was to be made in land, and it was understood that the price should be in accordance with the established price for land of a similar description. He said that if a man ordered a bag of flour he would object to pay five times the value of it when he went to settle his account at the store. He was surprised that they should attempt

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<sup>496</sup> *Thames Advertiser*, 20 November 1874, p. 3.

<sup>497</sup> *Thames Advertiser*, 21 November 1874, p. 3, 24 November 1874, p. 3.

<sup>498</sup> Own Correspondent, 'Ohinemuri', *Thames Advertiser*, 25 November 1874, p. 3.

<sup>499</sup> Own Correspondent, 'Ohinemuri', *Thames Advertiser*, 27 November 1874, p. 3.

<sup>500</sup> Own Correspondent, 'Ohinemuri', *Thames Advertiser*, 28 November 1874, p. 3.

to evade paying their just debts. They would find that he could be as hard as they could.

Responding to Te Moananui's insistence on the higher price, he said 'he would not argue the matter. Let them now pay him the sum of £25,900 odd which he had advanced, and they could keep their land'. Te Moananui, claiming some of the flour received was 'bad' and that Mackay 'had given some things as presents, and then charged them against the land', continued to press for the higher figure. Mackay said that, as only three bags had become mouldy after being left in the weather for three weeks, he would not allow this objection. 'As to his giving anything as presents and then charging it against the land, he denied it altogether, as his accounts with the storekeepers would show the item "presents" charged to his personal account. He said he had always acted straightforwardly, in daylight'. Te Moananui had received two-thirds of his £2,000 in cash, and at the same time as he had declaimed against raihana at a meeting he had sent his wife to obtain £25. He rejected Te Moananui's statement that he alone could give up his tribe's land, and said his price of 2s 4d an acre was paid for similar land on the peninsula.<sup>501</sup> When Te Moananui persisted in urging other rangatira 'to leave the matter in the hands of himself and Te Hira', Mackay said that after three weeks of talking a decision must be reached, and encouraged other rangatira to agree to give up land: 'Settle your own debts. Let each one talk of his own'. Those who tried to renege on their earlier agreement to give up Ohinemuri land had their agreements read out aloud with Mackay's comment 'that it did not become chiefs to tell lies'. One rangatira 'said he would not deny having signed on Ohinemuri. He heard that all hands were getting cash and goods on account of Ohinemuri, and did not wish to be out of the fashion'. After continued quarrelling amongst rangatira, Mackay announced that 'he would proclaim Ohinemuri opened to the miners. He would withdraw his former prohibition, and call upon the miners to come and take possession', because the oppositionists had failed to meet him 'fairly'. Two rangatira then announced that they would give up Ohinemuri.<sup>502</sup>

On the day this press report was published, Mackay told McLean that the Hauhau and 'neutral' factions were proposing to cede the right to mine and to use goldfield revenue to meet the £15,000 owed for Ohinemuri. 'In

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<sup>501</sup> Own Correspondent, 'Ohinemuri', *Thames Advertiser*, 2 December 1874, p. 3.

<sup>502</sup> Own Correspondent, 'Ohinemuri', *Thames Advertiser*, 3 December 1874, p. 3.

the event of the country not proving auriferous, then land equivalent to the amount advanced to be conveyed to the Crown'. As arranging this lease would be easier than purchasing the land,<sup>503</sup> McLean immediately agreed, and ruled that the landowners would receive 'the fees from miner's rights and other revenue after advances made by Mackay have been recouped'.<sup>504</sup>

Te Moananui, not knowing of this exchange, asked McLean to ignore Mackay, 'who is like the snake wriggling in the grass' ready to bite people, and to visit Thames to decide the issue.<sup>505</sup> McLean agreed, which pleased the *Thames Advertiser* because Maori had 'confidence in him, and are inclined to listen to his counsel'.<sup>506</sup> While the 'opening party' and those opposed to opening Ohinemuri mustered to meet McLean, the newspaper mused about the possible outcome of the meeting. 'It is always difficult for the pakeha ... to speculate on the action which Maoris will take, and when the problem is further complicated by the addition of a hard-headed Scotchman who has been Maorified', presumably meaning Mackay but possibly McLean, 'who can be bold enough to say what the upshot will be?' It anticipated that, once the 'bitter and personal' quarrel between Mackay and Te Moananui calmed down, the hills would become a goldfield and the flat land would remain in Maori hands. It would prefer that all Ohinemuri be purchased, 'especially after we have paid a good price for it'.<sup>507</sup>

When all the Ohinemuri hapu met with Mackay in early December, they unanimously resolved 'that the gold should be given up, and that the land should be placed in Te Hira's hands, as trustee for the tribe'.<sup>508</sup> Mackay warned that he had consulted McLean and been given 'full power' to decide the issues and that McLean 'would not interfere with the business'. Although rangatira spoke in favour of giving up the gold and keeping the land, some feared losing the latter as well if gold was not found, which Mackay reminded them was a possibility. He then worked with 'representatives of the different hapus, laying off goldfields boundary,

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<sup>503</sup> James Mackay to Donald McLean, 3 December 1874, Maori Affairs Department, MA-MLP 1, 1881/246, ANZ-W.

<sup>504</sup> Donald McLean to James Mackay, 4 December 1874, Maori Affairs Department, MA 1, 13/54b, ANZ-W.

<sup>505</sup> *Thames Advertiser*, 4 December 1874, p. 3.

<sup>506</sup> *Thames Advertiser*, 5 December 1874, p. 3.

<sup>507</sup> *Thames Advertiser*, 7 December 1874, p. 3.

<sup>508</sup> *Thames Advertiser*, 8 December 1874, p. 3.

native reserves, and lines of road'.<sup>509</sup> Once that was concluded, one rangatira asked for a bonus for agreeing to the goldfield, which Mackay promised to consider. He 'would not draw back from' his offer of £300 to Rapata as a bonus. 'After everything had been settled in reference to the lands outside and here, he would consider whether the amount should be deducted from the debt owing'.<sup>510</sup> (Although the bonus was made a first claim on goldfield revenue, as the debt was never fully repaid it was not paid.)<sup>511</sup>

The meeting with McLean held on 11 and 12 December at Taipari's 'Pukerahui' meetinghouse was attended by a 'large number' of Pakeha. 'Very few of them, of course, could understand what was being said, but their presence showed the interest which is taken'. During the first day, taken up with speeches of welcome, Te Hira asked that he be left in possession of Ohinemuri, the only portion of his land to have 'escaped from the money'.<sup>512</sup> On the second day, Te Moananui complained that he had been trapped by a raihana system he (like all Maori) did not fully understand:

If my land is paid for with that which I do not know the cost of, I shall not know how much I am getting for it; if it were done in a straightforward manner in accordance with what I wish for it would be different. I thought there was good in that which I saw and wished for, but it was diverted and so a deep pit was yawning behind.<sup>513</sup>

He explained how land had been lost through raihana:

When Taraia died a lot of stores were obtained, and I said that I would give up a portion of my land in payment; the tribe liked and followed my example (of giving up land) in spite of my advice to the contrary; they obtained a large stock of provisions and it was agreed that a block of land extending from Te Puru to Taupo should be given up. After this I was told that this would not be

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<sup>509</sup> Own Correspondent, 'Ohinemuri', *Thames Advertiser*, 9 December 1874, p. 3.

<sup>510</sup> Own Correspondent, 'Ohinemuri', *Thames Advertiser*, 10 December 1874, p. 3.

<sup>511</sup> R.J. Gill to Native Minister, 29 July 1882, Maori Affairs Department, MA 13/35c, ANZ-W.

<sup>512</sup> *Thames Advertiser*, 12 December 1874, p. 3.

<sup>513</sup> 'Proceedings of Native Meeting at Thames December 11 and 12, 1874', pp. 8-9, MS Papers 2520, Alexander Turnbull Library.

sufficient payment for what had been advanced. I considered how to meet the difficulty, and then agreed to sell the Moehou Block. I asked after a time, "Is what I now offer sufficient?", the reply was: - No! No! The money was then charged against Ohinemuri and Te Aroha. I ask 10/- an acre.

When he asked McLean who invented the 'ration system', Mackay responded: 'It was you yourselves began it'. Te Moananui replied: 'I learn it from you', and asked what was the best payment for land: 'Is it guns, flour, Coils of rope, biscuit, spirits, or matches?' McLean said: 'Money is the correct payment for land'.

Mackay:

The ration system is your doing. He here read certain applications from Te Moananui and family for goods.

Te Moananui:

How many acres would it take for these?

Mr Mackay

Read telegram from Te Moananui to Sir Donald McLean in which he exonerated Mr Mackay from blame in connection with the "raihana" system.

Te Moananui

I requested you to stop the supply of goods by "raihana;" it was not stopped, it still went on....

Mr Mackay

... You have no good cause to complain of the ration system, for you have received payment for your land chiefly in money....

Te Moananui: I do not think that my land should be paid for with damaged flour, coils of rope and boxes of matches. I did not know the value of the articles I received, but I believe the prices charged for the goods were differently shown in the accounts; the accounts showed the amounts in thousands of pounds.<sup>514</sup>

Mackay said that when he 'received the supplies you raised no objection, why do you do so now'. Of the 50 tons of flour provided for Taraia's uhunga, only a small number were damaged.

You have seen the accounts before, but when it was proposed to make a final settlement you raise this question. I have paid large sums of money by your direction for orders, you said nothing about 10/- an acre then, nor did you complain, if you had asked that price you should not have received the money.

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<sup>514</sup> 'Proceedings of Native Meeting', pp. 13-17.

Te Moananui: The amounts charged in the accounts were in excess of goods supplied.

Mackay: You can examine the accounts for yourself, not one penny has been added, they are the same as what you signed for; each person had what he was charged with.

Te Moananui: It is not you, it is the pakehas who supplied the goods who are to blame for that; a glass of spirits which costs 3d (threepence) would be charged 6d (sixpence), and a bottle worth five shillings is charged at a much higher rate in the accounts.... It is the man who keeps the public house that has done this.

Mr Mackay

Name! That Sir Donald McLean may know.

Te Moananui

You all know how accounts are cooked....

Mackay: I cautioned the storekeepers against the issue of goods to the Maoris at Ohinemuri, and posted up a notice to that effect; the natives went to [Peter] Austin's and to [Phillip] Bennett's and could not get anything there; they then went behind my back to [Charles Featherstone] Mitchell's store and gave orders on me for £100, £40, £20, and £50<sup>515</sup> chargeable against their lands at Ohinemuri; I do not know what they got but I accepted the orders drawn on me, had I not done so some of you would have been imprisoned.<sup>516</sup>

Both Te Moananui and Te Hira complained of storekeepers inflating the prices of goods purchased through raihana.<sup>517</sup> When Te Hira then complained that storekeepers 'paid no attention' to him when he told them not to make advances on account on Ohinemuri land, Mackay responded:

What you say is right. I tried to stop them, but your people would not listen, but gave orders on me for various amounts from £10 upwards.

Te Hira

It was not your fault, but the fault of the pakeha.

Mr Mackay

It was your people also.... I will take the Gold at Ohinemuri for the rest of the advances and you retain the land.<sup>518</sup>

Later, Hirawa Te Moananui, Te Moananui's son, challenged Mackay's statement that 'that unless the orders were countersigned by' him 'they

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<sup>515</sup> £150 according to *Thames Advertiser*, 14 December 1874, p. 3.

<sup>516</sup> 'Proceedings of Native Meeting', pp. 18-20.

<sup>517</sup> *Thames Advertiser*, 14 December 1874, p. 3.

<sup>518</sup> 'Proceedings of Native Meeting', pp. 20-21.

would be valueless'. Mackay responded: 'Te Hira should manage his people better, in order that they should not adopt the ration system'. He repeated that he had said that 'no "raihana" should be issued', but that if he had not accepted the orders drawn on Ohinemuri 'they would have been imprisoned'. When Hirawa continued to blame Pakeha and asked that the issue be referred to McLean, Mackay rejoined: 'The pakeha did not go to the Maori and force him to take the goods, but the Maoris kept teasing for them'.<sup>519</sup> He stressed that Maori had gone 'secretly' to storekeepers despite his and Te Hira's disapproval. The latter warned of possible fighting, and repeated the demand for 10s an acre. McLean, for his part, avoided saying almost anything.<sup>520</sup> A renewed attempt to charge the debt against the Moehau and Waikawau blocks was again rejected by Mackay: 'What has been written down in black and white cannot be expunged'.<sup>521</sup>

At another meeting a few days later, Mackay said he had 'not been in a hurry to meet you to-day, because I wished to give you sufficient time to enable you, with the assistance of your pakeha friends, to concoct mischief, and schemes to libel, defraud, and annoy me'. He denied having wronged any of them. 'Since this meeting has commenced I hear that some of you object to your accounts, and others, who have engaged to sell land to the Government, have sold the same land or the timber on it to private persons'. He suggested a delay of 'a month to mature your nefarious transactions' before a final arrangement was reached.

I wish you to have time to complete all your double-dealing. I thought the accounts and all the questions were arranged openly and fairly at Ohinemuri. Each hapu and each person composing it came and went into every item of their accounts and satisfied themselves. If you now object to what was there settled, you can do so, but I shall stand on the uprightness of my conduct in the matter.

Several natives arose, and said they hoped Mr Mackay did not blame them for the acts of a few.

The question then dropped.

Mackay 'repeated his offer of 2s 4d per acre, and Te Moananui stuck to his 10s'. After 'some passages of arms' between Mackay and his leading opponents, a meeting of hapu was arranged at which Mackay would not be

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<sup>519</sup> 'Proceedings of Native Meeting', p. 25.

<sup>520</sup> *Thames Advertiser*, 14 December 1874, p. 3.

<sup>521</sup> 'Proceedings of Native Meeting', p. 24.

present.<sup>522</sup> Subsequently, another meeting was held at Taipari's meetinghouse, with McLean in attendance. Once more, Te Moananui wanted all other land to be decided before Ohinemuri was considered, and once more Mackay blamed Te Moananui for his tribe's position:

With regard to what Te Moananui has said about the licenses, these would not have been issued unless you and your people had come to me at Taraia's death and promised that the land should recoup the expenditure. It seems to me you are a most obstinate man, and that your reasoning is without principle. You got up at Ohinemuri with Ereatara [Taraia's nephew],<sup>523</sup> and said you were going to run the risk of receiving these advances, and would see what effect it would have upon your lands. Had it not been for the urgency of your request to receive these things, I should not have paid for them. So great was your desire for the things that we did not go into the matter of the price. I thought you were a man of honour, and I thought I was safe in making advances on certain lands. Complaints have been made respecting the prices charged, but these are not well founded, as these were the rates at the time. (Mr Mackay then referred to the manner in which disputes were settled amongst Europeans by arbitration.)

Te Moananui: Your observations may be all right, but who asked you to come down and lay down prices for my lands, or to make offers for my lands? It is true that I have sold lands, and that in former days I have received articles of little value for these lands, but now things are completely altered.

After demanding 'a fair price according to circumstances' he accused Mackay of using raihana 'to waylay and trip us up, to bring us within your net'. Mackay should not think that 'because you come and thrust Ohinemuri before us, that you are going to finish all in great haste. It will require some time to deliberate upon. It is for you to carry out the negotiations, and to lay before us something that will give satisfaction to the mass of the people'. Mackay repeated that he had never offered advances but that Te Moananui had 'asked for them' and that nobody had asked for 10s an acre when receiving advances. Te Moananui then insisted that he would make the decision, not lesser rangatira, and claimed to have warned Mackay when advances were made 'that you would find yourself in difficulties with respect to them'.

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<sup>522</sup> *Thames Advertiser*, 18 December 1874, p. 3.

<sup>523</sup> See *Daily Southern Cross*, 24 May 1870, p. 4; *New Zealand Herald*, 22 October 1870, p. 3, 20 March 1872, p. 2; he had no involvement in Te Aroha mining.

Te Hira appealed to McLean to be allowed to retain 'my remaining bit of land at Ohinemuri'. He had consistently wanted the district 'intact and undisturbed', and had warned both storekeepers and Mackay against raihana. When first Mackay and then a succession of rangatira said that the gold was being given up but the land retained, Te Moananui insisted that only he and Te Hira had the right to decide. Te Hira sympathized with those who were in debt, and wanted 'Ohinemuri to remain as a resting place for myself and my people. I exhort them to live in peace and quietness, with each other and with the Europeans'. His warning that 'if forcible means are used, then perhaps I shall resist' prompted McLean to speak for the first time:

It is not the wish of the Government that any undue pressure should be put on you to abandon the place where you live. You say you have nothing left for you; but you are mistaken. All that is wanted is the gold on [the] land; that is all. Your own people have consented to this gold being worked; and my advice to you is that you should have some consideration for them. The land itself will not be taken; all that is now wanted is the right to mine upon it. You know that I have always acted as a friend to you, and I now ask you to concede the right of mining for gold and to allow Europeans to prospect. Should gold be discovered, then it will be well; should gold not be discovered, it would not harm you. I think you might make this concession to me, as from your past knowledge you must know that I would not ask anything from you that would be injurious to you.... Why should you object to the taking of what is under the ground? At this place I see pakehas and Maoris living in amity and their children attending the same school and growing up together.... I am well aware that the young men will not always listen to you, and that they will not be prevented from benefiting themselves by disposing of the gold. They know it is to their advantage and to yours to agree to the views of the Government and to open up the land, and you should yield to their wishes, which are very reasonable.

Te Hira: What you say is true, but there is gold sufficient upon the blocks I have already agreed to sell.

Te Hira feared an unstoppable rush of miners and, should gold not be found, 'then the Government would seize the land for the advances that have been made'.<sup>524</sup> Other rangatira wondered how the gold was to be separated from the land, one describing Mackay as 'one who would completely overthrow our interests'. Tukukino claimed it had 'become a

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<sup>524</sup> *Thames Advertiser*, 21 December 1874, p. 3.

proverb that you, Mackay, are sacrificing the interests of the people', but Mackay rejoined that this was

unfounded, and I repel it. I came to Hauraki under the instructions of the Government, being a native of the Middle [South] Island. I have remained here ever since, and am especially a child of Hauraki. So far from sacrificing your interests, the confiscation of the whole of the Hauraki district might have taken place but for my interference.

Te Hira agreed, recalling how Mackay had removed the miners who had 'flocked up to Ohinemuri'. Mackay explained how much money Maori had received at Coromandel and Thames from goldfields revenue under the same system to be implemented at Ohinemuri, and cited Taraia's 'parting words': 'The land to us; the gold to the Europeans', and said that Taraia had told McLean, 'You can take the gold'. Te Hira repeated his fears that, after the gold went, the land would soon go also:

I am the only sufferer in respect of Ohinemuri – not any of those suffer as I do. I am the only one upon whom this trouble is brought, therefore I say, I shall fall there by reason of you all, for I have done no wrong. The people went behind my back and obtained goods. What is the use of persisting in this matter? I will not give way.

Mr Mackay: You did no wrong formerly, but you do wrong to-day in being so obstinate. Have consideration for your people. The gold is in my hand.

Te Hira: No.

Mr Mackay: I have it.

One rangatira blamed Te Moananui for starting the system of raihana, and warned that 'if you hold on to the gold we shall get into trouble about our liabilities. You and Te Hira will not be the sufferers, but the whole tribe.... It is for you to allow some regard for your people'. An attempt to adjourn the meeting to Ohinemuri was immediately rejected by Mackay because of the previous weeks of discussions. 'I told you at Ohinemuri that if you dealt fairly with me I would deal liberally with you. The land and the gold were given to me, I gave back the gold into your hands; if, however, this obduracy continues, I will go back and take the land also'. He insisted

that he was only taking ‘what was fairly given up to me’, and that what had ‘been put into my hand I will not give up’.<sup>525</sup>

That evening, possibly because Te Hira and Te Moananui found themselves in a minority, they met with McLean and Taipari to agree to cede Ohinemuri for mining ‘provided a short delay was accorded to them’, which was granted.<sup>526</sup> The following day, a *Thames Advertiser* editorial rejoiced: ‘The long looked for has come at last!’ The news that Te Hira had ‘withdrawn his opposition’ would inspire hope in Thames, where ‘the news flew like wildfire – it created great sensation’. After praising Mackay’s achievement, it turned to Te Hira:

He has led us a rare dance, certainly; he alone has withstood thousands, and been proof against every conceivable kind of influence. Money could not buy him; it was absolutely no temptation whatever. An old Maori chief, looking back at a long line of warrior ancestors, he could not think of living in a district where there was another rule than his own. What to him were the luxuries of civilisation, when his sole “mana” was gone? He had left Coromandel when it was opened, and abandoned all claims in the blocks of land between this place and Cape Colville, holding on, as he pathetically said, to the tail of the fish. Though worried and annoyed to a great extent by the conduct of his own people, and the solicitations of Europeans, the old man was always hospitable and courteous, and no one can lay anything to his charge. He has been perfectly consistent throughout, and has only yielded at last to the pressure of his own people, and the solicitations of his old friend the Native Minister. May he live to see Ohinemuri a great place! As to Te Moananui, he is blamed for double-dealing, but we have no proof to accuse him of that sin, and it must be acknowledged that he fought by Te Hira’s side with great skill and eloquence.<sup>527</sup>

In the view of a correspondent, the two rangatira acknowledged ‘that they were driven into a corner, and were unable longer to oppose the opening’; he believed their change of mind was caused by their need to obtain funds for a tangi.<sup>528</sup> According to William Fraser, the warden and magistrate, they ‘stipulated for some delay before completing the

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<sup>525</sup> *Thames Advertiser*, 22 December 1874, p. 3.

<sup>526</sup> *Thames Advertiser*, 23 December 1874, p. 3.

<sup>527</sup> Editorial, *Thames Advertiser*, 23 December 1874, p. 2.

<sup>528</sup> Thames Correspondent, *Auckland Weekly News*, 26 December 1874, p. 16.

arrangement', leaving time for Mackay to settle boundaries and define reserves.<sup>529</sup>

Under the leasing arrangement devised, the £15,000 debt remaining after Moehau and Waikawau were sold became a mortgage against miners' rights, encouraging Te Hira to expect that 'in this way the land could remain intact'.<sup>530</sup> In the following February, at the meeting held with Mackay and McLean to formalize this arrangement, the former stated that all income from miners' rights 'should go to discharge the debt of the people'. One of Te Hira's statements was bitter: 'Formerly I was the person everyone in the tribe looked to. Now they have turned against me'. Rapata, who had been seeking the opening since 1867, was silent.<sup>531</sup> Rangatira had no intention of losing their land, as one made clear to the officials: 'The skin of the land is in my hand, and the body of it (the gold) is in yours. Although I give you the flesh of the land, I kept the skin of it, and the golden parts have been handed over to you'. But he did 'not know whether it will be good for me or evil'. Another thought the government would 'try and take the land'. Te Hira told McLean that as he owned part of Ohinemuri and part belonged to the government, these areas needed to be delineated. 'I consider the land is our mat: therefore I say don't come and drag it from under us'. Te Moananui wanted to be able to sell kauri gum and coal. Another rangatira wanted to retain ownership of the trees and have his land 'made sacred as reserves'; as for the part acquired by the government, 'you can do what you like with it'. Mackay explained the goldfield boundaries, that miners could dig for all minerals, and that Maori would receive payment for all timber cut in addition to miners' rights. McLean said the government did 'not want to meddle with your reserves', and that Mackay was dealing only with resources they were not using.<sup>532</sup>

At a later meeting held at Rapata's settlement to discuss reserves, one rangatira was worried because he had no Crown grants for his land. 'I am losing my lands through surveys, and people getting goods and money through you; and devoured up by surveys and Crown grant fees, and other things I don't understand. You are stealing my lands'. Another noted that

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<sup>529</sup> William Fraser to Under-Secretary, Public Works Office (Gold Fields Branch), 31 March 1875, *AJHR*, 1875, H-3, p. 6.

<sup>530</sup> Monin, p. 242.

<sup>531</sup> *Thames Advertiser*, 19 February 1875, p. 3.

<sup>532</sup> Own Correspondents, 'Latest from Ohinemuri. The First Day's Meeting', *Auckland Weekly News*, 20 February 1875, p. 11.

the reserves were 'in the hands of Te Hira, but we, the younger ones in the tribe, go to sell parts to Europeans, and so cause difficulty'; his recommendation that 'all the younger men of the tribe' hold a meeting about this was approved. Te Moananui said the reserves must be 'locked up, and not allow any one to have raihana (rations) issued on account of' them, but agreed to leasing land to the government. McLean responded that the government did not wish to issue raihana, 'but the natives will come for them'. His recommendation that the government be their agent in arranging that they benefit from townships and other matters was supported by Te Hira: 'I find private Europeans are not trustworthy'. Regarding the reserves, 'you can have the flesh, but the bones are ours'. Te Hira would not permit anyone to survey and sell the land. 'As long as the debts of each separate person are settled, that is all that is wanted, and when all this is done let all the miners' rights come back to us'. Mere Kuru said that if no gold was found, 'the diggers will go away. Then I consider the debt is paid. They will have spoiled the land'. Several speakers wanted more money and to have more control over trees and gum. Hoera Te Mimiha<sup>533</sup> showed prescience: 'As to people saying that when the debt is paid the land will come back to them, he thought it all nonsense'.<sup>534</sup> Rapata wanted them to talk over problems with reserves 'and see whether it is right or wrong'. Although Te Hira remained 'very dark about the lands to be leased', he signed the agreement. After the signing, three cheers for the prosperity of the goldfield 'were heartily given by Europeans and Maoris', and cheers for Mackay were made 'con amore'. When Te Hira was cheered, 'the old gentleman, who appeared highly gratified by the compliment, stood up and waved his hat and whip in response'. Wilkinson, the land purchase officer, 'then proposed cheers for Rapata and those natives who had assisted in opening the field, and the utmost good feeling was shown on all hands'.<sup>535</sup> Although the agreement was not published in Maori, it was translated at

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<sup>533</sup> See paper on his life.

<sup>534</sup> Special Correspondent, 'Ohinemuri. The Agreement Signed. Second Day's Meeting', *Auckland Weekly News*, 27 February 1875, pp. 6-7.

<sup>535</sup> Special Reporter, *Thames Advertiser*, 26 February 1875, p. 3.

the five signings.<sup>536</sup> Subsequently, reserves were marked out on the flat land adjoining the Waihou River.<sup>537</sup>

Subsequently, Wilkinson gave a sympathetic explanation of Te Hira's position:

He will be remembered as the chief who, on account of his great rank and position he held amongst his people, was able in 1868-69, to keep the whole Ohinemuri District closed against gold-mining, in spite of the wishes of a large number of both Europeans and Natives, coupled with the strenuous efforts of Mr James Mackay ... and it was not until seven years later - during which time the old man had manfully held his ground against overwhelming odds - that he finally gave in to the late Sir Donald McLean, in February, 1875, and allowed the country to be opened for gold-mining purposes. He was a most consistent chief of the old school, and considered more the benefit of the Maoris as a race than that of individuals, and his impression always was that the two races were so differently constituted, and their manners and customs were of such a different nature, that what was beneficial to one was detrimental to the other; hence his idea of the necessity of keeping them as far apart as possible. And he was not alone in that idea; the majority of old Natives who have had experience in the matter, and are entitled to speak (and not a few Europeans also), are of the same way of thinking. When Te Hira found that he was not able any longer to resist the wishes of his people, he reluctantly gave in; but, in order that he might not take any further part in what he considered would end disastrously to his people, he left Ohinemuri, where he was then living, and removed to Upper Piako.<sup>538</sup>

#### 'THE OLD ORDER CHANGETH'

Under the headline 'The Old Order Changeth', in 1898 the *Thames Star* recorded how Mere Kuru had been forced to adapt to the new circumstances:

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<sup>536</sup> 'Petition of Epiha Taha and Other Natives of Ohinemuri', Legislative Department, LE 1, 1875/12, ANZ-W.

<sup>537</sup> Map of 'Ohinemuri Native Reserves', Auckland Provincial Government Papers, ACFM 8180, 1587/76, ANZ-A.

<sup>538</sup> G.T. Wilkinson to Under-Secretary, Native Department, 14 May 1884, *AJHR*, 1884, Session 2, G-1, p. 13.

This morning a venerable grey haired old Maori dame, with bent back, went into the Native Land Court, in the matter of succession orders in which her grand-children are interested. A glance at the face of our ancient friend revealed the dark sharp eyes of Mere Kuru, the erstwhile holder of the fort at Ohinemuri, who fixed Kurere at Hikutaia as the Rubicon over which the unholy foot of the gold miner should not pass. From 1867 until March 1875 the efforts of Te Hira te Tuiri, Mere Kuru, and Tukukino obstructed the opening for gold-mining of the Ohinemuri portion of the Hauraki district. On the sitting of the first Land Court at Ohinemuri, Mere Kuru made herself conspicuous by her opposition to its proceedings, marching into the building in which the Court was being held, brandishing a "mere" (greenstone club), and chanting a song of challenge and derision to the Judge. To-day the old lady acknowledges our law, and comes forward to utilize it in land questions in which she is interested. In the same way there are many prominent natives, who now drive in their buggies and spring carts, who were great obstructionists to the laying off of roads in this district.<sup>539</sup>

#### LATER CRITICISMS OF MACKAY AND RAIHANA

Mackay's role in opening Ohinemuri has been examined critically by Paul Monin, who noted that, by being paid on commission, his income 'depended upon getting results'.<sup>540</sup> He described Mackay as being 'in desperate need of the commission',<sup>541</sup> possibly a reference to his 1870 bankruptcy. He correctly argues that Hauraki Maori 'must have been somewhat confused as to exactly in which role, and exactly in whose interests, he now approached them, so many were the hats he had worn or continued to wear'. Over the years he 'established a relationship of trust' with many owners.<sup>542</sup> His 'standard mode' of operating between 1872 and 1875 was to provide advances either of money or supplies, the raihana being provided 'against the equity of interests in land' which were yet to be determined. Monin argued that Maori 'may have viewed' the supplies Mackay and other officials provided on special occasions 'as reciprocal hospitality', carrying 'no liability for the Maori recipients, apart from

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<sup>539</sup> 'The Old Order Changeth', *Thames Star*, 17 February 1898, p. 2.

<sup>540</sup> Monin, p. 234.

<sup>541</sup> Monin, p. 249.

<sup>542</sup> Monin, p. 234.

further offers of hospitality to Pakeha in due course'.<sup>543</sup> There is an element of caution and possible special pleading in this statement, as with a later one that 'raihana, dispersed by a familiar Pakeha, perhaps shared some characteristics with reciprocal gifting in traditional Maori society', although examples were given of Maori viewing raihana in that way. As the first example was of a recipient of raihana trying to avoid losing his interest in land through this acceptance, he was not an objective witness. Arguing that 'individual members of Ngati Tamatera succumbed to the ready flow of supplies, probably with little awareness of the ultimate result', suggests excessive naivety on their part: did they really expect to get something for nothing? He admits that Ngati Tamatera could not repudiate the debt of £15,000 listed on Ohinemuri 'on the grounds of ignorance or trickery'.<sup>544</sup> Concerning the extravagance displayed at the August 1874 meeting to discuss the debt created by raihana, Monin is correct in arguing that Mackay's active participation in the rituals, including leading the haka,<sup>545</sup> along with his gifts of food, could be interpreted by Maori as his adopting their norms, whereby the supplies were 'social gifts' not 'commercial payments for land'.<sup>546</sup> That Mackay certainly had close ties with Maori is unquestionable; in its obituary the *Observer* noted that wherever he went 'there was bound to be a mob of admiring Maoris anxious for his advice'.<sup>547</sup>

Some contemporary criticisms of the raihana system have already been noted. 'One Three 'Possum Power', writing after the Whakatiwai meeting in August 1874, wrote a long critique of Mackay's methods of trying to 'baffle' Maori out of their lands and thereby benefit himself and 'his hangers-on'. 'The present state of affairs is the "truck" system carried out on a large scale; a system which I believe to be repugnant to British law', and was not the way to act 'fair and square' with Maori. 'My idea is to make your bargain first for the land' or whatever was being sought and 'pay them in cash', unlike Mackay's system.

The Ohinemuri affair is worked up into a mass of confusion, which doubtless will take another five years to simplify, and then Mr Mackay will have the pleasure of squandering a few more thousands in doing what he calls opening up the Ohinemuri, but I

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<sup>543</sup> Monin, p. 235.

<sup>544</sup> Monin, p. 240.

<sup>545</sup> See *Thames Advertiser*, 14 August 1874, p. 3, 15 August 1874, p. 3.

<sup>546</sup> Monin, pp. 241-242.

<sup>547</sup> *Observer*, 19 October 1912, p. 4.

say in opening up the public purse and closing it when there is a vacuum.

He gave an example of the raihana system:

Mr Maori goes to Mr Mackay or to some hanger-on of his, his so-styled staff, and duns for money or waipiro [alcohol]; the native is given an order on some public house, grocer, or slopshop; he takes the order and picks out what he thinks the best in the shop, which are, as a rule, inferior though charged the highest for; and when Mr Mackay settles with the native he says he gave the raihana or order on account of Ohinemuri lands, which perhaps the native may have no claim whatsoever over, and if, by chance, Mr Mackay did happen to hit on the right one, he, the native, says at once that he was not aware that he was to give land for those few rotten rags, or for the gallon or more of what you call rifle rum or anti-Ohinemuri mixture.

Maori needed to know the fair price for their land and how much they would have to sell for what had been received. Why, at Whakatiwai, had not Mackay said 'plainly that he would allow so much per acre, and that they had already received so much on account of the purchase money, leaving a balance in hand of two or three thousand pounds, and put this balance down before the whole crowd of them?' If he had done so, the land would immediately been purchased and opened to mining. But that would have been too quick for Mackay, who would have had to cease holding 'meetings, and tall talking, and savage dancing, in each of which Mr Mackay is in his element; no more grog drinking for his Maori pets'. Maori would sell their land for 'a fair value in cash; but they do not see the force of the order business'.<sup>548</sup>

Monin correctly argues that, in later attacking the land court and recommending a system that retained money for the whole tribe and prevented its squandering by a few, Mackay 'was in effect admitting that great damage had been done in Hauraki by the credit he carelessly distributed in the early 1870s'. He was 'deeply troubled by what had happened to the people of Hauraki', but would not accept personal blame; nor did he have the ultimate responsibility, which 'must ultimately rest with his political paymasters'. Monin gives him credit for having, 'in all probability', intended 'to do well by the people of Hauraki, anticipating for

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<sup>548</sup> Letter from 'Only Three 'Possum Power', *Thames Advertiser*, 1 September 1874, p. 3.

them a share in the prosperity promised by gold mining and a secure role in the capitalist colonial economy'.<sup>549</sup> His investments in mining and land at Thames suggest that he expected prosperity both for himself and Maori;<sup>550</sup> instead, he, along with Taipari, his partner in a land agency, became bankrupt in 1870.<sup>551</sup>

Raihana was not unique to Mackay, but was a widespread practice at the time.<sup>552</sup> For example, in June 1880 a reporter spent some hours inspecting the 'Native Accounts' presented to parliament, and was appalled at payments for food, alcohol, transport, medicine, mourners' clothes, flags, a marble bust of a deceased chief, and the like. Some of these goods, notably for Rewi Maniapoto,<sup>553</sup> may have been a cost borne by the government as part of its plan to split the King Movement, but others probably had to be repaid by selling land. As Monin noted, Mackay's 'relationship of trust with Hauraki Maori and his knowledge of their society casts a particularly unpleasant light over his use of the practice'.<sup>554</sup> He also stressed that the Crown was responsible for the actions of its servants and the consequences of their carrying out its policies:

In Hauraki of the 1870s customary Maori transactions had not yet been entirely subsumed by commercial European transactions, particularly in relation to hospitality and land. Customary practices continued at a deeper level, remaining the way that many Hauraki Maori did business with each other. By this time the nature of commercial transactions was certainly understood in Hauraki. But if this understanding was to hold, there was no room for ambiguous practice or covert operation – and the terms of raihana were neither overt nor unambiguous. In the shadowy expectations created by raihana, traditional practices and multiple understandings flourished. The Crown surely had one paramount responsibility to Hauraki Maori over this new wave of "land dealings:" to make absolutely clear to

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<sup>549</sup> Monin, p. 248.

<sup>550</sup> Monin, p. 249.

<sup>551</sup> See Supreme Court, *New Zealand Herald*, 30 September 1870, p. 3, 28 October 1870, p. 3; *New Zealand Gazette*, 21 August 1871, pp. 417, 419, 443, 444, 15 July 1872, Supplement, p. 22.

<sup>552</sup> Monin, pp. 236, 249.

<sup>553</sup> Special Correspondent, 'The Native Accounts', *Auckland Weekly News*, 19 June 1880, p. 7.

<sup>554</sup> Monin, p. 249.

them what was happening. There was no place for acquisition by stealth.<sup>555</sup>

One justification for raihana, as explained to a journalist visiting Ohinemuri in 1875, was that many Pakeha were fencing blocks of Maori land.

The unpleasantness about working for Maoris is, that when the work is done the money is not forthcoming, and no one knows when it will come. The general custom is to give an order upon Mr Mackay, who gives an order upon the Native Office, and the money turns up some time, and the claim is registered against the land.<sup>556</sup>

The consequences of land sales became apparent immediately. In 1876, a visitor to the Piako district wrote that Maori, once ‘great producers’ who had ‘shipped very large quantities of maize, potatoes, oats, kauri gum, &c, to Auckland’, had become ‘lazy and dissolute’, principally because of the easy way they obtained money by selling land.<sup>557</sup>

In 1937, in response to complaints made by Hauraki Maori, an official investigation into raihana described this system as ‘obviously’ being ‘an attempt to break down the opposition’ of landowners ‘by gradually purchasing interest by interest in the land and thus bring about by dealings with individuals that which could not be accomplished with the Natives in a body’. Mackay bought interests when the court had not investigated the land and ‘took the risk and responsibility of dealing with the proper owners. As events subsequently turned out many Natives who were not owners were paid money’.<sup>558</sup> In the early twenty-first century, the Crown had to admit to the Waitangi Tribunal that there were ‘elements of pressure and coercion’ in the opening of Ohinemuri.<sup>559</sup> The tribunal was more severe:

We consider the Crown’s concession regarding Ohinemuri to be grudging and inadequate. The Crown behaved deviously,

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<sup>555</sup> Monin, p. 236.

<sup>556</sup> Special Correspondent, ‘Ohinemuri’, *Auckland Weekly News*, 27 February 1875, p. 7.

<sup>557</sup> Own Correspondent, ‘A Visit to the Piako District’, *Thames Advertiser*, 13 November 1876, p. 3.

<sup>558</sup> Under-Secretary, Lands and Survey Department, to Solicitor General, 30 August 1937, Lands and Survey Department, LS 1, 22/924, ANZ-W.

<sup>559</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 1, p. xxxi.

manipulatively and in very bad faith over Ohinemuri, with little or no regard to its protective obligations towards a people who had virtually no experience in the management of debt. In particular, we consider that:

- The practice of making advances to individuals charged against land still in customary tribal land was divisive and destructive of the traditional relationship between rangatira and their communities.
- Although Mackay did make some effort to stop storekeepers and Maori from charging store orders against the land, he also specifically indicated to his superiors that he considered the advances for tangi expenses and raihana to be a way of overcoming the resistance of Te Hira and others....
- Not until late 1874 did Crown officials begin to discuss with Maori a price per acre for the land against which the advances were accumulating. Consequently, none of the right-owners had any idea of the vast amount of land the debt represented, in the Crown's view.<sup>560</sup>

Mackay had ensnared Maori 'in a debt trap'.<sup>561</sup> The tribunal explained its understanding of how the system began:

The practice of issuing raihana seems to have emerged from the emergency credit arrangements made to help Waikato Maori resettle after the dislocation of war. At the time, Mackay, then a judge of the Compensation Court, was irritated that Maori ordered goods and charged them to Mackay privately or to the Government. He issued a notice saying that the Government would not redeem such orders. He also suggested that advances for food, seed potatoes and agricultural implements be redeemed by days of labour rather than held as a lien on the crop.

But soon he 'fell in with the usual practice of settling small sums outstanding at stores or providing food or other supplies at Maori request'. It cited examples of how 'Crown agents often recognised real need' and provided financial assistance,<sup>562</sup> but when raihana was given many owners did not understand what land it was being charged against. The tribunal did give Mackay credit for being 'alert to prevent liquor being charged as raihana'.<sup>563</sup> 'Mackay's purpose was to buy the freehold', but whether Maori

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<sup>560</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 1, p. xxxii.

<sup>561</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 422.

<sup>562</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 423.

<sup>563</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 424.

recipients of payments understood this was ‘not clear, because instead of signing a deed they signed vouchers and receipts’.<sup>564</sup> ‘Possibly, Mackay failed, when making or authorizing advances, to clarify that he was purchasing the freehold of Ohinemuri (not Waikawau or Moehau). To resolve this point is difficult, because the original receipts or “conveyances” have not been located’.<sup>565</sup> (They no longer exist.) The tribunal considered that, ‘in assuming the pre-emptive right’ of purchase, ‘the Crown also assumed a particular responsibility to ensure that Maori were treated fairly in purchase negotiations’. Instead, its methods, especially raihana, ‘breached Treaty principles’.<sup>566</sup>

The morality of authorizing raihana payments was always ambiguous. In many senses it arose out of real need in Maori communities, such as the dislocation caused by war in Waikato, and intervals before crops could be grown or harvested.... These situations created real dilemmas for field officers. On occasion it would have been callous of them not to give way. There is also some justification for Mackay and other officials giving Maori credit for food and other necessities, rather than cash which could be spent on alcohol.

The issue in terms of Treaty rights, however, is whether the costs of raihana or other advances should have been charged against the land.... To charge lands where agreement had *not* been reached, and against the freehold of the land rather than anticipated revenue from mining, was very different from the Thames situation, and unacceptable in our view.<sup>567</sup>

Mackay was ‘fully aware of the leverage over Ohinemuri that raihana gave, and used it for that purpose’. The tribunal considered that one of its ‘worst features’ was ‘its secretiveness. While not every order or signing of vouchers was made secretively, *it was the cumulative effect of them that was hidden*’. With his superiors’ support, Mackay

took advantage of the dispersed nature of Maori rights in land, and embarked upon a deliberate course of action designed to create a burden of debt among as many right-owners as possible, giving the Crown control of the situation. The Crown should

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<sup>564</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 434.

<sup>565</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 435.

<sup>566</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 456.

<sup>567</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 457.

never have allowed such a crippling debt to develop, without ensuring that the borrowers had the means to repay in cash.

Raihana was a way of circumventing ‘the authority of the rangatira in whom the control of Ohinemuri had been entrusted’.<sup>568</sup> And ‘the lack of unambiguous discussion of the price to be paid for the land ... left Maori not knowing how much land they would have to relinquish’. The tribunal queried ‘whether any valid contractual agreement had been reached at all through raihana and advances, when no per acre price had been stated on the vouchers, nor any precise area of land’. There was also ‘ambiguity about what goods were worth’, for storekeepers sometimes inflated prices for goods of poor quality.<sup>569</sup>

#### LAND SALES AFTER THE OPENING OF OHINEMURI

As the initially disappointing Ohinemuri goldfield did not produce as much income as had been anticipated, more advances were made to individual owners. The *Thames Advertiser* did not see how Maori could retain ownership, because instead of reducing their debt they had ‘shown a strong inclination to increase it, and the talk of Te Hira about cultivating the land to repay the money has all ended in smoke, as everyone predicted it would’.<sup>570</sup> ‘Everyone’ being Pakeha, of course. Advances continued during the latter half of the 1870s, in particular for tangi.<sup>571</sup> Facing high administrative costs, the government decided that ‘the solution was to extinguish the difficulties by purchasing the freehold’ from individual owners. ‘Maori needed cash in a money economy and, with the goldfield revenues going to the Crown, had limited sources of income’, for agricultural leases issued to Pakeha had swallowed up the best land.<sup>572</sup>

On 27 June 1882, by which time most owners had sold their interests, the court granted title to the Crown of 66,017 acres, purchased for £30,000 9s 6d, ‘a price largely in excess of the original price offered of 5s per acre,

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<sup>568</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 458.

<sup>569</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 459.

<sup>570</sup> *Thames Advertiser*, 23 August 1875, p. 3.

<sup>571</sup> Monin, p. 243.

<sup>572</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 432.

which would have cost ‘about £16,500’.<sup>573</sup> Non-sellers retained the remaining 7,213 acres. All revenue before that date had gone to repay the debt, leaving £7,163 8s not recovered; it was never recovered, the Crown instead appropriating all revenue after that date because by then it owned the goldfield.<sup>574</sup> That the £15,000 advanced by Mackay was not deducted from the purchase price was considered to be a ‘reasonable’ decision because otherwise ‘the Crown would have been benefited both ways’ by deducting this sum ‘from both the purchase money and the revenues’. By 1882 the Crown had ‘recovered only £7,838 from the revenues’, writing off the remainder.<sup>575</sup> Only 7,000 acres of the original 73,000 remained in Maori ownership as reserves; reserves not inalienable in perpetuity but only for 21 years.<sup>576</sup>

Once Ohinemuri was opened, Pakeha interest in acquiring land moved further up-river to the Piako district. During 1876, Auckland speculators acquired the Hungahunga No. 1 (8,155 acres, for 3s per acre), Orongomairoa (3,323 acres, for 7s 3 1/2d per acre), Hungahunga No. 2 (505 acres, for 3s per acre), and Te Kapara (1,447 acres, for 5s 3d per acre).<sup>577</sup> South Island investors acquired other Piako blocks.<sup>578</sup> Some of these sales caused considerable controversy, with accusations of Maori receiving too little and the government favouring its friends.<sup>579</sup> Charges of an unfair court process were renewed.<sup>580</sup>

A depressed economy and considerable unemployment in Thames in the late 1870s meant pressure on the government to acquire more land for settlement.<sup>581</sup> The *Thames Advertiser* wrote that land was wanted ‘in the Ohinemuri block, the Aroha block, and the lands of the Upper Thames – not

<sup>573</sup> Under-Secretary, Lands and Survey Department, to Solicitor General, 30 August 1937, Lands and Survey Department, LS 1, 22/924, ANZ-W.

<sup>574</sup> R.J. Gill to James Gavin (Secretary, Treasury), 26 January 1883; Report of James Gavin, 18 July 1883, Mines Department, MD 1, 86/606, ANZ-W; ‘The Native Purposes Act, 1935’, *AJHR*, 1950, G-6A, pp. 4, 6, 7.

<sup>575</sup> Treasury memorandum of 1940, p. 23, Treasury Department, T 1, 40/71, ANZ-W.

<sup>576</sup> Monin, pp. 244, 250.

<sup>577</sup> *AJHR*, 1883, G-6, p. 4.

<sup>578</sup> *Thames Advertiser*, 26 April 1876, p. 2.

<sup>579</sup> For example, ‘Waiharakeke and Hungahunga Blocks’, *AJHR*, 1876, C-3A; letter from Henry Alley, *Thames Advertiser*, 20 September 1876, p. 3.

<sup>580</sup> For instance, letter from Henry Alley, *Thames Advertiser*, 18 May 1876, p. 3.

<sup>581</sup> *Thames Advertiser*, 22 February 1876, p. 3.

the Piako swamp', which Mackay was buying for a commission of up to £4,000.<sup>582</sup> A journalist reporting a meeting held in 1876 to complete the purchases of large blocks in Piako and Ohinemuri was highly critical of both Maori and Maori:

Mr Mackay opened the meeting ... and did a great deal of speechifying, which was very contentedly listened to, as there was plenty of *kiki* [food]<sup>583</sup> knocking round. I counted seven boat loads of dried eels, and should be sorry to say how many bushels of potatoes. The Government also sent down ... 4 tons flour and over a ton of sugar. It was put about that Mackay supplied this out of his private purse, but there is very little reliance on that statement, in fact no one believes it. I am sorry to tell you very little has been done with this extensive sweetening. Mr Mackay does all he can to get things to a settlement, but the rascals are as cunning – well you can't say much more than that they are cunning as Maoris – and so long as they think they can get the flour and sugar sent them they are not likely to bring the argument to a close. The natives are behaving abominably. There is no doubt about their having received money in advance for their lands, and now they refuse to complete. Mr Mackay is now blamed for taking into his confidence and employment persons who are acting against him.<sup>584</sup>

In partial response, Wilkinson explained that the meeting was to settle a disputed boundary, not to buy land, and Maori, not the government, had provided the flour.<sup>585</sup> Late that year it was understood that Mackay had been offered large areas of freehold land between Ohinemuri to Te Aroha, most of which could be acquired for 5s per acre 'and even less'.<sup>586</sup>

In February 1878, an Auckland newspaper wrote that the completion of the purchase of the Ohinemuri goldfield was 'like an ancient Spanish game of chess: player after player passes away, but the game is taken up at the last move and carried on'. It had been intended that the lease arranged in 1875 would become a complete purchase in 1878 should the owners be 'unable or unwilling to pay off a mortgage debt of £15,000 upon a block of

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<sup>582</sup> *Thames Advertiser*, 17 April 1876, p. 2.

<sup>583</sup> Translated by Tom Roa, University of Waikato.

<sup>584</sup> Own Correspondent, 'Great Native Meeting. The Flour and Sugar Policy', *Auckland Star*, 22 March 1876, p. 2.

<sup>585</sup> *Thames Advertiser*, 24 March 1876, p. 3.

<sup>586</sup> *Thames Advertiser*, 26 October 1876, p. 2.

132,716 acres of land'. Now the owners were in that position, and had petitioned the Native Minister that, being unable to pay the debt, and being 'sued by pakehas for debts which we owe and cannot pay', there was 'every likelihood they would be sent to gaol. "Why not then, O father, take the land and pay the rest of the purchase money?"' The government was 'delighted', as was the newspaper:

We will have no more land purchases on commission; no more will the knowing pakeha storekeepers delude the trusting and innocent Maori into getting into debt; no more *raihana*; we will appoint a salaried officer to complete the purchases; and if that officer should buy for himself or his friends – he will be sacked next morning.

It regretted the delay caused by Mackay demanding unpaid commission, and hoped that the 'long-standing grievance' of Thames residents that the land was locked up would soon be removed.<sup>587</sup> 'Mismanagement' of purchases had resulted in transactions getting 'into such a complete muddle, that there was no record of what land we had, what sums had been paid on particular pieces, what natives had been paid'. Despite from £100,000 to £200,000 having been paid, 'not an acre of land had been settled upon'. It hoped the new ministry, headed by Sir George Grey, would soon settle the dispute with Mackay and conclude the purchases of land 'lying waste'.<sup>588</sup> If all the land recorded as 'being under negotiations' was offered to genuine settlers, 'Auckland would have ten years of continuous progress and prosperity before it'.<sup>589</sup>

Four months later, the same newspaper lamented more delays:

For some eight years past, the Government has been purchasing land in the Thames district – that is to say, an agent made payments to natives on lands to which he believed they were entitled. The Court had not sat to determine the titles, but the agent made copious payments to the natives on the chance that the Court would coincide with him on the question of ownership. It is obvious that this is a somewhat risky procedure. The chance of the Court disagreeing with the agent as to who were the owners of any particular block was very appreciable. Besides, it is shewing too much confidence in human nature ... to distribute

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<sup>587</sup> Editorial, *Auckland Weekly News*, 16 February 1878, p. 12.

<sup>588</sup> Editorial, *Auckland Weekly News*, 9 March 1878, p. 12.

<sup>589</sup> *Auckland Weekly News*, 9 March 1878, p. 19.

large sums of money amongst them in a rough-and-ready fashion. It is only to be expected that those who have received the money will be somewhat indifferent whether their title will be established or not – seeing that if their claim is established the land goes at once to the Government; and they may, indeed, in a brotherly way, be induced to give a helping hand to competitors, who have not sold to the Government, and who, probably, are under engagement to sell to private persons. The titles ought to have been brought before the Court years ago. The natives who received money, or orders, or goods, or liquors for their land, are likely now to forget all about it in a convenient way, and the Government will be put to the strictest proof, and, in many cases, will, no doubt, break down, simply from want of evidence, owing to the lapse of time.<sup>590</sup>

The Waitangi Tribunal was critical of the agreement to open Ohinemuri and its consequences:

- The Ohinemuri mining cession agreement of February 1875, charged the £16,000 debt not only against anticipated gold-mining revenue but also against all minerals, kauri gum, residence and business site rentals, and agricultural leases. The Crown made reasonable efforts to explain the terms, in Maori, to those actually attending the relevant meetings but did not provide a written translation of the deed in Maori nor circulate the document in advance. Consequently, many right-owners, including the many who had never received advances, belatedly discovered they had lost virtually all control of the district and its resources as well as any entitlement to revenues from them.
- Arguably, this might have been justified if it meant the debt against Ohinemuri was all the more quickly redeemed and Maori retained the freehold. But the Crown did not wait for that outcome. Instead, it began buying the freehold again in 1877 and eventually waived about half the debt. The basic agreement between the Crown and Te Hira in December 1874, expressed in Mackay's words "You are to have the land and I am to have the gold," was repudiated by the Crown.<sup>591</sup>

Writing off of the remainder of the debt in 1882 was not seen as generous, because it reflected

the Crown's determination to acquire the freehold. Had it allowed the mining agreement to continue, the whole of the pre-1875

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<sup>590</sup> Editorial, *Auckland Weekly News*, 13 July 1878, p. 12.

<sup>591</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 1, p. xxxii.

payments would have been recovered within another seven to 10 years, Maori would still have had the ownership of the land, and at least begun to receive revenues from the mining agreement.<sup>592</sup>

The 'haste to purchase' was

a breach of the spirit of the 1874-75 agreement and an act of bad faith. The onus was on the Crown to make clear that the debt had to be cleared by a certain time or at a certain rate. It failed to do so and it should have worn the consequences. At the very least, if the Crown considered the rate of repayment too slow, it should have reconvened a general meeting of Ngati Tamatera and other owners and sought to renegotiate the agreement.<sup>593</sup>

There was also a 'fundamental objection' to the payments made after purchasing resumed in 1877:

They were made to individuals, privately, for land which was owned tribally. Transactions over tribal lands should have been made with the acknowledged tribal leaders, in open meetings. The purchase of individual interests undermined and frustrated efforts by the Ngati Tamatera leaders in particular to retain the land.<sup>594</sup>

'One group of right-owners was particularly affected: those who had never received advance payments' because they had not sold their interests. 'Yet they too were saddled with a share of the debt which in 1875 was deemed to lie over the whole block'.<sup>595</sup>

### CONCERN AT THE LOSS OF LAND

In his last report about Hauraki Maori, written in 1880, Puckey urged that 'care should be taken lest they dispossess themselves of all their lands before it is too late'.<sup>596</sup> Two years later, the *Thames Advertiser* recommended that Maori lease their land rather than sell it, for purchase

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<sup>592</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 436.

<sup>593</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 463.

<sup>594</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 459.

<sup>595</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 463.

<sup>596</sup> E.W. Puckey to Under-Secretary, Native Department, 29 May 1880, *AJHR*, 1880, G-4, p. 5.

money was dissipated too quickly. If ‘rescued from improvident habits and in possession of an ample and assured income from their lands’, they would have a good future.<sup>597</sup> Although many did not wish to lose land and sympathized with Tawhiao’s policies in that regard, they did not wish to be told what to do with their land. In 1896, Hamiora Mangakahia<sup>598</sup> recalled how, at a big meeting at Kerepehi in 1858, everyone agreed to the Kingites request that all of Hauraki and Piako be given to the king.<sup>599</sup> He explained that ‘the people would still retain their ownership, the “giving” of the land was merely placing it under the mana of the king to prevent selling or dealing in it with Europeans’.<sup>600</sup> But when Tawhiao, on a visit to Thames in 1885, tried to stop Ngati Maru doing any business in the land court while he was petitioning Queen Victoria, ‘most of the Ngatimaru orators disapproved of the suggestion’.<sup>601</sup>

#### HOW MONEY OBTAINED FROM LAND SALES WAS SPENT

Pakeha were critical of the way Maori sold their lands and how they spent the proceeds. For instance, the *Observer* noted that Maori ‘hungered for’ the food and the goods of the Pakeha. ‘But in exchange for the gifts of civilization they had nothing to barter but their lands. Naturally indolent, their industry was spasmodic; naturally improvident, they ask like the Spaniard, “Who has seen to-morrow?”’.<sup>602</sup> That attitude was indeed shared by many Maori,<sup>603</sup> leading to their money soon being dissipated. Wiremu Turipona, the Anglican deacon who attended the great feasting at Whakatiwai in August 1874, wrote that Maori were ‘parting with their land for orders on trades people. They themselves wished it, and not the Pakeha; yet when they see their lands gone they complain of the Government’.<sup>604</sup> These ‘trades people’ were not just those who provided food and tobacco. On

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<sup>597</sup> Editorial, *Thames Advertiser*, 27 February 1882, p. 2.

<sup>598</sup> See paper entitled ‘Maori and Pakeha at Te Aroha: The Context: 2: Maori in Hauraki in the Nineteenth Century’.

<sup>599</sup> Maori Land Court, Hauraki Minute Book no. 40, p. 143.

<sup>600</sup> Maori Land Court, Hauraki Minute Book no. 40, p. 164.

<sup>601</sup> *Thames Advertiser*, 12 May 1885, p. 2.

<sup>602</sup> *Observer*, 11 August 1883, p. 3.

<sup>603</sup> See paper on Maori and goldfields revenue.

<sup>604</sup> Wiremu Turipona to ‘Friend Bishop’, 1 September 1874, printed in *Church Gazette*, 1 October 1874, p. 147.

the beach at this meeting there were about '120 boats of all sizes and build', some of them 'really fine specimens of whale-boats, and built by some of the best boat builders at Thames, Auckland, and Coromandel', with a total value estimated at 'some £3,600'.<sup>605</sup> Other storekeepers benefited by selling tents and guns.<sup>606</sup> This was the last of the big feasts in Hauraki because of the loss of land and, consequently, of political independence.<sup>607</sup> But somewhat smaller feasts would be held, in Hauraki and adjacent areas, with costs and consequences that were very apparent to Pakeha and presumably also to Maori. A Catholic journal in 1881 recorded that 2,000 Maori had assembled for a 'great tangi' for a Tauranga rangatira at a cost of 'about £500, and natives are selling land to pay the expenses'.<sup>608</sup>

The following year, Gerald O'Halloran, gave evidence about how the money from sales was spent. 'What was the general result of making large payments in cash to the Natives? – In the case of only a few Natives getting the money they generally kept some of it, but when it was divided among a number they generally drank it and remained drunk until all the money was gone'.<sup>609</sup> This method of spending money obtained was confirmed in an 1880 comment about a land court hearing: 'The natives have not obtained any money to speak of as yet, so that the numerous "pubs" are not doing much business'.<sup>610</sup> Even if not all the money was spent on drink, the drawn-out deliberations meant that money was spent before it was received. A month after the former comment, a correspondent reported because that the court was making slow progress, Maori were 'living on credit – *taiho, the Court finish, me pay* is the order of the day'.<sup>611</sup> Some of this credit was for alcohol; for instance, when one block was being considered in 1897 and a rangatira told the court that Ngati Maru had 'not yet met, as they promised yesterday', another rangatira explained that a 'cask of beer rather interfered with their meeting yesterday afternoon'.<sup>612</sup>

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<sup>605</sup> *Thames Advertiser*, 17 August 1874, p. 3.

<sup>606</sup> *Thames Advertiser*, 13 August 1874, p. 3.

<sup>607</sup> Monin, p. 242.

<sup>608</sup> *Freeman's Journal*, 25 February 1881, p. 7.

<sup>609</sup> Evidence of Gerald O'Halloran, 23 September 1875, 'Report of the Tairua Investigation Committee; Together with Minutes of Evidence and Appendix', *AJHR*, 1875, I-1, p. 37.

<sup>610</sup> *Thames Star*, 16 June 1880, p. 2.

<sup>611</sup> Ohinemuri Correspondent, *Thames Advertiser*, 16 July 1880, p. 3.

<sup>612</sup> Maori Land Court, Hauraki Minute Book no. 45, p. 18.

## HISTORIANS ON THE LOSS OF LAND

The Waitangi Tribunal estimated that ‘in 1865 the Hauraki tribes still owned and controlled between 80 and 90 per cent of their rohe [district]. By 1899, they owned between 15 and 20 per cent’.<sup>613</sup> Before the late 1850s they had encouraged ‘nodes of settlement’, but then, ‘realizing that they were losing control of their engagement with the Pakeha world’, increasingly resisted land sales ‘and gave strong support to the Kingitanga’. The passing of legislation imposing ‘forms of title which enabled individuals’ names on certificates of title and memorials of ownership to sell their interests’ circumvented ‘collective tribal control’. Negotiations to purchase ‘commonly began before the owners were determined (despite the fact that such contracts were formally void until the court had granted its certificate or memorial and approved the purchase)’. Crown pre-emption and its ability to partition blocks between sellers and non-sellers ‘greatly circumscribed the options available’ to the owners. Whilst the tribunal admitted that some Maori voluntarily ‘entered into many of the transactions’, it noted that owners ‘were caught up in selling far more land than they had intended’, usually to pay their debts.<sup>614</sup>

Dealings with individuals prior to the passage of land through the court were among the matters most complained of by Maori leaders in their protests against a system that was sweeping the land from under their feet. So long as the Crown allowed the purchase of undivided individual interests or practised it systematically itself, then applying for a partitioning out of its share in the blocks concerned, it is idle to speak of Maori volition. A debt-driven people, without any other ready source of cash or credit, could do little to prevent alienation when the system dealt with them as individuals, rather than as a community.<sup>615</sup>

As the Crown wanted to acquire land ‘at the lowest possible prices’, it monopolized land purchases, ‘often ... not only for the purchase of excluding Maori from access to market prices but also to ensure that the public interest was protected by Crown ownership rather than that of “speculators,” or the private sector generally’. Although prices were generally reasonable or consistent with government valuation, the

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<sup>613</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 841.

<sup>614</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 842.

<sup>615</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 843.

government 'set the price scale'.<sup>616</sup> 'Over much of Hauraki we can never really know what the full market price might have been because the market was never tested'. The Crown 'called up debt' it had helped to create 'in circumstances where any attempt to attach a per acre value on the land was highly problematic'. Despite being 'unable to be definitive on the fairness of the price paid by the Crown in all cases', the tribunal found 'that Maori did in effect generally subsidise the price paid for their land by being denied access to the free market, while being compelled by law to pay the costs of survey (including interest on outstanding liens) and court and legal costs. By any measure, Hauraki Maori were treated unjustly'.<sup>617</sup>

The Crown never believed that Maori should be 'overly bound by paternalistic restrictions', instead letting them 'make free choices to deal with their land as they saw fit, even if that freedom could result in landlessness', although the tribunal did admit that the latter was not sought. 'Procedures for removal of restrictions were made progressively easier, during the late 1880s and 1890s, until by 1894 application by only one third of owners was required', in part a reflection of titles becoming 'fractionated by intestate success' and the difficulty of locating owners. But the main reason was that 'ease of dealing' in land was the principal Crown policy.<sup>618</sup>

Even when land was excepted from sale, placed under restriction, or formally reserved, much of it was alienated within a decade or so, partly because of financial pressures from survey liens or legal complications arising from half-completed transactions, or further court hearings to resolve disputed succession, but mainly because the Crown was actively buying throughout the period, particularly in the period 1888 to 1899.<sup>619</sup>

'The Crown never embraced the responsibility of making certain core lands absolutely inalienable'.<sup>620</sup> Furthermore, Maori 'were not assisted in the development of their reserves – their potential capital – over the long term'. Most reserves 'were merely lands placed under restriction on alienation' without official approval for 21 years.

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<sup>616</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 843.

<sup>617</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 844.

<sup>618</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, pp. 844-845.

<sup>619</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 842.

<sup>620</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 845.

As Crown policy intended, restrictions on title only delayed a further round of purchases. The reserved lands became little more than a diminishing fund to meet debt and day-to-day needs through piecemeal alienation, a procedure which tended to the pauperisation of Maori and the discouragement of renewed efforts at farming.

In the late nineteenth century, ‘many Maori owners did not regard their reserved land as a lasting asset, but as a commodity to be realized to meet immediate needs, and to avoid tedious disputes about collection and distribution of revenue from gold license fees or rents’.<sup>621</sup>

The tribunal criticized the Crown for failing to undertake ‘the duty of active protection’, which included ‘the need to preserve a substantial proportion of the patrimony for future generations, notwithstanding the immediate needs of nineteenth century owners’. And the Crown repeatedly refused ‘to comply with Maori requests to return the real control over the land to their tribal organisations’.<sup>622</sup> It refused to do this ‘because such a return of authority to Maori threatened to “lock up” land and render it unavailable for Pakeha settlement and development’.<sup>623</sup> The tribunal considered that, ‘because of the power of sale given to each individual owner named on court titles, because there was no satisfactory mechanism for the customary right-owners to make considered decisions as a community, and because many if not most of the purchases were founded on piecemeal acquisition of individual interests’, none of the purchases were ‘wholly benign’, as Crown advocates had suggested.<sup>624</sup>

In its imagining of an alternative system, the tribunal realized that this ‘would have required the abolition or surmounting’ of ‘titles which vested ownership in a number of individuals as absolute owners. Proper trusts or legal personalities would have been needed or corporate management provided for’. Some Maori leaders, but not in the Te Aroha district, had suggested ‘block committees’, and on the East Coast in the 1890s a similar system was introduced. Whilst not noting the problems the latter experienced, the tribunal admitted that ‘there was no guarantee that these would necessarily have led to viable enterprises in all cases’.

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<sup>621</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 3, p. 1217.

<sup>622</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 845.

<sup>623</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 846.

<sup>624</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 849.

However, ‘at least such arrangements offered owners the possibility of attempting to develop their multiply owned land, and gaining experience’ that was needed to manage their properties. ‘But the requisite policies and laws emerged too late for Hauraki Maori’, who ‘no longer had sufficient land to incorporate’.<sup>625</sup>

Although aware that many desirable ways of assisting Maori, such as technical and commercial education, were twentieth century developments, the tribunal considered that governments could be ‘reasonably criticized’ for failing ‘to foster a properly structured system of tenancies and joint ventures on Maori land’. These were in existence in England and its overseas colonies, but were not used in New Zealand because the land was destined for Pakeha settlement. ‘It is not beyond reasonable expectation that governments could have fostered a wider Maori involvement in the new economy, monitored, perhaps, by official protectors’.<sup>626</sup> This certainly would have been desirable, but could be seen as viewing developments from a twenty-first century perspective of ‘wouldn’t it have been wonderful if...?’ The realities of politics in the nineteenth century made such a development highly unlikely, as the tribunal admitted.<sup>627</sup>

‘Many settler leaders’, the tribunal admitted, ‘genuinely believed that they had an obligation to help Maori, even to induce them to relinquish their traditional tenure and social order and enter the new economy and society, based largely on individual enterprise’.<sup>628</sup> Dion Tuuta, in outlining for the Waitangi Tribunal about how the Lipsey and Mokena families lost their land at Te Aroha,<sup>629</sup> argued that ‘the Government did not ensure that adequate protections were made for the descendants of both families’.<sup>630</sup> This implies that money obtained from selling land should have been held in trust, presumably by the government, for future generations, a concept that had occurred to few at the time, and would almost certainly have been violently opposed by the sellers. In 1865, the Chief Justice, Sir William Martin, did suggest that Maori owners could only sell their land by public

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<sup>625</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 3, p. 1218.

<sup>626</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 3, p. 1222.

<sup>627</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 3, p. 1223.

<sup>628</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 843.

<sup>629</sup> See papers on these families.

<sup>630</sup> Dion Tuuta, *Te Aroha Gold Fields Township 1878-1925: A summary of a report commissioned by the Waitangi Tribunal for Wai 663* (1999), p. 16.

auction, with ‘some of the payment compulsorily invested’;<sup>631</sup> he may well have had future generations in mind. Six years later, a Northland rangatira, Tamati Waka Nene, did suggest that it ‘would certainly be a good plan if a portion of the proceeds of all sales was invested for the benefit of the seller and his children’ before admitting that ‘all the Maoris would not approve of this’.<sup>632</sup> He did not envisage this money being under permanent government control for all future generations. In 1872 Mackay recommended that, ‘in cases of very large purchases, it might be found desirable to make the payments by instalments running over a term of years. It would also be beneficial to induce the Natives to invest some of their money in Government annuities’.<sup>633</sup> John Davies Ormond, Minister for Public Works, agreed with both points, ‘wherever practicable’ in the case of the second,<sup>634</sup> but nothing eventuated.

The Waitangi Tribunal considered that ‘there was no serious effort by the Crown to enable Maori to safeguard and invest the profits of land sales’. In response to the argument that ‘any compulsory investment of purchase money would have been unpopular with Maori vendors, and would have constituted “inappropriate paternalism” on the Crown’s part’, it noted, with examples, that in the 1840s and 1850s ‘various forms of avoiding lump-sum payments of the whole purchase price’ had been adopted.<sup>635</sup> The tribunal also noted that ‘there are limits to the protection that the Crown can accord to individual Maori owners of property which is no longer undivided tribal property’. This problem arose ‘from the system of land law which divided community land into individual interests alienable without further involvement of the community’.<sup>636</sup> Referring to Te Aroha, they commented that

if people get themselves into financial difficulties for whatever reason, and sale of their land is their only option, then we must ask what is the responsibility of the Crown towards Maori, given the provisions of article 3 of the Treaty which extends the rights and privileges of British subjects to Maori. This means that laws

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<sup>631</sup> Ward, p. 185.

<sup>632</sup> Statement of Tamati Waka Nene, 26 April 1871, *AJHR*, 1871, A-2A, p. 25.

<sup>633</sup> James Mackay to Minister of Public Works, 24 January 1872, *AJHR*, 1873, G-8, p. 5.

<sup>634</sup> Under-Secretary, Public Works Office, to James Mackay, 4 March 1872, *AJHR*, 1873, G-8, p. 6.

<sup>635</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 3, pp. 1217-1218.

<sup>636</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 1, p. xli.

on liability for personal debt also apply to Maori. It should be noted that no power existed for a share of undivided tribal land to be taken for personal debt. We need to question to what extent can or should the Crown protect individuals from themselves.<sup>637</sup>

The most revolutionary change brought by colonization, according to Russell Stone, was the ‘unearned income’ derived from timber milling, mining, and selling land, which established a ‘cash nexus’ with rangatira receiving a great deal of money not derived from co-operative labour. These commonly one-off payments were ‘often squandered in the sense of not being used to develop work-related sources of income that compensated for the reduced resources that hapu would have at their disposal in the future’. Rangatira saw themselves as ‘personal proprietors rather than as tribal trustees’.<sup>638</sup> Oliver agreed that Maori options became limited to ‘an opportunistic seizing of short-lived (and, in the long run, damaging) rewards’, with Maori being locked into a cash economy with diminishing and soon negligible sources of income.<sup>639</sup> ‘The resources upon which the vestiges of a traditional economy relied were severely diminished, and, in any case, inadequate for the requirements of a more developed capitalist and exploitative economy’.<sup>640</sup> Hauraki Maori would participate in this new economy as ‘disadvantaged dependents. Maori were relegated to the bottom of the socio-economic heap’.<sup>641</sup>

Oliver has also argued, correctly, that in all these dealings Maori were not really free agents but were, in general, ‘acting under a duress exercised by the agents of government with the sanction of the state’.<sup>642</sup> As Monin pointed out, governments considered Maori resistance to land sales as ‘something to be overcome, not respected and accommodated’.<sup>643</sup> Monin has shown that over-consumption of Pakeha goods and under-production of food because of reliance on ‘non-work-related income’, meaning goldfields

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<sup>637</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 3, pp. 931-932.

<sup>638</sup> Stone, pp. 71-72.

<sup>639</sup> W.H. Oliver, ‘The Social and Economic Situation of Hauraki Maori after Colonisation’, in Hauraki Maori Trust Board, *The Hauraki Treaty Claim* (Paeroa, 1997), vol. 10, p. 6.

<sup>640</sup> Oliver, p. 9.

<sup>641</sup> Oliver, p. 10.

<sup>642</sup> Oliver, *The Social and Economic Situation of Hauraki Maori after Colonisation* (Hauraki Maori Trust Board, 1997), p. 11.

<sup>643</sup> Monin, p. 250.

revenue, combined with the costs imposed by the land court system on those Maori forced to secure title, caused the debts of the 1870s. 'While Maori land legislation may not have had the express intention of fostering Maori debt as a means of precipitating land sales to Europeans, it functioned to this effect'. The 'highly capitalized economy' meant that Maori, lacking large capital, were no longer the primary suppliers of food and timber, and could not control 'even a single mining operation'.<sup>644</sup> As shown elsewhere, Maori did control some claims on several goldfields,<sup>645</sup> but none of these were successful, and not many Maori were involved either as miners or speculators. Mackay's raihana system was introduced at a time, as Monin argued, when Maori were most vulnerable. 'Here was a convenient substitute for the rents they had lost but believed, or at least hoped, they would soon recover. On this basis, they probably reckoned it to be no more than temporary debt'. This was quite likely, although Monin was on shakier ground, as indicated by his qualifying words, in arguing that 'some of these receipts were possibly viewed also more in terms of indigenous return-gifting than Western commodity transactions. The personal, indeed "Maori," relationship that many recipients had with Mackay lends credence to this view'.<sup>646</sup> Even on Monin's reasoning, it is clear that other Maori did not view the debts through this cultural prism.

James Belich, assessing the land acquisition process throughout the colony, agrees that the 'notorious' land court did destroy communal land tenure. 'Individual shareholders succumbed to pressures to sell more readily than did groups'. Those opposed to selling land were forced into the court in case their land was 'sold from under them' by those who wanted to sell, the latter often having accepted a preliminary payment, with non-sellers often being left with 'small, fragmented, and uneconomic segments'.<sup>647</sup> He cautiously accepted that Maori were tempted into debt not only by declining income but 'perhaps rising consumer expectations'. As economic opportunities were 'limited by swamping', his expression for the influx of Pakeha, 'the way out of debt was increasingly to sell land', and 'especially where ruthless Pakeha co-operated with selfish Maori, land was lost through moral if not legal fraud'. Yet he argued that 'the picture of naïve

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<sup>644</sup> Monin, p. 245.

<sup>645</sup> See papers on Maori and mining in general and Maori and mining at Te Aroha.

<sup>646</sup> Monin, p. 246.

<sup>647</sup> James Belich, *Making Peoples: A history of the New Zealanders, from Polynesian settlement to the end of the nineteenth century* (Auckland, 1996), p. 258.

Maori victims succumbing to legal chicanery and the blandishments of cunning Pakeha land buyers and storekeepers can be overdrawn', for the court became another arena for rivalry for mana. Money obtained from the 'easiest source', land sales, funded 'impressive hui and hangi, and the building of meeting houses', along with new clothes, houses, and means of transport which were 'symbols of group mana, cohesion, and dynamism'.<sup>648</sup> And individual ownership did not preclude communal farming, which continued in some areas.<sup>649</sup> However, as Monin stressed, a series of partitions 'steadily whittled the size of remaining Maori blocks and burdened them with survey costs, undermining their viability as pastoral forming units. To many owners, sale seemed the only thing to do'.<sup>650</sup>

Oliver also argued that many purchases were 'effected through undue pressure, engineered divisions among right holders, underhand devices and promises never fulfilled'.<sup>651</sup> 'In Hauraki politicians and officials worked effectively to secure access to Maori land for gold seekers and fixed (in both senses of the word) the rates at which Maori would be rewarded for their co-operation'.<sup>652</sup> By monopolizing purchases, the government ensured low prices, which Oliver rightly saw as 'exploitative manner'.<sup>653</sup> He argued that Maori should have received a 'reasonable profit' from the sales, and as well should have received the same government assistance as was granted to struggling Pakeha farmers.<sup>654</sup>

The latter is a particularly important point, and one developed at some length by Richard Boast in his work on land acquisition throughout New Zealand. He described land sales as being 'dispossession by purchasing', for sales were 'costly and destructive' for the sellers.<sup>655</sup> He also noted that sales were the 'only realistic option' for Pakeha to acquire land and that some poverty-stricken Maori were anxious to sell land to the government.<sup>656</sup> But he pointed out that it was 'plainly absurd' to see all land purchases as

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<sup>648</sup> Belich, p. 259.

<sup>649</sup> Belich, p. 269.

<sup>650</sup> Monin, p. 250.

<sup>651</sup> Oliver, p. 61.

<sup>652</sup> Oliver, p. 59.

<sup>653</sup> Oliver, p. 12.

<sup>654</sup> Oliver, p. 13.

<sup>655</sup> Richard Boast, *Buying the Land, Selling the Land: Governments and Maori land in the North Island 1865-1921* (Wellington, 2008), pp. 3, 10.

<sup>656</sup> Boast, pp. xv, 2.

‘wrongful’, as ‘land had to be made available for settlement’.<sup>657</sup> Acquiring as much Maori land as cheaply as possible was not done ‘to harm Maori as such, but rather to provide land for close settlement – close settlement being a kind of sacred mantra in the New Zealand political mind’.<sup>658</sup> Converting customary title into individualized Crown grants was part of economic modernisation that sought to turn Maori into individual farmers and so ‘merge themselves into the settler population’.<sup>659</sup> The problem was that land was ‘lost for the proverbial mess of pottage’, the ‘overwhelming majority’ of Maori receiving little in capital or investment credit in return. ‘Maori might as well have given their North Island lands to the Government for nothing for all the economic difference it would have made’, though some individuals did very well from sales.<sup>660</sup>

One of the objectives of his book was

to explode a myth. The myth is that possession of land equals wealth and wellbeing. This is just not so. Maori were poor and were forced into dependence on rural wage-labouring whether – and this is the point to be stressed – they owned land or not. Ownership of land did not necessarily equate to wealth and health in colonial New Zealand. Without capital to develop it ... land can just as much be a burden and a curse as a blessing.<sup>661</sup>

‘Land can only be a source of wealth if it can be made valuable as a security, which requires clear titles and a source of capital; Maori had neither’.<sup>662</sup> The Waitangi Tribunal accepted that ‘possession of land of itself does not guarantee economic success, and that knowledge and skills are also crucial’.<sup>663</sup> ‘For many Maori other sources of income were likely to be more lucrative than the land. Indeed, once the demographic upsurge got under way it became manifest that remaining Maori land could not support every Maori in the rohe of their birth’. But it considered this argument ‘depends of hindsight’, and stressed that had the 2,000 to 2,500 Maori owners been able ‘to utilize and develop’ their remaining land ‘there was still the possibility

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<sup>657</sup> Boast, p. 14.

<sup>658</sup> Boast, p. 450.

<sup>659</sup> Boast, p. 48.

<sup>660</sup> Boast, p. 40.

<sup>661</sup> Boast, p. 9.

<sup>662</sup> Boast, p. 296.

<sup>663</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 3, p. 1219.

that many of them could have had enjoyed reasonable living standards'.<sup>664</sup> It also noted that 'Maori could not gain relevant knowledge and skills as economic managers unless they had experience as landlords, or entered into joint venture arrangements with colonists'.<sup>665</sup>

Boast would not disagree, but was aware of the problems of raising capital, which meant that 'selling some land in order to generate capital to develop what remains is not necessarily a bad or unwise strategy, particularly where capital is hard to obtain from other sources'.<sup>666</sup> Boast stresses that 'poverty is as much a cause, as it is a result of land selling. Maori sell land *because* they are poor, rather than sell and *become* poor'.<sup>667</sup> The fundamental failure of government policy 'was an inability to meaningfully integrate Maori into the programme of land development and settlement', for not until 1929 were Maori able to get access to development finance.<sup>668</sup> Until then, no government had provided 'real assistance to Maori to develop their lands into productive farms'.<sup>669</sup> Michael King agreed, noting that as from the late nineteenth century onwards Maori were 'denied access to government assistance available to Pakeha farmers for land development, in most parts of New Zealand Maori could hardly produce sufficient food to feed themselves'.<sup>670</sup> In debating 'what might have been', Boast stressed that sales 'bore no relation' to a 'free-market conception of a sale. Had they done so, perhaps Maori would have had a lot more cash to invest, and might for all we know dominate the New Zealand economy today, having sold some of their land to raise capital and mortgaged and developed what remained'.<sup>671</sup>

As well as considering land sales, the Waitangi Tribunal considered whether leasing it was a way of raising 'significant capital'. This was not feasible because the Crown considered Maori leasing undermined its 'control of land transactions' and 'its determination to buy the freehold of most of the district, leaving relatively little spare land to lease'. Some rangatira at Thames, Kuaotunu, and Te Aroha received 'significant income'

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<sup>664</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 845.

<sup>665</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 3, p. 1219.

<sup>666</sup> Boast, p. 106.

<sup>667</sup> Boast, p. 256.

<sup>668</sup> Boast, pp. 169, 189.

<sup>669</sup> Boast, p. 451.

<sup>670</sup> Michael King, *The Penguin History of New Zealand* (Auckland, 2003), p. 248.

<sup>671</sup> Boast, p. 260.

from leasing urban and suburban land, 'but as the boom times ended the revenues yielded were slender'.<sup>672</sup> It accepted the dangers of 'counterfactual history', the 'what might have been' approach, as leading to 'mere speculation', before imagining what would have happened if leasing had been fostered in the early days of settlement. It would have produced 'a more equal partnership between Maori and settlers', with 'the prospect of Maori remaining the owners of much more of New Zealand, with settlers as their tenants or business partners'. Although it admitted such an outcome was unlikely to have been 'tolerated' once settlers were granted self-government, it considered that 'the crucial elements' required for development, 'security of tenure, and adequate returns on capital and labour invested on land', could have been 'secured through long leases and compensation for improvements. A mix of freehold and leasehold was entirely feasible' had not the Crown been 'so intent on securing the freehold of the auriferous lands and strategically important areas such as Ohinemuri'.<sup>673</sup>

That governments were 'so miserly with capital assistance for Maori land development in Maori hands and for providing training and assistance for Maori to enter the booming dairy industry' was to Boast 'a deplorable policy failure'. It revealed 'an inability on the part of the State to step back from its activities and assess them in a reasonably sophisticated manner in terms of what was desirable in the national interest'.<sup>674</sup>

The Waitangi Tribunal criticized Crown policy for preventing 'the corporate group from deciding the future of the land, undermined the traditional reciprocity and consensus in decision making which existed between rangatira and people, and paved the way for individual opportunism and factionalism'.<sup>675</sup> However, it should be noted that, as the examples of owners of the Aroha block illustrate, many Maori were anxious to exercise their individual opportunities to make whatever income or profit they could from their interests.<sup>676</sup> In 1893, for instance, when a Kuaotunu block was before the court,

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<sup>672</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 3, p. 1215.

<sup>673</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 3, p. 1216.

<sup>674</sup> Boast, p. 452.

<sup>675</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 846.

<sup>676</sup> See papers on the Aroha block, the Lipsey family, and the Ngati Rahiri rangatira.

Paraku Rapana<sup>677</sup> says that all those present were anxious that something should be done whereby they may derive some benefit from the land which under present circumstances is useless to them.

The land had been leased for the timber only and they now desire to hand it over to the Government for the gold.<sup>678</sup>

But the tribunal correctly noted that the encouragement of individualism ‘rendered almost impossible any long-term, collective planning for the development of land, either as small family farms or as community ventures’, and imagined the possibility of hapu leadership negotiating ‘better economic arrangements based upon a mix of leasehold, joint venture timber milling, and farming on the river valleys, as well as sale’.<sup>679</sup> It regretted that such a system was not possible until 1894, when legislation permitting ‘incorporation of owners’ was carried, ‘too late to be helpful to Hauraki’.<sup>680</sup>

The ‘overall finding’ of the Waitangi Tribunal was given in 2006:

We conclude that Hauraki Maori have been marginalized in their own rohe by the transfer of land and resources to others, including Maori of other iwi. Moreover, we find that this outcome, particularly the wholesale purchasing of Hauraki lands, was the consequence of policies and laws deliberately introduced and sustained well into the twentieth century, and that this falls short of the Treaty requirement that land and other taonga be acquired through informed consent.

In particular, it noted that ‘most Hauraki land was acquired by the Crown under pre-emptive (monopoly) right, and Hauraki Maori generally did not have the option to lease their land or to sell it on an open market, nor to make well-advised community decisions on the terms and conditions of sale’.<sup>681</sup>

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<sup>677</sup> See Maori Land Court, Hauraki Minute Books, no. 23, p. 90; no. 25, p. 161; no. 28, p. 36; no. 28A, p. 114; no. 28B, p. 46; no. 29, p. 163; no. 31, pp. 131, 220-221, 223; no. 49, pp. 42-43; no. 63, p. 126; no. 64, p. 304.

<sup>678</sup> Maori Land Court, Hauraki Minute Book no. 31, p. 206.

<sup>679</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 846.

<sup>680</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 847.

<sup>681</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 1, p. xlvii.

The period from 1865 to 1899 had brought Hauraki Maori flushes of temporary prosperity in the height of the gold or logging booms, and the habit of living on credit against anticipated land sales. The proud, independent iwi and hapu of the 1860s had alienated most of their land, with as yet no efficient corporate system of land management emerging, and with the income from gold and timber declining. Yet, the pressures of day-to-day living and debt remained. Hauraki Maori in the late nineteenth century remained on the margins of the mainstream economy.<sup>682</sup>

The underlying reason ‘why Hauraki Maori did not benefit in a lasting way from economic development of their region was that settlers controlled the making of law and its administration’.<sup>683</sup> The consequences were outlined in the tribunal’s findings:

- We accept that economic and social outcomes are by no means wholly within the control of the State.... But we consider that the Crown could have done more to assist Maori to share in the development opportunities, particularly by fostering leasehold tenure and joint ventures on land still in Maori ownership.
- ... Crown policies in New Zealand were highly interventionist and included interventions imposed on Maori land rights.... Those interventions were designed largely to facilitate the transfer of most Hauraki land to the Crown and to settlers, leaving too little land in Maori hands to be useful.
- We reject the suggestion that there is no connection between the wholesale acquisition of Maori land and the economic marginalisation of Hauraki Maori....
- We nevertheless accept the Crown’s argument that the mere possession of land is not guarantee of prosperity. Much depends upon the quality and location of that land, the tenure under which it is held, the management structures and access to capital and skills to assist development.

Under this last point, it stressed Maori ‘inexperience in managing debt’, which ‘could have been ameliorated’ had legislation ‘provided for an appropriate and accountable structure for the management of land in multiple ownership’. But money to assist farmers develop their land was not provided to Maori even after the Advances to Settlers legislation of 1894.

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<sup>682</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 2, p. 849.

<sup>683</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 3, p. 1213.

- We consider that, while the Crown could not have guaranteed continued prosperity for Hauraki Maori, it chose to introduce laws and land purchase programmes which contributed to their economic marginalisation. These policies were driven largely by the underlying strategy upon which the colony was founded, whereby the Crown deprived Hauraki Maori of the bulk of their land, at low prices, in order to provide land for settlement and to fund development. Political factors such as controlling strategic land in order to control the region by opening communication routes also affected the situation.

The tribunal accepted Oliver's description of land sales as not being 'deals freely entered into by equal contacting parties', with many purchases being 'effected through undue pressure, engineered divisions among right holders, underhand devices and promises never fulfilled'. It added that the form of tenure as well as the methods of acquisition 'hugely disrupted Maori social organisation, fostered internal divisions, led to needless partitioning of land, and virtually precluded considered, long-term development planning on multiply owned land. The results were extremely damaging to Maori social and economic advancement'.<sup>684</sup>

## CONCLUSION

All these defects in the Crown's land purchasing methods and the consequences for sellers were repeated when the Aroha block went through the land court and was then acquired by the Crown.

### *Appendix*

*Figure 1:* Location of Maori land blocks and settlements along the lower Waihou River, in Caroline Phillips, *Waihou Journeys: The archaeology of 400 years of Maori settlement* (Auckland, 2000), p. 52; used with permission.

*Figure 2:* Settlements along the lower Waihou River reported in the Hauraki Minute Books, in Phillips, p. 59; used with permission.

*Figure 3:* Maori settlement sites in the lower Waihou River, mapped by Max Oulton, University of Waikato, and published in Waitangi Tribunal,

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<sup>684</sup> Waitangi Tribunal, *The Hauraki Report*, vol. 3, pp. 1226-1229.

*The Hauraki Report: Wai 686* (Wellington, 2006), vol. 3, p. 1103; used with permission.

*Figure 4:* 'Hauraki Mining District', n.d. [1886], portion showing all the Maori land blocks from Waiomu to Te Aroha, Te Aroha and District Museum; used with permission [this is the museum's title for this map].

*Figure 5:* 'Hauraki Mining District', n.d. [1886], portion showing all the Maori land blocks from Hikutaia to Okauia, Te Aroha and District Museum; used with permission.

*Figure 6:* Land blocks purchased by Europeans and settlements from Kopu to beyond the junction of the Ohinemuri and Waihou Rivers, [n.d., 1842?], in Phillips, p. 93 [from Alexander Turnbull Library, Mapcoll 832.14CDC/N.D./ACC.3320]; used with permission.

*Figure 7:* Sketch Map of Thames Gold Field' showing proclaimed gold fields and blocks of land where negotiations have not been completed, 'Report of Mr Commissioner Mackay Relative to the Thames Gold Fields', *AJHR*, 1869, A-17.

*Figure 8:* 'Sketch Map of Ohinemuri', appended to *Daily Southern Cross*, 1 March 1875, (note p. 2), NZ Map 133, Sir George Grey Special Collections, Auckland Libraries; used with permission.

*Figure 9:* W.J. Preece, 'Ohinemuri Gold Field Block', 21 June 1874, ML 3416A, University of Waikato Map Library.

*Figure 10:* Crown purchases of Maori land, 1872-1905, mapped by Max Oulton, University of Waikato, and published in *Hauraki Report*, vol. 2, p. 804; used with permission.

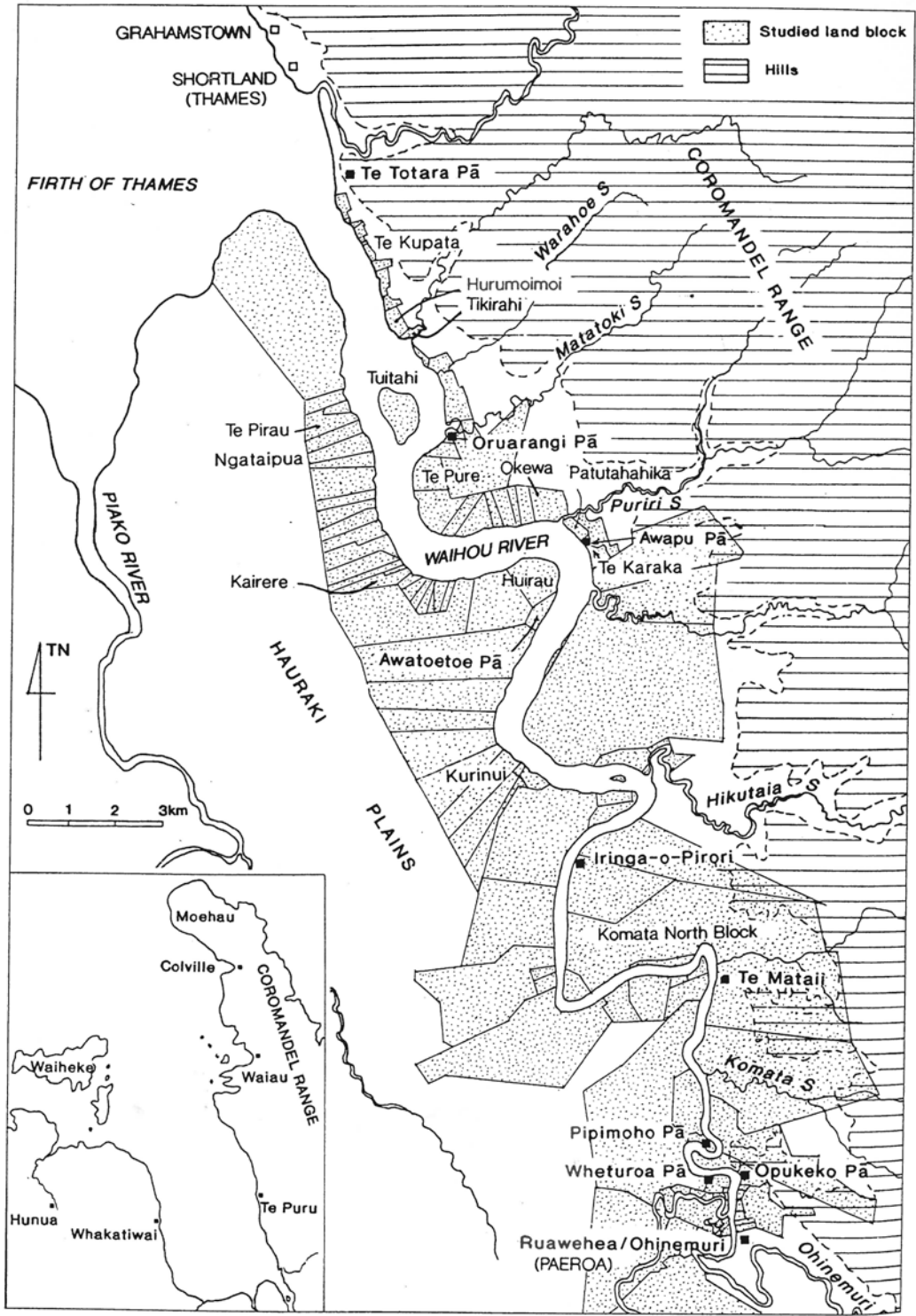


Figure 1: Location of Maori land blocks and settlements along the lower Waihou River, in Caroline Phillips, *Waihou Journeys: The archaeology of 400 years of Maori settlement* (Auckland, 2000), p. 52; used with permission.

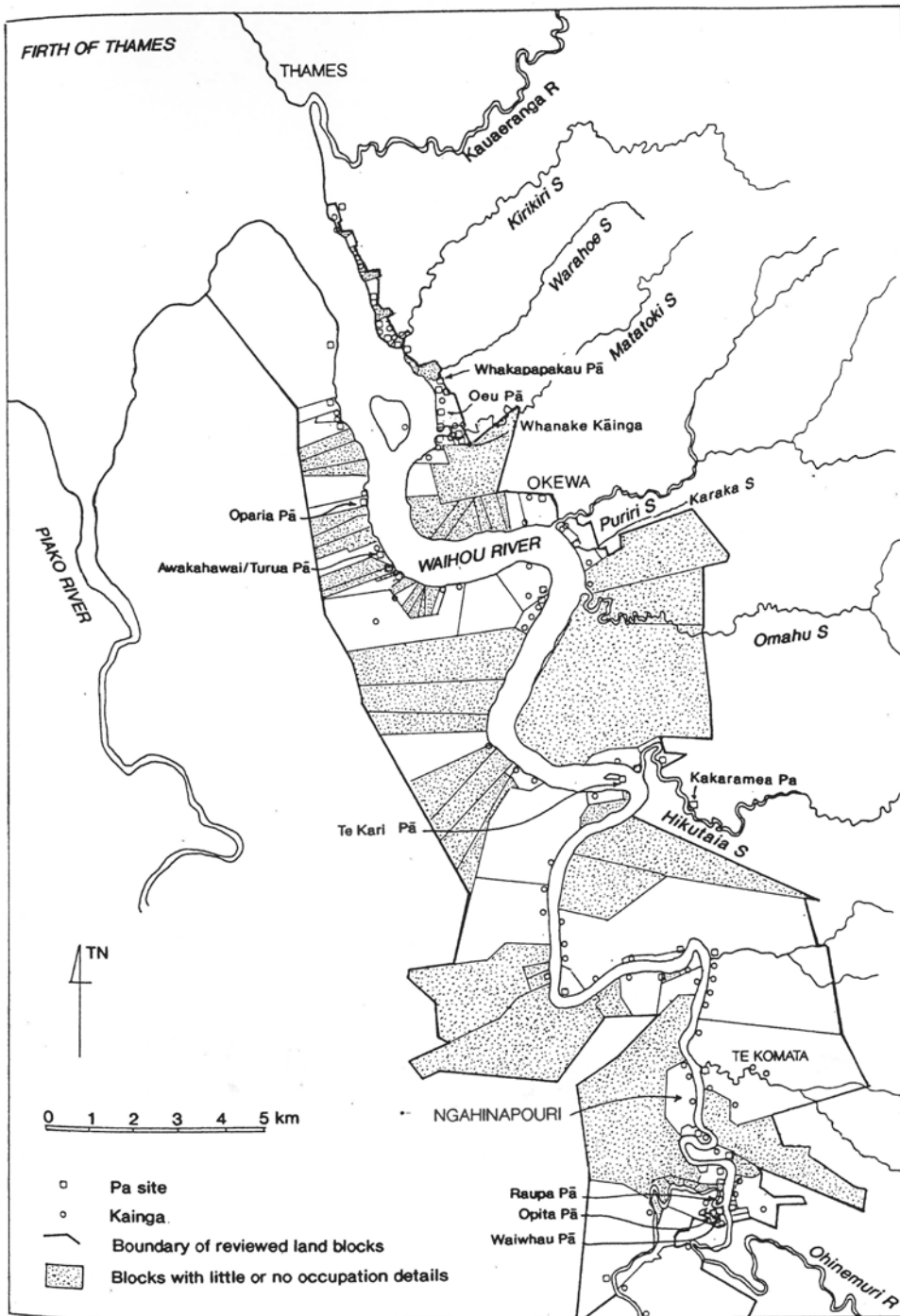


Figure 2: Settlements along the lower Waihou River reported in the Hauraki Minute Books, in Phillips, p. 59; used with permission.

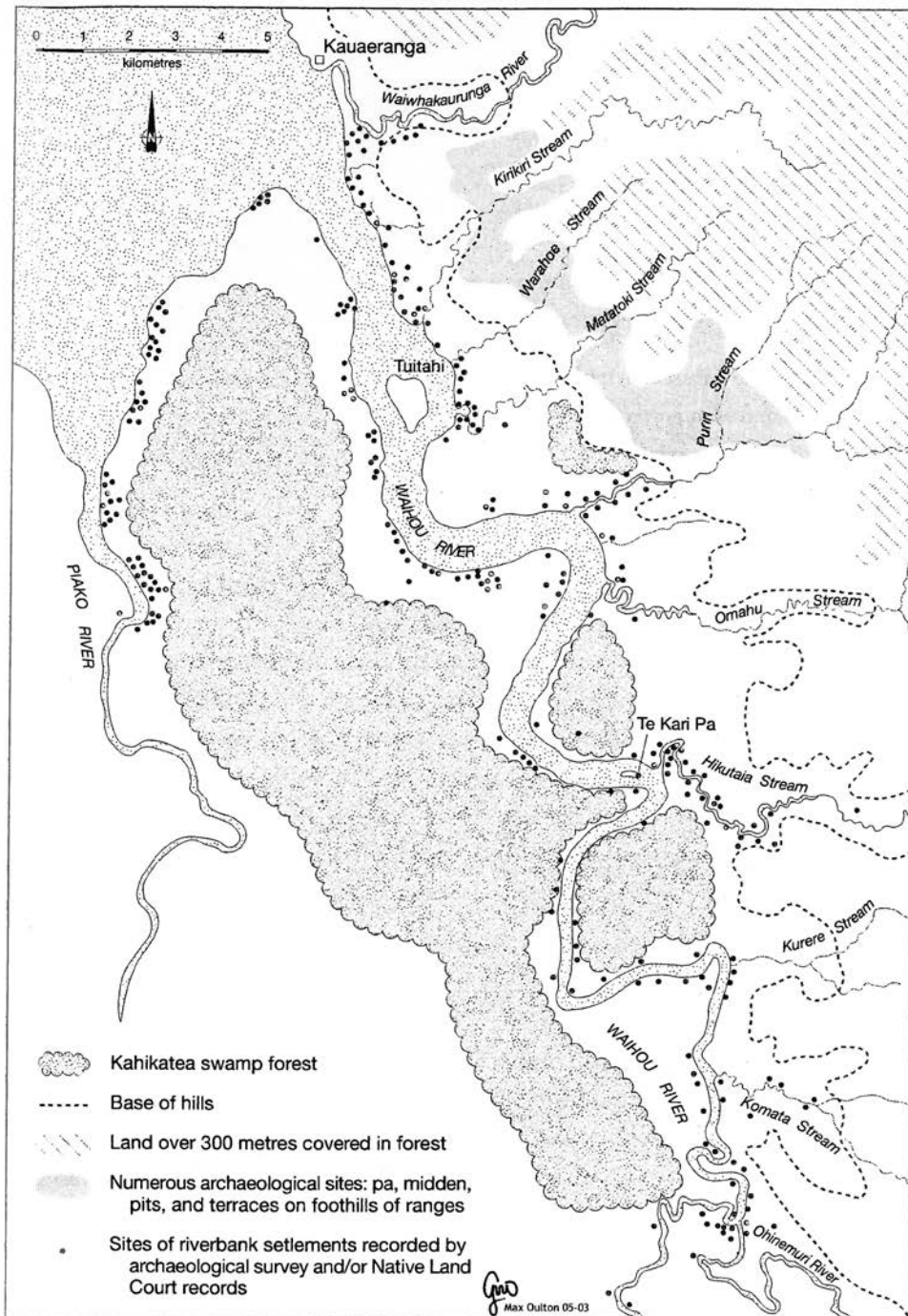


Figure 3: Maori settlement sites in the lower Waihou River, mapped by Max Oulton, University of Waikato, and published in Waitangi Tribunal, *The Hauraki Report: Wai 686* (Wellington, 2006), vol. 3, p. 1103; used with permission.



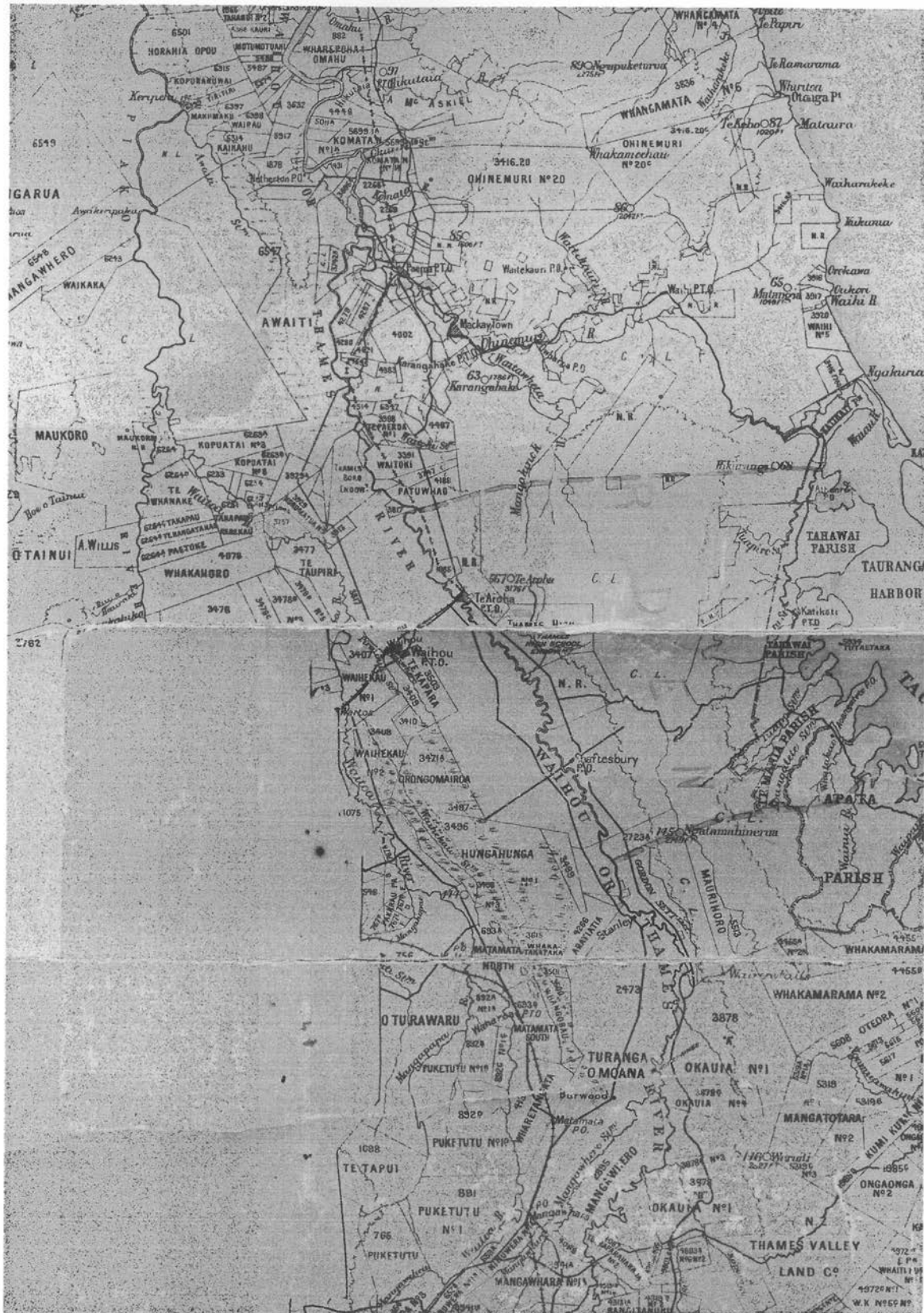


Figure 5: 'Hauraki Mining District', n.d. [1886], portion showing all the Maori land blocks from Hikutaia to Okauia, Te Aroha and District Museum; used with permission.



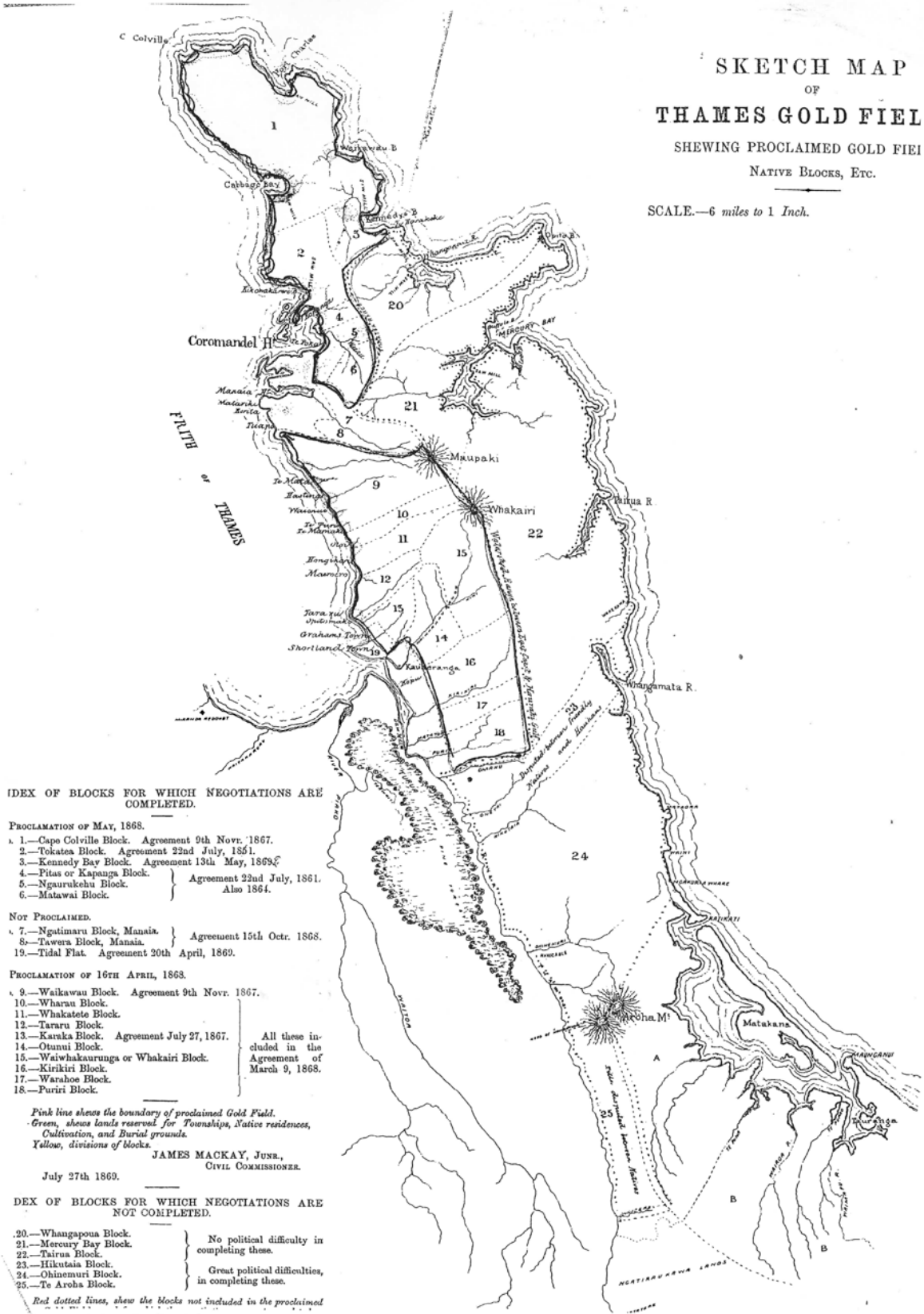


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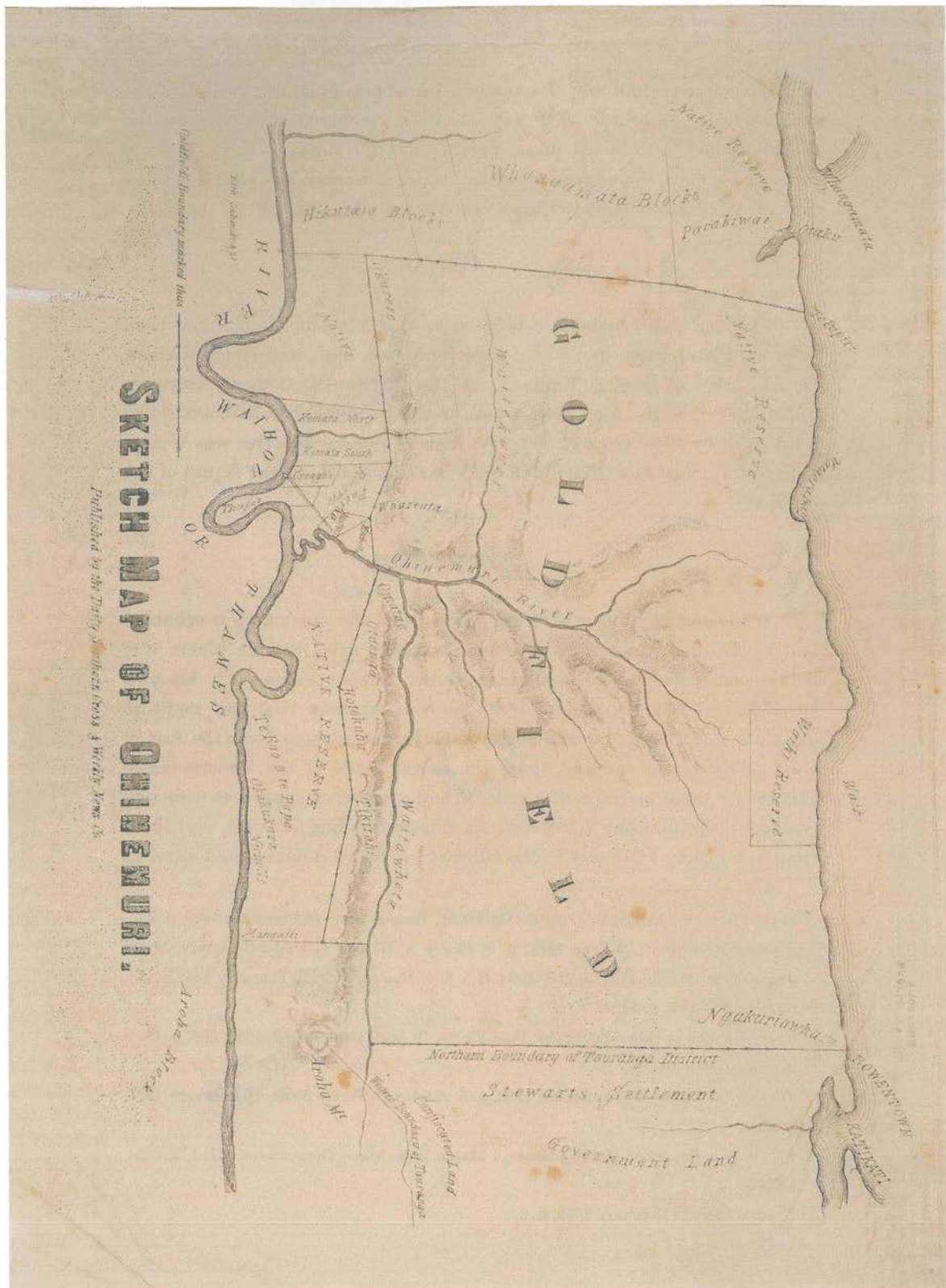


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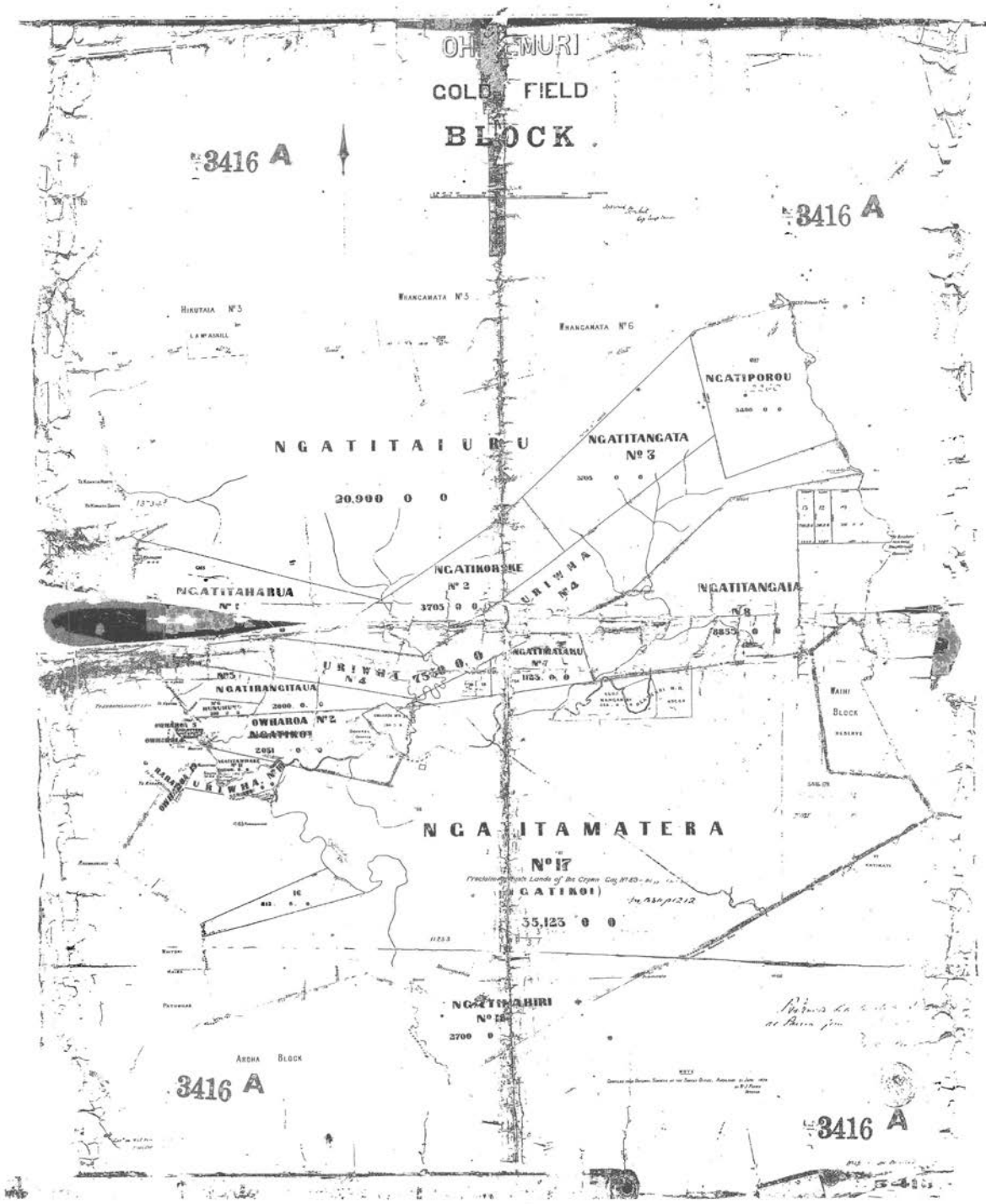


Figure 9: W.J. Preece, 'Ohinemuri Gold Field Block', 21 June 1874, ML 3416A, University of Waikato Map Library.

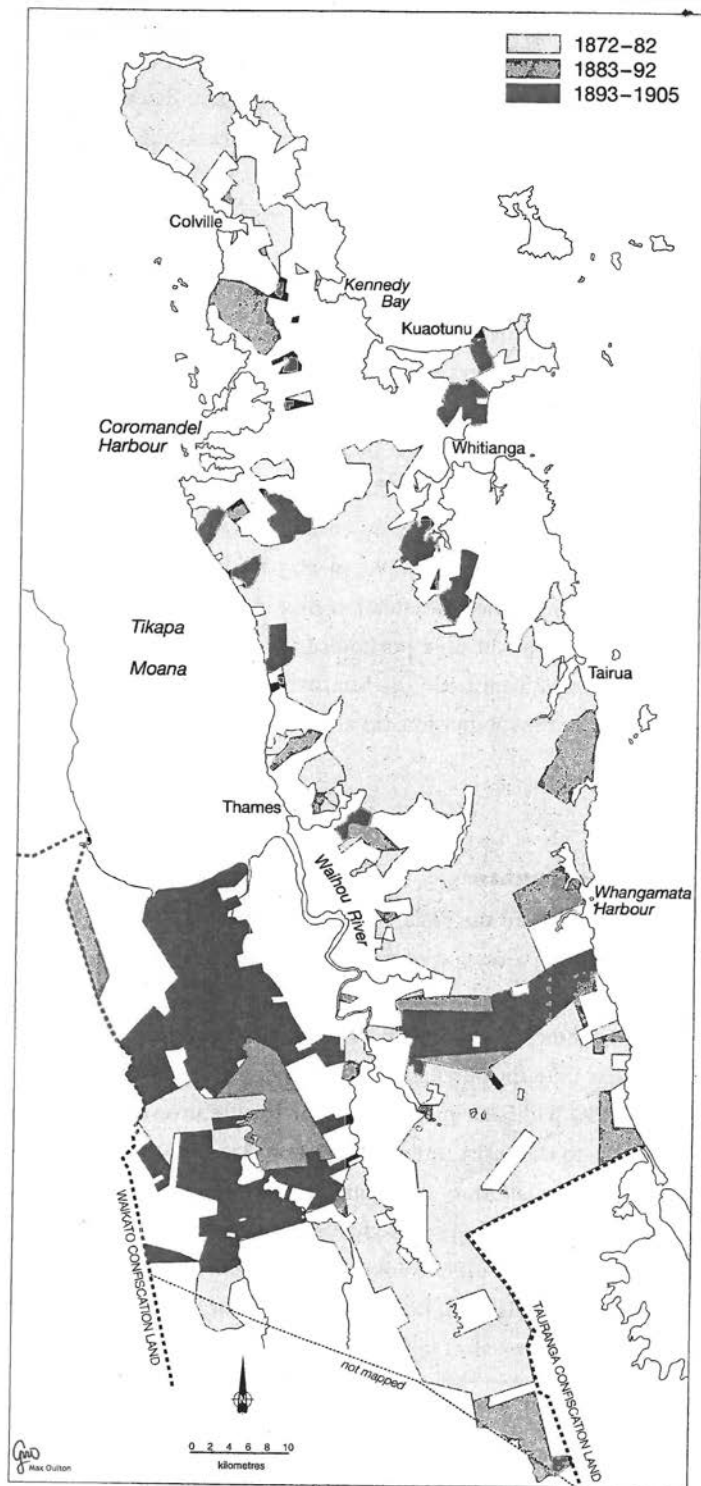


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