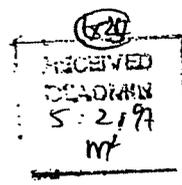


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Wai 406

**THE ISLANDS LYING BETWEEN SLIPPER ISLAND IN
THE SOUTH-EAST, GREAT BARRIER ISLAND IN THE
NORTH AND TIRITIRI-MATANGI IN THE NORTH-WEST**

Paul Monin

This report was commissioned by the Waitangi Tribunal for the claim
Wai 406

December 1996

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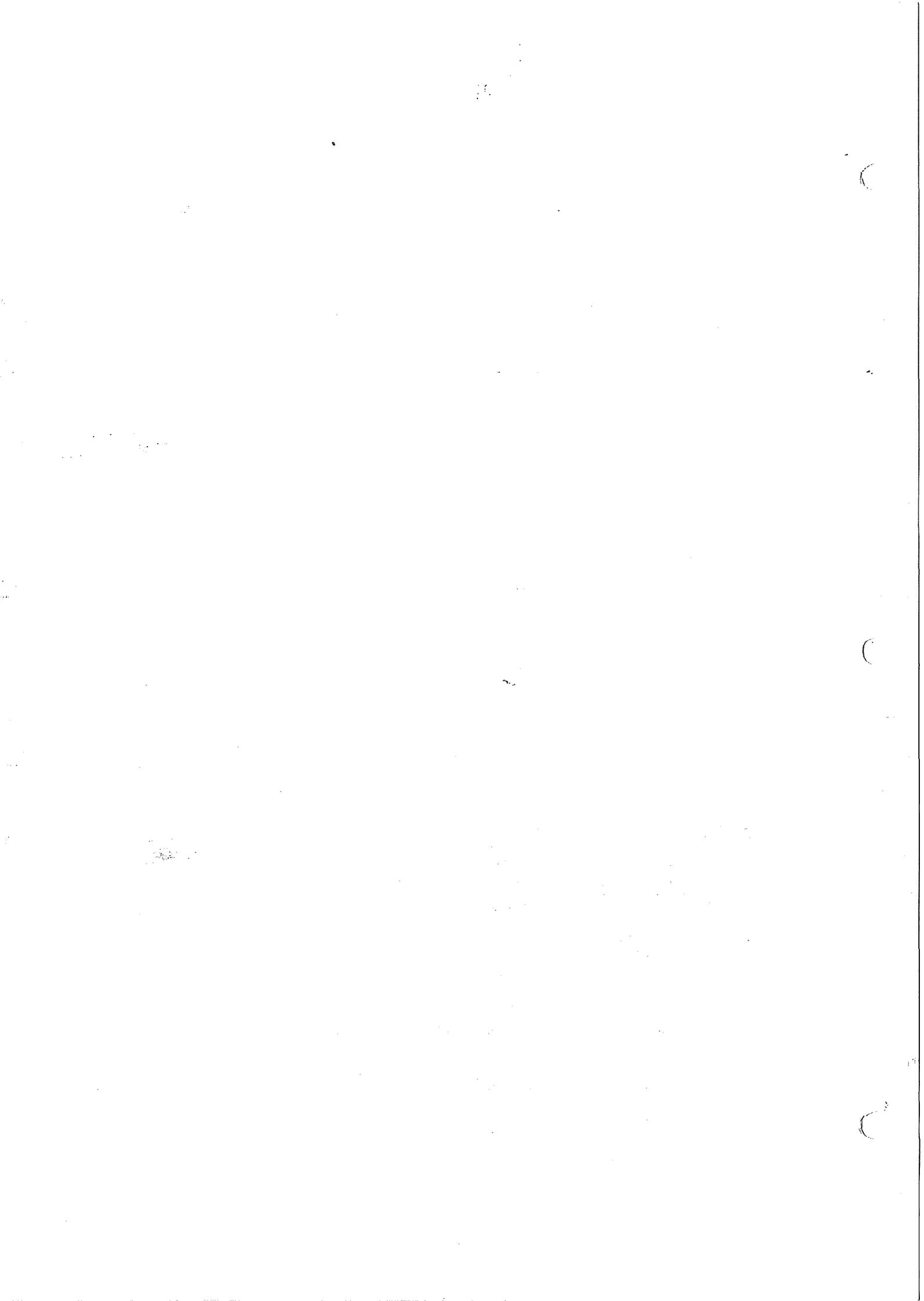
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TABLE OF CONTENTS

INTRODUCTION	5
CHAPTER 1: PRE-EUROPEAN MAORI HISTORY AND CUSTOMARY RIGHTSHOLDING AS AT 1840	7
1.1 Introduction	7
1.2 Written sources	7
1.2 The special circumstances of rightholding in Islands	8
1.3 The strategic location of the Gulf/Coromandel Islands	9
1.4 The pre - 'waka' Peoples	10
1.5 Te Arawa	11
1.6 Te Tainui	13
1.6.1 Ngai Tai	13
1.6.2 Ngati Hako	14
1.7 The Marutuahu Migrations	14
1.8 The Marutuahu Conquest	15
1.8.1 The conquest of the Firth/Coromandel	15
1.8.2 Kapetaua (Kapetawa)	16
1.8.3 The Wars between Ngati Paoa/Marutuahu and Waihoua/Huarere	17
1.8.4 The Wars between Ngati Whatua and Ngati Paoa	18
1.8.5 The Wars between Ngati Paoa and Ngati Rongo/Kawerau	20
1.9 How complete was the Marutuahu conquest?	20
1.10 The Nga Puhi raids upon Hauraki	21
1.11 Tribal politics and ensuing changes to rights in the 1830s	22
1.12 Customary rights in other Gulf islands at 1840	27
CHAPTER 2: ALIENATION HISTORY OF THE ISLANDS: PRE-1865	31
2.1 Introduction	31
2.2 PRE-TREATY PURCHASES (OLD LAND CLAIMS)	32
2.2.1 Whanganui Island - 1836 - Webster	32
2.2.2 Motutapere Island - 1838 - Webster	33
2.2.3 Aotea (Great Barrier Island) - 1838 - Webster	33
2.2.4 Ahuahu (Great Mercury Island) - 1839 - Webster	34
2.2.5 Waiheke Blocks - 1838 - Webster	35
2.2.6 Te Huruhe (Waiheke) - 1838 - Maxwell	35
2.2.7 Motutapu (Hurakia etc) - 1840 - Maxwell	36
2.2.8 Motuihe - 1839 - Fairburn	38
2.2.9 Te Matuku (Waiheke) - 1839 - Fairburn	40
2.2.12 Waiheke - 1840 - Simpson	41
2.2.13 Motukorea (Brown's Island) - 1840 - Brown	42
2.2.14 Gulf Island Old Land Claims: Conclusions and Treaty Issues	44
2.3 PRE-EMPTION WAIVER PURCHASES	47
2.3.1 Great Barrier - Whitaker and du Moulin	47
2.3.2 Rotoroa - McIntosh	48
2.3.3 Pakatoa - McIntosh	48
2.3.4 Pakihi and Karamuramu - Tayler, Brown and Campbell	49
2.3.5 Motutapu - Williamson and Crummer	50



2.3.6 Ponui - Regan and Duane	50
2.3.7 Waiheke - Eight purchases	50
2.3.8 Gulf Island Pre-emption Waiver Claims: Conclusions and Treaty Issues	52
2.4 EARLY CROWN PURCHASES	55
2.4.1 Mahurangi - 1841- "all the islands on the Coast" - including Rangitoto and Tiritiri Matangi	56
2.4.2 Ponui - 1853/54	57
2.4.3 Two Waiheke Purchases - 1854 & 1858; and Sequels - 1867 & 1869	57
2.4.4. Two Great Barrier (Aotea) Purchases - 1854 & 1856	58
2.4.5 Great Mercury (Ahuahu) Purchases - 1858-65	58
2.4.6 Aitu, Moturehu, Mahurangi Island, Purangi Islands, Tuhuanui - 1858-1861	59
2.4.6 Gulf Islands Early Crown Purchases: Conclusions and Treaty Issues	59
CHAPTER 3: ALIENATION (& NON-ALIENATION) HISTORY OF THE ISLANDS: POST-1865	62
3.1 Introduction	62
3.2 INVESTIGATION GENERALLY FOLLOWED BY ALIENATION TO PRIVATE INDIVIDUALS	64
3.2.1 Waiheke Island 1865-1877	64
3.2.2 Motuhoropapa, Otata (Noises) and Ruapuke (Maria Island) - 1866	68
3.2.3 Waimate - 1869	69
3.2.5 Rakitu (Arid Island) - off Aotea - 1871	71
3.2.6 Rangihua (Flat Island) - off Aotea - 1926	72
3.2.6 Motutaiko and Mahuki - off Aotea - 1934	74
3.2.7 Ngamotuaroha and other islands including Motukopake - 1912	74
<hr/>	
3.3 CROWN ACQUISITION FOR LIGHTHOUSES	76
3.3.1 Tiritiri Matangi - 1865 to 1867	76
3.3.2 Repanga (Cuvier) - 1877 & 1888	77
3.3.3 Ohinau - 1923	78
3.4 GIFT/SALE FOR CONSERVATION MANAGEMENT	79
3.4.1 Hauturu (Little Barrier Island)	79
3.4.2 Whakau (Red Mercury Island), Green, Middle and Korapuki Islands	82
3.4.3 Ruamahū - The Aldermen Islands	83
3.4.4 Motutapere	86
3.5 RECENT TITLE INVESTIGATION OF SMALLER ISLANDS	87
3.5.1 Motu Karaka, Motu Morirau, Motu Winukenuke, Motu Makareta & Motu Whakakewa - 1971	87
3.5.2 Motu Kopu, Motu Koranga & Motu Koruenga- 1971	88
3.5.3 Pungapunga, Tataweka, Wekarua and Matariki Islands	88
3.5.4 Horuhoru & Tarahiki - 31 July 1981	88
3.5.5 Motu Karanui & Motu Waikaia - 1988	89
3.5.6 Aotea Islands - 1995	89
CHAPTER 4: CURRENT OWNERSHIP AND CONCLUSIONS	90
4.1 CURRENT OWNERSHIP	90
4.4.1 The Hauraki Gulf Maritime Park	90
4.4.2 Maori owned Islands	91
4.2 CONCLUSIONS (EXECUTIVE SUMMARY)	91
4.3 Suggestions for Further Research	94



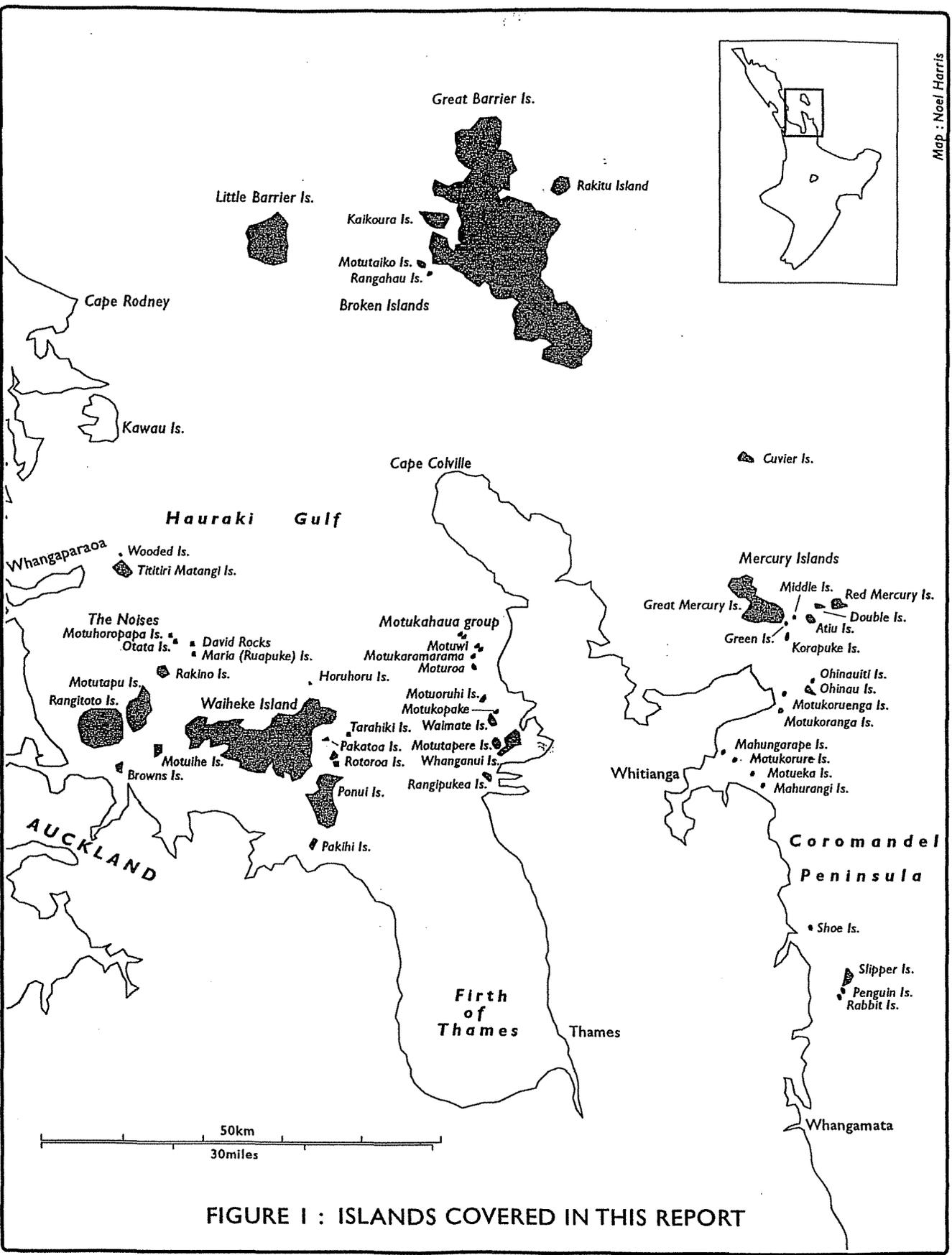
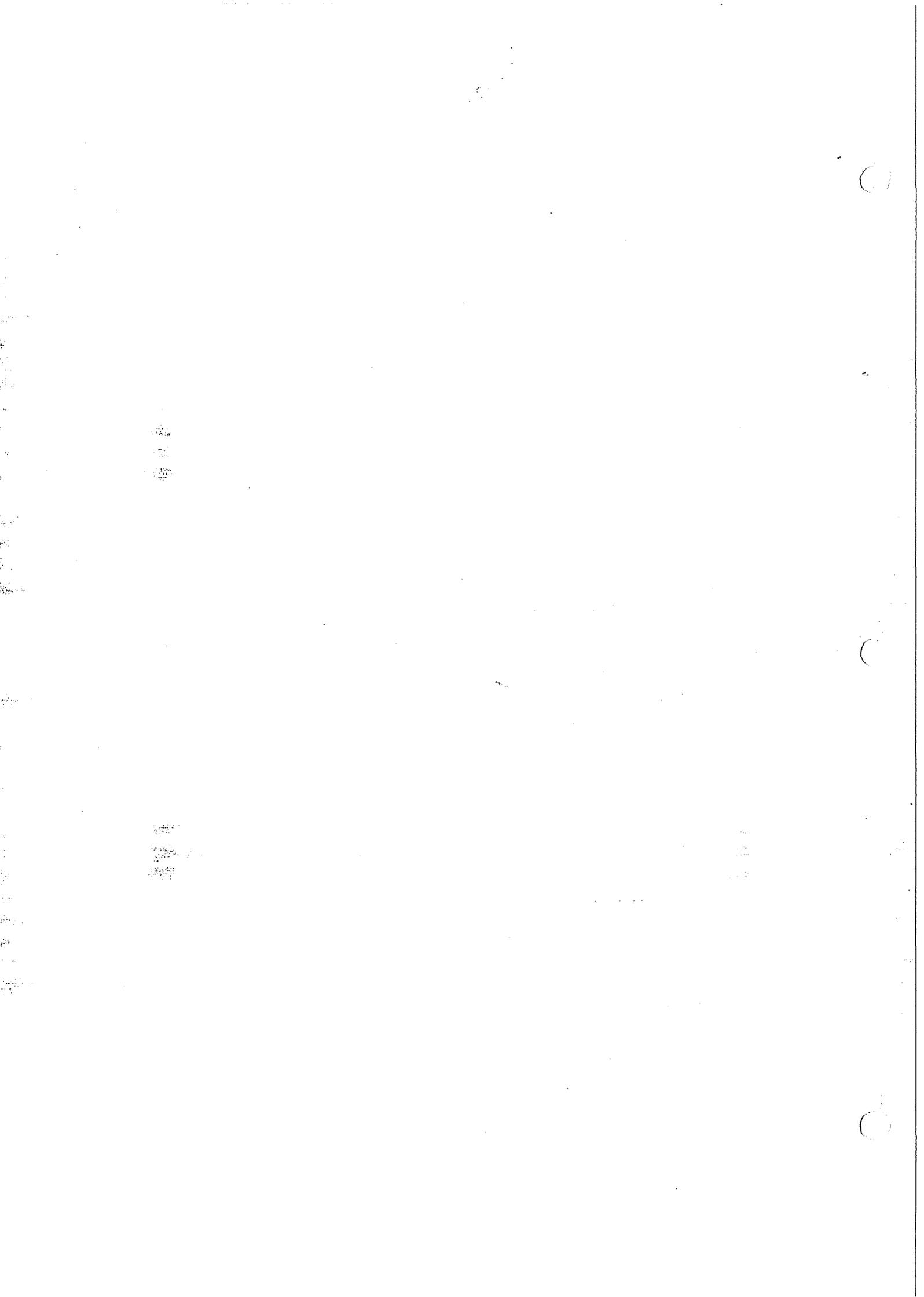


FIGURE I : ISLANDS COVERED IN THIS REPORT



INTRODUCTION

My name is Paul Derek Monin. My academic qualifications are: M.A. in history, University of Canterbury (1968); and M.A. in politics, McMaster University, Canada (1971). I was a junior lecturer in politics at the University of Waikato in 1972. From 1976 to 1989 I taught history and English in secondary schools in Auckland and Melbourne. I am the author of *Waiheke Island: A History* (Dunmore, 1992) and "The Maori Economy of Hauraki 1840-1880", *New Zealand Journal of History*, 29, 2, October 1995. In 1995 I received a \$10,000 'Award in History' from The New Zealand History Research Fund toward the writing of a nineteenth century history of Hauraki, the completion of which has been delayed by my undertaking of Waitangi Tribunal related work in 1996, also dealing with Hauraki. Hence over the past six years I have been engaged full-time in researching and writing Hauraki history.

This 16-week commission was undertaken over the period 12 August to 30 November 1996. It involved numerous research trips: one to the National Archives in Wellington, three to the Maori Land Court in Hamilton and many others to the National Archives, University, Public Library and Land Registry in Auckland. The writing was done on Waiheke Island.

This report will examine:

- (a) the customary use of the islands, as described in written sources;
- (b) the alienation history of the islands; and
- (c) the current ownership status of the islands.

It is important to note that the geographical scope of the report - "the offshore islands lying between Slipper Island in the south, Great Barrier Island in the north and Tiritiri Matangi in the north-west" - involves the mana whenua of not just the four Marutuahu iwi: Ngati Maru, Ngati Whanaunga, Ngati Tamatera and Ngati Paoa. It also involves the mana whenua of the earlier peoples of Hauraki: Ngai Tai, Ngati Hei, Patukirikiri, Ngati Hako and Ngati Huarere; plus the outside peoples: Ngati Wai, Kawerau and Ngati Whatua. Even this list is probably not exhaustive. In this report 'Hauraki' will be taken to mean the Marutuahu iwi plus those earlier peoples of Hauraki named above.

I hasten to add that the above delineation of islands falls slightly short of the south-eastern and north-western limits of the rohe of Hauraki. The people of Hauraki define their rohe as extending 'from Matakana to Matakana', that is, from Matakana Island, at the mouth of Tauranga Harbour, to the Matakana River, on the mainland opposite Kawau Island. The omission of islands to the south is not significant but that

to the north-west is. The only islands south of Slipper Island are those at the mouth of Whangamata Harbour which are still in Maori ownership. Between Tiritiri Matangi and the Matakana River lie a substantial number of islands, including Kawau.

With the above considerations in mind, the islands will be referred to collectively simply as the Gulf Islands, and not as the Hauraki Gulf Islands or the Hauraki Islands, to avoid suggesting that non-Hauraki iwi cannot claim mana whenua over at least some of them.

The land area involved is about 122,000 acres. (Areas will be given in acres rather than in hectares because this is the measurement used in most of the documents.) Little Barrier (Hauturu) has been included in the report, though not specifically required to be by the directions of the commission, because its integral place in the overall history of the islands in the nineteenth century.

Only written sources have been used. Chapter 1, which surveys the traditional history of the islands, is only as reliable as the ethnographic narratives and the Maori Land Court minutes upon which it is based. Subsequent chapters can make a greater claim to being 'factual', insofar as they comprise either information on *what actually happened*, or on *what was perceived to have happened* by participants in those events. Information is drawn from the most reliable written sources available, principally the records of the Maori Land Court, the Old Land Claims archives, Turton's Deeds and relevant fragments from the AJHR's, all of which are carefully referenced. Yet without accompanying analysis and interpretation such information may leave us little the wiser as to why or how events occurred. To advance this understanding it will be necessary to explain the historical context of these events and, from time to time, to make inferences from the facts. It should be clear when this is being done, but whenever a particularly debatable position is assumed, the indicators "I" or "the author" will be used. All views are those of the author, not the Waitangi Tribunal.

This commission proved to be more difficult than might have been initially expected. To begin with, the explication of customary rights in the islands as at 1840 necessarily entailed coverage of the entire scope of pre-1840 Hauraki history, a history particularly eventful in its final decade. Then it was soon realised that the majority of pre-Treaty purchases and pre-emption waiver purchases in Hauraki, plus a sizeable proportion of pre-1865 Crown purchases there, involved Gulf islands. Consequently, it was necessary in effect to undertake 'sub-reports' on these three modes of alienation in Hauraki. Moreover, each island has its own distinct alienation history, requiring separate construction and distillation. Those of Waiheke, Great Barrier, Little Barrier and Motutapu are especially complex. Every effort has been made to achieve a balance between local detail and overall analysis.

CHAPTER 1: PRE-EUROPEAN MAORI HISTORY AND CUSTOMARY RIGHTSHOLDING AS AT 1840

1.1 Introduction

Utilising written sources, this chapter has two overall objectives:

1. To outline the pre-European Maori history of the islands, which obviously is closely related to that of the greater geographical region of Tamaki-makau-rau, Mahurangi and Hauraki - and thereby
2. To account for customary rightsholding in the islands as at 1840.

However, three background issues will first be examined:

1. The limited extent of written sources on Maori rightsholding in the islands, a situation exacerbated by the fact that most of the islands, or the greater parts of the larger ones, were alienated before the advent of the Native Land Court;
2. The special circumstances of rightsholding on islands; and
3. The strategic location of the Gulf Islands.

1.2 Written sources

The fact that many of the islands, or the greater parts of the larger ones, were alienated before the commencement of the Native Land Court era, in 1865 in Hauraki, poses serious difficulties as regards written sources on customary use and rights. It is generally appreciated that pre-1865 land transactions - namely pre-Treaty, pre-emption waiver and early Crown purchases - did not generate substantial written records thereon, in contrast to the Land Court title investigations later. Indeed some historians have suggested that rigorous investigation of these was not undertaken in the first place, leaving little to be recorded subsequently.¹ This matter will be examined thoroughly in Chapter 2. However, some of this deficit can be made up for by extrapolation from Land Court evidence generated by the title investigations of adjacent islands or parts of islands. For example, the title investigation of the Otata group (Noises) reveals much about Rakino, Motutapu and Motuihe; that of the smaller central Waiheke blocks much about Waiheke as a whole; that of Rakitu (and more recently, Rangihua and Motukaiko) much about Great Barrier; and that of the Red Mercury group much about Great Mercury.

Records of the Church Missionary Society have been consulted but at best these offer information only on occupation, generally saying nothing about the identity of the people involved. Yet such occasional references at least help to establish when and to what extent the larger islands, like Waiheke, were occupied in the 1830s.

¹ Ward and Fenton. Full references will be given in Chapter 2.

Secondary written sources are also few and far between. Passing references to the islands, usually the larger ones, in the works of Fenton, Percy Smith and Phillips,² are gratefully utilised, but amount to relatively little in sum total.

Then there are the ever-present problems of identifying the hapu and descent lines of the individuals laying claim to the islands in the Land Court. In the case of some of the islands I have been unable to do so with any precision, for want of sufficient knowledge of Hauraki whakapapa. In such cases the names of the successful claimants are given with any identifying information supplied by the Court record

1.2 The special circumstances of rightholding in Islands

Customary rights in islands were less secure and more complex than on lands on the mainland, due to the nature of the land/resources involved. Only larger islands, like Waiheke and Great Barrier, were suitable places for permanent occupation, through which pre-eminent or something approaching exclusive rights might be established. While Maori rightholding derived from three *take* - *whakapapa* (ancestry), *raupatu* (conquest) and *tuku* (gift) - all needed to be reinforced with *ahi ka*, occupation, to be made secure. In the case of islands this was not generally practicable, since many were far too small and austere, being rocky and waterless, to be habitable. Rather, they were places to visit seasonally - for mutton birding, shell fish gathering, or for the setting up of temporary fishing stations.

Moreover, because of the multiple resources associated with islands, they were likely to involve multiple differential rights. One kin group might have the right to land en route to fishing grounds, another to gather mutton birds and yet another to gather shell fish off its rocky shoreline. Sadly, there is no way that we can ever know the rights that prevailed at this specific level, yet it is important to appreciate that rights might have assumed such specificity. Hence rightholding in islands was multiple and probably less secure than in mainland blocks.

The fact of seasonal and temporary usage posed claimants to islands with some difficulty in the Native Land Court, a tribunal which gave priority to unequivocal acts of ownership such as occupation.³ As a result some claimants were inclined to emphasise, perhaps exaggerate, the extent to which they or their forbears had occupied the islands in question. A good example comes from the title investigation of the Otata group (Noises), islands most unsuitable for cultivation and occupation. Te Tahemate of Ngai Tai made a point of 'correcting' what he had said earlier regarding his people's occupation of the islands.

When I said yesterday that the islands had never been occupied - I meant the island of Rangitoto - These islands were occupied formerly by Ngaitai. I never lived on Otata but my ancestors did.⁴

² These will be referenced subsequently.

³ See J L Hutton, 'The interpretation of customary Maori land tenure by the Native (Maori) Land Court', 27 August 1996, Report For: Rangahaua Whanui National theme 'C', pp 18-20, 28.

⁴ Auckland Minute Book 1: 15.

However, Horetana Te Irirangi, also of Ngai Tai, testified probably with greater credibility:

The islands were not occupied by any one - when the first Governor came. We cultivated on Motutapu in Fitzroy's time and shortly after left it and sold it.⁵

Indeed, it is unlikely that the Otata islands were ever occupied or cultivated, considering their smallness and the much more attractive prospects for such utilisation offered by neighbouring Rakino and Motutapu.

It cannot be assumed that the rights prevailing on mainland areas opposite to islands necessarily prevailed upon them also; nor that those prevailing upon one island necessarily prevailed upon the island next door. The scattered nature of customary land rights in Hauraki, each kin group owning strips scattered over much of the greater rohe, meant that different groups could have rights in adjacent mainland areas and islands and in adjacent islands. The islands east of Waiheke are a case in point. While Pakatoa was sold by Ngati Paoa, adjacent Rotoroa was sold conjointly by Ngati Paoa and Ngai Tai. To complicate the picture further, Ngati Maru who insisted on their rights to eastern Waiheke disclaimed having any rights on Ponui Island next door, and apparently did not object to the above sales of Pakatoa and Rotoroa.⁶

The end result is a picture of particularly complex rightsholding, even in the context of Hauraki lands which were among the most fragmented and contested in New Zealand on the eve of British colonisation, due to their strategic location and turbulent past.

1.3 The strategic location of the Gulf/Coromandel Islands

The Gulf islands lay alongside surely the busiest waterways of pre-European Aotearoa, those connecting Northland with the Waitemata, the Waikato and the Bay of Plenty (and beyond to the East Cape). All canoe traffic between the Bay of Islands and the Bay of Plenty passed close by Great Barrier, Little Barrier and the Mercury and Aldermen Islands. Meanwhile, all canoe traffic utilising the portages of the Tamaki River, which granted straightforward passage across the Tamaki isthmus between the Waitemata and Manukau Harbours and between northern Aotearoa and the Waikato River system, passed close by the inner Gulf islands: Waiheke, Ponui etc. Of this canoe traffic, inevitably all was not friendly. Hence these islands were not places where inhabitants could expect to be left undisturbed to enjoy long and unchallenged tenure. At times, they would have felt as vulnerable as the occupants of a motor vehicle, caught stalled on the shoulder of a modern motorway. It was a location that was in no way conducive to a sense of security. Testament to this fact are the 50 or so pa sites located on the headlands and off-shore islands of Waiheke.⁷

⁵ Ibid, p 17.

⁶ Turton, *Deeds of Private Purchases*, Deeds 84, p 492.

⁷ See W J England, 'The Settlement Pattern and Pa of Waiheke', unpublished M.A. thesis in Anthropology, University of Auckland, 1993.

The exposure of these islands to sea traffic was a factor which influenced Native Land Court determinations on title after 1865. For example, in awarding Hauturu (Little Barrier) to Ngati Wai in 1881, Judge Monro had considered the fact

that the island lay in the channel of the route of all Hongi Hika's expeditions and his canoes constantly called there. If any of the Kawerau (petitioners' tribe) had been there, they would have been instantly killed. But Ngatiwai are related to Ngapuhi.⁸

It is possible, over certain periods, that some islands may even have served as 'Grand Central Stations', in the sense that they functioned as concourses for inter-tribal water traffic, claimed resolutely by no particular kin-group.⁹ Travellers could break journey there for rest and re-supply without necessarily receiving the usual challenge from the tangata whenua. Certainly the Mercury and Aldermen Islands, well distant from the eastern coast of the Coromandel Peninsula, would have seen frequent landings from tribes in transit between the Bay of Islands and the Bay of Plenty. In any case, there was little Hauraki or other iwi/hapu could have done to prevent such usage. There is some evidence that Ngai Te Rangi from Tauranga visited the Aldermen islands regularly to mutton bird until as recently as the 1930s.¹⁰ Elsewhere, however, local rightsholders took umbrage at such unauthorised visits, going to some length to make their point. In early colonial times Ngati Wai owners of Rakitu (Arid) Island north-east of Great Barrier, angered by the "nuisance of people coming for the birds", went as far as to take "Pakeha rats on to the island", to reduce the fledgling bird population that was so attracting visitors, according to Hone Pama.¹¹

1.4 The pre - 'waka' Peoples

The recently published general history of Professor James Belich, Making Peoples, supports the hypothesis that the Coromandel Peninsula, the Far North and Tuhua (Mayor Island) were the first places in Aotearoa settled by Polynesian migrants perhaps a thousand years ago. He writes:

The Far North and Coromandel were the only regions in the northern macro-region with seal-breeding rookeries, the best resource of all.... Coromandel had stone, seal, moa and garden islands of its own.¹²

Archaeology is a source of information on these first migrants. The pearl shell lure found at Tairua, which is identical to examples from the Marquesas, is impressive evidence of migration from Eastern Polynesian. Site excavations show that seals were abundant on the eastern side of the Coromandel Peninsula, although these animals did not often venture into the more sheltered waters of the Hauraki Gulf, according to archaeologist Janet Davidson.¹³ However, the Gulf certainly offered the first migrants

⁸ Memo 18 July 1881, MA 13/45.

⁹ This idea was presented to me in a telephone conversation with Dame Anne Salmond on 13 September 1996.

¹⁰ 1994/H, MLC, Hamilton.

¹¹ Auckland Minute Book 2: 37.

¹² J Belich, *Making Peoples, A History of New Zealanders From Polynesian Settlement to the end of the Nineteenth Century*, Auckland, 1996, p 46.

¹³ J Davidson, *The Prehistory of New Zealand*, Auckland, 1984, p 131.

potential 'garden islands', which boasted average temperatures perhaps a few degrees higher than those of the mainland, due to the moderating influence of the sea. Growing conditions on them were close to those of the Far North. A 'garden soil' (one improved by the addition of humus, sand etc.) at Rocky Bay, Waiheke Island, dates from at least the sixteenth century, as determined by carbon dating.¹⁴ Then there were the rich fisheries, of which the richest was surely the shark fishery of the Mahurangi coast. It must be concluded that the Gulf islands were so well endowed with the natural resources vital for the support of human life that they were surely among the first places to be inhabited or utilised by humankind in Aotearoa.

Another source of information on these first migrants are the very early traditional stories associated with the Hauraki Gulf, comprehensively compiled recently by Graeme Murdoch, the current Auckland Regional Council historian.¹⁵ Perhaps the first people to inhabit the inner Gulf islands were the Tutumaio, so named by Wiripo Potene of the Kawerau hapu of Ngati Kahu. They were displaced by later arrivals, the Turehu, who occupied Motutapu, Motuihe and the adjoining mainland where they were known as Maewao. "The Maewao people travelled around the islands of the inner Hauraki Gulf between sunset and sunrise in their canoe 'Te Rehu o te tai', gathering kaimoana and such foods as seaweed of which they were particularly fond", Murdoch elaborates.¹⁶ (Perhaps these peoples were the Maruiwi, much referred to in local traditions.) At about this time the Polynesian explorer Toi Te Huatahi visited the islands of the Hauraki Gulf naming them collectively, 'Nga poito o te Kupenga o Toi Te Huatahi,' or 'the floats of the fishing net of Toi Te Huatahi'. He named: Little Barrier, 'Hauturu o Toi'; and the entrance to the Waitemata Harbour, 'Te Whanganui o Toi', or 'the Great Harbour of Toi'.

1.5 Te Arawa

In the fourteenth century the two great waka, Te Arawa and Te Tainui, arrived in the Hauraki Gulf at about the same time. Tamatekapua, commander of the Arawa waka, placed a mauri on the large rocky islet at the north-eastern entrance to the Gulf (Channel Island), naming it 'Tikapa,' from which derives the Maori name for the Hauraki Gulf, Tikapa Moana. The islet was also given the fuller name, 'Te Poito o te Kupenga o Taramainuku' or 'the float of the fishing net of Taramainuku' in honour of Taramainuku, the grandson of Tamatekapua.¹⁷ After proceeding into the Gulf, the Arawa landed at Putiki inlet, Waiheke Island, by the account of George Graham.¹⁸ There she was relashed, hence the naming of the area, Te Rangihoua, which literally means 'The Day of Renewal.' Then the Arawa explored the inner Gulf and the Waitemata Harbour. Kahumatamamoe, Tamatekapua's son, placed a mauri on 'Te Mata' or Boat Rock, hence the name Waitemata. He placed, as guardians, ngarara or reptiles on Rangitoto and Motutapu which later turned to stone.

¹⁴ G Law, 'A Garden Soil at Rocky Bay, Waiheke, *NZAA News Letter*, 18(4), pp 183-190.

¹⁵ G Murdoch, 'He Korero Tawhito Mo Rangitoto: A brief outline of the Maori Historical Associations with Rangitoto Island', Auckland Regional Council, 1991.

¹⁶ Ibid, p 5.

¹⁷ Ibid, p 7. All information in this paragraph is from this source.

¹⁸ G Graham, 'Ancient History of Waiheke', *NZ Herald*, 28 & 31 October 1927.

Finally the great waka proceeded around Cape Colville, to make final landfall at Maketu in the Bay of Plenty. But as Waiheke and neighbouring islands had been so attractive a haven for Te Arawa, some of her crew subsequently returned to live there. A son of Tamatekapua, Kahumatamamoe, returned to Waiheke, giving his name to the island, Te Motunui o Kahu (The Great Island of Kahu), and building at Rangihoua the pa, Putiki o Kahu. His sister, Kura, also settled at Putiki, giving her name to a small bay, Oakura. Kahumatamomoe later settled at Orakei, giving his name to Okahu Bay. He also lived for a time at the Kaipara. In consequence, both Ngati Whatua and Waiohua claim descent from this Arawa chief, according to George Graham.¹⁹ Meanwhile, a grandson of Tamatekapua, Te Ihenga, conquered Motuihe and named it after himself, Motu-a-Ihenga, then went back to Maketu.

A grandson (or son, according to Kelly, see citation below) of Tamatekapua, Huarere, settled at Cape Colville, his descendants in time spreading throughout the Coromandel Peninsula to be known as Ngati Huarere. Similarly, the Kahumatamamoe-branch of Arawa, who also came to be known as Ngati Huarere, gained dominion over Waiheke and the other islands of the inner Hauraki Gulf, as Leslie Kelly writes:

Prior to the coming of Maru-tuahu, the Coromandel peninsula and a great part of the Hauraki Gulf had been, to a large extent, the undisputed territory of a group of tribes known as Ngati Huarere, Ngati Hako, Nga Marama, Kahui-ariki and Uri o Pou. These people were *tangata whenua*, but also claimed descent from ancestors who arrived in the Arawa and Tainui canoes. Ngati Huarere occupying the land from Moehau to Hauraki, were mainly of Arawa origin, Huarere himself a son of Tama-te-kapua who ended his days on Moehau.²⁰

Ngati Hei took their iwi name from Hei, another migrant of the Arawa waka who settled at Oahei and gave his name to Mercury Bay, Whanganui-o-Hei. He was buried in a cave on Tokatea (Castle Rock) above Coromandel township. Professor Ranginui Walker writes that the traditional territory of Ngati Hei

extended from Opoutere Peninsula to Kennedy's Bay, including the offshore islands of Ruamahu (Aldermans), Ahuahua (Great Mercury), and the nearby islands of Koruenga, Koranga and Ohinau.²¹

The son of Hei, Waitahanui-o-Hei married a high-ranking woman of Hauturu (Little Barrier), to become "the ancestor of Ngati Wai", Graham recorded. He adds, "Ngati Wai were the owners of both Barriers and places on the mainland as far as Takapuna."²² Hence Ngati Wai descended from Ngati Hei, while in due course they became connected with hapu of Nga Puhi.

Uri o Pou, Kelly recorded, were the descendants of Poutukeka, a chief also of Arawa origin.²³ They occupied lands on the western side of the Firth of Thames (Whakatiwai).

¹⁹ D R Simmons, (ed), Graham, G., *Maori Place Names of Auckland*, Auckland, 1980, p 20.

²⁰ L G Kelly, *Tainui, The Story of Hoturoa and His Descendants*, Wellington, 1949, p 175.

²¹ Ranginui Walker, *Listener*, 19 September 1987, pp 74-75.

²² G Graham, 'Hauturu - The Wind's Resting Post', MS 120, Auckland Institute and Museum.

²³ Kelly, p 175.

Nga Marama, on the other hand, were descendants of Marama kikohura, the second wife of Hoturoa, of the Tainui canoe.²⁴ They occupied lands at Tamaki and on the west coast of Tikapa Moana.

Hence for some centuries the Coromandel Peninsula and the surrounding islands were under the dominion of peoples principally of Arawa descent. Standing apart from them were a Tainui people, Ngai Tai, who were resident at Tamaki and on the inner Gulf islands. To explain their presence we need to retrace our steps to the almost simultaneous arrival of the Arawa and Tainui waka in Tikapa Moana.

1.6 Te Tainui

The Tainui waka, under the command of Hoturoa, arrived in Tikapa Moana shortly after the Arawa. In the words of Maihi Te Kapua Te Hinaki who was born on Motuihe Island in 1820:

So Tainui sailed off, and entered Maraetai passage, passing Waiheke. She entered at last the Waitemata, and moored in the shelter of Te Haukapua (Torpedo Bay, Devonport). There the crew land ... Passing hence from Waitemata, they came to Orawaho. There they found the Arawa moored, and there a quarrel arose. This was due to the unwelcome attentions of Tamatekapua to Hoturoa's senior wife Whakaotirangi. The two men came to blows, and Tamatekapua was worsted in the contest. Tamatekapua shed plenteous blood. Then the people intervened and stopped the duel, for they were all chose relatives.²⁵

From this incident Tainui iwi trace the name Rangitoto, the full traditional name of which is 'Te Rangi i totongia a Tamatekapu', or 'the day that the blood of Tamaekapua was shed.'²⁶ However, there is an alternative explanation for the name 'Rangitoto'. It may also refer to the volcanic eruptions and ensuing lava flows that created the island, meaning 'blood from the sky'.²⁷

Although the majority of the crew members of the Tainui continued to Kawhia, where the waka made final landfall, a few remained at Tamaki and up the Piako river.

1.6.1 Ngai Tai

Those who remained at Tamaki became the ancestors of Ngai Tai, Waiohua and other ancient iwi of Tamaki. Taikehu, junior tohunga, settled for a time on the island immediately behind Rangitoto which he named 'Motutapu', the island in Hawaiiiki from which the Tainui had begun its voyage to Aotearoa. To Taikehu's descendants the island became known as 'Te motu tapu a Taikehu' or 'the sacred island of Taikehu.'²⁸ Te Keteanataua and his son Taihaua, other members of the Tainui's crew, settled at Taurere, near present-day Karaka Bay, at the mouth of the Tamaki River. Also present at Tamaki for a time was Rakataura, a matakite or seer, who named

²⁴ Kelly, *ibid.*

²⁵ Murdoch, pp 8-9.

²⁶ *Ibid.* p 9.

²⁷ Simmons (ed) Graham, 1983, p 28.

²⁸ Murdoch, p 8.

many sacred places throughout Tamaki.²⁹ Among the descendants of these Tainui ancestors - Taikehu, Keteanaataua, Taihaua and Rakataura - were Ngati Tai. The iwi name, however, was changed to Ngai Tai, after these people were joined by another group of Tainui descent from the Bay of Plenty in about 1700, an event known as 'Te Hekenga o nga Tuatoru' or 'the migration of the three'.³⁰

Ngai Tai still claim mana whenua over Maraetai/Howick and the islands: Motukorea, Rangitoto, Tiritiri Matangi, Motuihe, Motutapu, Motu Hurakia (Rakino), Motu Horopapa and Otata.³¹

1.6.2 Ngati Hako

In the course of travelling around the Gulf, the Tainui waka went up the Piako river as far as Hoe o Tainui and then returned down the river to Ngatea, where Hako the son of Taha was induced to land to snare some birds by others on the waka who wanted to get rid of him because of his laziness - according to Mamaru Taupaki who testified at the Aldermen Islands investigation in 1958.³² There he was stranded, as the canoe sailed away. On the voyage up the coast from Maketu, he had noticed nice bays and he decided to go back there where he built a pa at Whiritoa called Otonga. The descendants of Hako settled the area between Whangamata and Waihi and utilised the offshore islands to the north.

1.7 The Marutuahu Migrations

To recapitulate - For over two centuries, iwi of Arawa descent, generally known as Ngati Huarere, held dominion over the eastern and southern Hauraki Gulf. On the western side, however, Ngai Tai of Tainui descent maintained their mana whenua at Tamaki and on the inner Gulf islands, as we have seen, and a people of both Arawa and Tainui descent emerged along the Whakatiwai coast, known as 'Uri o Pou'.³³ These peoples collectively were the earliest tangata whenua. Then there were three successive migrations to the area from the Waikato, momentous events which are well recorded in the traditions of the Marutuahu Confederation and well recorded.

1. Hotunui, a direct descendant of Hoturoa of the Tainui waka, lived at Kawhia with his wife Mihirawhiti. In adulthood Hotunui was wrongly accused of theft by his father-in-law Mahanga. To escape the shame he decided to depart from Kawhia and leave behind Mihirawhiti despite the fact that she was then with child. Hotunui's parting instructions to Mihirawhiti were that she must name the child Marutuahu, if a boy, and Paretuahu, if a girl. He crossed the ranges, making his way to the shores of Hauraki.³⁴ Thus probably in the late sixteenth century Hotunui and over 100 of his people joined their distant relatives Uri o Pou at Whakatiwai. The two peoples lived harmoniously together and prospered. Meanwhile, Mihirawhiti had given birth to a boy whom she named Marutuahu as per the instructions of Hotunui.

²⁹ Te Warena Taua, in La Roche, *The History of Howick & Pakuranga*, Auckland, 1991, p 30.

³⁰ Ibid, p 32.

³¹ Ibid, p 27.

³² Hauraki Minute Book 76: 40.

³³ Kelly, p 174.

³⁴ Ibid, Tukumana Te Taniwha, p. 100.

2. When grown to a young man Marutuahu learned of the circumstances of his birth and that his father Hotunui was living "at the rising place of the sun, at Hauraki."³⁵ He and a friend set out for Hauraki, travelling via the Waikato River, the Hunua ranges and the Wairoa River. While spearing tui at the coast, they met two chiefly young women of Uri o Pou, Paremoehau and Hineurunga, who invited them to their village of Waitoetoe just north of Waharau. There Marutuahu settled down eventually marrying both women. Some time later he was invited to the Uri o Pou pa of 'Karamu Katihi' at Whakatiwai, where he discovered his father now lived. Much to his outrage, Marutuahu learned from Hotunui that he and his people were being badly treated by Uri o Pou who now resented their presence. They devised and executed a stratagem through which many of the local Uri o Pou were trapped and killed on the beach at Whakatiwai. Believing that the Marutuahu had gained sufficient utu for the insults inflicted upon Hotunui, some Uri o Pou remained in their homes, although many others moved to Northland. With Hineurunga, Marutuahu had three sons: Tamatera, Tamatepo and Whanaunga; and with Paremoehau, he had two further sons: Te Ngako and Taurukapakapa.

3. The third important migration from the Waikato to Hauraki occurred in the mid 1600s, involving Paoa a young chief from Kaitotohe, a village opposite Taupiri on the Waikato River. Embarrassed by his inability to welcome his brother Mahuta with food, Paoa and many followers left for Hauraki. On arrival, he met and married Tukutuku, the grand-daughter of Tamatera.

1.8 The Marutuahu Conquest

1.8.1 The conquest of the Firth/Coromandel

The people of Paoa were soon drawn into the conflict between the descendants of Marutuahu and the other earlier peoples of Hauraki. Ousting the remnants of Uri o Pou, Ngati Paoa and Ngati Whanaunga came to occupy the western coast of Tikapa Moana. As the branches of Marutuahu grew in strength, they also challenged and inflicted defeats upon Ngati Huarere and Ngati Hako on the eastern side of Tikapa Moana, the Coromandel Peninsula. The mana of the emerging Marutuahu confederation of iwi was indisputably in the ascendant in Hauraki. As a result, the Hauraki Gulf changed from being essentially an Arawa to a Tainui domain.

³⁵ Ibid.

Hence the Marutuahu iwi, to which Ngati Paoa was a later addition, were kept busy for many generations consolidating their power bases at Hauraki (Thames) and on both sides of the Firth of Thames. Only once these were secured could they consider projecting their power into the wider Hauraki Gulf: to the inner Gulf islands, to Tamaki and eventually to the Mahurangi coast. These places were then the domains of Ngatihuarere (and Ngai Tai), Waiohua and Kawerau, respectively.

1.8.2 Kapetaua (Kapetawa)

The final chapter in the history of the Marutuahu conquest was the expansion of Marutuahu/Ngati Paoa into the wider Hauraki Gulf, right across to the Mahurangi coast, in the eighteenth and early nineteenth centuries.

Kapetaua is a great figure in the pre-European history of the Gulf and the Waitemata from whom descent is claimed by both Ngati Paoa and Patukirikiri. His origins are obscure, the most precise information we have being the testimony of Pita Taurua, of Patukirikiri, in respect of Rangihoua, Waiheke Island, in 1865.

I claim the land from my ancestors. Tawake was the first he came from Ngapuhi, he lived at Oue [Wairoa], he had a daughter named Tairuhi and a son Kapetaua.³⁶

The name Patukirikiri, meaning 'slain on the shingle, was assumed by his descendants many generations later, after they suffered a defeat at the hands of Ngati Huarere on Motutapere Island at the mouth of Coromandel Harbour in about 1805.³⁷ It seems that Patukirikiri should be considered as one of the earlier peoples whose mana whenua predates the Marutuahu conquests. However, it was on the grounds of Kapetaua's deeds on the Tamaki isthmus in about 1700 that Ngati Paoa claimed the Orakei lands in the Native Land Court, in 1869.³⁸ Moreover, Patukirikiri sometimes considered themselves to be a hapu of Ngati Paoa. For example, Pita Taurua said in 1865, "I belong to Patukirikiri of the Ngati Paoa tribe."³⁹ Hence it appropriate to present below the deeds of Kapetaua as the prelude to, rather than the first chapter of, Ngati Paoa conquests in the greater Hauraki Gulf in the eighteenth century.

These deeds resulted from an insult suffered by Kapetaua when a boy. His sister married Tarakumikumi (alternatively, Tarakumekume and Tarakumukumu) of Waiohua who lived at Orakei. One day, Kapetaua went fishing with his uncle only to be left by him on Bean Rock in the Waitemata Harbour. As the tide rose, he cried for help. Hearing his cries, his sister paddled out to rescue him. Kapetaua hungered for revenge. When grown to manhood he attacked and destroyed the Waihoua pa at Orakei, Kohimarama and Takapuna and then went in pursuit of Tarakumikumi and other refugees who had fled to Waiheke Island. He found them sheltering at Putiki o Kahu, the ancient Arawa pa at Rangihoua, killing all of them. Kapetaua then settled

³⁶ Waiheke Minute Book 1: 8.

³⁷ F Phillips, *Nga Tohu a Tainui Landmarks of Tainui*, Otorohanga, 1989, p 114.

³⁸ F D Fenton, *Important Judgements Delivered in the Compensation Court and the Native Land Court*, Auckland, 1879, Orakei, pp 53-96.

³⁹ Waiheke Minute Book 1: 8.

at Waiheke. As a result, the Native Land Court recognised “the title of his descendants ... to a portion of land at Putiki founded ... on this conquest”.⁴⁰

But in his Orakei judgement Fenton concluded, regarding Kapetaua’s victories on the Tamaki isthmus, that

it is abundantly clear this alleged conquest is nothing but a raid made for revenge. If Kapetaua had ... followed up his successes at Orakei, by taking possession of the land, and with his descendants permanently settling there, they would doubtless have acquired a title, but nothing was further from his thoughts.⁴¹

1.8.3 The Wars between Ngati Paoa/Marutuahu and Waihoua/Huarere

Note: It is important to point out that early amateur ‘ethnologists’ like Fenton, Smith and Graham often used “Ngati Paoa” very loosely, to mean the Hauraki tribes collectively. Early officials involved in Crown land purchasing in the Gulf, like George Clarke, had tended to do likewise in the 1840s. Hence it would be mistaken to always ascribe exclusive meaning to references to “Ngati Paoa” in this written material. Hence in the following narrative an attempt will be made, wherever possible, to use discretely “Ngati Paoa” and “Ngati Paoa/Marutuahu”.

It seems that Ngati Paoa/Marutuahu made their first incursion into the Tamaki isthmus in the time of Kiwi Tamaki, sometime before the fall of this great Waihoua chief at the hands of Ngati Whatua in about 1740. Smith is unclear on the details.

We hear of Kiwi killing a man named Kahuraotao, at Otahuhu, a man who was said to belong to Ngati Maru of the Thames, and also to the Waiohua. This led to much fighting, the particulars of which I do not know.⁴²

Graham’s account of what happened is more expansive.⁴³ Kahurautao was a grandson of Marutuahu, who had been on a visit to the Waikato. On his return journey he accepted the invitation of the people of Maungawhau (Mt Eden) to visit them. After the festivities, however, Kahu and his party were waylaid and murdered on their way to the Otahuhu portage. Among the slain was Kahu’s son, Kiwi (not to be confused with Kiwi Tamaki, the perpetrator of the misdeed). The widow of Kiwi beseeched the people of Hauraki to avenge these murders. A large taua was assembled which besieged and destroyed many of the volcanic cone pa of Waiohua, including Maungawhau. Indeed, Whangawhau was completely destroyed and was never again occupied, according to Graham.

While the victors conquered then departed from the mainland, having sought only revenge, they conquered but then occupied Waiheke Island, by Graham’s account.

⁴⁰ Fenton, 1877, p 62. Waiheke Minute Book 1, p 27.

⁴¹ Ibid, p 62.

⁴² S Percy Smith, *The Peopling of the North: Notes on the Ancient Maori History of the Northern Peninsula and Sketches of the History of Ngati-Whatua Tribe of the Kaipara, New Zealand*, New Plymouth, Polynesian Society, 1897, p 82.

⁴³ G Graham, ‘Mount Eden’s History No II’, *NZ Herald*, 9 April 1927.

Ngati Huarere, now closely connected by intermarriages with Waiohau, were therefore attacked by the Ngati Paoa section of the Hauraki people. The result was the complete conquest by them of Waiheke and the annihilation of Ngati Huarere. Waiheke then became Ngati Paoa territory.⁴⁴

However, in this instance, it would be incorrect to read "Ngati Paoa" literally; rather, the category should be read as, Ngati Paoa/Marutuahu. The Waiheke investigations of Native Land Court in the late 1860s make it abundantly clear that other iwi of Hauraki also took up occupation of Waiheke from about this time, 1700. Ngati Maru ancestral links are particularly prominent in these minute records. Take the case of the Maunganui blocks (inland from Awaawaroa), which Mata Paraone Paea of Ngati Maru claimed in 1866 through her ancestor Te Puranginui who had occupied the land perhaps eight generations earlier.⁴⁵ (Her claim was successful.) Indeed, in the Court Ngati Paoa prosecuted their claims to Waiheke on the grounds of occupation and very recent conquest from Ngati Maru, while Ngati Maru prosecuted theirs on the grounds of ancestry, citing lengthy whakapapa associated with occupation, as above.

1.8.4 The Wars between Ngati Whatua and Ngati Paoa

How Ngati Paoa came to first occupy land on the western side of the Tamaki River is a subject of some dispute. Fenton accepted that it was the result of a wedding gift. "About 1780", Fenton wrote, "an event fruitful in disturbance took place."⁴⁶ Kehu, a chiefly woman of both Ngaoho (Ngati Whatua) and Waikato descent, married Te Putu, a Ngati Paoa man who wished to live away from his own people at Whakatiwai. Kehu's influential relation, Te Tahuri, gifted the couple a tract of land called Tauoma, "commencing near the place now called Panmure, and extending round the shores to Whakamuhu, and thence inland to Waiatarua (College) Lake,"⁴⁷ which they promptly occupied. The author of a history of the surrounding district, K. M. Holloway, sees strategic design in the gift on the part of Ngati Whatua who

unable to occupy all the pa that had been held by Waiohau [devised] this shrewd move to win the friendship of an ambitious neighbour and at the same time to place the new ally in a position to bear the brunt of any attempt by the Waiohau and their relatives in the south to regain what they had lost.⁴⁸

However, Haora Tipa and other Ngati Paoa witnesses at the Orakei hearing in 1869 insisted that Kehu was a Waikato woman and that Tauoma was originally Ngati Paoa land, thereby denying the gift. Fenton gave no credence to their claims as they failed to give any explanation for how they had come to possess this small area of land.⁴⁹

⁴⁴ G Graham, 'Waiheke Island: Ancient Maori History', *NZ Herald*, 28 & 31 October 1927.

⁴⁵ Waiheke Minute Book 1: 39. This evidence is also cited in P Monin, *Waiheke Island: A History*, Dunmore, 1992, p 22.

⁴⁶ Fenton, *Important Judgements*, p 66; Smith, 1897, pp 91-92.

⁴⁷ *Ibid*, Fenton.

⁴⁸ K M Holloway, *Maungarei, An outline history of the Mt Wellington, Panmure and Tamaki Districts*, Auckland, 1962, p 39.

⁴⁹ Fenton, *Important Judgements*, p 66.

Trouble soon resulted from this uncomfortably close physical relationship between these two powerful, ambitious tribes. In about 1790, by Fenton's reckoning,⁵⁰ a party of Ngaoho, which included Tarahawaiki (the father of Apihai Te Kawau) and a party of Ngati Paoa were fishing for sharks at Mahurangi. Tarahawaiki was heard to call a shark he had caught, Te Haupa, after the great Ngati Paoa chief. Ngati Paoa attacked the camp of Tarahawaiki on one of the Mahurangi islands, killing him together with many other Ngaoho.

Ngati Whatua and Ngati Paoa were now sworn enemies. A year or two afterwards, a party of Ngati Paoa advanced deep into Ngoho territory, reaching as far as Rangiatarau (called by Fenton Rangimataariki) near Puponga on the Manukau.⁵¹ In the ensuing battle Ngati Paoa were badly beaten, losing Te Waero, his two brothers and about 50 men. At about this time Ngati Paoa suffered another blow at the hands of Ngati Whatua, when a party of theirs was surprised by Ngati Whatua at Kauri Point. Most of the crew were killed and the canoe was taken.⁵²

In 1793, according to Fenton, scores were balanced between Ngati Paoa and Ngati Whatua in an engagement between the two at Orohe, on the west side of the Tamaki River, in which this time Ngati Paoa were victorious.⁵³ Te Tahuri, "the giver of the fatal present of land,"⁵⁴ and Tomoau, her husband and the paternal uncle of Apihai Te Kawau, were slain. Ngati Paoa abandoned Tauoma (Panmure) and for the following 20 years or so the two tribes chose to live some distance apart, apparently neither troubling the other.

By 1815 Ngati Paoa were once again living at Panmure, while Ngati Whatua under Te Kawau were probably living principally at Ihumatao and Mangere and also cultivating at Okahu.⁵⁵ At the Orakei hearing in 1869, Ngati Paoa claimed that they too were living and cultivating at Okahu at this time, but Fenton chose not to believe them, crediting them with having at most been using lands belonging to others, viz. Ngati Whatua.⁵⁶

At Panmure Ngati Paoa occupied two pa, Makoia and Mauinaina, in considerable strength. When the European visitors, Major Richard Cruise and the Reverend Samuel Marsden landed at Panmure in 1820, they found a population numbering perhaps 4,000, boasting superior houses and canoes and cultivating vast gardens extending around the base of Maungarei (Mt Wellington).⁵⁷

⁵⁰ Smith, *The Peopling of the North*, p 92.

⁵¹ Fenton, *Important Judgements*, p 67; Smith *ibid*, p 93.

⁵² Smith, *ibid*.

⁵³ Fenton, *Important Judgements*, p 67.

⁵⁴ *Ibid*.

⁵⁵ *Ibid*.

⁵⁶ *Ibid*, p 68.

⁵⁷ Richard Cruise, *Journal of Ten Month's Residence in New Zealand*, 1824, p 145.

1.8.5 The Wars between Ngati Paoa and Ngati Rongo/Kawerau

The country between Auckland and Whangarei was inhabited by an iwi called Ngati Rongo, a branch of Kawerau, in the early eighteenth century.⁵⁸ The Mahurangi coast of the Hauraki Gulf was renowned, and hence coveted, among the iwi for its shark fisheries. Probably in about 1775, Smith recorded, a taua of Ngati Paoa descended upon Kawerau lands at Waiwera and Mahurangi, killing many people of Kawerau. Kawerau and their Ngati Rongo relations now had a score to settle with the intruders.⁵⁹ A party of Kawerau came from Whangarei and a party of Ngati Rongo came from the eastern Kaipara, joining forces at Mahurangi. There they cut kauri spars, to serve as scaling ladders, for the expedition against Ngati Paoa ahead. The combined taua of Ngati Rongo and Kawerau set out across the Gulf, breaking journey overnight at Motutapu, before proceeding to Motukaraka, a small island across from present-day Howick, a great stronghold of Ngati Paoa. It landed on the island at dawn, the favourite time for surprise. With the help of the kauri spars, the Ngati Rongo and Kawerau scaled the cliffs and fell upon the unsuspecting inhabitants of the pa.⁶⁰ "A dreadful slaughter took place, in which nearly all the garrison perished including the Ngati Paoa chief Taiwi." wrote Smith.⁶¹ They then sailed on to the Ngati Paoa settlement at Taupo (Kawakawa Bay), promptly attacking it. Among the Ngati Paoa dead was Totokarewa, the father of Te Haupa.

The expedition returned to Mahurangi and in consideration of the assistance given to Kawerau by Ngati Rongo, the former gifted the latter the lands around Puhoi.⁶¹ As the ultimate insult to Ngati Paoa, the bones of Totokarewa were made into fish hooks.

Ngati Paoa now had additional reason for seeking utu against the Kawerau. They sent successive expeditions against them, until peace was finally made between the two warring sides, now exhausted by the struggle. But the terms of that peace are unclear. It seems unlikely that the Kawerau capitulated completely to Ngati Paoa. Nevertheless, Ngati Paoa subsequently laid claim to the coast from Takapuna to Mahurangi by right of conquest, when they sold this land to the Crown in 1841. The licensed interpreter, John Johnson, reporting to the Native Secretary in 1852 on "the Native claims to the Mahurangi and Matakana District", suggested that the cession of rights by Ngati Rongo had been much more limited, i.e., that "the right of fishing in the rivers of the district .. was at last finally given up to the Ngatipaoas by the Ngatirongo."⁶²

1.9 How complete was the Marutuahu conquest?

We have traced the course of the Marutuahu conquest over the period about 1650 to 1800. Bearing the brunt of Marutuahu expansion were not only the early peoples of Hauraki, but also the peoples of the western margin, Ngati Whatua, Ngati Rongo and Te Kawerau. However, throughout these vicissitudes some of the earlier peoples

⁵⁸ H H Turton, *Epitome*, p 139.

⁵⁹ Smith, *The Peopling of the North*, p 97.

⁶⁰ Ibid.

⁶¹ Ibid, p 98.

⁶² H H Turton, *Epitome*, p 139.

appear to have maintained their mana whenua at least in part: notably, Ngai Tai, Patukirikiri, Ngati Hako and Ngati Hei and Ngati Wai.

For example, today Ngai Tai (see 1.6.1) assert that their mana whenua is still fundamentally intact. Yet Fenton wrote in 1869:

I think there is evidence to show that Ngatitai were a broken people before the time of Kiwi [Tamaki] ... Hapimana Taiawhio told us of the destruction of Ngatitai in old days by the Ngatipaoa, Ngatimaru, and other Thames tribes, and we have evidence that Ngatipaoa have exercised dominion over their lands.⁶³

Mohi Te Harare of Ngati Paoa emphatically termed Ngai Tai "Tutua's" at the title investigation of the Otata group of islands (east of Rakino) in 1866.⁶⁴ Under cross-examination, he explained his usage further saying, "I called the Ngai Tai Tutua's because the Ngati Paoa used to muru [plunder] them.... The Ngati Paoa conquered the Ngai Tai."⁶⁵ The word "tutua" used by Te Harare appears to be an abbreviation of "tautauwhea" or "tautauhea", defined by the Williams dictionary as, "plebeian, of low origin". It is significant that Te Harare did not use the word "taurekareka", which means a slave taken in war, suggesting that Ngai Tai were not a people conquered in war, but rather a people otherwise subject to substantial Ngati Paoa influence by 1840. In any case, the two peoples were by now extensively inter-connected through marriage. With the advent of landselling to Europeans, Ngati Paoa were to claim at least some of the inner Gulf islands, like Motutapu and the Otata group, through their connections with Ngai Tai.

A similar examination of the claims to mana whenua of Ngati Hako, and others, would be profitable, if time permitted.

The survival of these earlier rights meant that the colonial officials and tribunals, assigned in the nineteenth century with the task of determining customary rights in Hauraki, were confronted with rights deriving from two periods: the pre-Marutuahu and the post-Marutuahu. This fact made their task all the more difficult.

1.10 The Nga Puhi raids upon Hauraki

We need not examine here the origins and early course of the wars between Nga Puhi and Marutuahu, dating from the 1790s. Suffice to say that by 1820 the great Nga Puhi chief Hongi Hika, now well armed with the muskets he had purchased in Sydney on his journey back from England to the Bay of Islands, had plenty of scores to settle with these long-standing adversaries to the south. In 1819/20 Ngati Whatua were absent from the Tamaki isthmus, their wars with Ngati Paoa having caused them to shun this part of the country.⁶⁶ The isthmus was without inhabitants except for Ngati Paoa in their fortresses, Mauinaina and Mokoia, at Panmure.

⁶³ Fenton, 1877, p 65.

⁶⁴ Auckland Minute Book 1: 27.

⁶⁵ Ibid, 27.

⁶⁶ S Percy Smith, *Maori Wars of the Nineteenth Century*, 1910. p 96.

In 1821 Hongi launched a huge expedition against Marutuahu, comprising perhaps 2,000 warriors armed with 1,000 muskets. His first target were the two Ngati Paoa pa on the Tamaki River. After a lengthy siege both fell, with the loss of 1,000 Ngati Paoa lives.⁶⁷ The survivors fled to the Waikato (Horotiu, the district surrounding present-day Cambridge.) Hongi then directed his might against Te Totara, the Ngati Maru stronghold at the mouth of the Waihou River (Thames), which he took by treachery at the cost of 1,000 Ngati Maru lives. The survivors fled to the Waikato to join the refugees from Tamaki. All the peoples of Hauraki suffered similarly at the hands of Nga Puhi at this time. Ngati Hei, for example, were decimated by Nga Puhi muskets at Wharekaho Beach.⁶⁸ The flight of Hauraki iwi to the Waikato was almost total. As a result, Hauraki, the Tamaki isthmus and the islands of the Gulf, were all but deserted from 1821 to 1831. Meanwhile, at Horotiu they became embroiled in warfare with the local tangata whenua, Ngati Haua.

After the battle of Taumatawiwi in December 1830, at the behest of the great Ngati Haua chief Te Waharoa, the peoples of Hauraki returned to their ancestral lands along the shores of Tikapa Moana. The return to Waiheke was aided by the marriage of the Nga Puhi chief, Patuone, and the Ngati Paoa chieftainess, Riria, in 1833 and their residence at Putiki.⁶⁹

1.11 Tribal politics and ensuing changes to rights in the 1830s

During the ten-year absence at Horotiu, the fires in Hauraki had gone out, *ahi ka* had been broken. Consequently, it was vitally important for the returning iwi/hapu to reactivate their land rights through occupation and use as soon as possible. It behoved all of them to remain mobile for a number of years, to rotate concertedly around their lands re-lighting the fires. However, rights in pre-European Maori society were never static, but always subject to change, depending on the course of political events. On the return to Hauraki, old jealousies and antagonisms were rekindled, the dynamics of Hauraki politics resumed, and now there was a new factor at work: the presence of permanent Pakeha settlements.

Missionaries of the CMS established a mission at Puriri in 1833 and on its abandonment others at Kauaeranga and Maraetai in 1837. Flax traders were established at various places along the Waihou and Piako rivers by 1832. Gordon Browne established a timber station at Mercury Bay in 1833; William Webster a trading/timber station on Whanganui Island at the entrance to Coromandel Harbour in 1835, and Thomas Maxwell a trading/boat building operation at Man o War Bay at the eastern end of Waiheke Island in 1836. The Gulf islands were assuming a new importance at this time of accelerating, unregulated European contacts. Attracting the newcomers in particular was the accessibility of the islands by water, for in the absence of roads they could go only where their ships could go - and this would continue to be the case in the region until at least the 1920s. Then there were the kauri forests nearby, offering spars and superior timber for boatbuilding; and good

⁶⁷ Ibid, 190.

⁶⁸ Ranginui Walker, *Listener*, 19 September 1987, p 74.

⁶⁹ Waitangi Tribunal, 'Waiheke Island', June 1987, p 6.

prospects for trade with the Maori and their provision of labour. In addition, many of the Gulf islands were rumoured to contain minerals. The Gulf, consequently, was an important focus of European interest and economic activity in the decade before the Treaty of Waitangi.

Drawn by the prospects for trade and paid labour, the Maori population of Hauraki concentrated around these places of European activity in the late 1830s. The missionary Thomas Fairburn wrote from Maraetai in 1838:

Those [Maori] on the S.W. side [of the Gulf] are drawing out to Waiheke and the lands adjoining, while those on the opposite side are drawing towards Coromandel Harbour, both places being excellent ports for shipping.⁷⁰

Besides having this obvious demographic effect, the European presence surely affected Maori customary rights in the islands, which in the new circumstances assumed increased value. These now had to be protected with extra vigilance from encroachment, as they accorded the holders significant advantages: notably, the prospect of acquiring 'Their Pakeha' and of making a ready land sale, should they decide so to act - considerations which might induce interested groups to claim exclusive rights rather than acknowledge shared rights.

Therefore it is not coincidental that customary rights in two Gulf islands, Waiheke and Great Barrier, underwent extensive changes in the late 1830s. However, the actual⁷¹ extent of these historical changes remains a subject of intense debate today. One need look no further than the 'Aotea, Motairehe' hearing of the Maori Land Court into customary rights in the smaller islands surrounding Great Barrier, claimed in varying degrees by both Ngati Wai and Hauraki, in December 1995, on which Judge A D Spencer has yet to bring down his judgement.⁷² Also, I believe that a similar dispute might easily have developed over the Waiheke Island Claim of Ngati Paoa (Wai 10), heard by the Waitangi Tribunal in 1985, had the Marutuahu tribes demurred. In its judgement on the claim, the Waitangi Tribunal acknowledged that the rights of Ngati Maru on Waiheke might deserve further investigation:

We have accepted that Waiheke is the ancestral home of Ngati Paoa because that is what the Maori Land Court came later to determine and because subsequently, and at our hearings, no demurrer was made to that claim. It is not that we consider that Ngati Maru had no right but rather that we were not called upon to determine the point. The position of Ngati Maru may deserve further study however.⁷³

Let us now examine these two historical situations, which produced turbulent legacies that still resonate today.

1.11.1 The expulsion of Ngati Maru from Waiheke Island by Ngati Paoa

⁷⁰ W T Fairburn letter, April 1838, CN/0 39.

⁷¹ That is, the changes that were acknowledged by the rival interest holders at that time.

⁷² MLC minutes, 'Aotea, Motairehe', December 1995, Mangere.

⁷³ Waitangi Tribunal, 'Waiheke Island', p 8.

As we have seen (see 1.8.2 & 1.8.3), in the eighteenth century probably all of the iwi of Marutuahu established rights on Waiheke, as part of their general conquest of Ngati Huarere on the Coromandel Peninsula and the inner islands of the Gulf. Some time previous to 1820 trouble broke out between Ngati Paoa and Ngati Maru over the drowning of a Ngati Paoa chief, Rongomaurikura, in the Firth of Thames. According to the account of Smith, the canoe of Rongomaurikura and his party of Ngati Paoa capsized opposite Manaia, near Coromandel.⁷⁴ Their bodies drifted ashore and were supposed by Te Hinaki of Ngati Paoa to have been eaten by Te Puhi and the Ngati Maru. A series of engagements between the two iwi resulted that criss-crossed the Firth from Coromandel to Waiheke to Colville. In one of these engagements, a party of Ngati Maru crossed to Waiheke, killing a Ngati Paoa man at Hangaura (Church Bay) and another at Te Matuku, as testified by Mata Te Kaha in the Native Land Court in 1865 (Maunganui hearing).⁷⁵ Peace returned only thanks to missionary intervention, Smith recorded. The Reverend Samuel Marsden on board the store ship HMS *Coromandel*, then loading kauri spars off the harbour which now carries its name, made peace between Te Hinaki and Te Puhi on 1 August 1820.⁷⁶ A year later all the inhabitants of Waiheke fled to the Waikato, before the then invincible might of Nga Puhi.

On the return of the Marutuahu iwi to Hauraki in 1831, Ngati Maru chose not to return to Waiheke wishing not to rekindle the earlier troubles associated with the drowning of Rongomaurikura. Yet they considered themselves to have in no way ceded rights derived from *take tupuna*, which in the meantime they chose not to reinforce through *ahi ka*, or occupation. Consequently, Ngati Paoa were left with a free hand to reoccupy Waiheke in the 1830s, although Ngati Maru continued to move much as they pleased thereabouts.

Then in about 1840 an incident rekindled the old animosities. A Ngati Maru canoe was travelling in the Waiheke Channel when it encountered a canoe carrying Kahukoti of Ngati Paoa.⁷⁷ Mauhukuku of Ngati Maru sang a song insulting to Kahukoti that amounted to a *kanga* (curse). The name of Kahukoti was similarly insulted a second time. Only substantial reparation by Ngati Maru could expiate the wrong done, and to restore the mana of Kahukoti. However, with the advent of British sovereignty and pax Britannica, *utu* could no longer be secured in the traditional manner, through warfare. Instead, Ngati Paoa had to consider reparation through the cession of land rights. A hui with Ngati Maru was arranged at Tapapakanga (Orere),⁷⁸ over which Donald McLean presided - it is presumed in his capacity as a Sub-Protector of Aborigines, to which post he was appointed in 1844, although he may have been present as a private individual (remembering that he had been employed in Hauraki by William Webster prior 1844), in which case the event occurred earlier.⁷⁹ There are alternative versions of the outcome of the hui: Ngati

⁷⁴ Smith, *Maori Wars of the Nineteenth Century*, p 131.

⁷⁵ Waiheke Minute Book 1: 35.

⁷⁶ Smith, *Maori Wars of the Nineteenth Century*, p 131.

⁷⁷ Waiheke Minute Book 1: 49. There are numerous references to these *kanga* not only in the Waiheke Minute Books but also some in the Waiheke Old Land Claims, e.g. OLC 1/1214 (De Witte, Putiki).

⁷⁸ Waiheke Minute Book 1: 55.

⁷⁹ *National Dictionary of Biography*, Vol 1.

Maru claimed that they ceded to Ngati Paoa only Omaru (Woodside Bay) in payment for the *kanga*; while Ngati Paoa claimed that they ceded to them the whole of Waiheke. Mohi Te Harare of Ngati Paoa went as far as to claim Waiheke under *take raupatu* (conquest), saying in 1865 "The land was taken [by us] as Waikato has now been taken by the Government."⁸⁰ Summarising the longer-term actions of Ngati Paoa, I write in *Waiheke Island: A History*:

In the coming quarter of a century Ngati Paoa were to claim nothing short of all Ngati Maru interests in Waiheke as payment for the curses and even to threaten defence of their new gains by force of arms if need be.⁸¹

As already indicated, in 1987 the Waitangi Tribunal made a qualified judgement on customary land rights in Waiheke in 1840. While acknowledging that Ngati Paoa "maintained that before 1840 [Ngati Maru] were expelled to join their kin on the Coromandel Peninsula," it also acknowledged that Ngati Maru "had a different opinion and clearly the position in 1840 was not certain."⁸²

1.11.2 Rights in Aotea (Great Barrier) in 1838

Aotea experienced two momentous events in 1838: an inter-tribal battle, the last in Hauraki; and a pre-Treaty purchase by William Webster which probably involved its entire area. Hence, the status of customary rights in early 1838, on the eve of this considerable upheaval, is critically important. But just how difficult it is to ascertain this in 1996, some 158 years later, was made abundantly clear at the recent Aotea, Motairehe hearing of the Maori Land Court into the *papatupu* (not under European title) islands surrounding Aotea, on which A D Judge Spencer has yet to make a judgement. Ngati Rehua, a hapu of Ngati Wai, and Hauraki contested each others' historical rights in a lengthy, spirited hearing that has produced a transcript of 164 pages.⁸³ Both sides were seriously hampered by limited written sources - a consequence primarily of the early alienation of the island, before the advent of the Native Land Court and the reasonably thorough investigations of customary rights it made, and of the loss of the Webster Old Land Claims files.⁸⁴

Faced with these uncertainties, I can do no more than summarise current disputes in the reconstruction of this history. It is generally agreed that Ngati Tai (to become Ngai Tai) had mana whenua over Aotea for a period of about 200 years, perhaps beginning in the fifteenth century. At the end of the seventeenth century they were divided into three main groups: Ngati Te Ko Whenua in the north, Ngati Tai Manawa in the east and Ngati Te Wharau in the west and south-south - according to the testimony of Witi

⁸⁰ Waiheke Minute Book 1: 48.

⁸¹ Monin, *Waiheke Island: A History*, p 51. For an example of the threatened use of violence see Hauraki Minute Book 44: 29.

⁸² Waitangi Tribunal, 'Waiheke Island', p 8.

⁸³ MLC minutes, 'Aotea, Motairehe', December 1995, Mangere.

⁸⁴ A note on OLC 1/ 726 (Webster Claims) reads: "Is missing - It and other papers were apparently with Solicitor General John Salmond when he appeared on behalf of the New Zealand Government at an International Arbitration Court in American in 1912." However, Salmond's careful analysis of the facts of Webster's claims is printed in the document, CO 209.275, Paper 29936 [1912]. A microfilm of the document is available in the Turnbull Library, Wellington, (Micro 499).

McMath.⁸⁵ They were then conquered by the Ngati Rehua hapu of Ngati Wai, although many of them were assimilated by the conquerors. Ngati Rehua thereby gained dominion over the whole of Aotea, Ngati Rehua contend today. However, present-day Hauraki contend that their tupuna also established rights on Aotea at this time, particularly in the south at Rangitawhiri. Theirs is a claim of *take tupuna*, Taimoana Turoa insists today.⁸⁶ Ngati Rehua argue otherwise: that while Hauraki, before 1838, cultivated at places in the south, they did so as manuhiri, as people permitted to do so only because of their marriage connections with Ngati Rehua, not by independent right. Furthermore, as the Hauraki who were in the south were of the Patutatahi, descendants of Waihou/Ngati Tai, any rights they might have had derived from the earlier people, not Hauraki, Murdoch argues.⁸⁷ The conquest of any part of Aotea by Hauraki tupuna at this time, perhaps around 1700, is not in the extant memory of Hauraki. Yet this is not to say that such an event definitely did not take place; but rather that, if it did, knowledge of such has been lost owing to the long absence of Hauraki from Aotea since the mid-1850s.

This brings us to the question: How many people, belonging to what kin-groups were living on Aotea in the early 1830s? "Rangitawhiri was occupied by Paora Te Putu and Matu Waru and other Ngati Maru tribes" at some time in the 1830s, Taimoana Turoa testified.⁸⁸ In the north, however, Ngati Rehua were present in greater strength, probably on a more permanent basis. Aotea had a population of about 170 persons in 1838, the missionary Fairburn estimated,⁸⁹ probably all Ngati Rehua because this figure is provided in the context of the battle of that year.

There are several accounts of this battle, of which the best known is that of Tukumana Te Taniwha, the grandson of Horeta Te Taniwha a leading figure in it.⁹⁰ Another comes from W T Fairburn, the CMS missionary then located at Maraetai, which has the merit of being recorded only days after news of the event was received. Hence it is worth citing in full:

In December [1838] a party of Ngapuhi and Ngatiporou on their way to the East Cape with eight canoes landed at Aotea, the Large Barrier Island, containing about one hundred and seventy persons, men and women. After stripping a small plantation of kumara etc a messenger belonging to the place was despatched to Hauraki in the night who the Ngati wanaunga [sic] and Ngati maru joined [and also] the school boys of Hauraki (the latter party promising to endeavour to make peace between the parties) who however on seeing their own party likely to be worsted commenced firing upon the enemy in their rear which turned the scale and the enemy were forced to fly for their lives to the woods. More than one hundred fell in this very sad affair including [members of] both parties.⁹¹

⁸⁵ 'Aotea, Motairehe' transcript, p 96.

⁸⁶ Ibid, p 117.

⁸⁷ Ibid, Murdoch, p 44.

⁸⁸ Ibid, p 101.

⁸⁹ 'General report of Hauraki Station for the year ending March 31 1839' Fairburn, CN/0 39.

⁹⁰ G Graham, 'Te Aotea (Great Barrier Island): The Happenings There, Leading to the Last Intertribal Wars of Hauraki, *Journal of the Polynesian Society*, vol 54, pp 192-98.

⁹¹ Ibid.

In this report Fairburn gives the time of the battle as December 1838, a time also confirmed in his journal.⁹² Moreover, the Reverend Dr Lang who visited New Zealand in 1839 gives the time as "Toward the close of the year 1838."⁹³ Yet both Ngati Rehua and Hauraki witnesses in the Aotea hearing of December 1995 contended that the battle took place in about February 1838.⁹⁴ I know of no basis in written evidence for this contention. Conversely, there is no reference in the transcript of that hearing to the accounts of Fairburn and Lang - making one conclude that neither side was aware of them. The result was the committing of a serious error in fact, for the timing of the event was crucial to the argument of Ngati Rehua. Assuming that the battle had occurred in about February, Murdoch argued that Ngati Rehua *tuku'd* Aotea to Hauraki as recompense for the loss of life they had suffered as a result of coming to their aid. Te Horeta Te Taniwha, the Hauraki chief foremost in these events, then sold these newly acquired rights to Webster on 20 March 1838.⁹⁵ On this basis, then, Murdoch argued that the predominant rights of Hauraki in Aotea were newly acquired and that the purchase of Webster was "opportunitistic"⁹⁶ insofar as he quickly capitalised upon this sudden change in rightsholding in Aotea.

The fact that the battle took place some months after the 'sale' to Webster means that the interests 'ceded' to Webster by Te Horeta and other rangatira of Hauraki (and by only two rangatira of Ngati Rehua) in 1838 were of more longstanding origin. They were not 'selling' rights acquired from Ngati Rehua only weeks before through *tuku whenua*; but, I believe, rights founded on some other *take*, probably *tupuna* or even *raupatu*, dating from very much earlier.

In conclusion, it is possible to say little more than that both Ngati Rehua and Hauraki had rights in Aotea in 1838. It is not possible to say, with any precision, how these were distributed geographically. I believe, like Murdoch, that the boundaries of the Crown grant to Webster et al should not be equated with tribal boundaries,⁹⁷ nor should any others deriving from European land transactions on Aotea. As we shall see in the next chapter, these were largely arbitrary constructs determined by Land Claims Ordinances and the like, not boundaries 'walked over' by the Maori vendors and the European purchasers. I believe that the present-day claim of Hauraki to mana whenua over the southern one third of Aotea, involves the construction of tribal boundaries of dubious validity. Rather, their pre-1838 rights were probably spread much more widely and less exclusively over the island.

1.12 Customary rights in other Gulf islands at 1840

Customary rights in other Gulf islands were probably not much altered in the 1830s, unlike those in Waiheke and perhaps also in Great Barrier, remaining much as they had been in 1821 prior to the flight of the tribes to the middle Waikato in the wake of the Nga Puhi raids. However, one can never afford to lose sight of the fact that the

⁹² Fairburn letter, April 30 1838, CN/0 39.

⁹³ Lang's account is recorded in Smith, *Maori Wars of the Nineteenth Century*, pp 459-60.

⁹⁴ *Ibid*, p 49. There are numerous other examples in the transcript.

⁹⁵ *Ibid*.

⁹⁶ *Ibid*, pp 37-40.

⁹⁷ *Ibid*, p 41.

predominant political factor at work in the inner Gulf in the 1830s was Ngati Paoa expansionism, characterised by their seeking to replace rights formerly shared with other Hauraki iwi with more exclusive rights rather than the conquest of new territory. Ngati Paoa dominance on Waiheke in the 1830s probably led to their dominance likewise on the Mahurangi coast. I believe that after the return of the tribes from the middle Waikato in 1831, Ngati Paoa sought to capitalise upon the failure of any group, with rights in inner Gulf islands pre-dating 1821, to promptly to reassert these by taking up occupation, i.e., by asserting *ahi ka*. This happened demonstrably on Waiheke, as we have seen.

In setting out to summarise customary rights in the other islands as at 1840, I must reiterate the paucity of primary sources mainly attributable to the early alienation of these islands. What little can be said must be along the lines of the following:

1. Mahurangi islands (principally Tiritiri Matangi)

Ngati Paoa (the Marutuahu confederation) asserted their rights in these islands, by 'selling' them as part of the Crown's Mahurangi purchase in 1841. They claimed them by right of conquest from Ngati Rongo, an iwi of Te Kawerau, although the reality is probably that around 1800 Ngati Rongo had ceded only partial rights to Ngati Paoa (see 1.9.5). That this was so is suggested by the fact that in 1867 persons of Ngati Poataniwha and Ngati Taihawa, people who had occupied the island before the incursions of Nga Puhi, saw fit to claim Tiritiri Matangi in the NLC.⁹⁸ But Fenton dismissed their claim, because they were unable to prove occupation after 1840. The vendors in the above transaction of 1841 were "the people of Ngatipaoa, Ngatimaru, Ngatitamatera and Ngatiwhanaunga"⁹⁹ Yet Ngati Paoa asserted pre-eminent rights among those iwi of Hauraki by claiming the bulk of the consideration. A small reserve was cut out for Ngati Whanaunga on the Mahurangi mainland in acknowledgement of their rights.¹⁰⁰

2. Motutapu, Motuihe, etc.

Ngai Tai continued to assert their mana whenua over the islands at the mouth of the Tamaki river, to the west of Waiheke, into the colonial era. Their presence at Tamaki dated back to the arrival of the Tainui waka in Aotearoa, i.e., since long before the Marutuahu conquest (see 1.6.1). Horetana te Irirangi of Ngai Tai testified at the Otata hearing in 1866:

The boundary between Ngaitai and Ngati Kahu commenced at the mouth of the Tamaki went over the summit of Rangitoto thence to Tiritirimatangi. This was a boundary laid down in former times and was known by all.¹⁰¹

Yet over these islands Ngai Tai had faced increasing challenges from Ngati Paoa, as the local people in the ascendant, in the course of the previous half century. Ngati Paoa were to play the dominant part in the ensuing land sales to Europeans, largely at the expense of the rights of Ngati Tai.

⁹⁸ Fenton, *Important Judgements*, Tiritirimatangi, pp 21-26; Auckland Minute Book 1:53-107.

⁹⁹ Turtons' Deeds, Crown purchases, Deeds 192, p 252.

¹⁰⁰ Ibid, Deeds 194, p 253.

¹⁰¹ Auckland Minute Book 1: 17.

3. Motukorea

Ngati Tamatera presented themselves as the rightsholders in Motukorea, when John Logan Campbell and William Brown negotiated the purchase of the island in 1840. However it is unlikely that they were the exclusive rightsholders, but no investigation was ever carried out by the colonial authorities granting others the opportunity to assert their rights.

4. Pakatoa, Rotoroa and Ponui

Ngati Paoa, in landsales in 1845 and 1854, successfully asserted their rights in these islands to the east of Waiheke, with Ngai Tai being acknowledged as having shared rights only in Rotoroa.

5. Whanganui etc.

Patukirikiri were the acknowledged customary owners of the islands at the entrance to Coromandel Harbour: Whanganui, Motutapere, Waimate and Motukopake.

6. Ngamutuaroha

The descendants of Rangikahemo (Ngati Tamatera?) were acknowledged by the NLC in 1912 to be the customary owners of these islands stretching from the entrance of Coromandel Harbour north to Coville.¹⁰²

7. Cuvier

Several hapu had rights in Cuvier (Repanga): Ngati Rongou the western portion; Ngati Karaua and Ngati Ramuri the south-western portion; and Ngati Hihi the south-eastern portion, according to the testimony of Rawiri Taiporutu in the NLC in 1888.¹⁰³

8. The Mercury Islands

Ngati Whanaunga and Ngati Karaua (a hapu of Ngati Whanaunga) were the principal rightsholders in the Mercury Islands, chiefs of these peoples alienating Great Mercury (Ahuahu) to the Crown, 1858-1865.¹⁰⁴ Ngati Karaua and Ngati Pupu were awarded Red Mercury (Whakau), conjointly, by the Native Land Court in 1912. Ngati Whanaunga, along with Ngati Hei and Ngati Pupu, were acknowledged to be the owners of the three smaller Mercury islands by the Court in 1965.¹⁰⁵

9. The Aldermen Islands

The customary owners of the Tairua block, the mainland block closest to the Aldermen Islands, were awarded title to the Aldermen Islands by the NLC in 1950.¹⁰⁶ However, this award was later cancelled, in 1959 the islands being vested in the descendants of Ngati Marutuahu, Ngati Hako and Ngati Hei.¹⁰⁷

¹⁰² Coromandel Minute Book 9: 101-116.

¹⁰³ Coromandel Minute Book 3:33.

¹⁰⁴ Turtons' Deeds, Crown, Deeds 299, 300, 305, 306, 317, 320, 321 and 337.

¹⁰⁵ Hauraki Minute Book 79: 40.

¹⁰⁶ Hauraki Minute Book 73.

¹⁰⁷ Hauraki Minute Book 76:179-180.

10. Shoe and Slipper Islands

Ngati Whakakahu and Ngati Whakahau were awarded these two islands, conjointly, by the NLC in 1866.¹⁰⁸

¹⁰⁸ Coromandel Minute Book 1: 61.

CHAPTER 2: ALIENATION HISTORY OF THE ISLANDS: PRE-1865

2.1 Introduction

Most of the smaller Gulf islands and the greater parts of the larger ones were alienated before 1865 through pre-Treaty purchases, pre-emption waiver purchases and Crown pre-emption purchases. They were among the places most coveted by the first generation of European land-buyers in Hauraki, both private and Crown, on account of their closeness to Auckland, commercial resources like timber and minerals, and easy access by water. The Gulf islands played a major part in the opening, extractive phase of the economic development of the Auckland region.

A narrow majority of the land alienated through pre-Treaty (old land claim) purchases in Hauraki involved islands, if one excludes the 'Fairburn Purchase' (Tamaki to Wairoa) from the calculation. Similarly, pre-emption waiver purchases on Waiheke and Great Barrier in 1844/45 account for close to the total area alienated through this mode in Hauraki. Likewise, in the 1850s when the iwi of Hauraki were becoming increasingly reluctant to sell land, the islands were among the few places where the Crown could hope to make purchases. Consequently, when the Native Land Court arrived in Hauraki in 1865, it had only about 12% of the combined area of the islands to investigate. The islands, still unalienated, were more distant from Auckland - those off the western and eastern coasts of the Coromandel Peninsula, places yet to be seen by Europeans as having any economic or other value.

Therefore all three pre-1865 modes of alienation applied to Gulf islands:

1. Private pre-Treaty purchases, or, old land claims;
2. Private pre-emption waiver purchases; and
3. Crown purchases under pre-emption.

In this chapter each mode will be allocated a section, comprising narrative summaries of those individual transactions followed by discussion of them collectively in terms of the central Treaty issues applying to pre-1865 purchases as identified by Dr Barry Rigby in the 'Rangahaua Whanui District 1, Auckland' Report, July 1996:

"(a) In the circumstances prevailing, were the Crown policies used to identify the owners or those holding rights in Maori land (and other resources) adequate? Did they give adequate consent to the transfer of their land/resource rights to the Crown or to Crown grantees?

(b) What was the extent of the land/resources transferred? Were the boundaries clear and understood?

(c) Was an adequate equivalent exchanged? Did it include no more than immediate payment in cash or goods, or did it entail ongoing obligations?

(d) After the transactions, were Maori left with sufficient resources and authority to provide for current and future generations.”¹

2.2 PRE-TREATY PURCHASES (OLD LAND CLAIMS)

The Gulf islands were high on the shopping list of the land speculators who descended upon New Zealand from Sydney on the eve of the Treaty of Waitangi and immediately after. Of the 15 old land claims involving Gulf islands, eight were transacted before June 1839 and seven after, the latter definitely falling into the category of land speculations, and many of the former also. Motutapu, Motuihe and Motukorea were all allegedly purchased between December 1839 and June 1840. The whole of Great Barrier and choice places at eastern Waiheke had been allegedly purchased earlier.

2.2.1 Whanganui Island - 1836 - Webster

William Webster, the towering figure in the frontier history of the Gulf, was involved in virtually all the pre-Treaty purchases in Hauraki, either as purchaser or broker. This brash, resourceful American, aged no more than 20 years, arrived at Mercury Bay in 1835 to work in the timber station of Gordon Browne, financed by Ranulph Dacre of Sydney.² A year later Webster struck out on his own, moving to the other side of the Coromandel peninsula and setting up his own timber and trading post on Whanganui Island at the mouth of Coromandel Harbour. He became ‘the Pakeha’ of Horeta Te Taniwha, the elderly paramount chief of Ngati Whanaunga who as a boy had met Captain Cook in 1769, and married his daughter. William McLeod, in partnership with Webster, allegedly bought the island of about 500 acres, on 8 December 1836, for consideration of £260 in goods.³ (or, as calculated in 1843, £94 14s 6d, Sydney prices, x 3 = £284 3s 6d.) This was the first European land purchase in Hauraki. The four Maori signatories to the deed of sale belonged to Patukirikiri, the people later acknowledged to be the rightful owners of the islands at the mouth of this harbour.

Webster and McLeod divided the island between them when their partnership was dissolved in 1837, Webster taking the northern portion. Commissioners Godfrey and Richmond reported on 18 December 1843 that McLeod had made a bona fide purchase in 1836.⁴ Further to their recommendations, grants on Whanganui Island were issued: 250 acres to Richard Condon, after several transfers now the owner of the interests originally belonging to McLeod;⁵ 125 acres to Webster; and 125 acres to Peter Abercrombie.⁶

¹ Rose Daamen, Paul Hamer and Barry Rigby, ‘Rangahaua Whanui District 1 Auckland,’ July 1996, p 55.

² See the biographical essay of Webster by Patricia Adams in *The Dictionary of New Zealand Biography*, vol I, pp 578-79.

³ Turton, *Private Deeds*, Deeds 378, 341-42. Successive claim numbers of the LCC were 236 and 305A.

⁴ *Ibid*, p 342.

⁵ *Ibid*.

⁶ AJHR 1893, A-4, p 6: ‘Schedule of Purchases of Land in New Zealand made to William Webster.’

2.2.2 Motutapere Island - 1838 - Webster

On 10 November 1838 Webster allegedly purchased for £41 in goods the island of Motutapere, which is 113 acres in area and located to the immediate north-west of Whanganui Is. This claim was examined by Godfrey on 17 June 1844, but was disallowed as Webster had already received the maximum of 2,560 acres. Also, the vendors asserted that although they intended to sell the island Webster failed to make full payment.⁷ While Motutapere remained with indefinite title until the late 1850s, the surveyor Charles Heaphy considered it to be very nearly 'surplus land', demesne of the Crown. He wrote

[It is] nominally in the hands of the General Government, at least being entirely at the disposal of the General Government, except that the Native title has not been quite extinguished.⁸

In 1857 Heaphy recommended that Motutapere be reserved for the use of Putukirikiri, as they were rapidly alienating their land holdings on the mainland at Kapanga (Coromandel township). Donald McLean, chief land purchase commissioner, acted on this recommendation.⁹ Hence, under these circumstances, Motutapere narrowly escaped early alienation.

2.2.3 Aotea (Great Barrier Island) - 1838 - Webster

Let us return to the Great Barrier (Aotea) purchase of 1838, introduced in the previous chapter in connection with customary rights on the island. On 20 March 1838 Webster and his Sydney partners Jeremiah Nagle and William Abercrombie allegedly bought 'all of that island called Aotea', then under-estimated to be 20,000 acres in area, for merchandise to the value of £1140 in goods.¹⁰ The 'signing', which probably took place at Coromandel Harbour, was witnessed by 300 people of Hauraki. Seventeen of the 19 Maori signatories, foremost among whom was Te Horeta Te Taniwha, were of Hauraki, while only two were of Ngati Wai. That merchandise included much clothing and household/agricultural hardware, plus a veritable arsenal: 40 casks of gunpowder, 10 superior double Guns, 80 muskets and 140 Cartouche boxes. Doubtless, it was largely thanks to that arsenal that Hauraki achieved victory over the force of Ngati Kahugunu/Porou on Aotea, later that year. It is significant that Hauraki should have been prepared to make such a military effort, at considerable cost in lives to themselves, over land in which according to the transaction of 20 March their rights had been extinguished. Demonstrably, this group showed that in its view the transaction had not terminated fully and finally its relationship with that land.

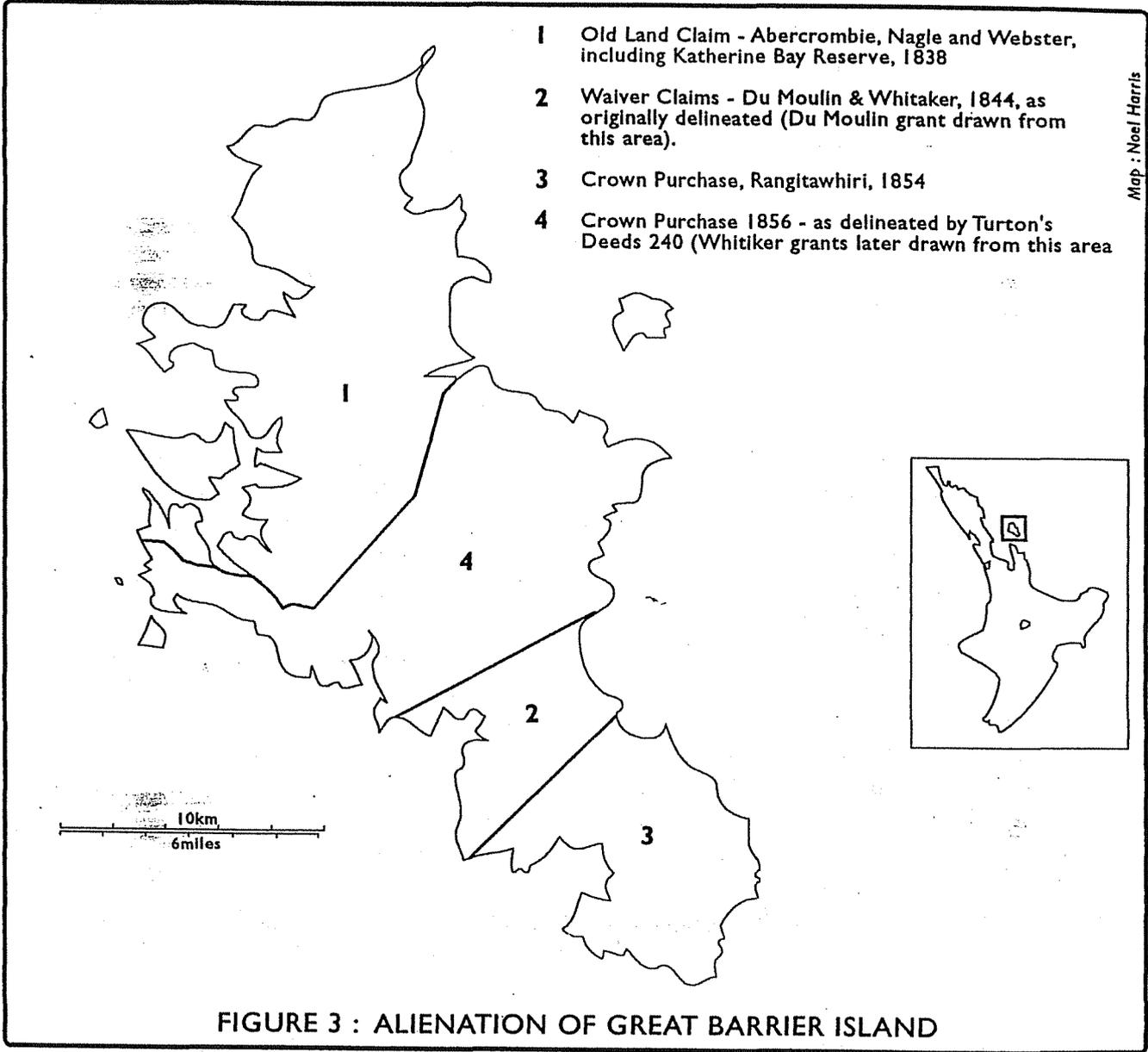
Godfrey investigated the Aotea claim of Webster and associates at Coromandel Harbour. On 10 June 1844 he reported that although Webster had intended to purchase the whole island, Maori witnesses affirmed having sold only the northern part of the island, "that lying southwards of the above boundaries does not appear to

⁷ AJHR 1861, C-1, p 125, Heaphy memo, no date, 1857.

⁸ Ibid.

⁹ Ibid, p 126.

¹⁰ Turton Private Deeds, Deeds 349, pp 310-11.



have been purchased from the rightful owners.”¹¹ The chief Tara, by his assertion the rightful owner of the southern portion, complained of having received virtually none of the merchandise exchanged for the island. Godfrey describes precisely the “boundaries” between the land validly purchased and that not, surely on the information of Maori witnesses, which suggests that these boundaries had traditional status. (They later became the boundaries of the Webster et al Crown grant on Aotea. This casts doubt on the argument of Murdoch that they were arbitrary constructs determined by land claims regulations, re the Aotea - Motairere hearing of the Maori Land Court hearing, December 1995.)

Godfrey recommended that no grant be issued, Webster having already received the maximum.¹² However, when the Legislative Council came to review Godfrey’s recommendation, Governor FitzRoy

remarked that this appeared to him a case of extreme hardship, and as he considered that great benefit would accrue to the colony by awarding those parties a grant of part of the Barrier Island, for the purpose of enabling them to proceed with their mining operations, on which much capital had already been expended, he felt disposed, as this was a special case, to step out of the usual course.¹³

It must be borne in mind that at this time there was much sympathy in official circles for the likes of Webster and L.A. McCaskill of Hikutaia,¹⁴ men who had expended much capital on mining and timber operations within the vicinity of Auckland. In the economic circumstances then afflicting the young colonial capital - stagnation, stalled land sales, dependence on imports and an empty colonial exchequer - it seemed only sensible that the colonial administration should reward and give encouragement to such pioneer capitalists. FitzRoy was certainly of this mind. The Council agreed with him that this was a “special case”, that a grant of a part of the island should be awarded to the claimants and an extension be made to the maximum of 2,560 acres.¹⁵ Commissioner FitzGerald was authorised to do so, awarding Webster and his co-claimants a total of 24,269 acres on Aotea: 8,080 to Webster; 8,119 to W. Abercrombie; and 8,070 acres to J. Nagle. Thereby, the northern third of Aotea was alienated, the portion containing the copper resources and the best kauri timber sought by those old land claimants. They had fared not so badly at the hands of the two Commissions.

2.2.4 Ahuahu (Great Mercury Island) - 1839 - Webster

On 20 May 1839, Webster allegedly purchased Great Mercury Island, estimated to contain 6,000 acres, for consideration of £278. In June 1844, Godfrey established a bona fide purchase of two small pieces of land, one at the south end of the island, but recommended no grant, Webster having already received the maximum.¹⁶

¹¹ Ibid, p 311.

¹² AJHR 1893, A-4, p 6: ‘Schedule of Purchases of Land in New Zealand made to William Webster’.

¹³ GBPP 1845 (247), p 101.

¹⁴ I have researched the McCaskill old land claims as historical researcher of the Wai 355 claim.

¹⁵ Ibid.

¹⁶ AJHR 1893, A-4, p 6: ‘Schedule of Purchases of Land in New Zealand made to William Webster’.

Commissioners FitzGerald and Dillon Bell, subsequently, saw no reason to change this recommendation; so Webster received no grant on Great Mercury. Nothing else is known about this purchase.¹⁷

2.2.5 Waiheke Blocks - 1838 - Webster

In 1838 Webster allegedly purchased two blocks of land at the eastern end of Waiheke Island, alongside good 'harbours' and containing accessible kauri timber.¹⁸

The first was transacted on 8 May 1838 with the vendors Ngakete, Kupunga, Tuaruhi and others of Ngati Paoa, estimated to contain 2,000 acres fronting onto Cowes Bay. The consideration to the value of £108 included a schooner which Webster initially supplied but then removed to Coromandel Harbour for repairs, failing to return it to the vendors. This claim, 305M, was disallowed in July 1843 on account of Webster's failure to complete payment.

The second was also transacted on 8 May 1838 with the vendor Ruinga of Ngati Paoa, estimated to contain 3,000 acres in the area of the Stony Batter peninsula. The consideration was to the value of £202 16s 0d. This claim, 305I, was investigated by Godfrey and Richmond and found to be bona fide. In May 1843 Webster was awarded 1,187 acres. This grant was subsequently upheld by the Dillon Bell Commission.

2.2.6 Te Huruhe (Waiheke) - 1838 - Maxwell

Thomas Maxwell was another towering European figure on the Gulf frontier, second only to William Webster. This trader/boat builder lived at Kororareka in the early 1830s, where he married Ngeungeu the daughter of Tara Te Irirangi chief of Ngai Tai, before shifting to the inner Gulf in about 1835. On 7 May 1838 he allegedly purchased 3,000 acres at Te Huruhe (Man o War Bay) Waiheke Island from Ngati Paoa chiefs. There are alternative accounts of what he provided in consideration. Maxwell himself testified on 11 August 1841 that he "gave the natives ten pounds in cash and goods to the amount of £58 (which included a whale boat)."¹⁹ Turton recorded consideration in merchandise worth £108 1s 0d.²⁰ These amounts would appear to be at Sydney prices. "One of the chiefs who sold the land called Ruinga walked over the boundaries with me," Maxwell's above testimony continues, "I took possession of the land a few months after the purchase was made and have resided there ever since." But Maxwell's life was soon to be cut short. In January 1842 he sailed to Port Nicholson (Wellington) in the schooner he had built on Waiheke, the *Sarah Maxwell*, arriving safely, but on the return journey the vessel was lost and the crew including Maxwell drowned. His widow, Ngeungeu, and six sons were left to fend for themselves on Waiheke. After waiting in vain for the return of Maxwell, some years later Ngeungeu and her sons joined their Ngai Tai relations at Umupuia (next to Maraetai).

¹⁷ OLC 1/724-727, Great Mercury, contains only fragmentary information - involving other Webster purchases as well.

¹⁸ AJHR 1893, A-4, 'Webster's Land Claims.' Further details are available in micro 499, 'Webster's Claims', ATL, which I have not had time to consult.

¹⁹ OLC 1/331&332.

²⁰ Turton, Private Deeds, Deeds 350, pp 312-13.

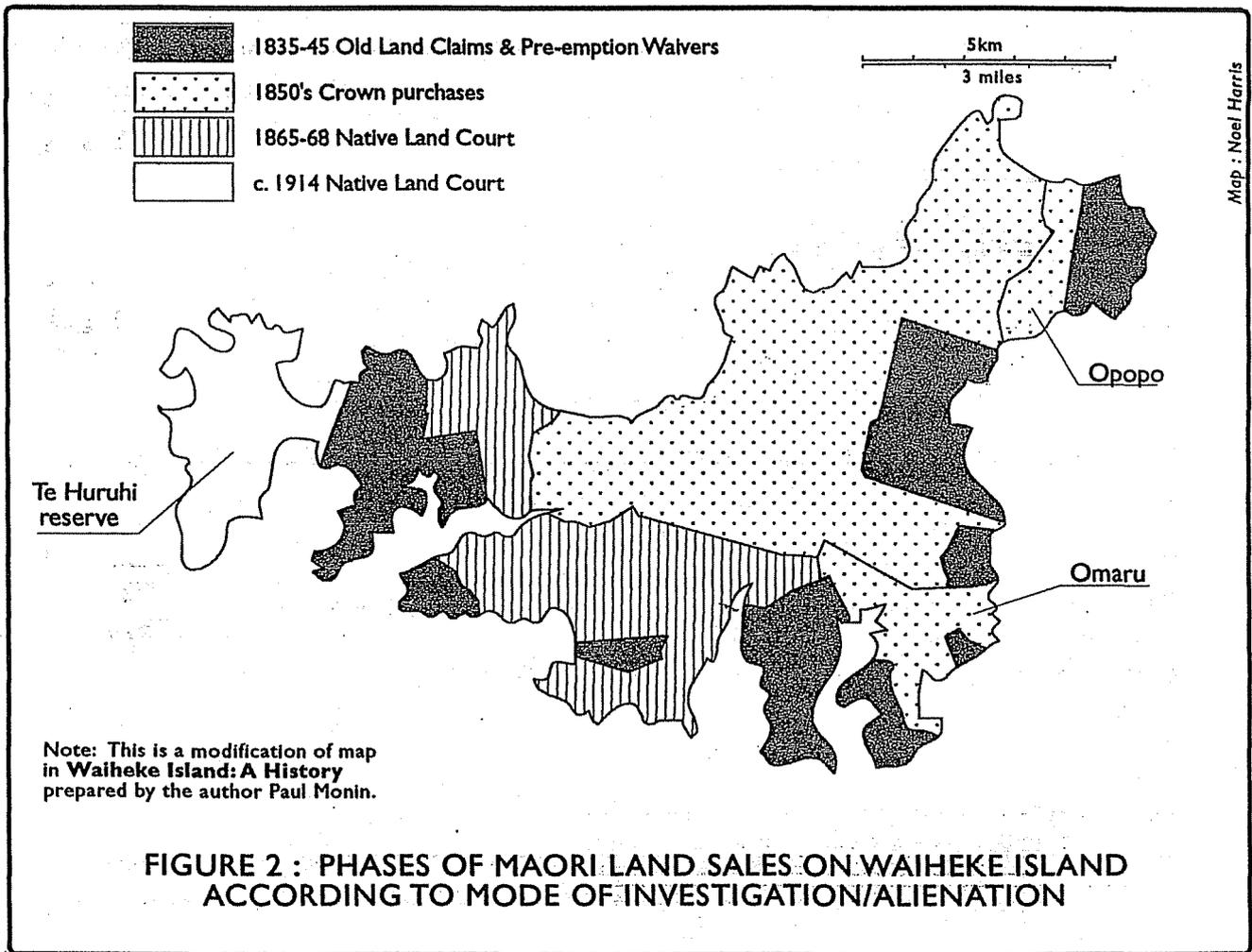


FIGURE 2 : PHASES OF MAORI LAND SALES ON WAIHEKE ISLAND ACCORDING TO MODE OF INVESTIGATION/ALIENATION

Meanwhile, Maxwell's Waiheke land claim lapsed. Godfrey advertised the hearing of this claim for 3 April 1843 in Auckland,²¹ but in the absence of the claimants no investigation of it could be made.

Then in 1865 one of his sons, Anaru (Andrew) Maxwell, applied to James Mackay jun., civil commissioner for Hauraki, for information on the claim. Anaru was no stranger to the Pakeha courts, in which he worked as a licensed interpreter, nor to the old land claims process, in which he had been involved in respect of the settlement of his father's Motutapu Island claim in the 1850s (narrated below). The Waiheke claim of Maxwell now fell within the boundaries of the 10,800-acre block purchased by the Crown on the island in 1858 from Ngati Paoa, in which the interests of Ngati Maru remained to be extinguished. Only when this was completed in 1869 could the Maxwell claim be addressed.

On 29 August 1870 the six Maxwell brothers were awarded in equal shares as tenants in common 1288 acres at Te Huruhe (Man o War Bay), Waiheke. As two of them had since died, the surviving brothers succeeded to their shares. They sold their shares to T.J. Waters, two of them even in anticipation of receiving the award.

2.2.7 Motutapu (Hurakia etc) - 1840 - Maxwell

Thomas Maxwell allegedly purchased the four adjacent islands of Motutapu, Motu Hurakia (Rakino), Otata and Motu Horopapa (Noises) on 11 January 1840.²² The vendors were chiefs of Ngai Tai (including his father-in-law, Ngeungeu's father, Tara Te Irirangi) and Ngati Paoa. In consideration he supplied goods worth £40, the Ngati Paoa chiefs taking possession of all of it and Te Irirangi receiving nothing.²³ Whereupon Te Irirangi gave Maxwell notice that he would not relinquish Hurakia or Otata, nor a part of Motutapu, until the rendering of accounts.²⁴ This unequal distribution of consideration, compounded by Maxwell's untimely death, was to seriously complicate the settlement of the claim. Amongst other things, it contributed to the breaking up of the four islands as an aggregate purchase. Let us first examine what happened to the three smaller islands in respect of their titles, a relatively straightforward matter, before giving fuller attention to the Motutapu claims, which Commissioner Dillon Bell described in 1857 as "among the most complicated that have come under the notice of the court."²⁵

²¹ NZ Government Gazette, March 22 1843.

²² Turton, *Private Deeds*, Deeds 357, p 319. There is also an alternative version of these deeds, Deeds 210 (p 272), with the date changed from 11 January 1840 to 11 January 1844 and the purchaser's name changed from Thomas Maxwell to James Maxwell. Perhaps this was an outcome of the Fitzgerald investigation in 1844 when the vendors re-affirmed the original deed of sale. See OLC 1/332, 'Motutapu Case', Dillon Bell, p 3.

²³ *Ibid*, p 320.

²⁴ OLC 1/332, 'Motutapu Case', Dillon Bell, p 2.

²⁵ *Ibid*, p 1.

Maxwell sold Hurakia (Rakino) to G.F. Robinson in late 1840 or early 1841.²⁶ At the investigation of Godfrey in June 1844, Te Irirangi said that he had not received the payment for Hurakia and Otata promised him by Maxwell: a double-barrelled gun, 3 casks of gunpowder, 10 blankets and 3 coats. Godfrey found that a deed of sale had been executed but refused to recommend an award as Te Irirangi did not acknowledge receipt of the payment stipulated to him. Robinson subsequently made that payment to Tara and a Crown grant was awarded to him on 5 February 1845. It was subsequently called in and cancelled, under the 1856 land claims legislation. The island was surveyed in 1861 and the total area found to be 360 acres. Meanwhile Robinson had died and his Hurakia interests had passed through the hands of several trustees. Commissioner Dillon Bell ordered the issue of a grant for Hurakia to William Aitken who assigned his interest to R.G. Wood. A new grant was issued to Wood on 25 June 1862. Soon after Governor George Grey bought the island.

Meanwhile, Maxwell's claim to Otata and Motu Horopapa (Noises) had lapsed, for want of prosecution. Moreover, Te Irirangi's refusal to relinquish Otata (and presumably Motu Horopapa as well), because of non-payment, was well known to Dillon Bell.²⁷ As a result these islands reverted to Maori ownership, to be investigated by the Native Land Court in 1866-67.

On the disappearance of Maxwell in early 1842, his Motutapu claim also lapsed, Godfrey reporting on 1 July 1844 that no grant could be recommended, "no native evidence having been exhibited and no fees paid."²⁸ Meanwhile, settler society in Auckland was becoming increasingly concerned about the allegedly abject circumstances in which Maxwell's 'half-caste' children were now living with their Maori relations, and calls were made to the highest levels of the colonial administration for representation on their behalf in respect of their deceased father's estate. In a minute of 28 June 1844, Governor FitzRoy expressed to Fitzgerald the wish that some "legitimate cause could be adopted in favour of the children of Maxwell"²⁹ and authorised him to make an investigation into that estate.

Fitzgerald, accordingly, held an investigation of the Motutapu claim on 21 August 1844. Te Irirangi, being "the principal proprietor", objected to not having received any goods from Maxwell, and as a result refused to relinquish a portion of the island (as well as Hurakia and Otata as we have seen), but was prepared to do so if paid £20. Fitzgerald recommended that 2,560 acres of Motutapu be awarded to the children of Maxwell, conditional on the payment of the £20 to Tara. It would seem that this payment would have extinguished Maori interests on Motutapu in accordance with the terms of the original deed of sale. Yet Ngati Paoa insisted that they still owned a part of the island, that Maxwell had not bought all of it.

The waiver of Crown pre-emption by FitzRoy in 1844, gave them the opportunity to sell that which they still claimed, supposedly about 1500 acres. They commenced

²⁶ Ibid, Deed 358, pp 319-21. We cannot be precise about the date because the deed was lost in a ship wreck at the mouth of Coromandel Harbour in 1844.

²⁷ OLC 1/332, 'Motutapu Case', p 2.

²⁸ Ibid, p 1.

²⁹ Ibid, p 2.

negotiations with Messrs Williamson and Crummer, who were issued with pre-emption waiver certificate 204 for the purchase of the same on 22 April 1845. The deed of sale was executed on the following day.³⁰ It would appear that Ngati Paoa had in effect double-sold their interests in Motutapu. With respect to the claims of the Maxwell children on Motutapu, our present subject, this was a hugely complicating turn of events.

Williamson and Crummer also secured a lease for the remainder of the island, through the offices of the Protectorate. They ran cattle and commenced improvements such as pasture sowing and building construction. Governor Grey, concerned about their claim to 2,731 acres of the island, ordered its survey, which established a smaller total acreage than had been believed. He concluded forthwith they had been wrongly granted access to Motutapu, and that in consequence the Maxwell children had suffered a grave injustice. The case was referred to Matson who found that pre-emption certificate 204 was wrongly issued to Williamson and Crummer because the earlier transaction of Maxwell had been bona fide, Maxwell having fulfilled his part of the agreement, despite the unequal distribution of the consideration.³¹ Williamson and Crummer were awarded 86 acres on 23 June 1849, but still to be settled was the compensation they were due for their considerable investment made in good faith.

No advance was made on the case until 1853 when Williamson and Crummer applied to purchase the 2,700 acres within their claim at 10 shillings per acre, under the new land regulations. They now claimed to have spent £3,500 on the land and improvements, much of this with credit from the Auckland capitalist, Robert Graham. On enquiry, Donald McLean learned that "Ngatitai who were the original owners" were willing that the Maxwell children should be put in possession of the land.³² Te Irirangi had since died, having never received the £20.

On 2 March 1857 the case was investigated by Bell who recommended, as Fitzgerald had done in 1844, that the Maxwell children be awarded 2,560 acres.³³ Calculating the land to be worth about £2 per acre and keeping in mind the £3,500 in expenditure, he recommended a award to Graham, now the owner of the Williamson/Crummer interests, of the balance of the island, 1409 acres.³⁴ This would leave a public reserve of about 80 acres. Motutapu was now estimated to contain 4051 acres. Thus the claims of the Maxwells on Motutapu were finally settled with a grant of 2,560 acres. In 1869 Robert Graham and his wife purchased these interests of the Maxwell brothers.³⁵

2.2.8 Motuihe - 1839 - Fairburn

Although William T. Fairburn, CMS catechist based at Maraetai from 1837 to 1841, is generally taken to be the European who 'purchased' Motuihe from the Maori, there

³⁰ Ibid, p 4.

³¹ Ibid, p 8.

³² Ibid, p 10.

³³ Ibid, pp 11- 14.

³⁴ Ibid, p 22.

³⁵ Mrs Graham may have purchased some the Maxwell interests at less than their market value, through an element of deceit. OLC 1/331, James Maxwell, sworn statement 12 January 1870.

is some evidence that a man named Butler may have done so a few years earlier.³⁶ In any event, Butler did not make a claim to the Land Claims Commission for this land, nor did any Maori witnesses at the Commission's hearings into the Fairburn 'purchase' of Motuihe make reference to any such earlier event.³⁷ Whatever had happened by way of an exchange, if anything, it fell far short of an alienation that either party chose to affirm or to advance subsequently.

Fairburn allegedly purchased Motuihe from the chiefs Wiremu Hoete of Ngati Paoa, Nuku of Ngai Tai and Te Manko of Ngatiwaki on 5 November 1839.³⁸ In consideration he supplied merchandise worth £83 5s 0d and promised delivery of a heifer or cow worth £20.³⁹ The transaction took place at Maraetai. Soon after, on 21 March 1840, Fairburn sold his interests in Motuihe to Henry Tayler for £200, thereby very nearly doubling his money. Tayler's Motuihe claim, 221D, was investigated by Godfrey and Richmond in Auckland on 31 July 1841, when Hemi Pepene affirmed the transfer as stated in the deeds. John du Moulin surveyed the island in 1842 without obstruction from the Maori, finding it to contain 430 acres (the actual area is 422 a. 2 p. 21p.)⁴⁰ Tayler was awarded a grant for the entire island on 6 September 1843, selling the property to William Brown and John Logan Campbell five days later for the sum of £220.⁴¹

Bell re-investigated Tayler's Motuihe claim in Auckland on 28 January 1858. This time there was vociferous Maori protest. Ngatai of Ngati Paoa complained that he had received none of the payment despite having a claim in the island. Wiremu Hoete sustained Ngatia's claim but said it was the fault of the other Maori that he had received nothing, affirming that the island was validly sold. However, he had a material grievance of his own, alleging that the cow (part of the payment) had never been given by Fairburn.⁴² Hoete appealed to the Commissioner to require Fairburn to deliver him the cow or its equivalent. Bell replied that he could make no such direction but that he had no objection to their appealing to Fairburn directly for satisfaction. He said that was only fair as Hoete had sworn in 1842 that he had received the payment including the cow. "After some consideration, Hoete admitted the correctness of this [course of action]," Bell wrote in his Court notes.⁴³

A new grant for the whole of Motuihe was issued to John Logan Campbell. On 24 December 1872 the island was sold to the Crown, to serve as a quarantine station for Auckland.⁴⁴

³⁶ L. Walsh, 'Motuihi' booklet, Auckland, 1937. His principal evidence is a lithographic chart of the Waitemata and the Hauraki Gulf, issued in Sydney in 1837 (?) on which the island appears as Butler's Island.

³⁷ This Maori silence is significant in view of the fact that in case of the Commission's investigations of the Pakihi/Karamuramu purchase Maori witnesses openly acknowledged the earlier 1827 purchase by the New Zealand Company of the islands thereabouts.

³⁸ Turton's Private Deeds, Deeds 354, pp 316-317.

³⁹ OLC 1/457, minutes of Godfrey and Richmond Court, 31 July 1841.

⁴⁰ Ibid, Commissioners' Report, *NZ Government Gazette*, 24 August 1842.

⁴¹ Walsh, p 9.

⁴² Ibid, F.D. Bell notes, 'Motuihe Island Court', Auckland 28 January 1858.

⁴³ Ibid.

⁴⁴ D.I. 7A/119.

2.2.9 Te Matuku (Waiheke) - 1839 - Fairburn

W.T. Fairburn allegedly purchased an estimated 300 acres at Te Matuku Bay, Waiheke Island, from Wanui a chief of Ngatipuku and three chiefs of Ngati Paoa in December 1839, completing the terms of the exchange on 18 January 1840. Consideration in cash and goods totalled £63 2s 6d in value.⁴⁵ Fairburn was in partnership with Henry Tayler, who hoped to work the manganese he had discovered on the land. Soon after, Fairburn withdrew from the partnership, conveying his interest to Tayler.

On 1 September 1841 Godfrey and Richmond investigated the claim in Auckland. Hema Popena, Mata and Paora stated that they had signed the deed, had the right to sell the land and were satisfied with the sale.⁴⁶ Tayler's claim then stalled for several years. On 15 April 1844 he requested the finalisation of the grant to him "In order to enable me to make arrangements for carrying on certain mining operations with effect."⁴⁷ On 23 April 1844 Tayler was awarded a grant for 300 acres at Te Matuku Bay.

In 1855 a survey of the claim was made by Drummond Hay. In 1857 Tayler sold the land to the firm of Brown and Campbell, which then agreed to sell it to Robert McLeod, a long-time resident there. The grant to Tayler was called in by a notice dated 20 June 1859. Bell investigated this old land claim in April 1861.⁴⁸ On 13 September 1861 he directed that a grant be issued to Robert McLeod for 578 acres in respect of it. The original grant had grown by three increments: an additional sixth of 50 acres, a survey allowance of 210 acres and a fees allowance of 18 acres. It is not clear from where this land was taken - probably Crown 'surplus' - but what is clear is the original intention of the Maori vendors in 1839 to sell only about half that area.

2.2.10 Waiheke blocks - 1839 & 1840- Graham

Thomas Graham, formerly assistant superintendent of the Sydney public gardens, arrived on Waiheke in the mid 1830s. In 1839 he allegedly made two purchases of land at Orapiu, the south-eastern tip of the island.

The first was transacted with Ruinga in February 1839, estimated to contain about 150 acres. The consideration was in goods worth £14. This claim was investigated by Godfrey on 19 June 1843. Ruinga declared, "I signed the deed ... but I did not know that it contained a transfer of any land. I thought the goods I received were for Mr. Graham having a house there."⁴⁹ On this ground, Godfrey disallowed the claim. Graham later expressed indignation that "the word of a single Native was taken against the oath of myself and European evidence together with the agreement signed by the Native."⁵⁰

⁴⁵ Turton's Private Deeds, Deeds 359, p 322.

⁴⁶ OLC 1/455.

⁴⁷ Ibid.

⁴⁸ Ibid, Dillon Bell Report, 13 September 1861.

⁴⁹ OLC 1/864.

⁵⁰ Ibid.

The second was transacted with Ruinga on 20 December 1839 and completed on 2 March 1840, estimated to contain 400 acres.⁵¹ The consideration comprised £12 cash and 2 blankets. This claim was investigated by Godfrey on 30 June 1843. Ruinga affirmed signing the deed, receiving the payment and having the right to sell the land. Hence Godfrey allowed the claim and Graham was awarded a grant for 365 acres. The re-investigation of the claim by Dillon Bell in March 1860 produced a small adjustment to the boundaries and the issue of a new grant for 363 acres 2r. 0p. to W.F. Porter, who had since purchased the land from Graham.

2.2.11 Poukaraka (Waiheke) - 1839 - Foster

On 14 December 1839 John Foster allegedly purchased 400 acres at Poukaraka (Whakanewha), Waiheke Island, from Te Huhu of Ngati Maru, for goods worth about £60, at Sydney prices.⁵² Two weeks later, Foster transferred his interest in the land to F. Hodgkinson and M.E. Murnin. At the investigation of Godfrey, Te Huhu claimed the right to sell the land and affirmed having signed the deed, consented to sell the land to Foster and received the payment. Godfrey reported on this claim, 332B, on 1 July 1843, finding in favour of the claimants for 400 acres. The grantees subsequently sold Poukaraka to S.A. Wood.

Meanwhile, Mohi Te Harare of Ngati Paoa disputed the right of Te Huhu to sell the land. He insisted that Whakanewha was given to him by Ngati Maru in payment for their insult to Kahukoti. Te Harare burnt the house built by Foster and expelled Te Huhu.⁵³ He then took possession of the land and appears to have occupied and cultivated it, seasonally, for much of the 1840s and 1850s. Wood, it seems, was in effect frightened out of taking active possession of the land. When Bell investigated the claim in 1858, Mohi Te Harare handed in a protest but so too did the Ngati Maru chiefs, Hotereni Taipari and Eruera Te Ngahue. "But the protests were withdrawn afterwards," the Commissioner reported.⁵⁴ On 11 February 1858, he directed that a grant be issued to S.A. Wood for 187 acres at Whakanewha.

2.2.12 Waiheke - 1840 - Simpson

Only the general circumstances of this old land claim are known. On a brief visit to New Zealand in 1840, Capt. T. B. Simpson of Sydney allegedly bought land at Te Huruhi, at the western end of Waiheke, before sailing to China to buy tea and becoming involved in the first Opium War.⁵⁵ Simpson died having neglected to prosecute this land claim and it was left to his widow, then in straitened circumstances, to approach the New Zealand authorities about it in 1859. The deed forwarded to Bell indicated the payment of considerable goods worth £363 9s 5d. However, on making enquiries into the claim on Waiheke, the Commissioner found

⁵¹ Turton's Private Deeds, Deeds 360, p 322.

⁵² Ibid, Deeds 356, p 318. OLC 1/801.

⁵³ MA 4/3, Smith to Bell, 30 March 1857.

⁵⁴ OLC 1/801.

⁵⁵ OLC 1/1305.

that no more than about 50 acres had been given in exchange. He concluded that the Maori vendors had "swindled him out of these goods."⁵⁶

On 20 April 1869 Commissioner Alfred Domett ordered the issue of a grant for 300 acres at Te Huruhi, Waiheke, to the representatives of the late Capt T.B. Simpson. On discovering that the land in question had been investigated by the Native Land Court which had placed an 21-year alienability restriction on its title, he converted the land grant into an issue of indent for £300.

2.2.13 Motukorea (Brown's Island) - 1840 - Brown

The arrival of John Logan Campbell and William Brown in the Waitemata, in early 1840, months before its choice by Lt. Governor Hobson for the colony's seat of government, is a well known founding story of Auckland, engagingly recorded in Logan Campbell's classic memoirs, *Poenamo*.⁵⁷ Keen to buy land thereabouts, they only had the option to buy the small island of Motukorea, located at the mouth of the Waitemata, given the Maori refusal to sell land on the isthmus itself. On 22 May 1840, at Waiomu on the other side of Tikapa Moana (north of Thames), William Brown 'purchased' Motukorea from Kanini, Kati Kati and Ngatai.⁵⁸ Brown believed all of these chiefs to be of Ngati Tamatera but the last was perhaps of Ngati Paoa.⁵⁹ In consideration Brown provided goods estimated to be worth £120, at three times Sydney prices.⁶⁰ The island was believed to contain about 350 acres, but its actual area is 148 acres.

Did Brown deal with the rightful owners? The fact that the transaction was conducted far away at Waiomu mainly by chiefs whose closest major land holdings were on the western side of the Coromandel peninsula may seem to suggest, no. Yet Ngati Tamatera had in all probability penetrated the inner Gulf by the early nineteenth century; indeed, their sale of Motukorea to Brown may be significant proof of the co-penetration of the inner-Gulf islands by virtually all of the iwi and hapu of Hauraki by this time.⁶¹ I am inclined to make this inference from the event. Brown soon found it necessary to re-examine whether he had bought from the rightful owners because the Crown showed an early desire to claim the island and might capitalise on such a mistake. He wrote in August 1841, "I am aware that His Excellency claims the Island in virtue of a grant of it from a native of the name of Joet [Wiremu Hoete of Ngati Paoa] but this native now acknowledges that he had no right to the Island in question as do all the Native whom I have spoken on the subject,"⁶² implying that he had bought from the rightful owners. In 1844 Brown wrote, "I believe that the Government were satisfied that I had purchased from the proper owners."⁶³

⁵⁶ Ibid.

⁵⁷ John Logan Campbell, *Poenamo*, first published 1881.

⁵⁸ Turton's Private Deeds, Deeds 12, p 441.

⁵⁹ OLC 1/1122, Brown to Commissioners 4 August 1840. A Ngati Paoa named Ngatai was prominent in most of the Ngati Paoa land sales in the inner Gulf.

⁶⁰ OLC 1/1122.

⁶¹ Today, however, Ngai Tai are likely to argue that they alone had mana whenua over Motukorea at this time and were entitled to sell it, if they so chose.

⁶² OLC 1/1122, Brown to Shortland 13 August 1841.

⁶³ Ibid, Brown to Colonial Secretary, 18 September 1844.

In June 1840 Brown moved to the island, stocking it with pigs and having a raupo house built for him, in preparation for the arrival of his wife from Sydney.⁶⁴ On 4 August 1840 he applied to have his claim to Motukorea investigated by the Land Claims Commissioners, yet to depart for New Zealand from Sydney, but Governor Hobson refused him the right on the ground that the purchase had taken place after the land claims proclamations promulgated on his arrival in New Zealand. Located at the entrance to both the Waitemata Harbour and the Tamaki River, Motukorea was strategic property that the Crown felt it ought to own itself. On the sale of the first sections at Auckland in April 1841, Brown shifted there from the island. Now he was reduced to seeking compensation for, rather than title to, Motukorea, his first investment in Auckland. The island was in effect simply taken by the colonial government.

The prospects of Brown's Motukorea claim improved dramatically with the commencement of the FitzRoy governorship in December 1843, which was to be characterised by a far more liberal treatment of the old land claimants. Brown once again placed his claim before the colonial secretary. This time it prompted a favourable memo, perhaps written by that official, Andrew Sinclair: "In my opinion it [Motukorea] was unjustly taken by the Government [and] as it has not been since sold or divided there can be no reason against now delivering it up to the proper owner [Brown]."⁶⁵ Fitzgerald agreed that this should be done and then FitzRoy signed a deed of grant for Motukorea, about 150 acres, to Brown, on 22 October 1844. All 'n all, the claim had been handled in a highly irregular manner. Despite its having been neither investigated nor reported on by the Land Claims Commission, a grant had been made. In effect, the governor had by-passed the judicial process set up by ordinance for that purpose and acted on his own executive authority.

In 1848 the case was referred by Governor Grey to Attorney General William Swainson, further to the receipt by the former of a letter from Hohepa Aranui claiming the island. On examining the accompanying papers, Swainson concluded,

The grant cannot be sustained under the provisions of the Land Claims Ordinance. I am of opinion that assuming the Island to be the property of the Crown, it has not been validly disposed of by the accompanying Deed of Grant.⁶⁶

Yet he chose not to disturb the original grant. In 1854 the Ngati Tamatera chief, Meha Te Moananui, appealed to Governor Wynyard for the balance of purchase goods worth £26 allegedly still due him on the Motukorea purchase.⁶⁷ (This appeal by a Ngati Tamatera chief, and not one of another iwi, seems to confirm that Ngati Tamatera had been the rightful owners of the island.) Again the case was referred to Swainson, who declared that he had not changed his opinion as to the grant but recommended that it should not, after such a lapse of time, be disturbed.⁶⁸ Over ten years later, in 1865, Te Moananui was still appealing for the balance. The original

⁶⁴ Ibid, Brown to Commissioners 4 August 1840.

⁶⁵ Ibid, Brown to Colonial Secretary, 18 September 1844.

⁶⁶ Ibid, Swainson Report, 12 December 1848.

⁶⁷ Ibid, Te Moananui to Governor, 18 October 1854.

⁶⁸ Ibid, Notes on back of Moananui letter of 27 March 1865, probably by James Mackay.

grant for Motukorea of 1844 remained undisturbed, and it appears that Te Moananui was never to receive the balance that he sought.

2.2.14 Gulf Island Old Land Claims: Conclusions and Treaty Issues

Gulf island old land claimants fared quite well at the hands of the successive Godfrey/Richmond, Fitzgerald and Bell Land Claims Commissions. Eleven of their 15 claims were allowed, amounting to 24,269 acres on Great Barrier; 3,605 acres on Waiheke; 2,560 acres on Motutapu; the 500 acres of Whanganui Island; the 422 acres of Motuihe; and the 148 acres of Motukorea: 31, 504 acres in total. By contrast, on mainland Hauraki they were awarded 'only' 26,554 acres, Fairburn's Tamaki awards excluded.⁶⁹

It can be argued that economic considerations played an important part in the determination of these awards. The claims over Great Barrier and Waiheke involved mining or timber ventures, already underway or planned, ventures that were crucial to the economic development of Auckland and of the colony as a whole. They were tacitly acknowledged to be 'special cases' by Governor Hobson and by Governor FitzRoy after him (who instructed Fitzgerald to treat them as such). By the time of the Bell Commission investments in these ventures were well advanced, so unless the Crown was prepared to make substantial compensation payments to claimants it could not now consider disallowing them. Let us now examine how Maori interests fared at hands of the Commissions.

(a) The Representation of Maori Interests

The adequacy of the Commissions' procedure to establish verification of the extinguishment of Maori rights is questionable. It is evident from the record that the Godfrey/ Richmond practice of requiring only two Maori participants in the original transaction to give testimony applied in the case of Gulf island claims.⁷⁰ Moreover, in many instances these two affirmers are likely to have been hand-picked by the claimant. That some claimants in Hauraki went even further to pre-empt protest is made clear in the letter of Sub-Protector Edward Shortland to George Clarke, 10 June 1844:

In reference to the claims to land in the Hauraki district, which were investigated last year by Commissioner Richmond, I have the honour to bring under your notice the fact, that promises of future payment have in many cases been made to natives interested, to prevent their opposition, or to induce them to give favourable evidence ... It has come within my knowledge, that the evidence produced before Commissioner Godfrey has, in many cases, been given under similar influence.⁷¹

Coming from an official of Shortland's integrity and knowledge of the region, this evidence that many claimants were attempting to pervert the course of justice casts a pall over the work of these Commissions in Hauraki. Unfortunately, the pro forma

⁶⁹ I reached this calculation by adding 13,880 acres (OLC data base, OLC National Theme A, Rangahaua Whanui, by Duncan Moore, Barry Rigby and Matthew Russell.) to 12,674 acres, the Webster Piako award - AJHR 1893, A-4, p 6).

⁷⁰ Rangahaua Whanui District 1, Auckland, p 87.

⁷¹ E Shortland, Traditions and Superstitions of the New Zealanders, London, 1854, pp 293-94.

manner in which much of the Maori evidence is recorded gives little indication of what witnesses actually said about the circumstances and the terms of transactions.

Nevertheless, in the case of about one third of the claims there *was* Maori protest. How did the Commissioners respond to it? They showed themselves to be prepared to disallow a claim, if the Maori evidence of an invalid transaction was clear-cut. Of the four claims that were disallowed, two were for non-completion of the payment (Motutapere and Cowes, Waiheke - Webster); one because the 'vendor' declined to affirm the sale (Orapiu, Waiheke - Graham) and one because the maximum of 2,560 acres had been granted (Great Mercury - Webster). Maori evidence had determined all of these outcomes, except the last one. Moreover, the Great Barrier claim was reduced by two-thirds because one of the vendors affirmed having sold only a part of the island. Thereby, the majority of Great Barrier and some of eastern Waiheke reverted to Maori ownership. So too did Motu Horopapa and Otata (The Noises), but because the Maxwells failed to prosecute this part of their Motutapu claim rather than because of Tara Te Irirangi's protest over having received none of the payment (see below).

Yet there are many instances of Maori protest that was discounted by the Commissioner because the issues were less clear-cut. The protest of Wiremu Hoete that Fairburn had not completed the payment for Motuihe was discounted by Bell because Hoete had affirmed before Godfrey in 1842 that Fairburn had done so. Yet in view of Hoete's close relationship with the missionaries and colonial officials at that time and his goodwill toward them as partners in an exchange relationship, perhaps he would have been reluctant to make such protest then, whether or not the payment had been completed. Likewise, the protest of Tara Te Irirangi that he had received none of the payment from the sale of Motutapu and other islands from Maxwell was discounted by Godfrey who maintained that Maxwell had fulfilled his obligations under the agreement and that the fault lay with the other vendors. (It is a sad irony that Te Irirangi and Ngai Tai, "the principal proprietors", thereby received nothing for the sale of these islands.) The demands for payments over Motukorea of Hohepa Aranui and Te Moananui seem to have gone unsatisfied. Attorney General Swainson, in questioning the validity of the Motukorea grant in 1849, contemplated its reversion to the Crown, not to the Maori. Therefore, on the basis of the limited extant written record of Maori testimony and the response of Commissioners to it, it seems that Maori protest was likely to be effective only if the protester had been a participant in the transaction and if his complaint was without complication.

(b) The Boundary Question

The old land claimants were not required to survey their claims before submitting them. All claim boundaries were descriptive, for example: commencing at a clump of pohutukawa - thence along a ridge (named) - thence to a point (named) and so on. Many of the local Māori names are no longer in use, so even if resources and time were no object it would be extremely difficult to compare the described boundaries with the surveyed boundaries of subsequent awards. In the case of the purchase of whole islands (Whanganui, Motukorea, Motutapu, Hurakia and Motuihe) this of course is not a problem. Only a few of the OLC files contain references to the walking of the boundaries by both purchaser and vendor. This seems to have become

standard practice only at a later stage in pre-Treaty land purchasing. Consequently, the area of land under transaction might not have been absolutely clear to the two parties, the Great Barrier purchase of Webster in 1838 a notorious case in point. While Webster almost certainly believed he had bought the whole island, the vendors affirmed to Godfrey having sold only the northern part. The Maxwell purchase of Motutapu and other islands generated very different boundary problems. While Maxwell believed he had bought the whole island, the vendors later claimed otherwise for their own reasons: Tara Te Irirangi because he had received none of the payment and Ngati Paoa because they were desirous of additional payments.

(c) The Adequacy of Equivalent

Payment was principally in goods with a top-up in cash. Trade goods had become the prevailing currency between the races in Hauraki the late 1830s, as payment for the Maori labour and produce so important to Webster's expanding economic activities in the Gulf. So when Maori began to transact in land also, goods were the obvious form of payment. An immediate difficulty in trying to establish the adequacy of payments for land is the failure of the record, in many cases, to make clear whether the valuation of the consideration is in Sydney prices or in New Zealand prices, viz. the former x three. Whichever, payments were paltry. However, the rate paid in goods per acre was generally higher for small islands than for larger islands or mainland blocks. For example, £284 was paid for the 500 acres of Whanganui island, and £120 for the 148 acres of Motukorea (both in N.Z. prices); as opposed to £1200 for 24, 269 acres on Great Barrier. Yet the value of islands to the Maori was disproportionate to their size.

It appears that the Commissioners paid little heed to the instructions issued to them by Gipps on 2 October 1840 that they limit awards in cases where "articles given in barter to the natives were likely to be hurtful to them instead of useful - such as gunpowder, firearms ..." ⁷² The Great Barrier claim is a glaring case in point, where a large award was made despite the considerable quantity of firearms and gunpowder supplied in payment. These goods also feature in many of the smaller transactions.

There is no doubt that the Maori who were 'selling' land and placing Pakeha like Webster or Maxwell in their midst in the late 1830s were doing so in the expectation of receiving ongoing, co-lateral benefits through trade and wage labour. What is debatable, however, is the view that the Maori vendors considered these Pakeha to be obligated under the terms of the transactions to provide them with such ongoing benefits. In the cases of Gulf island old land claims where Maori demanded payment later on, one of several situations applied: either the payment originally agreed upon had not been completed (Motuihe); or the payment had not been distributed equally (Motutapu - Tara Te Irirangi); or a rightsholder had been overlooked in the transaction (Motukorea). The only recorded instance of vendors seeking payments over and above that originally agreed upon is that of Ngati Paoa over Motutapu.

This is not to suggest, however, that the vendors accepted the total termination of their connections with the land. By no means did they assume that the Pakeha purchaser

⁷² GBPP 1840 (569), pp. 428-30.

would be granted exclusive possession; seeming instead to assume that they themselves would have residual rights of occupation and use. As we have already seen, Hauraki fought a bloody battle on Great Barrier in 1838, some months after the sale to Webster. There can be few equally dramatic examples in the history of early land sales in New Zealand of a vendor group doing so much to maintain its connection with land it had purportedly sold. On Great Barrier, Ngati Wai then remained at Motairehe, next to the copper mine, and they are still there today. On Waiheke, Urikaraka of Ngati Paoa remained at the eastern end until the Waikato war, despite the fact that this land was included in the Maxwell purchase of 1838 and the Crown purchase of 1858. On Waiheke, land at Te Matuku and Whakanewha was likewise occupied long after it had been alienated.

The Simpson claim is an anomaly. It was a rare Maori victory in the settlement of Hauraki old land claims, for no Maori land was alienated as a result of the £363 worth of goods Simpson had paid the Maori of Te Huruhi, Waiheke, in 1840. Instead the Crown awarded his heir compensation of £300, because the title of this land carried an alienation restriction by the time the claim was settled in 1869.

(d) Outcomes - The sufficiency of remaining Maori resources

Although at this early stage no Maori vendor group was left with insufficient resources as a result of land sales, a few had already lost important parts of their rohe: Ngai Tai the inner Gulf islands (Motuihe, Motutapu and Hurakia) and the Hauraki iwi plus Ngati Wai extensive rights on Great Barrier. Old land claim purchases seriously de-stabilised the tenure of Ngati Paoa over eastern Waiheke and paved the way for the Crown purchases there in the 1850s.

2.3 PRE-EMPTION WAIVER PURCHASES

The Gulf islands experienced the outer edge of the frenzy of private land purchasing in the central Auckland area triggered by Governor FitzRoy's waiver of pre-emption, under the so-called 10-shillings-an-acre proclamation of 26 March 1844 and the one-penny- an- acre proclamation of 10 October 1844. George Clarke reported on 31 July 1844, "it [the waiver] gives Europeans an opportunity of selecting land in the most favourable situations, and will tend to concentrate them around the capital."⁷³ His projection was correct. Professor Alan Ward has calculated that there were at least 90 such purchases in the central Auckland area - presumably exclusive of Gulf islands.⁷⁴ There were 14 waiver purchases in the Gulf islands: one in Great Barrier, eight in Waiheke and five in the smaller islands surrounding Waiheke. Therefore all but one of these purchases were close to Auckland, between about 10 miles (to Motutapu) and 20 (to Pakatoa) from the town - distances then accomplished far more easily on water than on land. Waiheke was the principal focus of purchases.

2.3.1 Great Barrier - Whitaker and du Moulin

Two pre-emption certificates were issued on 3 November 1844 over land on Great Barrier: one to Frederick Whitaker over not more than 1500 acres and another to John

⁷³ Ibid, 1843-45(?), Clarke Report, p 78.

⁷⁴ Alan Ward, 'Supplementary Historical Report on central Auckland lands.'

Peter du Moulin over not more than 2,000 acres. On 12 December 1844 Tamati Te Waka and other chiefs sold Whitaker and du Moulin a block in the centre of the island, estimated to be about 3,500 acres in area.⁷⁵ The consideration comprised goods, which included one cutter complete with dinghy, and cash to the total value of £170.⁷⁶ The purchase had only boundary descriptions, in the absence of survey. Whitaker and du Moulin partitioned their interests by a deed of 12 August 1846.⁷⁷

On Governor Grey's re-instatement of Crown pre-emption, these waiver claims of Whitaker and du Moulin were referred to Commissioner Matson for report. The ensuing sequence of events was short and sharp. The claimants failed to produce a survey, as required by the regulations, Matson reported the same and the Governor directed the disallowance of the claims by notice of 12 June 1848. Nothing further happened until the Crown's purchase of land on Great Barrier to the south of the Whitaker/ du Moulin waiver claims in 1854 and to the north of them in 1856. As yet no purchases on Great Barrier had been surveyed, including the old land claim award of 1844 to Webster, Abercrombie and Nagle. There could be no further delay now that three parties, including the Crown, claimed interests. Bell, now responsible for the final settlement of both the old land claim and the waiver claim, directed the survey of much of the island.

On 6 and 21 August 1861, Bell made consecutive orders for the issue to Frederick Whitaker of a total of 5,463 acres at Great Barrier upon payment of £125. He also ordered the issue to du Moulin of 1,000 acres.⁷⁸

2.3.2 Rotoroa - McIntosh

Under a pre-emption certificate, Charles Hunter McIntosh purchased Tarataroa⁷⁹ estimated to be 400 acres in area (actually 204 acres), and the small adjacent island of Kahakaha from Ngatai and Ruinga, chiefs of Ngati Paoa, and Te Whetuki and Honatana, chiefs of Nga Tai, on 12 January 1845.⁸⁰ The consideration comprised £32 cash and various goods. McIntosh installed a labourer on the island and, erected a wooden hut and had the land stocked with sheep, goats and pigs.⁸¹ Matson reported on the claim on 5 August 1847. Three of the vendors affirmed that they had received the full payment and had no further claim over the islands whatsoever.⁸² He recommended a confirmatory Crown grant be issued to McIntosh.

2.3.3 Pakatoa - McIntosh

Under a pre-emption certificate, C. H. McIntosh purchased Pakatoa estimated to be 70 acres in area (actually 59 acres 2r.) from Ngatai, Ruinga, Ngakete and Taiko, chiefs of

⁷⁵ Turton's Private Deeds, Pre-emptive Claims, Deeds 53, pp 469-70.

⁷⁶ OLC 1/ 1130 & 1131, Bell memo, 12 August 1861.

⁷⁷ Ibid, pp 470-71.

⁷⁸ OLC 1/ 1130 & 1131, Bell Report, 12 August 1861 & 'Appendix to the Report of the Land Claims Commissioner', AJHR 1863, D-14, p 83.

⁷⁹ Rotoroa, which should be 'Rataroa'.

⁸⁰ Turton's Private Deeds, Pre-emptive Claims, Deeds 67, p 492.

⁸¹ OLC 1/1116-1117.

⁸² Ibid.

Ngati Paoa, on 29 August 1844. The consideration comprised £20 cash and various goods.⁸³ Matson recommended a confirmatory Crown Grant be issued to McIntosh.

2.3.4 Pakihi and Karamuramu - Tayler, Brown and Campbell

These islands straddling the narrow passage between Ponui and Kawakawa Bay on the mainland were included in the very first European land purchase in the Auckland region. In 1826 James Herd, as agent and commodore of the New Zealand Company (not the later one), led a party of 25 Scots emigrants to the Hauraki Gulf, aboard two vessels. Herd purchased, by a deed of sale dated 23 September 1826, Pakatoa, Rotoroa, Ponui and Pakihi (and Karamuramu it was later assumed) for one double-barrelled gun, eight muskets and one barrel of gunpowder.⁸⁴ The incentive to purchase was the mineral deposits on Pakihi believed to be iron ore - which later proved to be red brown jasperoid slates.⁸⁵ Frightened by the appearance of a passing Maori taua (war party), Herd's party fled northwards, staying for a time at the Hokianga before returning to Sydney. Nothing more was heard from the Company in respect of this remarkable purchase.

However, as the event was acknowledged by the Maori and known to the colonial officials, the title of Pakihi and Karamuramu was in a strange limbo in the 1840s. The Crown believed that it might own the islands as the Maori title had been at least partially extinguished.⁸⁶ Acting on this assumption, the government leased Pakihi to Henry Tayler in 1843 for mining purposes. Yet on 14 June 1844 FitzRoy consented to waive Crown pre-emption over the islands.⁸⁷ On 1 August 1844 the islands were sold to Tayler, Campbell and Brown by chiefs of Ngati Paoa for £100 in sovereigns and goods worth £25.⁸⁸

In 1846 Brown and Campbell had the islands surveyed. Pakihi proved to contain 278 acres and Karamuramu 12 acres.⁸⁹ The claim was referred to Maj. Matson who concluded that he could make no report as Pakihi was the property of the government.⁹⁰ With the reduction in the upset price of Crown land to 10 shillings per acre in 1853, Brown and Campbell undertook to purchase the islands a second time, paying £145 on 1 October 1853. By the standards of the day, they had paid dearly for the islands, and their situation evoked some sympathy in official circles. The Executive Council determined that "as the sum paid by Messrs. Brown and Campbell to the natives exceeded 10 shillings per acre, they should retain the islands in consideration of the amount paid by them to the natives."⁹¹ On 18 March 1854 a Crown grant was issued to Campbell.⁹²

⁸³ Turton's Private Deeds, Pre-emptive Claims, Deeds 30, p 453-54.

⁸⁴ NZ MS 774, APL.

⁸⁵ Morgan, *New Zealand Journal of Science and Technology*, 1919 2.2, p 117.

⁸⁶ OLC 1/1126, Brown and Campbell to Col. Secr, 30 May 1844, margin note.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Ibid, Brown & Campbell to Col. Sec., 8 August 1846.

⁹⁰ Ibid, Matson 27 November 1847.

⁹¹ Ibid, Executive Council, 11 October 1854.

⁹² D.I. 7A/118, Auckland Land Registry.

2.3.5 Motutapu - Williamson and Crummer

This waiver purchase, made on 22 April 1845, has been examined in the context of the Motutapu old land claim (2.2.7).

2.3.6 Ponui - Regan and Duane

Under a pre-emption certificate, in 1845 John Regan and Timothy Duane purchased 300 acres on Ponui from Ngatai of Ngati Paoa for a whale boat with oars and £11 in cash.⁹³ On 30 December 1847 Matson recommended that no grant be made in respect of this claim, for reasons that are unclear. In January 1854 authorisation was given for Regan and Duane to be paid £52 17s 0d in compensation.

2.3.7 Waiheke - Eight purchases

Under pre-emption certificates nine blocks were purchased on Waiheke between 17 November 1844 and 18 February 1846, eight of which were to result in Crown grants.

1. On 17 November 1844 Frederick Whitaker purchased 700 acres at the north-eastern tip of Waiheke, called Te Patu, from Te Ruinga of Ngati Paoa for £50 cash and goods.⁹⁴ The claim was disallowed by Matson in 1848, presumably for want of survey.⁹⁵ Whitaker transferred his interests to Alexander Shepherd. On survey, the block was shown to contain 610 acres. At the investigation of Bell on 2 May 1858 Te Ruinga affirmed the sale and the boundaries stated in the deeds. On 27 March 1860 Bell directed the issue to Jane Shepherd, wife of Shepherd now deceased, a grant for 610 acres at Te Patu, Waiheke.

2. On 18 February 1846 Frederick Whitaker and John Halls purchased 700 acres at the eastern end of Waiheke, Pikau, from Te Ruinga of Ngati Paoa for £20 cash and goods.⁹⁶ The claim was disallowed by Matson in 1848, presumably for want of survey. At the investigation of Bell on 2 May 1858 Te Ruinga affirmed the sale and the boundaries, except for a coastal strip to which he claimed to have granted only a right of road.⁹⁷ This difficulty, however, was resolved by the Crown's purchase from Te Ruinga on 12 June 1858 of 10,800 acres on Waiheke, which included Pikau. On 27 March 1860 Bell directed the issue to Whitaker and Halls compensation of £350.

3. On 20 November 1844 John Logan Campbell and William Brown purchased a block of indeterminate size at eastern Waiheke, Opako (sic), from Te Ruinga for goods worth £43, which included a boat.⁹⁸ The claim was disallowed in 1848 by Matson, presumably for want of survey.⁹⁹ In 1858 Te Ruinga reserved from the above block he sold to the Crown the area of this claim for Campbell and Brown. On 14 September 1861 Bell directed the issue to Campbell of 67 acres at Opako.

⁹³ OLC 1/1295 and Turton's Private Deeds, Pre-emptive Claims, Deeds 84, p 492.

⁹⁴ Turton's Private Deeds, Pre-emptive Claims, Deeds 42, p 463.

⁹⁵ OLC 1/1132.

⁹⁶ Turton's Private Deeds, Pre-emptive Claims, Deeds 86, p 494.

⁹⁷ OLC 1/1178.

⁹⁸ Turton's Private Deeds, Pre-emptive Claims, Deeds 47, p 466.

⁹⁹ OLC 1/1140.

4. On 23 November 1844 Charles de Witte, the Belgian consul to New Zealand, purchased 500 acres at Putiki from Wiremu Hoete of Ngati Paoa on the down payment of £4 to be followed by £40 plus £6 for a house.¹⁰⁰ A second deed of sale was signed by other chiefs of Ngati Paoa on 3 December 1844. But in doing so, Hoete and the other Ngati Paoa had ignored the claim to Putiki of Patukirikiri, through the conquest of the area by their ancestor Kapetaua (see 1.9.2). Faced with their protest, Hoete gave them the £4, which they promptly returned it to de Witte in an effort to undo the transaction.¹⁰¹ The claim was disallowed in 1848 by Matson, presumably for want of survey. There was a long delay in the payment of the balance of £46, Hoete receiving it only on 8 July 1858. Hoete later acknowledged that he should have shared this money equally with Patukirikiri but had not done so because of his own considerable debts.

Bell heard the claim on 15 April 1859. Despite this fundamental dispute over customary rights and despite the unequal distribution of the consideration, Bell "was not disposed to consider disallowance [and] accordingly authorised a survey."¹⁰² On survey the claim was shown to contain 280 acres. On 2 July 1860 Bell directed the issue of a grant to Charles de Witte for 280 acres at Putiki.

5. On 14 January 1845 Charles de Witte was issued a pre-emption certificate for the right to purchase 200 acres at Matiatia, western Waiheke. On 14 January 1845 he bought 200 acres there for £30, by his own account, although no deed of sale of this transaction has survived. Matson disallowed the claim in 1848. Bell saw no reason to proceed further with the claim in 1859. De Witte continued to fight the disallowance but with the placement an alienability restriction upon the title of Te Huruhi (which included Matiatia) by the Native Land Court in 1869, his cause was lost.

6. On 31 December 1844 Thomas Crummer, George Owen, Thomas Stewart and Isaac Merrick purchased 900 acres at Awaawaroa from four chiefs of Ngati Paoa for one whale boat, other goods and £24 cash.¹⁰³ On 4 July 1845 Merrick purchased the interests of the other partners.¹⁰⁴ Matson disallowed the claim in 1848, for want of survey, but the Attorney General awarded him 70 acres, in return for the £69 18s 6d in payments he had made. On 6 September 1854 Merrick purchased 80 acres within the boundaries of his claim for £36.¹⁰⁵ Bell investigated the claim on 23 December 1858. On 16 January 1861 he directed the issue of a grant to Merrick for 368 acres at Awaawaroa.

7. On 21 January 1845 John Brigham purchased 999 acres at Okahuiti from chiefs of Ngati Maru and Ngati Paoa for a two-masted schooner, a boat and other goods.¹⁰⁶ The

¹⁰⁰ Turton's Private Deeds, Pre-emptive Claims, Deeds 44, p 464.

¹⁰¹ OLC 1/1140, testimony of Rarapia at Court of Bell, 15 April 1859.

¹⁰² Ibid, Bell report, 2 July 1860.

¹⁰³ Turton's Private Deeds, Pre-emptive Claims, Deeds 62, pp 476-77.

¹⁰⁴ OLC 1/1235.

¹⁰⁵ Ibid, Bell report, 16 January 1861.

¹⁰⁶ Turton's Private Deeds, Pre-emptive Claims, Deeds 71, pp 482.

transaction was confirmed by a second deed, of 3 November 1845, to 950 acres.¹⁰⁷ Tamati Te Waka of Ngati Maru received the schooner and Te Ruinga of Ngati Paoa the boat, six firearms and £6 cash. On survey the claim was found to contain 841 acres. At the investigation of Matson on 17 June 1848, Te Waka, Te Ruinga and Wiremu Hoete affirmed that the sale was made with the full consent of all the parties. Brigham announced his wish to relinquish his claim to the Crown in return for compensation. Matson ascertained the compensation to which Brigham was entitled to be £290 5s. 0d, viz the extent of his expenses.

8. On 1 February 1845 Adam Chisholm purchased 850 acres at Putiki from chiefs of Patukirikiri for two horses, other goods, and £2 cash.¹⁰⁸ Ngati Paoa immediately protested that their rights in this land had been ignored. In the absence of survey, Matson referred the claim to the Attorney General but no determination was made.¹⁰⁹ Nevertheless, the government proceeded in 1854 to lay out the claim as Crown land - along with the adjacent Brigham claim for which it had paid compensation to Brigham. Meanwhile, Wiremu Hoete believed, wrongly, that Governor Grey had decided to return to them the Brigham and Chisholm claims. He obstructed the survey, which in consequence was not completed and Chisholm was left to complete it at his own expense.

Bell investigated the claim on 5 October and 20 December 1859, concluding that the government had practically disallowed Chisholm's claim without having really decided it. On 21 March 1860 he directed the issue of a grant to Chisholm for 390 acres at Putiki and a further 58 acres alongside his Lucas Creek grant (on the mainland) for survey allowance. Bell appears to have done nothing about the protest of Ngati Paoa over the right of Patukirikiri to make the original sale.

9. Theophilus Heale was issued a pre-emption certificate to buy 50 acres on Waiheke but did not act upon it.¹¹⁰

2.3.8 Gulf Island Pre-emption Waiver Claims: Conclusions and Treaty Issues

In the Gulf islands far less land was alienated as a result of pre-emption waiver purchases than as a result of old land claims: about 10,000 acres compared with about 31,000 acres. Both types of purchases involved the most favourable land - that which was accessible to the water, close to Auckland, timbered and arable - blocks disproportionately valuable to their size.

(a) The Representation of Maori Interests

The waiver of Crown pre-emption in 1844 required the Crown to investigate rightsholding in advance of sales to ensure that land was sold by its rightful owners, whereas such investigation was taking place after the event in the case of the old land claims. This responsibility and that of overseeing sales lay with George Clarke and the Protectorate - a prospect that he found troubling both for himself and the colony.

¹⁰⁷ Turton's Private Deeds, Pre-emptive Claims, Deeds 82, pp 490.

¹⁰⁸ Turton's Private Deeds, Pre-emptive Claims, Deeds 76, pp 486-87.

¹⁰⁹ OLC 1/1164.

¹¹⁰ OLC 1/1267.

I look upon the measure [the waiver] with extreme anxiety... Natives and Europeans have both been clamorous; the one being desirous to have the privilege of disposing of their lands to whom they pleased, and the others the right of purchasing from the original owners. [He anticipated] collision growing out of sales of disputed lands, as in all probability they will be the first offered. the regulations of the Government will, however, prevent the negotiation of any very extensive sale, and thereby offer a check to an evil which might otherwise lead to serious consequences.¹¹¹

It appears from his minutes in the waiver purchase files, as Professor Ward has noted, that Clarke "proceeded in an ad hoc way, making new discoveries about Maori rightsholding day by day."¹¹² Land on Waiheke was in particular demand by applicants for pre-emption certificates, but the island was then a hotbed of disputed Maori land rights, as Clarke was well aware. On 9 November 1844 he wrote the memo:

There are so many disputes about the Island of Waiheke that it would not be safe to buy from the Chief Ruinga only. It would in my opinion be necessary to get the consent of the Ngatimaru Tribe and the Patukirikiri.¹¹³

Nevertheless it seems that after making only the most cursory of investigations Clarke assented to sales going ahead there. Only one day after the above call for caution, he wrote "I have seen the Chief Ruinga and his party and from him I learned that the land applied for belongs solely to him therefore I see no objection."¹¹⁴ In this case he probably acted correctly enough because the land in question was Te Patu, a part of the island where Ruinga's rights were strongest, but his apparent failure to act in the case of the de Witte purchase at Putiki a week later was quite another matter. Putiki was probably the place on Waiheke where Maori rights were the most complex. As we have seen, de Witte purchased land there from Ngati Paoa ignoring the rights of Patukirikiri, thus causing a protracted dispute. The purchase file suggests that the only assistance or advice he received was from the French Marist priests then on the island. Likewise, Chisholm purchased land at Putiki in February 1845 from Patukirikiri ignoring the rights of Ngati Paoa, causing another protracted dispute. In this case it seems that the sale went ahead despite Clarke's having full knowledge of Ngati Paoa's opposition to it. In Auckland town, Chisholm had tried unsuccessfully to bully both Te Ruinga and Wiremu Hoete into consenting to the sale, even physically threatening the latter.¹¹⁵ Regardless, Patukirikiri went ahead and sold the land to Chisholm.

There is some evidence that Clarke later displayed greater cognisance of multiple Maori rights in the land under transaction. In the Brigham purchase on Waiheke both Ngati Maru and Ngati Paoa were involved in the negotiations and received a share of the payment. Likewise, in the McIntosh purchase of Pakatoa both Ngai Tai and Ngati Paoa were involved. Furthermore, Clarke became aware that certain chiefs offering

¹¹¹ GBPP 1843-45 (?), p 78.

¹¹² Ward, Supplementary Report, p 41.

¹¹³ OLC 1/1116-1117.

¹¹⁴ Ward, Supplementary Report, p 41.

¹¹⁵ GBPP NZ 6: 1847-48 (1002) p 30. In 1847 Governor Grey cited this incident in despatches to Earl Grey, the Secretary of State for the Colonies, to illustrate how some holders of pre-emption certificates had tried to intimidate Maori land owners into compliance.

land for sale needed to be treated with caution, for example, Ngatai who "acted in such an objectionable way in the selling of Pakihi."¹¹⁶ It must be emphasised that these purchase negotiations were conducted with the chiefs who seemed able to control the deals - like Wiremu Hoete, Te Ruinga and Ngatai of Ngati Paoa and Tamati Te Waka of Ngati Maru - not with kin-groups as a whole. In some cases the chiefs, as individuals, were invited to Auckland for negotiations at the Protector's office, at the expense of the hopeful European land purchaser. Arguably, this procedure was in itself at variance with the communal Maori ownership of land.

How did the Matson and the Bell Commissions adjudicate upon waiver purchases where the interests of some rightsholders had been ignored? The de Witte and Chisholm claims are cases in point. In 1848 Matson disallowed both claims because the claimants had failed to comply with all the regulations, particularly those regarding survey, but not because they had failed to purchase from all the rightsholders. In 1860 Bell directed the issue of Crown grants to both claimants, effectively ignoring the protests of Patukirikiri in respect of the first claim and Ngati Paoa the second. It seems that these Commissions were far more concerned about securing equity for the claimants, one to the other, than about safeguarding Maori interests.

(b) The Boundary Question

Survey was not a precondition of the waiver purchases. Claim boundaries remained descriptive as with the old land claims. As all of these purchases (except the one on Great Barrier) involved relatively small blocks of land, their descriptions were precise, probably leaving little room for misunderstanding between the vendors and purchaser. In the case of the purchase of whole islands boundaries were of course not a problem. Matson disallowed all of these waiver purchases, excluding Pakatoa and Rotoroa, for want of survey. The first surveys were conducted as a precondition of the investigations of the Bell Commission.

(c) The Adequacy of Equivalent

As noted by Professor Ward, "The price paid to Maori under the waiver purchases were generally much better than the early Crown purchases [or the pre-Treaty purchases], but not uniformly so."¹¹⁷ The Maori received from Campbell and Brown £43 for 67 acres on Waiheke and £125 for the 290 acres of Pakihi and Karamuramu; and yet they received from Whitaker and Du Moulin only £170 for 5,463 acres on Great Barrier, in cash or goods. Receipts of vendors for land on Waiheke averaged about three to five shillings per acre.

Since the pre-Treaty land transactions a distinct change had taken place in Maori demand, as I write in the *NZJH*:

Throughout Hauraki in the 1840s there was a great appetite for all manner of European vessels, from whaleboats up to schooners around 20 tons burden, and on Waiheke it verged on a mania. Here was a strong reason for support within Hauraki for Governor FitzRoy's waiver of Crown pre-emption in 1844/45, judging from the prominence of sailing vessels as payments in subsequent transactions.¹¹⁸

¹¹⁶ OLC 1/1116-1117.

¹¹⁷ Ward, 'Supplementary Report', p 53.

¹¹⁸ Monin, *NZJH*, 29:2, October 1995, p 199.

Seven vessels feature among the payments of the 15 waiver transactions (one of which was not completed), whereas only one (which was never delivered) feature among those of 15 pre-Treaty transactions. These vessels included a cutter and a schooner and several whaleboats. This tally is all the more significant, considering the small size of most blocks, which did not qualify them for the larger payments needed to cover the cost of a vessel of any size.

(d) Outcomes - The sufficiency of remaining Maori resources

The total area of land alienated through waiver purchases was insufficiently large to have much effect upon the overall resource situation of the vendor Maori groups. Locally, however, some effects were significant. The sale by Patukirikiri to Chisholm of Putiki forced Wiremu Hoete, who had been resident there since the late 1830s, to move westwards to Te Huruhi Bay (Blackpool). This was a significant setback for this Ngati Paoa chief who had done so much to facilitate the survival of early Auckland.¹¹⁹ Indeed, through waiver purchases Ngati Paoa lost the central-southern area of Waiheke, Surfdale to Hekerua to Ostend, their first agricultural base for trade with Auckland.

2.4 EARLY CROWN PURCHASES

Crown purchases account for the majority of the land alienated in Gulf islands before 1865: about 60,000 acres as opposed to about 31,000 acres for old land claims and about 10,000 acres for waiver purchases. Indeed, this 60,000 acres equals close to half the total area of the islands. The Crown purchase of the Mahurangi block in 1841 included the islands off the coast: most importantly, Tiritiri Matangi and it would seem Rangitoto as well. After a hiatus of 13 years, Crown purchasing resumed under Donald McLean, who in 1854 purchased Ponui, two blocks on Waiheke and the Rangitawhiri block on Great Barrier and in 1856 all remaining Maori land on Great Barrier under customary title. As opposition to land sales mounted in Hauraki in the late 1850s, Gulf islands became among the few areas where the Crown stood any chance of success. McLean wrote to Governor Gore Browne in 1857:

There is at present, a general indisposition on the part of the Natives to alienate their lands at Coromandel Harbour; and with the exception of the unsold portions at Mercury Island and a few small blocks on the main, there is nothing else open for immediate purchase in that district.¹²⁰

Most of Great Mercury was bought by the Crown in 1858. On Waiheke the continuing willingness of Ngati Paoa to sell land, compelled by their mounting debts, further helped the Crown cause. In 1858 McLean purchased the eastern half of the island, some 10,900 acres. The Crown achieved only one other large purchase in Hauraki before the Waikato war: that of Mahakirau, Coromandel, in 1862.¹²¹

¹¹⁹ Monin, *Island Time* 1994-95, 'The Rewards of Friendship for Rangatira Wiremu Hoete, pp 7-9.

¹²⁰ AJHR 1861, C-1, p 137, McLean to Governor, 5 June 1857.

¹²¹ AJHR 1865, C-2, p 13.

2.4.1 Mahurangi - 1841- "all the islands on the Coast" - including Rangitoto and Tiritiri Matangi?

The Crown's Mahurangi purchase of 13 April 1841 included the whole coastline between Takapuna and Te Arai Point and "all the islands on the Coast."¹²² The vendors were the "united tribes of the Thames"¹²³ - Ngati Paoa, Ngati Maru, Ngati Tamatera and Ngati Whanaunga - although chiefs of Ngati Paoa were the prime movers, Wiremu Hoete in particular. They claimed the land through their control of the area established in the late eighteenth century (see 1.9.5). But the Crown was not presented with vacant possession. A party of Kawerau (antecedents to Hauraki in the area) remained in occupation and the Hauraki peoples likewise asserted continuing claims to Mahurangi. The Crown finalised the extinguishment of Ngati Paoa interests in Mahurangi on 5 January 1854 in consideration of £120.¹²⁴

Vitally important to this report is the inclusion of "all the islands on the Coast" in the boundaries of the Mahurangi purchase: a not inconsiderable number. While there are none between Takapuna and Tiritiri Matangi, there is that large island of about 500 acres and a scattering of smaller ones between it and Kawau, besides Rangitoto immediately off Takapuna, all of which had escaped the attention of pre-Treaty purchasers. For some years the Crown itself was uncertain as to its ownership rights over these islands. With the waiver of pre-emption, John Heyden applied on 26 April 1845 for a pre-emption certificate to purchase three islands south of Kawau: Motuora, Motuketekete and Moturihe. A margin note on his application by George Clarke reads: "As these islands were not named in the Mahurangi Purchase and the natives declare they were not included in that purchase I see no objection thereto."¹²⁵ The certificate was granted and the sale made. It was not until the early 1850s that the Crown determined that it had already been in legal possession of these islands.

Likewise the title status of Rangitoto was unclear. On 17 January 1854 the Crown paid Ngatai of Ngati Paoa £15 for his interests in Rangitoto,¹²⁶ but it appears that the transaction was satisfaction for a clamorous claimant more than acknowledgement of his continuing rights. Ngatai had gained some notoriety for his sometimes less than well-founded claims in Waiheke, the surrounding islands and up the Waihou River.¹²⁷ In 1869 Chief Judge Fenton concluded regarding these early Crown purchases that "when a chief came to demand payment for an estate, backed by a sufficient following, it was found more expedient to satisfy his claim than to contest it."¹²⁸ Fenton, in his Tiritiri Matangi judgement in 1867, refers to three distinct conveyances by which the Crown acquired Rangitoto.¹²⁹ I have found the deeds for only one of them, those above involving Ngatai.

¹²² Turton's, Crown Deeds, Deeds 192, p 252.

¹²³ Turton's Epitome, Shortland to Clarke, 14 April 1841.

¹²⁴ Turton's, Crown Deeds, Deeds 199, p 258.

¹²⁵ OLC 1/1258.

¹²⁶ Turton's, Crown Deeds, Deeds 232, p 289.

¹²⁷ See AJHR 1861, C-1, p 142.

¹²⁸ Fenton, *Important Judgements*, p 88.

¹²⁹ *Ibid*, p 22.

The Crown's ownership of these islands was tested and upheld by that investigation of Tiritiri Matangi by the Native Land Court in 1867 - to be examined later in this report (see 3.3.1).

2.4.2 Ponui - 1853/54

The Crown purchased Ponui in a two stages: the first on 16 June 1853 when Te Karamu and Kupenga were paid £100 cash.¹³⁰ and the second on 4 January 1854 when Ngatai and Hori were paid £25 cash.¹³¹ A plan of the island was completed, dated 4 January 1854.¹³²

2.4.3 Two Waiheke Purchases - 1854 & 1858; and Sequels - 1867 & 1869

On 18 May 1854 the Crown purchased the Omaru and Opopo blocks on Waiheke for £200 and £300 respectively. Payments were made in instalments between 18 May 1854 and 12 March 1857.¹³³ Each being only about 200 acres in size, they had fetched top prices for rural land, £1 or £1 10 shillings per acre.

While surveying the Omaru and Opopo blocks, G. Drummond Hay offered to purchase the eastern end of the island from Ngati Paoa.¹³⁴ In June 1858 Charles Heaphy, Hay's superior in the Survey Department, informed McLean that "the natives are prepared to cede 10,000 .. at 1/6 or 2/- per acre."¹³⁵ McLean saw in these circumstances an opportunity not only to secure a reserve for Ngati Paoa on Waiheke, but also to release other lands for European settlement. A memo of his dated 3 May 1858 reads:

It is recommended that the Native title to Waiheke Island should be extinguished with a view to retaining the land as a permanent location for the natives as it is particularly well adapted for such a purpose, having numerous bays for fishing, plenty of firewood and convenient to Auckland market.

It would also be desirable as a place for locating natives of other tribes, in cases where the Government might find it necessary to provide them with land - the Native title being extinguished the Government might afterwards apportion the land to individual natives under Crown Grants subject to such an entail as would prevent alienation to Europeans.

The continued occupation of the Waiheke Island by the Natives under a holding from the Crown would prevent many of them from occupying valuable tracts of the mainland which are much required for European settlement.¹³⁶

In due course Ngati Maru learned of the possible sale of Waiheke and were reassured by the government that "Waiheke will not be purchased secretly, but sufficient notice will be given to the different claimants to accompany the surveyor over the boundaries of the land."¹³⁷ Nevertheless, on 12 June 1858 the Crown purchased solely from Ngati Paoa chiefs 10,900 acres at Waiheke for £800, thereby ignoring

¹³⁰ Turton's, Crown Deeds, Deeds 229, p 286.

¹³¹ Turton's, Crown Deeds, Deeds 231, p 288.

¹³² Turton's Plans, p 178.

¹³³ Turton's, Crown Deeds, Deeds 237, p ?, and Deeds 242, p 299.

¹³⁴ AJHR 1861, C-1, p 136, Hay to McLean 28 February 1857.

¹³⁵ OLC 1/332, McLean 3 June 1858.

¹³⁶ Ibid.

¹³⁷ Ibid, p 140, Rogan to Hay, 22 January 1858.

Ngati Maru interests.¹³⁸ A plan of the block accompanied the transaction.¹³⁹ On 28 June the Crown then purchased an adjoining area also from Ngati Paoa chiefs for £10.¹⁴⁰

Over the following decade, Ngati Maru continued to assert their claims to Waiheke posing the general government with a problem, for until these were satisfied it could not hand over this land to the Auckland provincial authorities for sale to settlers. "This very troublesome case" was one of "the native legacies" that James Mackay junior inherited from Dr Edward Shortland when he became Civil Commissioner for Hauraki in 1864.¹⁴¹ He resolved the case with money. In return for two successive payments - £300 on 18 October 1867¹⁴² and £150 on 7 December 1869¹⁴³ - the hapu of Ngati Maru collectively agreed to cede all their claims to Waiheke Island.

2.4.4. Two Great Barrier (Aotea) Purchases - 1854 & 1856

In the mid 1850s McLean set out to extinguish completely the original Maori title to Great Barrier, once provision had been made for Ngati Wai from out of the Crown's demesne. On 17 September 1853 Ngati Wai were granted a reserve of 3,510 acres at Katherine Bay from out of the claim of W.S. Grahame - formerly that of Abercrombie, Nagle and Webster.¹⁴⁴ McLean then accomplished his objective in two stages: On 26 August 1854 he purchased for the Crown the Rangitawhiri block at the southern end of the island from the Matiwariu tribe living at Coromandel. for £220,¹⁴⁵ Payments were made in two instalments: £120 on 26 August 1854 and £100 on 21 August 1855. On 27 December 1856 he purchased the central part of the island, minus the Du Moulin and Whitaker grants, an estimated area of 15,000 acres, from chiefs of Ngati Maru and Ngati Wai for £300.¹⁴⁶ Payments were made in two instalments: £200 on 27 December 1856 and £100 on June 1857. A plan accompanied the transaction.¹⁴⁷

2.4.5 Great Mercury (Ahuahu) Purchases - 1858-65

In 1857, on behalf of the Crown, Land Purchase Commissioner James Preece of Coromandel Harbour commenced negotiations for the purchase of Great Mercury Island (3,965 acres). Given the complexity of rightsholding there, he soon discovered that it would not be possible to purchase the whole island in a single transaction. However, he achieved substantial early success, purchasing on 15 July 1858 the Waihi block, containing 1,786 acres,¹⁴⁸ in his words, "full half of the Island," for £224.¹⁴⁹

¹³⁸ Turton's Crown Deeds, Deeds 244, pp 302-303.

¹³⁹ Turton's Plans, p 184.

¹⁴⁰ Turton's Crown Deeds, Deeds 245, pp 304-305.

¹⁴¹ AJHR 1891, G-1, p 41.

¹⁴² Turton's Crown Deeds, Deeds 247, pp 306-307.

¹⁴³ Ibid, Deeds 248, p 307.

¹⁴⁴ AJHR 1862, E-10, p 5, 'Return of Native Reserves.'

¹⁴⁵ Ibid, Deeds 239, pp 296-97.

¹⁴⁶ Ibid, Deeds 240, pp 297-98.

¹⁴⁷ Turton's Plans, p 182.

¹⁴⁸ AJHR 1860, C-1, p 3.

¹⁴⁹ AJHR 1862, C-1, p 129, Preece to McLean, 16 July 1858. Turton's Plans, Waihi, p 214.

The sale of the balance could not be agreed upon because of difficulties posed by multiple interests and Maori demands for better prices.

Preece persevered at purchasing the balance of Great Mercury, one block at a time.¹⁵⁰ The extinguishment of the Native title over all blocks excepting Whakakapua, 73 acres, and Ohaka (Kowhaka), 21 acres, was gazetted on 7 January 1862.¹⁵¹ These two remaining blocks were purchased in 1865.

2.4.6 Aitu, Moturehu, Mahurangi Island, Purangi Islands, Tuhuanui - 1858-1861

Over the same period, Preece purchased a number of smaller Coromandel islands:

- Motu Rehu (256 acres) and Aitu (325 acres), situated on the south eastern side of Great Mercury, in 1858;
- Mahurangi Island (84 acres), situated south of Mercury Bay, for £12 on 9 November 1859.¹⁵²
- The Purangi Islands: Motueka, Poekooke, Moturoa and Te Hoho, totalling 20 acres, also lying south of Mercury Bay, for £6 on 9 November 1859.¹⁵³
- Tuhuanui Island (15 acres) situated near the entrance to Coromandel Harbour.

The extinguishment of the Native title over all of these islands was gazetted on 7 January 1862.¹⁵⁴

2.4.6 Gulf Islands Early Crown Purchases: Conclusions and Treaty Issues

(a) The Representation of Maori Interests

There is much evidence to support the contention of Chief Judge Fenton (Orakei judgement 1869) that the Crown, when purchasing land before 1865, exercised little rigour in investigating rightsholding because of its overriding aim to secure as quickly as possible land for European settlement. His assessment of what had been done to ensure that land was purchased from its rightful owners is positively damning:

I stated, during the progress of the trial, that the Court had made a practice not to attach much importance to the purchases made by the Government as evidencing any title in the sellers. It was the duty of the Land Purchase Commissioner to obtain land that could be immediately and peaceably occupied by settlers; and when a chief came to demand payment for an estate, backed by a sufficient following, it was found more expedient to satisfy his claim than to contest it. The rule which has governed the Court on this point is that, if on land being sold to the government a tribe made no claim, it might be received as a very strong evidence that it had none, but if it made a claim, and it was recognised, that fact afforded very slight evidence that the claim was a good one.¹⁵⁵

¹⁵⁰ Turton's Crown Deeds and/or Plans: Paeroa, Deeds 299, Plan p 217; Raparoa, Deeds 300, Plan p218; Waitapu, Deeds 305, Plan p 223; Paoneone, Plan p 226; Hangarua, Deeds 317, Plan p 233; Te Huruhi, Deeds 320, Plan 236, Kowhaka, Deeds 337, Plan p 252; Whakakapua, Plan p 251.

¹⁵¹ NZ Government Gazette 7 January 1862, p 14.

¹⁵² Turton's Crown Deeds, Deeds 314, p 386.

¹⁵³ Ibid, Deeds 315, pp 387-88.

¹⁵⁴ NZ Government Gazette 7 January 1862, p 14.

¹⁵⁵ Fenton, *Important Judgements*, Orakei, p 88.

In other words, it is not necessarily correct to equate those from whom the land was purchased with the rightful owners, or certainly with all of them. Those who shouted out were those most likely to be heard and to be included in subsequent land deals. We have already noted the claim of the Ngati Paoa chief Ngatai to Rangitoto in 1854, settled by a payment of £15, but if any iwi was due payment it was probably Ngai Tai, the people with the strongest claims to the adjacent islands Motutapu and Motuihe. Ngatai was paid simply because he shouted out. Similarly, the Ngati Paoa chief Te Ruinga took the lead in the sale of eastern Waiheke in 1858, to the detriment of Ngati Maru who, operating from a greater distance, failed to make their claims heard. Similarly, Ngati Maru chiefs like Paora Te Putu and Tamati Te Waka assumed leading roles in the land sales on Great Barrier of 1854 and 1856, to the detriment of Ngati Wai who were involved in only the latter. The record suggests that the Crown gave its ear to assertive claimants also as a means of simplifying situations of multiple rightsholding. It appears to have done little to seek out all of the groups with claims in the land under negotiation for purchase; those who failed to assert their claims simply became the dispossessed or at best the recipients of compensation after the sale, provided they remained sufficiently insistent about their claims, as in the case of Ngati Maru over the above Waiheke purchase.

(b) The Boundary Question and Surplus Land

The boundaries of the 1841 Mahurangi purchase were by no means absolutely clear to the vendors. First, they were pointed out by Wiremu Hoete after, not before, the transaction.¹⁵⁶ Second, the transaction was followed by a train of claims that were not settled until 1854. Third, regarding "the islands on the coast," the eastern boundary, for many years to come neither the Crown nor the Maori vendors were clear as to who owned what.

Crown purchases of the 1850s involved survey relatively close to the time of purchase: in some cases in advance, for example, on Great Mercury in 1858,¹⁵⁷ in others soon afterwards, for example, on Waiheke in respect of the Opopo and Omaru blocks when Te Ruinga pointed out the boundaries to the surveyor Drummond Hay.¹⁵⁸ Hence there was little room for misunderstanding over what or how much land was being sold. However the same cannot be said about the purchase situation on Great Barrier, which was very complex particularly in the central area where the Du Moulin and Whitaker waiver claims were located.

An additional objective of Crown purchasing on Waiheke and Great Barrier in the 1850s was to tidy up the situation regarding old land and waiver claims. Once the greater area containing these claims was under Crown title, the Crown could settle them without the complication of continuing Maori interests in the area. The 1858 Waiheke purchase, by encompassing the Maxwell old land claim and several waiver claims, involved the re-purchase of quite a considerable area. As a result, the amount of 'surplus land' - that determined by the commissioners to have been validly purchased from the Maori but beyond the entitlement of the settler claimant -

¹⁵⁶ Turton's Epitome, p 138.

¹⁵⁷ AJHR 1861, C-1, p 125.

¹⁵⁸ Ibid, p 136.

reverting to the Crown was reduced. The 1946/47 Surplus Lands Commission made the following estimate of surplus lands in respect of Gulf islands:¹⁵⁹

<u>District</u>	<u>Area (acres)</u>
Great Barrier Island	6,765
Waiheke Island	763

(c) The Adequacy of Equivalent

All Crown purchases were in cash rather than in goods except for the Mahurangi purchase in 1841. Generally the prices paid to Maori under Crown purchases were lower than for waiver purchases: for large blocks no more than 6d per acre on Great Barrier and 1s and 6d per acre on Waiheke, but for smaller blocks as much as £1 per acre for the Opopo block, Waiheke, and 5s 6d per acre for the Te Huruhi block, Great Mercury. Land Purchase Commissioners aimed to buy blocks that were as large as possible to bring down the price per acre and to simplify survey, trigonometric survey being possible only for larger blocks. An indicator of the growing opposition to land sales in Hauraki in the late 1850s was the diminishing size of the blocks Maori were willing to sell to the Crown.

(d) Outcomes - The sufficiency of remaining Maori resources

Crown purchases of the 1850s greatly affected Maori landed resources on Waiheke and Great Barrier.

The 10,800-acre Waiheke purchase in 1858 left Maori with land only at the western end of the island. McLean had originally intended to convert some if not all of the purchase into a Maori reserve, as evidenced his memo of 3 May 1858 written just prior to the purchase (2.4.3), but this never came about, it would seem, because of ensuing events leading up to and including the Waikato war. Many Urikaraka of Ngati Paoa became supporters of the King movement and then took part in the Waikato war in 1863/64.¹⁶⁰ After the war McLean would not have thought as kindly of them as he had before. So the Maori reserve was not granted; nor was the modest claim of the heirs of Hori Pokai Te Ruinga to about 80 acres at Man O War, within the 1858 purchase. Left without resources at eastern Waiheke, the bulk of Ngati Poa were forced to leave the island in the 1860s except for those who removed to Te Huruhi at the western end.

On Great Barrier Ngati Wai were likewise left with no more than the rump of their patrimony: the Katherine Bay reserve of 3,510 acres.

¹⁵⁹ AJHR 1948, G-8, p 36.

¹⁶⁰ OLC 1/331, Civil Commissioner 9 July 1870.

CHAPTER 3: ALIENATION (& NON-ALIENATION) HISTORY OF THE ISLANDS: POST-1865

3.1 Introduction

By 1865 only about 12% of the Gulf islands remained under customary title to be investigated by the Native Land Court (NLC). In addition there was the Katherine Bay Maori reserve of 3,510 acres on Great Barrier already under Crown grant. In total, Maori holdings in Gulf islands amounted to about 18,000 out of the total of about 122,000 acres, viz. 15%. The most significant of these were about 25% of Waiheke (6,720 acres¹), the 3,510 acres at Katherine Bay and the 6,960 acres of Hauturu (Little Barrier). The only islands of the inner Gulf that had escaped alienation, the Otata group (Noises) and Little Barrier, had done so as a result of special circumstances, not lack of European interest. The Otata group, as we have seen, although included in the pre-Treaty purchase of Thomas Maxwell, had reverted to Maori ownership under special circumstances. As for Little Barrier, until the 1870s settlers had assumed that it was owned by the Crown, presumably as one of 'all the islands on the Coast' included in the Mahurangi purchase of 1841, but on closer legal examination would be considered not to be and investigated by the NLC. All the other islands still unalienated were more distant from Auckland - off the western and eastern coasts of the Coromandel Peninsula - having been overlooked by Europeans who were yet to see economic or other value in them. The most important of these were Waimate at the mouth of Coromandel Harbour; the Ngamotuaroha group off Papa Aroha; Repanga (Cuvier); Whakahau and Motuhoa (Slipper and Shoe Islands); Whakau (Red Mercury) and the Aldermen Islands.

On the eve of the Waikato war Crown land purchasing in Hauraki had virtually stalled, with Maori showing a willingness to sell only small blocks, if any at all. In consequence, Auckland had become a pressure-cooker of frustrated European investment ambitions. Against this background, the NLC began its work in Hauraki in late 1865, with considerable European support. It commenced hearings in areas close to Auckland, at Waiheke Island, Taupo and Orere (on the western coast of the Firth of Thames) and Coromandel Harbour. Once again the inner Gulf islands were the focus of prime interest, of which now no more than a rump remained unalienated. James Mackay junior was the Court's first judge in Hauraki but after adjudicating only a few cases he was forced to stand down owing to the pressure of his other appointments as Civil Commissioner and Goldfield Warden. He was replaced by Henry A.H. Monro, formerly an interpreter in the Native Office.

This chapter will centre on the NLC (MLC), through which all of the islands, or parts of them, to feature in it 'passed', with the exception of Motutapere which received a pre-1865 Crown grant; Ohinau which was acquired by the Crown under Public Works

¹ The Waiheke Island Report' estimate of 5,700 acres, p 12, is incorrect.

legislation for a lighthouse; and Tiritiri Matangi, a part of the 1841 Mahurangi purchase which also became the site for a lighthouse. Soon after being investigated by the Court, the Waiheke blocks and the islands Waimate, Whakahau (Slipper) and Rakitu (Arid) were alienated to private individuals, for sheep or cattle runs.

As just indicated apropos lighthouses, in the latter half of the nineteenth century the Gulf islands began to acquire new value to Europeans, value beyond the directly economic. The islands' capacity to sustain extractive industries like mining and logging was relatively short-lived. The last mining venture on a Gulf island ended on Waiheke (manganese) in the late 1890s and only on Great Barrier did kauri logging see a resurgence, at Whangaparapara, in the 1920s and 30s. Soon appreciated was the importance of certain islands to maritime navigation. A lighthouse was built at Tiritiri Matangi in 1864 to assist shipping using the Waitemata Harbour and others were built at Cuvier in 1888 and at Ohinau in 1923 to assist shipping travelling via the Mercury Channel.

Soon appreciated likewise was the potential value of isolated Gulf islands as sanctuaries for endangered New Zealand wildlife, particularly native bird species. Visionary natural scientists of the Auckland Institute and Museum, notably Thomas Cheesman and Thomas Kirk, were the architects of nature conservation in the region, their efforts leading to the establishment of Little Barrier (Hauturu) as a conservation reserve under Crown ownership, in 1894. In 1969 the Red Mercury Islands and the Aldermen Islands were gifted to the Crown by their Maori owners for conservation management. In 1977 Motutapere was sold to the Crown for inclusion in the Hauraki Maritime Park.

Since the Aldermen Islands investigation from 1948-1950 the MLC has investigated, on application, the customary titles of progressively smaller islands. This process, may be far from complete, as many small islands, islets and rocks in the Gulf remain with uninvestigated title. How long it still has to run will depend on to what degree of smallness investigations are deemed worthwhile. This of course is a matter of the applicants seeking to assert mana whenua rather than the recovery of useful economic resources, since these places have only biological importance.

This chapter is structured to highlight these various circumstances affecting Gulf islands, most of which have contributed to their alienation. There will be four sections:

1. Investigation generally followed by Alienation to Private Individuals;
2. Crown Acquisition for Lighthouses;
3. Gift/Sale for Conservation Management; and
4. Recent Title Investigation of Smaller Islands.

3.2 INVESTIGATION GENERALLY FOLLOWED BY ALIENATION TO PRIVATE INDIVIDUALS

3.2.1 Waiheke Island 1865-1877

In the Auckland/Hauraki region, the NLC began its work on Waiheke. It convened at Te Huruhi, Waiheke, on 1 August 1865 but had to adjourn owing to the non-appearance of the claimants, to re-convene there on 6 November 1865. Between that time and April 1869, some 6,500 acres on Waiheke were investigated by the Court, followed by a further 220 acres (Whakarite) somewhat later in April 1877: 15 blocks in total. Fourteen of these blocks were alienated by grantees soon after the awarding of Crown grants, having had no alienability restrictions placed upon their titles. Alienability restrictions were placed on the title of the 15th and largest block, Te Huruhi containing 2,100 acres, to ensure that Ngati Paoa had resources close to Auckland for their future 'maintenance and support.' Essential information on these investigations and subsequent alienations is presented in the table below.

Waiheke Blocks investigated by the NLC, 1865-1877, & alienated soon after

<u>Block</u>	<u>Area</u> (acres)	<u>Grantees</u>	<u>Date/Grant</u>	<u>Date/Sale</u>	<u>Purchaser</u>
Rangihoua 1	43	Taurua & Ema te Aouru	8.12.65	19.3.68	O'Brien ²
Rangihoua 2	206	Taurua & Tangiteruru	8.12.65	8.5.66	O'Brien ³
Okoka	182	Tangiteruru	8.12.65	6.2.66	De Witte ⁴
Kauakarau	212	Haora Tipa & others	8.12.65	15.2.66	O'Brien ⁵
Maunganui 1	203	Mata te Kaha & others	8.12.65	15.7.72	Castle ⁶
Maunganui 2	83	Mata te Kaha & others	14.7.68	15.7.72	Castle ⁷
Whakanewha	1510	Taipari & Te Harare	13.12.66	29.6.78	Kissling ⁸
Hoporata	440	Harata Patene	6.9.67	4.12.67	Graham ⁹
Mawhitipana	82	Te Hinaki & others	9.10.68	7.11.68	Graham ¹⁰
Opopoto	200	Pokai & others	4.3.68	9.12.68	Graham ¹¹
Omaru	140	Rauroha & others	7.1.68 ¹²		
Awaawaroa	950	Te Kupenga & Hatara	9.10.68	9.10.68	Graham ¹³
Waiheke	150	Te Hinaki & others	9.10.68	7.11.68	Graham ¹⁴
Whakarite	220	Te Paura & others	12.4.77	7.3.79	Graham ¹⁵

² Waiheke Minute Book 1:1-27; D.I. 12A/746.

³ Ibid; 12A/743.

⁴ Ibid: 28-29; D.I. 12A/745.

⁵ Ibid: 30-33; D.I. 12A/745.

⁶ Ibid: 34-56; D.I. 12A/746.

⁷ Ibid; D.I. 14A/16.

⁸ Hauraki Minute Book 1: 37-40.

⁹ Ibid: 72-73.

¹⁰ Auckland Minute Book 1: 138-139; D.I. 14A/63.

¹¹ Ibid: 140; D.I. 4A/61.

¹² Hauraki Minute Book 2:41-42.

¹³ Ibid: 141-142; D.I. 14A/62.

¹⁴ Ibid: 139; D.I. 14A/61.

¹⁵ Hauraki Minute Book 9: 375-388; CT 9/190.

These Waiheke investigations and alienations will now be discussed in terms of Treaty issues.

(a) The identification of customary title

How thorough were these investigations of customary title? Reasonably, it would seem from the minute record, although the process was simplified by the fact that the claims of Ngati Paoa to 11 of the 15 blocks were not contested. In respect of the other four: they faced counter-claims from Ngati Maru over Whakarite (dismissed) and Whakanewha and from Patukirikiri over the two Rangihoua blocks. The last three investigations warrant closer examination.

The Whakanewha investigation was in fact precipitated by the application of a chief of Ngati Maru, Hoterene Taipari, who arranged the required survey without obstruction from Ngati Paoa, a sure sign that they were not then in occupation.¹⁷ However, once Mohi Te Harare became aware of Taipari's actions, he lodged a counter-claim on behalf of Ngati Paoa. Taipari's claim was based on ancestry dating back six generations, as well as on occupation, while Mohi's was based on reparation for kanga (curses) and occupation dating from the 1830s. Judge Mackay persuaded the opposing claimants to agree out of Court to share the Crown grant for the 1510 acres of Whakanewha.

Rangihoua was likewise contested, in this case by three claimants respectively of Patukirikiri and Ngati Paoa.¹⁸ Pita Taurua of Patukirikiri claimed Rangihoua through the conquest of Putiki by his ancestor Kapetaua in about 1700 (see 1.8.2), but faced challenges from Ngati Paoa. As with Whakanewha, solution was found in sharing the Crown grant: Rangihoua 1 awarded to Pita Taurua and Tamati Tangiteruru of Ngati Paoa and Rangihoua 2 to Pita Taurua and Ema Te Aouru of Ngati Paoa. In his judgement on the Orakei case in 1869, Judge Fenton alluded to this earlier recognition by the Court of Patukirikiri rights at Putiki: "He [Kapetaua] settled at Waiheke, and the title of his descendants has been recognised to a portion of land at Putiki, founded it is suggested on this conquest."¹⁹

Therefore the NLC had recognised the multiple land rights prevailing on Waiheke in 1840. It can be said with some confidence that its investigations of customary rights there from 1865 to 1877 were much more penetrating and reliable than those of the Land Claims Commissions, Protectorate and Land Purchase Department, undertaken before 1865.

(b) Survey and Sale

Fourteen of the 15 Waiheke blocks investigated by the NLC were sold soon afterwards, most within months or even weeks of the issue of the Crown grant. In the

¹⁶ Hauraki Minute Book 4: 51-55.

¹⁷ Waiheke Minute Book 2: 37-40.

¹⁸ Waiheke Minute Book 1: 1-27.

¹⁹ Fenton, *Important Judgements*, Orakei, p 62.

late 1860s, there was no shortage of demand for land on Waiheke, as resident Pakeha landowners sought to aggregate titles to create properties large enough for sheep farming, much clearance of the original forest having already been achieved by this time. For example, Waiheke residents Laughlin O'Brien, Charles de Witte and William Castle purchased the two Rangihoua blocks, Okoka and Maunganui 1, respectively. In the wings of course there were the many European land speculators, so prominent in the founding and early life of Auckland, ever alert to new opportunities. Most active on Waiheke was the Auckland capitalist George Graham who purchased Opopoto, Mawhitipana, Waiheke, Hoporata and Awaawaroa (plus the Onetangi portion of the Crown's 1858 Waiheke purchase). Soon afterwards he sold this property to P.L. Francis who, on making further purchases, created the first large sheep run on Waiheke, later to be sold to John B. Kennedy.

This rapid sale of Waiheke blocks by grantees in the late 1860s was largely an outcome of the dislocation of Waiheke's Maori population by the Waikato war of 1863/64. After the war many of the Ngati Paoa (Urikaraka) who had been involved in it migrated to Hikutaia and Ohinemuri on the Waihou River, seeking sanctuaries beyond the Pakeha frontier. In any case, with the extinguishment of all remaining Maori rights to eastern Waiheke in 1867 and 1869, they could not re-occupy their kainga at Man o War Bay, which they had continued to occupy from 1858 to 1863 despite the Crown purchase of 1858 (see 2.4.3). Likewise, the Ngati Paoa of Taupo (Kawakawa Bay) and Orere, despite having generally refrained from active involvement in the war, had grown more suspicious of their Pakeha neighbours and were happy to live at a more comfortable distance from them than was possible on Waiheke. The deaths in 1865/66 of Wiremu Hoete and Patene Puhata, the principal Ngati Paoa chiefs resident on Waiheke in the pre-war period, further contributed to the post-war drift of Maori population from the island. Hence all of the recipients of Crown grants to those 14 blocks were absentee owners, living either at Taupo, Mercury Bay, Whakatiwai or Thames. Therefore all of these factors contributed to these rapid land sales far moreso than Maori improvidence or short-sighted calculations of material benefit.

In addition, the Land Court process itself had generated costs that rendered newly investigated blocks especially vulnerable to alienation. Whakanewha serves as good case study in this regard. Issue of the Crown grant to Te Harare and Taipari was ordered on 13 December 1866 but was not issued until after they had paid the survey costs of £75 to the surveyor Edwin Davy on 30 April 1867.²⁰ Then there had been the £1 hearing fee plus the costs incurred by attendance of the hearing at Taupo. These substantial expenses undoubtedly contributed to the sale within the following 12 months of choice portions of Whakanewha to neighbouring Pakeha farmers: 130 acres to Laughlin O'Brien and 125 acres to Joseph Hodgson.²¹ In 1877 Taipari and Pita Te Hangi, who had succeeded to the interests of Te Harare, signed a 10-year lease agreement with W.H. Kissling and P.L. Francis over the remaining 1255 acres of Whakanewha at £4 rent per annum, but on 29 June 1878 they sold the land to Kissling.

²⁰ Hauraki Minute Book 1: 37-40, and --- block order file, MLC, Hamilton.

²¹ Monin, 'History of Human Occupation' in 'Whakanewha Regional Park', Auckland Regional Council Parks Service, November 1996, pp 38-39.

(c) Outcomes - the sufficiency of remaining Maori resources on Waiheke

To make provision for the future material needs of Ngati Paoa on Waiheke a 21-year alienability restriction was placed upon the title of the 2,100-acre Te Huruhi block.²² The Certificate of Title was issued on 27 April 1869 to five persons with 65 persons registered as tenants-in-common.²³ The Ngati Paoa/Hauraki estate on Waiheke had been whittled away to this block at the far western end of the island, barring about a quarter of the area of the above 14 blocks, soon to become alienated along with the rest. Yet only 11 years earlier McLean had envisaged making much more substantial provision for these tribes on Waiheke in the form of a substantial reserve at the eastern end of the island created from out of the 1858 Crown purchase, but this intention had come to naught (see 2.4.3). Now the government saw fit only to place an alienability restriction upon land that was still Maori-owned. Moreover, the Crown grants of those 14 blocks had not been made subject "to such an entail as would prevent alienation to Europeans,"²⁴ as McLean had advocated in 1858, soon being alienated, as we have just seen. The 29 years since the founding of Auckland in 1840 had seen Ngati Paoa/Hauraki decline rapidly from being a large to a very small landowner in the Auckland region and the inner Gulf.

In 1897 the Te Huruhi Block was partitioned into 13 blocks with no alienability restrictions placed on the new titles.²⁵ Following further partitions, which eventually created more than 40 blocks, they were sold one by one to Alexander Alison, owner of the Devonport Steam Ferry Company. It seems that there was nothing improper about these alienations, which peaked from 1910 to 1914, as government valuation was paid and the Waikato Maniapoto Maori Land Board went to great lengths to identify and satisfy all shareholders. Nevertheless, the outcome was steeped in pathos, as I write in *Waiheke Island: A History*:

Thus the last Ngati Paoa community departed from Waiheke, ending over 150 years of occupation. There was no fanfare, small groups just made their way across to the tribal heartland, Miranda and Whakatiwai, without ceremony or tribute. The event deserved dramatic highlight but that is the way of beginnings rather than endings, triumphs rather than tribulations.²⁶

Apart from a few sections held under European freehold title at Surfdale, Maori land on Waiheke was reduced to:

- Te Huruhi urupa, 1 acre 0 roods 32 perches;
- Te Huruhi 13 A, 2 roods, also a burial ground; and
- Te Huruhi 12B, 9 acres 3 roods 5 perches, owned by three persons.²⁷

In the early 1980s Ngati Paoa lodged a claim with the Waitangi Tribunal to the 'Maori Affairs Block' comprising 2,050 acres at Onetangi to the north-east of Waiheke,

²² Hauraki Minute Book 4: 51-55.

²³ This Certificate of Title is on the Simpson OLC file, OLC 1/1305 and is reproduced in Monin, *Waiheke Island*, pp 146-47.

²⁴ McLean memo 3 May 1858, OLC 1/332.

²⁵ Hauraki Minute Book 44.

²⁶ Monin, *Waiheke Island: A History*, p 205.

²⁷ 'Waiheke Island Report', p 12.

which lies within the Crown purchase of 1858. The claim was heard by the Tribunal from 2 - 6 September 1985. In the 'Waiheke Island Report', published in June 1987, Chief Judge Durie concluded:

Referring now to the land policies described, at the time of the Treaty, it ought to have been a reasonable expectation of the Treaty that Ngati Paoa would retain sufficient land for its own needs. Our jurisdiction in this claim does not enable us to examine the detail of how Ngati Paoa lost its land, but we can consider the result. Ngati Paoa is virtually landless and it is the current state of landlessness that is the basic cause of complaint.²⁸

Accordingly, the Waitangi Tribunal recommended that the Waiheke block be conveyed by the Crown to Ngati Paoa. The Crown acted upon this recommendation in 1989, thereby to finally fulfil, 131 years later, the intention of Donald McLean in 1858 to create a reserve for Ngati Paoa (and other iwi) at eastern Waiheke - if unwittingly, since the Tribunal had been unable to examine the details of the 1858 purchase.

On 11 July 1989 the MLC sitting at Thames before Judge K.B. Cull vested all the lands on Waiheke transferred by the Crown, as listed on an attached schedule numbering 15 parcels and totalling 966.7241 hectares, in the name of Paoa.²⁹

3.2.2 Motuhoropapa, Otata (Noises) and Ruapuke (Maria Island) - 1866

Motuhoropapa (14 acres), Otata (35 acres) and Ruapuke (3 acres 3 roods) lie to the south-east of Rakino (Motu Hurakia). There was some uncertainty as to who owned these three islands (totalling 52 acres 3 roods) when the claim to them of Hetaraka Takapuna of Ngati Paoa was investigated by the NLC in Auckland, before Judge Henry Monro, from 26-28 November 1866.³⁰ It was widely rumoured that they had been purchased by the government,³¹ presumably falling with the Mahurangi purchase of 1841. Also, John White, licensed interpreter, brought to the notice of the Court that the islands had been included in an old land purchase and that he had sent off for the original document and was still awaiting.³² He was probably referring to the purchase of Motutapu and Motu Hurakia by Thomas Maxwell, one surviving deed of which includes in the purchase Otata and Motuhoropapa.³³ Nevertheless the investigation proceeded, with claims being made by Nga Puhi (Ngati Wai), Ngai Tai as well as Ngati Paoa. Inexplicably after three days of testimony and cross-examination the application was dismissed probably because of those uncertainties over ownership.

A year later another claim was made to the islands, this time by Honetana Te Irirangi of Ngai Tai, and was investigated on 2 October 1867, despite the inconclusive nature of the earlier hearing.³⁴ In the interim the Court must have discovered that whatever the purported extent of Maxwell's purchase in 1840, he had not made payment

²⁸ Ibid, p 40.

²⁹ Hauraki Minute Book 91: 47. A209, MLC, Hamilton.

³⁰ Auckland Minute Book 1: 5-11, 15-35.

³¹ Ibid.

³² Ibid, p 18.

³³ Turton's Private Purchases, Deeds 210, p 272.

³⁴ Auckland Minute Book 1: 115-121.

expressly for these islands, nor had his heirs taken steps to prosecute a claim to them. After vigorous testimony from both Ngai Tai and Ngati Paoa, the certificate of title was ordered conjointly to the two iwi in the names of Aperahama Pokai, Hori Rakewa, Ngatai, Hatara Te Ukeroa, Honetana Te Irirangi and Neha Makiwhara.³⁵

On 9 May 1874 Aperaham Pokai and the other five grantees sold the islands to one Aitken.³⁶ It is important to note that the certificate of title encompasses the three main islands "together with the rocks adjacent", viz principally the David Rocks and Orarapa to the west of Otata.³⁷

3.2.3 Waimate - 1869

Waimate Island (175 acres) at the entrance to Coromandel Harbour was allegedly purchased by William Webster on behalf of Thomas Hunter in about 1844 as a waiver purchase - of which there appears to be no surviving documentation.³⁸ "I have heard that Mr Webster purchased it - It was that kind of purchase that he used generally to make, viz. merely paying a deposit on the land ... I heard of tobacco being given," Pita Taurua was to testify in 1869.³⁹ Hunter built a vessel at Coromandel, employing a man named Manson Morris to cut the required timber and otherwise to assist, allowing him to take up residence on Waimate in about 1848, where over the coming years he built a house, fenced cultivation areas and run cattle and goats. On departing for England in 1852, Hunter transferred to Morris his interests in Waimate as payment for that earlier service.

On 18 July 1857 the Court of Bell, sitting at Coromandel, was informed of Morris's claim to Waimate but could not undertake a formal investigation of it, in the absence of Hunter, who was still in England, and any documentation signed by him confirming either the alleged purchase or the transfer of interests.⁴⁰ Morris continued to enjoy undisputed possession of the island, by his account, although on several occasions was approached by Patukirikiri for permission to cultivate and run pigs, which he denied them.⁴¹ In the 1860s he felt sufficiently certain about his title to lease the island to Daniel Tookey of Coromandel. Hence the application of three chiefs of Patukirikiri for the title investigation of Waimate on 13 October 1868, came as a rude shock to him. The investigation opened on 29 March 1869 at Kapanga (Coromandel), Morris represented by a Mr Ritchie who asserted that Webster had paid £100 and a cask of tobacco.⁴² The case was adjourned to grant Ritchie time to gather more evidence to prove that the island had been purchased and been in the possession of Europeans for over 20 years. But his case was no better founded when it was reopened at Auckland on 27 April 1869. The Court refused to grant him a further

³⁵ Ibid and H178, MLC Hamilton.

³⁶ 13A/409, Land Registry Auckland.

³⁷ D.I. 13A/409, Land Registry Auckland.

³⁸ Preece to Fenton, 4 May 1869, C 47, MLC Hamilton. There is no Turton's deeds for this waiver transaction.

³⁹ Coromandel Minute Book 1: 138.

⁴⁰ OLC 5/34 - Bell 'Notes of Sittings of Land Claims Court at Coromandel .. 1857'.

⁴¹ Morris to Fenton, 23 October 1868, C 47, MLC Hamilton.

⁴² Coromandel Minute Book 1: 137-142.

adjournment, informing him that "the purchase was illegal,"⁴³ and then ordered the issue of a certificate of title to Pita Taurua, Makaore Tanui and Kapanga Te Arakuri.⁴⁴ Letters of protest to Chief Judge Fenton from Morris and James Preece were in vain.⁴⁵ Survey costs of £10 10s were paid to William Graham, surveyor, in September 1869.

On 14 December 1869 the three grantees sold Waimate to Daniel Tookey.⁴⁶

3.2.4 Whakahau (Slipper Island) and Motuhoa (Shoe Island) - 1866

Whakahau (462 acres) and Motuhoa (40.4686 ha) are located off the east coast of the Coromandel Peninsula close to Tairua Harbour.

Whakahau was investigated by the NLC at Kapanga (Coromandel) before Judge Henry Monro on 18 October 1866.⁴⁷ Ownership of the island was contested by two hapū of Ngati Tuhukea: Ngati Whakaruku and Ngati Whakakahu. Tikaokao and others asserted their claim through their ancestor Whakaruku, while Hamiora Tu and others asserted theirs through their ancestor Whakakahu, both kin groups sharing the more distant ancestor, Tuhukea. Ngati Whakaruku had occupied Whakahau before and after the Ngati Puhi invasion of 1822, Tikaokao testified.⁴⁸ Certain Ngati Whakakahu were killed on Whakahau by Nga Puhi but afterwards others returned to the island Hamiora, Tu replied.⁴⁹ A brief adjournment was granted to enable the claimants, with the help of James Mackay junior, to come to an out-of-Court arrangement. When the Court resumed at 2 p.m. Mackay announced that the two sides were prepared to share the grant. The grantees were Tikaokao, Miriama Pukukauri, Wikitoria Pututu, Peneamene Tanui, Kareao, Karauria, Whakairi and Hamiora Tu.⁵⁰

William Australia Graham purchased the Maori interests in Whakahau in two stages: on 26 January 1869 those of Peneamene Tanui and Hori Kerei Tuokioki and on 3 April 1869 those of Miriama Pukukauri and three others.⁵¹

Motuhoa was investigated by the NLC at Shortland before Judge F.M.L. Brookfield on 22 May 1885. The grantees were Tuokioki, Aramona Tanui, Rawiri (?) Tanui and Ngawhiri Tanui. Today the island still has Maori freehold title.⁵²

⁴³ Hauraki Minute Book 4: 16.

⁴⁴ C 47, MLC Hamilton.

⁴⁵ Ibid.

⁴⁶ ID, 226, Land Registry Auckland.

⁴⁷ Coromandel Minute Book 1: 57-61.

⁴⁸ Ibid p 58.

⁴⁹ Ibid, p 59.

⁵⁰ Ibid, p 61, and C155, MLC Hamilton.

⁵¹ ID 189, Land Registry Auckland.

⁵² 122, current file, MLC Hamilton.

3.2.5 Rakitu (Arid Island) - off Aotea - 1871

Rakitu or Arid Island (625 acres), to the north-east of Aotea (Great Barrier Island), was investigated at Auckland before Judge Henry Monro from 9 - 11 January 1871. The alienation of Aotea itself having taken place some time before - between 1838 and 1856 through a succession of pre-Treaty, pre-emption waiver and early Crown purchases, as we have seen - only the surrounding islands now remained to be investigated by the Court, with the exception of Kaikoura Island, which was included in the Webster pre-Treaty purchase.⁵³ Hohepa Kapene reminded the Court that "All the little islands were excluded" from those purchases.⁵⁴ As explained earlier (see 2.2.3, 2.3.1 and 2.4.4), all of those earlier land transactions had involved less than thorough investigation of customary rights. Here at last was an opportunity for all Maori parties with historical and current interests in Aotea and its surrounding islands to recount their history and to assert their claims in an open tribunal. Not surprisingly, then, the Rakitu hearing took three days, 9-11 January 1871. The resultant minute record is the most valuable extant documentary source on the Maori history of Aotea.

Hone Pama, Te Mariri and Raiha Miraka of Ngati Wai had applied for the investigation.⁵⁵ As the claimants, Ngati Wai had had to arrange the survey, a large party of them from Katherine Bay accompanying Percy Frazer, licensed surveyor, to the island.⁵⁶ Frazer had found no one living there, nor houses, nor signs of old cultivations. Yet his Ngati Wai companions were able to supply him with place names for the plan. However, they also told stories of disputes over mutton birding on the island. On the first day of the hearing, 9 January 1871, Te Mariri recounted the history of Ngati Rehua's occupation of Aotea through to the battle of 1838 and up to the present. He insisted that Ngati Maru's only claim to Rakitu was through Korio, who after marrying into Ngati Wai had shifted to Aotea. He asserted that a party of 60 Ngati Wai had cultivated and built houses on Rakitu in the time of Governor FitzRoy.⁵⁷

Tamati Te Waka Te Puhi of Ngati Maru disputed the Ngati Rehua/Ngati Wai claim. He claimed the island through his ancestor Tara and Tara's mother who was connected to the Kawerau people, asserting that his people had confirmed this *take tupuna* by regularly going there on mutton birding expeditions until the time of Governor Hobson. On one such occasion, encountering a party of Ngati Wai also mutton birding there, they fired upon them and dispersed their canoes.⁵⁸ Te Waka, who by 1871 was highly experienced in land dealings with the Pakeha and in the workings of the Court, cross-examined Te Mauri at length and with trenchant rigour.

Wiremu Turipona, deacon of the Maori Anglican mission at Thames, claimed Rakitu through his Ngati Wai ancestry. He described Te Waka as

⁵³ Turton's Private Deeds, Deeds 349, p 311.

⁵⁴ Auckland Minute Book 2: 20.

⁵⁵ C73, MLC Hamilton, the date of the application is unclear.

⁵⁶ Ibid, p 21.

⁵⁷ Ibid, p 22.

⁵⁸ Ibid, pp 15-26.

a person who is in the habit of laying claim to land of other people.... My tribe have always exercised rights of ownership over Raketu [sic]. They have pigs there now. Our fishing grounds are near there, all round the island.⁵⁹

Hone Pama of Ngati Wai corroborated the evidence of Turipona, testifying "Waka has tried before to claim land of ours. He tried to sell the island of Rangihua [Flat Island]. He has no claim except through his wife, Te Arikirangi, who belonged to our tribe."⁶⁰ Eruera Te Ngahue, as a disinterested party from Hauraki, supported the claim of Ngati Wai to Rakitu saying that "the south [of Aotea] belonged to Te Taniwha [i.e. to Hauraki] and the north to Ngati Wai."⁶¹

On the morning of 11 January 1871 the Court ordered a Crown grant to the Ngati Wai claimants: Hone Pama, Wiremu Turipona and Raiha Miraka.⁶² Survey costs of £46 19 shillings were charged to them.⁶³

Rakitu was alienated to W.R.N. Warren. On 7 May 1889 The estate and interest of John Buchanan, bankrupt, was transmitted to the Official Assignee.⁶⁴

3.2.6 Rangihua (Flat Island) - off Aotea - 1926

The NLC determination on Rakitu in 1871 meant that two islands off Aotea now carried titles under Crown grant, the other one being Kaikoura included in the W.S. Graham (Webster et al) grant. But what of the title status of the many other islands which had neither been included in the boundaries of any of those pre-1865 purchases by Europeans, nor investigated by the NLC? In something of a limbo. While the Crown showed a predisposition to claiming them for itself, the Maori customary owners asserted quite rightly that they had ceded no rights in them.

The turn-of-the-century history of Rangihua or Flat Island (135 acres), off the west coast of Aotea, clearly illustrates this tension over ownership. Te Mariri or Etara, whom Judge McCormick described in 1926 as "undoubtedly the most prominent man of N'wai in the Great Barrier in his own day,"⁶⁵ leased the island to Europeans over the final decades of the nineteenth century, in no doubt that it belonged to his people. Then in 1899 a Philip Warren applied to the Commissioner of Crown Lands for a lease to the island, which was duly granted him at a rental of £8 per annum, reduced for a time to £4 per annum. While living at Port FitzRoy, Warren ran pigs and sheep on the island and authorised a fisherman to occupy the house already there in return for minding his interests.⁶⁶ Subsequently in Court in 1925 Warren conceded that he had "had some little friction with the natives. They did not know I was going to the Crown ... the natives wanted the island back,"⁶⁷ but was also insistent that "The natives never stopped in the house - have not lived on the island for the last 30 years -

⁵⁹ Ibid, p 31.

⁶⁰ Ibid, p 37.

⁶¹ Ibid, p 42.

⁶² Ibid, p 45 and C73, MLC Hamilton.

⁶³ C73, MLC Hamilton.

⁶⁴ CT 33/113, Land Registry Auckland.

⁶⁵ Kaipara Minute Book 15: 318.

⁶⁶ Ibid, 240.

⁶⁷ Ibid, 241.

they have been there for a night or so after birds.”⁶⁸ Yet unwittingly he was thereby acknowledging that into the twentieth century Ngati Wai had continued to exercise their customary rights, as their ancestors had done before them.

It seems that it was the Crown’s intention in the early 1920s to declare Rangihua a marine reserve that prompted Ngati Wai to apply to the NLC for a title investigation. Two parties of Ngati Wai contested claim to the island: the claimants, Nupere Ngawaka and party, and the counter-claimants, Eru Tenetahi and party. The Rangihua investigation was protracted, running to successive hearings from 17-19 December 1923, 15-22 December 1924, 6 April 1925 and 12 February 1926. Counsel for both the Ngati Wai parties asserted that although land on Great Barrier was alienated to the Crown in 1856 the deeds showed that the boundaries on both sides of the purchase were the sea coasts, not the offshore islands.⁶⁹ They asserted that attempts were being made “to build up a policy that Crown claims all outlying islands.”⁷⁰

In declaring his judgement on 12 February 1926, Judge McCormick was in no doubt on this fundamental point: viz. that the island belonged to the Maori, not to the Crown. “There is no dispute as to the right of the claimants, the issue rather being whether it was exclusive,” his judgement begins.⁷¹ McCormick’s summation is immensely important to the current debate between Hauraki and Ngati Wai on customary rights in Great Barrier:

I think the island Rangihua was owned under the same takes as the Great Barrier itself. Exactly what those were is a matter of some doubt but in the face of Mariri’s evidence I think there is every probability that the right was a N’ Wai right. At all events it is not an exclusive N’ Maru or N’ Naunau right.⁷²

Moreover, his understanding of usage and occupation of this and other such islands in pre-European times was probably correct.

I doubt very much whether there was any actual occupation of the island in ancestral times. It would be too much exposed to attack. It may have been used for fishing or other temporary purposes. But the permanent kaingau would be on the mainland of the Great Barrier.⁷³

McCormick determined that though the claimants had a predominant interest in Rangihua “and ought to get a substantial allowance for their efforts in combating the Crown’s claim for a number of years,”⁷⁴ the counter-claimants should be awarded a smaller one. Hence the Court awarded the Crown grant to both but in unequal shares: to Nupere Ngawaka and party, 115 shares; and to the counter-claimants, Eru Tenetahi and party, 20 shares.⁷⁵

⁶⁸ Ibid, 242.

⁶⁹ Ibid, 154.

⁷⁰ Ibid, 158.

⁷¹ Ibid, 313.

⁷² Ibid, 315.

⁷³ Ibid, 316.

⁷⁴ Ibid, 319.

⁷⁵ Ibid.

Then on 16 February 1926 the chief surveyor applied to the NLC for a survey charging order of £58 16s 0d on the title of Rangihua.⁷⁶ The Court viewed the charges as being very high considering the value of the land and the area of only 135 acres which for investigation purposes had hardly warranted the detailed plan completed.⁷⁷ More research is needed to establish how this issue was resolved.

3.2.6 Motutaiko and Mahuki - off Aotea - 1934

Motutaiko (about 100 acres) and Mahuki (about 150 acres) islands lie immediately to the west and to the south of Rangahua, respectively. Motutaiko was first the subject of an application for investigation in 1911 but this was dismissed on 6 September 1914 for non-production of a plan.⁷⁸ When application was lodged to both islands in 1930 the Crown announced that it would make no claim; nor was claim advanced by any European. The hearing was conducted on 12 June 1934. Nupene Ngawaka, testifying for the claimants, said in respect of Motutaiko

I have picked many mutton birds out of the holes on this island. It has always been regarded as Native land.... There are two rocks at the southern end called Papakuri. They should go with Motutaiko. Mahou Kino Reneti [spelling ?] has sheep on the island at present. No European occupation.⁷⁹

The Court determined Motutaiko and Papakuri rocks, and Mahuki to be Maori land and ordered issue of a Crown grant, the ownership to be decided at a later sitting.

After Court closed, Consolidation Officer Mr Cooper held a meeting with the people with interests in the island to determine the details of ownership. When Court resumed on the following day, 13 June 1934, Cooper announced that the total shares agreed upon were 150 for Mahuki and 100 for Motutaiko, each share to represent one acre. It was also agreed that Nupene Ngawaka and Mahou Kino should get extra shares in consideration of the work they had done and expenses they had borne in prosecuting the claim.⁸⁰

Today these two islands still have Maori freehold title.

3.2.7 Ngamotuaroha and other islands including Motukopake - 1912

Of the numerous islands lying between the entrance to Coromandel Harbour and Colville Bay, only the three large, southern-most ones had acquired new English titles by 1869:

- Whanganui through the settlement of a pre-Treaty purchase;
- Motutapere under Crown grant as a Native reserve; and
- Waimate through investigation by the NLC.

Of these only Motutapere remained in Maori ownership.

⁷⁶ Ibid, 321.

⁷⁷ Ibid, 342.

⁷⁸ Kaipara Minute Book 19: 49.

⁷⁹ Ibid, 49-50.

⁸⁰ Ibid, 56.

But this left under customary title the many other islands that extend northwards to Colville Bay. Apart from Motu Oruhi, these islands are small and rocky, being useful only for mutton birding and fishing. Hence they were 'overlooked' for investigation until the early twentieth century. Then on 14 and 15 May 1912 all of them were investigated in quick succession by the Court sitting at Coromandel before Judge A.G. Holland.⁸¹ Rihitoto Mataia claimed each of them on behalf of the descendants of Rangikahemo. For the most part, the Court proceeded quickly from one island hearing to the next without complication, in the absence of counter-claims. Kakarikitahi, Takupu, Moturua, Karamuramu (3 in number), Okeno, Kaiwai (Kahawa), Motu Oruhi and Karamea were awarded in separate orders to the descendants of Rangikahemo. Pohakua (Turkey Island) was awarded to William Grey Nicholls of Paeroa to cover his expenses in representing the claimants.⁸²

Two islands posed some difficulties, Motukopake and Wi.

- Motukopake (24 acres) was claimed by Donald McLean Jones who as the recent owner of Waimate believed that the title included that island as well. The previous lessee and then owner of Waimate, Edwin Joseph Swiflin, testified that between 1874 and 1911 he had had undisturbed occupation of Motukopake, driving sheep between the two islands at low tide, but acknowledged under cross-examination that he had not seen the island mentioned in the title.⁸³ The case was adjourned. When the hearing resumed on 28 May 1912, the Court awarded a Crown grant for Motukopake to Rihitoto Matai, a 2/3 share, and Wiremu Pita Taurua, a 1/3 share.⁸⁴ The two grantees sold Motukopake to Jones on 26 March 1913 for £40, which sum was later increased to the government valuation of £50. The alienation was confirmed by the Waikato-Maniapoto Maori Land Board on 11 March 1914.

- Wi Island was claimed by Rihihoto Mataia through his ancestor Rangikahemo (as in the cases of the other islands) and counter-claimed by Hohepa Kapene through his ancestors Raparapa and Rakau. The court found in favour of Rihihoto Mataia and the descendants of Rangikahemo.⁸⁵

Motu Oruhi was partitioned on 30 June 1921 into Oruhi 1 (82 acres 2 roods) and Oruhi 2 (140 acres).⁸⁶ All of these islands remained under separate titles until those of Wi, Kahawa, Rua, and Oruhi 1 and 2 (320 acres in total) were amalgamated under an order dated 10 July 1970.⁸⁷ Collectively, they took the name Ngamotuaroha. As at 24 February 1992 the island group had 99 owners.⁸⁸

⁸¹ Coromandel Minute Book 9: 101-116.

⁸² Ibid, 115.

⁸³ Ibid, 11-112.

⁸⁴ BCAC A110 5392/56, National Archives Auckland.

⁸⁵ Coromandel Minute Book 9: 106-110.

⁸⁶ C541, MLC Hamilton.

⁸⁷ Hauraki Minute Book 81: 53.

⁸⁸ C541, MLC Hamilton.

The titles of Takupu and Kakarikitahi (2.4281 ha) were consolidated under an order dated 12 March 1992. as at 24 February 1992 the two islands had 10 owners. Karamurumu, or Motu Tarawa had 30 owners as at 24 February 1992.⁸⁹

3.3 CROWN ACQUISITION FOR LIGHTHOUSES

3.3.1 Tiritiri Matangi - 1865 to 1867

In 1864 the Marine Board erected a lighthouse on Tiritiri Matangi at a cost of £5,600. Placed on the highest knoll of the island, the iron tower was 48 feet high, equipped with a light visible from a distance of 18 to 20 miles. It afforded excellent direction to vessels approaching Auckland from the north or the east. The light became operational on 1 January 1865.⁹⁰ The Crown had proceeded with this construction fully confident that it owned the island as part of the Mahurangi purchase of 1841 (see 2.4.1). Nevertheless, some two years later, Matini Murupaenga and others applied for an investigation of Tiritiri Matangi, which commenced before Fenton on 8 December 1866.

Matini Murupaenga belonged to Ngati Poutaniwha and Ngati Karu (spellings?), a people with rights in Mahurangi and Tiritiri Matangi dating from before the conquest of this coast by Ngati Paoa (Hauraki) in the late eighteenth century. His people had left the district at the time of the Nga Puhī raids (about 1820) and settled on their other lands at the Kaipara.⁹¹ Under cross-examination Murupaenga admitted that since 1840 his people had not returned to Tiritiri Matangi, nor had they made a claim to it or protested against Pakeha activity there, from the brief occupation of Messrs Tayler, Macmillan and Campbell until the recent erection of the lighthouse. His explanation for this silence, seriously damaging to his case, was that they had seen no point in appealing to the government for redress until the establishment of the Court which now enabled a thorough investigation. Fenton pronounced the case "undoubtedly weaker than most cases that come under our consideration."⁹²

Yet the case of the Crown was far from strong either, deriving from the deeds of the 1841 Mahurangi purchase which included the phrases "all trees, waters, water-course ditches, fences and islands" and "all islands of this shore."⁹³ Fenton concluded that the "several large islands on the far side of the ship channel, of which Tiritirinātangi is one, were never in contemplation of the drawers or of the signers of the deed."⁹⁴ The Court demanded further documentation from the Crown, granting successive adjournments to enable the procurement of such. In consequence, the investigation extended to a second sitting from 14-18 March 1867⁹⁵ and a third from 6-12 June 1867.⁹⁶ But the Crown's counsel was unable to produce that documentation, much to

⁸⁹ C543, MLC Hamilton.

⁹⁰ AJHR 1865, D-1 C, 2.

⁹¹ Ibid, p 53.

⁹² Fenton, *Important Judgements*, p 23.

⁹³ Ibid, p 22.

⁹⁴ Ibid.

⁹⁵ Auckland Minute Book 1: 53-81.

⁹⁶ Ibid, pp 82-101.

his embarrassment. It would seem, however, that his difficulties stemmed as much in his inability to produce the originals of the deeds, having to rely only upon copies, as from his inability to show deeds that made more explicit reference to the large islands. At the end of the hearing Fenton was of the opinion that "the origin of the Crown's title has not been shown."⁹⁷

Nevertheless, Fenton found in favour of the Crown:

Although, therefore, the Court is unable to discover the origin of the Crown's title, or by what means the native title has been extinguished, yet we are of opinion that the case made out by the claimants is altogether deficient of those elements of strength which would justify us in disturbing the Crown in its possession. To eject a person from his possession, it is not sufficient to show the weaknesses of his title, but a better must be displayed, and we think that that has not been done. Judgement must therefore go against the claimants.⁹⁸

3.3.2 Repanga (Cuvier) - 1877 & 1888

Repanga (422 acres) lies between Aotea and the Mercury Islands off the east coast of the Coromandel peninsula. Initial estimations of the island's size varied from 200 to 1,000 acres. The island's customary title came before the NLC on 5 July 1867, at Kapanga before Judge Rogan, but the investigation had to be adjourned until an unspecified future time for want of a completed survey.⁹⁹ It was resumed only 10 years later on 1 December 1877, this time the Court sitting at Whitianga before Judge Symonds.¹⁰⁰ Rawiri Taiporutu delineated for the Court hapu interests in the island: Ngati Rongou the western portion; Ngati Karaua and Ngati Ramuri the south-west portion; and Ngati Te Hihi the south-eastern portion.¹⁰¹ The Court ordered the issue of a Memorial of Ownership for Repanga to 44 persons.¹⁰²

Shortly after the island had passed through the NLC, 43 of the 44 owners sold their interests to George Harper and Thomas James Brassey, both of Auckland.¹⁰³ Hiria Kingi was the only non-seller. We cannot be precise about the time as there appears to be no contemporaneous record of this transaction, which indeed did not become generally known until the 1888 hearing of the Court - to be examined below. Harper and Brassey paid £4 for each of the 43 shares, according to testimony at that hearing.

In 1884 the government decided to build a lighthouse on Repanga¹⁰⁴ and in August 1887 a lighthouse reserve of 49 acres was surveyed.¹⁰⁵ An Order in Council for land to be taken for the Cuvier Island lighthouse, under the Public Works Act 1882, was

⁹⁷ Fenton, *Important Judgements*, p 23.

⁹⁸ *Ibid*, p 24.

⁹⁹ Coromandel Minute Book 1: 79-82.

¹⁰⁰ Coromandel Minute Book 3: 9-11, 33-35.

¹⁰¹ *Ibid*, 33.

¹⁰² *Ibid*, 34-35.

¹⁰³ I am indebted to Owen Wilkes, DoC Hamilton, for granting me access to a draft of his history in progress with the working title, 'Provisional History of Human Activity on Cuvier (Repanga) Island'.

¹⁰⁴ AJHR 1885, H-13.

¹⁰⁵ MD 1375 (reference from Wilkes typescript)

gazetted in 1888.¹⁰⁶ Construction of the lighthouse began in August 1888 and was completed in the following year for a total cost of £7,406 16s 11d.¹⁰⁷

Meanwhile, the Crown applied to the NLC for a sitting to determine what compensation should be paid for the land taken and to whom. The Court sat on this issue from 2-3 and 8-9 October 1888, at Kapanga before Judge J.A. Wilson.¹⁰⁸ By somewhat faulty survey the island was believed to contain 782 acres, almost twice its actual area. Representing the Crown, Charles Biddle argued that the Court in determining the compensation should take into consideration the benefits the lighthouse would bring to the island by way improved landing facilities and occasional visits by a steamer. Thomas Chessman, government assessor, valued the 49 acres at £25 15 shillings. Peneamene Tanui and Hohepa Maitatua spoke at length on the great value of the island for mutton-birding and fishing, pointing out that the area of the lighthouse reserve was especially valuable because it contained the only landing place on the island. Only then did the Court learn of the sale to Harper and Brassey of 43 of the 44 shares and that Hiria Kingi had since died and 15 persons had succeeded to her interest - facts which put an entirely new complexion on the issue of compensation. It is not clear what Tanui and Maitatua,¹⁰⁹ who fully acknowledged having signed the deeds of sale, hoped to gain from the hearing as only the successors of Hiria Kingi would be due compensation, and they only 1/44 of the value of the land taken.

On 9 October 1888 the Court delivered its judgement: compensation was to be paid by the Crown only in respect of the share of Hiria Kingi: 15 shillings, or 1 shilling to each of her 15 successors. The government was required to bear the expense of fencing, but otherwise it appears that Harper and Brassey received no compensation.¹¹⁰

On 7 February 1957 Thomas Tizard, who had inherited the privately owned part of the island four months earlier, sold to the Crown and the entire island became Crown land.¹¹¹

3.3.3 Ohinau - 1923

Ohinau (70 acres) is the largest member of the island group which lies south of the Mercury Islands and east of Opito Bay on the Coromandel peninsula. In about 1922 marine authorities decided that a light on the island would be of much benefit to shipping proceeding to and from Auckland through the Mercury Bay Passage. Work began on the erection of an automatic flashing light on a concrete base some time before enquiries were made into the ownership of the island.¹¹² The Crown then took the island by Order in Council dated 22 December 1923, under the provisions of the

¹⁰⁶ NZ Gazette, No 29, 1888, p 569.

¹⁰⁷ AJHR 1890, H-13.

¹⁰⁸ Coromandel Minute Book 4: 139-140, 142-157, 165-166, 192-194 and 201-202.

¹⁰⁹ Ibid, 152.

¹¹⁰ Ibid, 201-202.

¹¹¹ Transfer 583820.

¹¹² AJHR 1923, H-15, p 5.

Public Works Act 1908, for the purposes of a lighthouse.¹¹³ Meanwhile, investigation of the customary title by the NLC had been pending, application having been lodged by Rangawhira Tanui on 14 May 1923.¹¹⁴ The Crown had therefore proceeded regardless of this application, which was advertised for hearing by the Court at Thames on about three occasions and was ultimately dismissed on 13 March 1924, on the ground that the land had been taken under the Public Works Act. Since no application for compensation was lodged, the Court made no such assessment at this time.

The light became operational in early 1924.¹¹⁵ Thereafter local Maori continued to visit the island for mutton birds. In 1948, Mrs M.T. Winiata wrote to Peter Fraser, minister of Maori affairs, about Ohinau.

This island belongs to my Grandfather who has died about 40 years ago now, and this Island is like their Winter Store house. They cropped it then and most of all they get Mutton Birds each year. In about 1922 someone came here and asked if they could put a lighthouse on it and my Mother gave them permission to, but since then they have claimed the Island. I am writing on behalf of the others as well and we think that it's only right that we should get rent for all these years they have used the Island.¹¹⁶

The Public Works Department applied to the MLC to assess the compensation payable and to ascertain the persons to whom it should be paid. Meanwhile, on 1 August 1949 Ngawhira Reweti applied for investigation of title. Therefore the two parties, the Crown and the customary owners, had lodged two very different applications: the first merely for assessment of compensation and second for investigation of the title itself, which it still claimed. The application was heard at Thames, before Judge E. M. Beechey, on 15 September 1949.¹¹⁷ The government valuation of the island was put at £70, the island being considered unlikely to attract a purchaser for any purpose. The hearing was adjourned. The Maori application was finally dismissed on 14 October 1953 for lack of prosecution - as Paraone Reweti was informed on 31 January 1974, further to his telephone enquiry concerning Ohinau.¹¹⁸ It appears that no compensation has ever been paid.

Note - Ohinau may warrant further research, as this narrative would seem to indicate a prima facie breach of Treaty.

3.4 GIFT/SALE FOR CONSERVATION MANAGEMENT

3.4.1 Hauturu (Little Barrier Island)

Hauturu (6,960 acres) lies in the outer Gulf between Aotea and Cape Rodney. It was spared the attention of private European landbuyers after 1841 mainly because of the

¹¹³ NZ Gazette, No 1, 10 January 1924.

¹¹⁴ C428, MLC Hamilton.

¹¹⁵ AJHR 1924, H-15, p 9.

¹¹⁶ Ibid, Winiata to Fraser, 17 January 1948.

¹¹⁷ Hauraki Minute Book 73: 175-176.

¹¹⁸ C428, MLC Hamilton, Tait to Rewiti, 31 January 1974.

widespread misunderstanding that it was Crown property, as Crown Land Purchase Commissioner Thomas McDonnell wrote in 1873, "had it not been understood it was Government property it would have been bought some time ago."¹¹⁹ In 1873 the Commissioner of Crown Land sought clarification from the Native Minister as to whether the island was Crown property. Charles Heaphy, wrote a memo on Hauturu for the information of the Minister, dated 31 May 1873,¹²⁰ After examining the deeds of the Mahurangi purchase of 1841, which included the islands lying off the coast, he concluded that

as Little Barrier lay far to the northward of Mahurangi it could scarcely be held that it was included and the purchase was not ground to even the island of Tiritirimatangi, which lay considerably to the southward and much nearer to the shore.¹²¹

Furthermore, he recommended that the Crown purchase Hauturu, as it possessed much valuable timber that was being illegally removed and might contain valuable minerals, if possible without it having to pass through the NLC. But that investigation could not be circumvented and it was to be a remarkable saga, involving between 1880 and 1887 an investigation and no fewer than three re-hearings that produced ping-pong judgements, alternately in favour of Ngati Whatua and Ngati Wai.

1. Arama Karaka, resident at Kaipara, claimed Hauturu on behalf of Te Kawerau (Ngati Whatua) and offered to sell it to the Crown. Meanwhile people of Ngati Wai were actually occupying the island and had been for many decades. The investigation of Hauturu was held at Helensville on 16 July 1880, before Rogan, who awarded a memorial of ownership to the Ngati Whatua claimants, in the absence of any counter-claim, Ngati Wai having failed to attend the hearing.¹²² It soon transpired that this was because they had not received notice of the hearing, contact with Hauturu being difficult, and because they believed that survey, a re-requisite of hearing, had not been done. They appealed against the judgement and a re-hearing was ordered.

2. The first re-hearing was held in Auckland from 4 to 7 June 1881, before Judges Monro and O'Brien.¹²³ Monro regarded the case of Te Kawerau to be exceedingly weak, as "none of them had ever occupied the island or exercised any right of ownership over it whatever."¹²⁴ Moreover,

the island lay in the channel of the route of all Hongi Hika's expeditions and his canoes constantly called there. If any of the Kawerau had been there, they would have been instantly killed. But Ngatiwai are related to Ngapuhi.¹²⁵

On the other hand he found the case of Ngati Wai to be very clear and convincing. They were in actual occupation and had been for several decades, during which time

¹¹⁹ MA 13/45.

¹²⁰ For example, Kiri [probably Rahui Kiri of Ngati Wai] to Chief Commissioner 23 October 1862, MA 13/45.

¹²¹ Ibid.

¹²² Kaipara Minute Book 3: 388-394.

¹²³ Kaipara Minute Book 4: 57 pages.

¹²⁴ Ibid, Monro Report on Hauturu, 14 July 1881.

¹²⁵ Ibid, Monro memo, 18 July 1881.

they had made cultivations and sold much firewood, no demands having ever been made by Te Kawerau for a share of the proceeds. Moreover, elders recalled occupation before the time of Hongi Hika and they were able to point out old pa sites, wahi tapu and to name the ancestors buried there. Hence Monro awarded the Crown grant to Ngati Wai.

3. Hotly indignant, many Ngati Whatua held a great meeting at Orakei on Hauturu and threatened to occupy the island. At this point Parliament intervened and under a clause in the Special Powers and Contracts Act 1883 declared the island to be again native land under customary title and directed another re-hearing. It was held between 1 and 15 February 1884 at Auckland, before Chief J.E. Macdonald and E.M. Williams, who found in favour of Ngati Whatua.¹²⁶

4. But the Parliament being no more satisfied with this judgement than with the others directed a third re-hearing. It was held in October 1887 before Judge Puckey, at which Ngati Wai were forcefully represented by Fenton.¹²⁷ Puckey found in favour of Ngati Wai. The certificate of title was awarded to 13 persons. Ngati Whatua appealed against the judgement and applied for yet another re-hearing, but Chief Judge Macdonald, seeing insufficient grounds for such, declined it. This hearing finally brought to an end the investigation of Hauturu.

Throughout this arduous judicial process the Crown had been waiting in the wings to purchase the island - for a special purpose. In the 1880s Thomas Cheesman, curator of the Auckland Museum from 1874 to 1923, and Thomas Kirk, Museum Botanist, were becoming increasingly concerned about the native bird species then rapidly approaching extinction in New Zealand.¹²⁸ While forest reserves had been created on the mainland, Cheesman was well aware that these could never serve as fully effective sanctuaries because there was no means of controlling introduced predators within them. The creation of island reserves seemed to be the only answer, of which both men from this time onwards became staunch advocates. But on Hauturu time was at a premium. For in 1891 Tenetahi, the Ngati Wai resident there, sold kauri timber cutting rights on the island to a man named Browne who promptly began work. The Crown had to move quickly, for if deforested Hauturu would be of little use as a sanctuary for native birds. Injunctions were served on Tenetahi and Browne to halt cutting.

Meanwhile Ngati Whatua had not yet abandoned their claim to Hauturu. Paora Tuhaere, their leading Orakei chief, saw resolution at this stage only in the sharing of the Crown's purchase money between Ngati Wai and Ngati Whatua, a proposal which he put to Native Minister Cadman in a letter dated 11 August 1891.¹²⁹ But the Ngati Wai grantees, then negotiating to sell to the Crown, were prepared to do no such thing.

¹²⁶ Kaipara Minute Book 4: 162-212.

¹²⁷ Kaipara Minute Book 5: 1- 51.

¹²⁸ Ibid, Cheesman to Stout, 16 December 1886.

¹²⁹ Ibid.

Finally, Tenetahi, purporting to represent all the owners, agreed on 1 July 1891 to sell to the Crown for £3,000, stipulating that he receive the whole sum for distribution.¹³⁰ (One can only speculate on why Tenetahi considered this to be desirable. Perhaps he, as the man actually living on Hauturu, felt entitled to determine how the purchase money be utilised.) Cadman offered no objection provided all the owners first signed the deed and a collective receipt for the money. Tenetahi, Kino Rewiti and Wi Taiawa signed under this arrangement but did not receive their proportionate shares of the consideration. Then subsequent signatories each demanded as they signed the deed their shares of the consideration which were handed over to them as a matter of right. Two owners, Rahui te Kiri and Ngapeka, neither signed nor received any money. Tenetahi then endeavoured to withdraw from the agreement, as that stipulation had not been met, rallying the support of the two who had not yet signed the deed.

Faced with this obstacle, the government passed the 'Little Barrier Island Purchase Act 1894,' which empowered the Office of the Public Trustee to execute a conveyance in fee simple to Her Majesty the Maori interests in Hauturu yet to be extinguished, once under section 2 of the Act it had received the proportionate shares of the purchase money of Tenetahi, Kino Rewiti and Wi Taiawa and under section 3 of the Act the shares of the purchase money of Rahui te Kiri and Ngapeka.¹³¹ The Office of the Public Trustee executed this deed on - (day?) May 1895.

Hauturu is now a part of the Hauraki Maritime Park.

3.4.2 Whakau (Red Mercury Island), Green, Middle and Korapuki Islands

The Mercury Group consists of seven islands contained in a rectangle eleven miles (17.6 km) by six miles (9.6 km) lying off the east coast of the Coromandel Peninsula. The four larger islands, in declining order of size, are: Ahuahu (Great Mercury), Whakau (Red Mercury), Atiu (Stanley Island) and Moturehu (Double Island). Then there are three smaller islands: Middle, Green and Korapuki (57 acres in total). The Crown purchased Ahuahu in stages from 1858 to 1865 (see 2.4.5) and Atiu and Moturehu in 1858 (see 2.4.6). There is no obvious explanation for why James Preece, when negotiating the purchase for the Crown of neighbouring Ahuahu, Atiu and Moturehu from 1858-1865, failed to include Whakau. It is assumed that the three smaller islands were then considered too small to warrant purchase.

In any event, Whakau (502 acres) remained to be investigated by the NLC, application for which was not lodged until the early twentieth century. The investigation took place at Coromandel before Judge A.G. Holland from 5-10 June 1912.¹³² The claimants were Te Reiti Watana and others, whose claims were based on ancestry from Te Hanunu as descendant of Pupu, conquest, mana and occupation. The counter-claimants were Hohepa Mataitua and others of Ngati Karaua whose claims were based on ancestry, conquest and occupation.

¹³⁰ The construction of events presented here is based on memo 94/226 in MA 13/45.

¹³¹ "The Little Barrier Purchase Act 1894", Statutes of New Zealand, 1894, No. 27.

¹³² Hauraki Minute Book 9: 237-239, 249-273, 275A-275B, 277-278.

The conclusions drawn by Holland in his judgement were as follows:

That there has been no permanent occupation of Whakau is clear from the evidence of both parties. ... The occupation of the island was that by bird-catching parties and the kaingas there established were merely temporary ones. That both N' Karaua and N' Pupu occupied the mainland and were owners of other islands of the group is an established fact. A search of Turton's Deeds shows that both hapu took part in the sales of the islands to the Crown.

Accordingly, he awarded the Crown grant to

such of the N' Karaua and N' Pupu hapus who can show constant occupation of the adjacent mainland. That N' was the predominating hapu is clear and the Court, in assessing the shares, will make a larger award to them.¹³³

In 1964 the Crown set aside Atiu and Moturehu (297 acres in total) as wildlife reserves.¹³⁴ It was logical that conservation bodies should then look to securing as Crown managed reserves the other Mercury islands as well, except of course Ahuahu which was privately owned. But Whakau was under Maori freehold title and the three smaller islands were still under customary title.

In 1964 application was made for the investigation of Green (10 acres), Middle (25 acres) and Korapuki (22 acres) Islands. The investigation was made on 15 February 1965 at Hamilton before Judge M.A. Brook.¹³⁵ By Court order of that day the three islands were vested in 71 persons.¹³⁶

On 16 December 1968 Whakau, Green, Middle and Korapuki Islands were gifted to the Crown to be managed as a scenic reserves and wildlife sanctuaries on the condition that if no longer required for those purposes they would revert to their owners.

These islands became a part of the Hauraki Gulf Maritime Park.

3.4.3 Ruamahu - The Aldermen Islands

The Aldermen Islands are a cluster of volcanic islands, islets and rocks lying about 11 miles (17.5 kilometres) from the east coast of the Coromandel Peninsula, opposite Tairua.¹³⁷ Approaching from the south, the group would have appeared to Captain Cook as a series of sharply defined peaks towering out of the sea, jagged in outline and devoid of vegetation. The group comprises three main islets Ruamahuanui (40 acres), Ruamahuiti (30 acres), their elevation roughly 600 feet, and Hongiora which is smaller and barely half that height. Within this triangle is a chain of extraordinarily rugged volcanic peaks, of which Middle Island is the largest. These islands are among the most dramatic, spectacular landforms in New Zealand. The birdlife on them is abundant. In 1927, 24 native bird species were recorded: 9 land and 16 sea.

¹³³ Ibid, 277-278.

¹³⁴ *NZ Herald*, 7 February 1964.

¹³⁵ Hauraki Minute Book 79: 40-41.

¹³⁶ MLC, Hamilton: Middle - C648; Green - C649; Korapuki - C650.

¹³⁷ *N.Z Journal of Science and Technology*, November 1927 and February 1928, Report on Aldermen Islands by Sladden and Falla, on 1994/H, MLC Hamilton.

Tuataras have been located on all the islands except the Middle chain. Because of their abundant fauna these islands would have had considerable economic value to the Maori. "In later years the Ngaiterangi from Tauranga annually raided the nesting grounds, but nowadays this method of augmenting their food supplies has been discontinued," asserts a scientific report written in 1928.¹³⁸

It appears that the islands were first claimed in 1914 by Te Reneti te Whauwhau of Ngai Te Rangi who, however, proceeded no further once informed that the cost would be more than they were worth.¹³⁹ Only in the early 1930s did Hauraki iwi lay claim to the islands but Judge MacCormick questioned the reference of Taite te Tomo to them as "Islands in the Hauraki Gulf belonging to the Ngati Maru Tribe" in a letter of 1 July 1932,¹⁴⁰ on the ground that in the first place they lay in the open ocean rather than in the Hauraki Gulf. Then it was clear that in more recent times Ngai Te Rangi had regularly mutton-birded there, although less clear were the historical rights entitling them to do so. It is important to note that although the distance from the Aldermen Islands to Tuhua (Mayor Island), territory of Ngai Te Rangi, is about twice that to Tairua, territory of Hauraki, ocean going canoes travelling under sail could have in effect contracted that differential.

Calls from conservation bodies for the Aldermen Islands to become a wildlife reserve probably date from the above scientific expedition in 1927. These were heeded by the Crown which in 1933 proclaimed the islands a sanctuary under the Animal Protection and Game Act 1922.¹⁴¹ That the Crown and the Court in the 1930s, adopted a high-handed stance toward the customary owners of the islands is clear from the documentary record. First, that proclamation was made with no prior consultation with them, nor was any effort made to consult them afterwards. The application for investigation of Rawiri Faulkner of Ngai Te Rangi, lodged on 2 May 1935, was dismissed by Judge MacCormick on 24 August 1936 on account of non-prosecution. The second application of Faulkner on 10 July 1937 was dismissed by MacCormick on 2 February 1938 for want of survey plans. The Judge informed the Native Department "that the natives were advised that no good purpose could be served by having the titles to these island investigated by the Court seeing that they had already been proclaimed"¹⁴² a wildlife sanctuary.

After 1945, however, the Crown had a change of attitude, thereafter showing greater consideration for the customary owners and recognising the necessity of a formal investigation. The hearing opened on 7 December 1948 at Thames before Chief Judge D.G.B. Morison.¹⁴³ Mr B Hutton, representing the government, indicated that the Crown did not consider itself to have 'acquired' the islands, despite the proclamation of 1933. He informed the Court that

¹³⁸ Ibid.

¹³⁹ McCormick to Und. Sec. Native Department, 9 September 1932, 1994/H, MLC Hamilton.

¹⁴⁰ Ibid.

¹⁴¹ New Zealand Gazette 1933, p 1369.

¹⁴² McCormick to Und. Sec. Native Department, 9 September 1932, 1994/H, MLC Hamilton

¹⁴³ Hauraki Minute Book 73. The typed transcript of the hearing on 1994/H will be cited.

In 1939 the American Museum of Natural History sent a party to investigate botany and fauna and since then a certain amount of pressure has been brought on the Crown to acquire the islands, from various natural history bodies. The suggestion was that Crown should take the land under Public Works Act, and then ask the Court to assess compensation and decide to whom it should be paid, but it was felt that before any action was taken the Maoris should know what was being done.¹⁴⁴

The Lands and Survey Department had employed Paaka Turei to travel around Hauraki and to Tauranga to notify interested Maori of the hearing. Consequently, all those with customary interests were well represented, including broadly speaking Ngai Te Rangi, Ngati Koi, Ngati Hako and all the iwi of Ngati Marutuahu. After several days of testimony, further hearing was adjourned to 15 June 1949.

On that day the hearing resumed at Thames. The Judge, E.M. Beechey, who was to see the investigation through to its conclusion. After more testimony, the hearing was adjourned to enable the Court to examine the records for titles to adjacent mainland blocks and to Slipper and Shoe Islands. The hearing resumed on 21 September 1949 at Thames and after a break again on 5 December 1949 at Auckland, when Beechey delivered his preliminary judgement. He found that "The Ngai Te Rangi claim lacks the essential necessary to support a *take* by conquest and must therefore be disallowed."¹⁴⁵

On 3 April 1950 at Thames Beechey delivered his final judgement on the Aldermen Islands:¹⁴⁶

- That the claim of Ngai Te Rangi had not been established.
- That it could be assumed that the islands were a part of the domain of Ngati Marutuahu and for that reason any hapu of that tribal confederation owning adjacent coastal land was entitled to claim.
- That the descendants of original grantees of the Tairua block, who were also the original grantees of Slipper Island, had the best title.

On 29 June 1950 the certificate of title for the Aldermen Islands was awarded to 35 persons holding 335 shares in total.

On 21 September 1950 an appeal was made against the Court's decision of 29 June 1950, contending that the award should have been made to the Marutuahu people as a whole, not to a section of them. The appeal was heard on 12 June 1951 at Thames before Morison.¹⁴⁷ The Court order of 29 June 1950¹⁴⁸ was annulled and no replacement order was issued due to incomplete attendance and to insufficient whakapapa evidence. Consequently, the Aldermen Islands returned to customary title.

¹⁴⁴ Ibid, 1.

¹⁴⁵ Ibid, 13.

¹⁴⁶ Ibid, 13-14.

¹⁴⁷ Auckland Appellate Minute Book 12, folio 283.

¹⁴⁸ The date of the order given in the minutes, 21 September 1950, is in error, that rather being the date of the appeal.

Another application for investigation of title, dated 25 August 1958, was heard on 11 December 1958 at Thames before Judge M.A. Brook, but had to be adjourned due to incomplete attendance and insufficient evidence.¹⁴⁹

A further such application, dated 18 August 1959, was heard on 16 October 1959 at Auckland before Brook. The Court issued, under Section 438 of the Maori Affairs Act 1953, an "order vesting the Maori customary land known as the Aldermen Islands (Ruamahu) in the trustees listed at Folio 146 ante [12 in number] for the benefit of the descendants of Marutuahu, Hako and Hei."¹⁵⁰

Meanwhile despite their title being vested as above, the islands were declared a wildlife sanctuary under the Department of Internal Affairs. In the late 1960s the Chief Surveyor, Department of Land and Survey, argued the need for the Crown to obtain title, in order to secure the reserve for all time.¹⁵¹ However, he was informed by Deputy Registrar I. D. Bell of the MLC that the trustees had no power to alienate to anyone including the Crown.¹⁵² A meeting of the trustees was held on 19 May 1968 to discuss the sale of the islands to the Crown. The trustees recommended to the tribes owning the Aldermen Islands that the islands be gifted to the Crown on the principal conditions:

- That should the Islands be no longer required as a reserve they would automatically revert to the previous ownership; and
- That the owners would be permitted to land on the Islands to take mutton birds and sea foods.

That tribal endorsement granted, the transfer to the Crown was made on 12 August 1969. The Queen accepted the gift for the Crown on her visit to New Zealand in 1969.

The Aldermen Islands became a part of the Hauraki Gulf Maritime Park.

3.4.4 Motutapere

Motutapere (113 acres), located at the entrance to Coromandel Harbour, had escaped early alienation on the recommendation of Charles Heaphy in 1857 that it be declared a reserve for Patukirikiri who were then rapidly selling their lands at Kapanga (see 2.2.2). Probably because of its steep topography, it seems to have attracted little interest from European buyers over the following 120 years. On 15 April 1971 a new freehold order for the island was awarded to four persons.¹⁵³ In the late 1960s the board of the Hauraki Gulf Maritime Park became keen to establish a presence off Coromandel because of the large numbers of yachtsmen visiting the area.¹⁵⁴ It is likely that the mortgaging of the interests of two of the owners in 1975 contributed to the sale of Motutapere to the Crown on 11 February 1977.¹⁵⁵

Motutapere became a part of the Hauraki Gulf Maritime Park.

¹⁴⁹ Hauraki Minute Book 76: 22-24.

¹⁵⁰ Ibid, 179-180.

¹⁵¹ H1994, Chief Surveyor to Maori Affairs, 20 April 1966, 22 January 1968.

¹⁵² Ibid, Bell 25 January 1968.

¹⁵³ H 2189, MLC Hamilton.

¹⁵⁴ *Auckland Star*, 22 August 1979, p 2.

¹⁵⁵ H 2189, MLC Hamilton.

3.5 RECENT TITLE INVESTIGATION OF SMALLER ISLANDS

As we have seen, the Aldermen Islands were investigated from 1948-1950 (and subsequently re-heard on appeal) and the three smaller Mercury islands in 1965. Both island groups are far off-shore. Thereafter applications have been lodged for the investigation of in-shore islands around the Coromandel peninsula in 1971 and 1988, off eastern Waiheke in 1981, and around Great Barrier in 1995, as iwi have looked to asserting their mana whenua over progressively smaller islands. A reason why so many in-shore islands remained to be investigated in as late as the 1970s and even later is suggested by a Mr Phillips (counsel for the claimants?) who in 1971 said in Court in respect of Matariki Island:

In my submission I had suggested that the reason why this land was not investigated at the same time as the block of land on the mainland was that a plan was required and that in those days the value attaching to islands was so little that the expense involved in obtaining a plan was not warranted.¹⁵⁶

This process may yet have some distance to run, as many islets and rocks in the Gulf remain with uninvestigated title. Their considerable number has been highlighted by recent research of Mike Lee (former chairman of the Auckland Regional Council parks committee) on the ecology of Gulf islets.¹⁵⁷ In a recent interview with the *New Zealand Herald*, he estimated that "the area of the islets alone adds up to more than 100 ha of biologically valuable conservation land," adding that it would be logical for them to become part of the conservation estate but that they cannot because the Crown does not own them.¹⁵⁸ The five islets close to Waiheke that he studied - Koi, Papakohatu (Crusoe Island), Motukaha, Takupōū (Passage Rock Island) and Nani island - all sit in this legal limbo. It seems likely that the investigation into the 70-80 small islands surrounding Great Barrier, in December 1995, will have sequels, as iwi look to asserting their mana whenua over ever smaller land masses in the Gulf, till now overlooked by the Land Court process.

An attempt is made below to summarise all investigations of Gulf islands since 1971, but a few may have been missed, as so may islands have been involved.

3.5.1 Motu Karaka, Motu Morirau, Motu Winukenuke, Motu Makareta & Motu Whakakewa - 1971

On 29 April 1971 these five islands were investigated at Hamilton before Judge M.A. Brook and freehold orders issued.¹⁵⁹

¹⁵⁶ Ibid, 268.

¹⁵⁷ M. Lee, 'New Zealand - the 10,000 Island Archipelago', M.Sc. thesis, University of Auckland, 1996.

¹⁵⁸ *NZ Herald*, 30 October 1996.

¹⁵⁹ Hauraki Minute Book 81: 177.

(1) Nga Motu Karaka or Three Kings Islands (2.4281 hectares), which lie to the south-east of Mercury Bay off Hahei Beach, were awarded to 68 persons.¹⁶⁰ On 3 June 1992 the Court sitting at Hamilton before Judge G.D. Carter consolidated the freehold title.¹⁶¹

(2) Motu Morirau or Paul's Island (1.2141 hectares) was awarded to 66 persons.¹⁶²

(3) Motu Winukenuke was awarded to 66 persons.¹⁶³

(4) Motu Makareta was awarded to 123 persons.¹⁶⁴

(5) Motu Whakakewa was awarded to 123 persons.¹⁶⁵

3.5.2 Motu Kopu, Motu Koranga & Motu Koruenga- 1971

On 12 August 1971 these three islands were investigated at Hamilton before Judge W.C. Nicholson and freehold orders for their ownership issued.¹⁶⁶

(1) Motu Kopu or Turnip Island (3 acres Or 30 perches), which lies north of Whangapoua, was awarded to the people of Ngati Patukirikiri.¹⁶⁷

(2) Motu Koranga, which lies south of Opito Bay, was awarded to 31 persons.¹⁶⁸

(3) Motu Koruenga, which lies south-east of Opito Bay, was awarded to 31 persons.¹⁶⁹

3.5.3 Pungapunga, Tataweka, Wekarua and Matariki Islands

On 2 December 1971 these islands were discussed in Court but no orders were issued.¹⁷⁰ Further research is needed to establish the final Court rulings on them.

3.5.4 Horuhoru & Tarahiki - 31 July 1981

Application for the investigation of these two islets arose as a result of an inquiry by the Commissioner of Crown Lands in Auckland, who wished to acquire them on

¹⁶⁰ H2191, MLC, Hamilton.

¹⁶¹ Hauraki Minute Book 93: 262.

¹⁶² H2190, MLC, Hamilton.

¹⁶³ H2192, MLC, Hamilton.

¹⁶⁴ H2193, MLC, Hamilton.

¹⁶⁵ H2188, MLC, Hamilton.

¹⁶⁶ Hauraki Minute Book 81: 201-202.

¹⁶⁷ H2194, MLC, Hamilton.

¹⁶⁸ H2195, MLC, Hamilton.

¹⁶⁹ H2196, MLC, Hamilton.

¹⁷⁰ Hauraki Minute Book 81: 265-270.

behalf of the Crown for wildlife reserves. The investigation was made on 31 July 1981 at Thames before Judge K.B. Cull.¹⁷¹

(1) Horuhoru or Gannet Rock, which lies off the north-eastern tip of Waiheke Island, was vested in Paoa.¹⁷²

(2) Tarahiki or Shag Rock, which lies to the east of Pakatoa Island, was vested in Paoa.¹⁷³

3.5.5 Motu Karanui & Motu Waikaia - 1988

These two islands were investigated on 1 November 1988 at Thames before Judge Cull.¹⁷⁴ A freehold order was issued for each island to the same seven persons.

(1) Motu Karanui or Penguin Island (10.1171 hectares), which lies immediately to the south-west of Whakahau (Slipper Island), was awarded to seven persons.¹⁷⁵

(2) Motu Waikaia or Rabbit Island, which lies to the south-west of Whakahau beyond Motu Karanui, was awarded to seven persons.¹⁷⁶

3.5.6 Aotea Islands - 1995

Reference has already been made in this report to the investigation of 70-80 Aotea islands on 18 December 1995 at Mangere before Judge A.D. Spencer (see 1.12.12), at which customary rights over these islands were hotly contested by Ngati Rehua/Ngati Wai and Hauraki. The Court has yet to make its judgement.

¹⁷¹ Hauraki Minute Book 87: 330-332.

¹⁷² A208, MLC, Hamilton.

¹⁷³ A207, MLC, Hamilton

¹⁷⁴ Hauraki Minute Book 90: 271-272.

¹⁷⁵ Karanui - H2206, MLC, Hamilton.

¹⁷⁶ Waikaia - H2205, MLC, Hamilton

CHAPTER 4: CURRENT OWNERSHIP AND CONCLUSIONS

4.1 CURRENT OWNERSHIP

4.1.1 The Hauraki Gulf Maritime Park

The vast majority of Crown land in the Gulf is now administered as reserves by the Hauraki Gulf Maritime Park, established by legislation in 1967.¹ Notably excluded from it is the large Crown forest park on Aotea administered by the Department of Conservation. The islands of the Maritime Park fall into two categories: the recreational or inner islands; and the conservation or outer islands. The recreational islands, which are close to the mainland and in consequence already quite heavily modified ecologically, are available for the public's enjoyment. The conservation islands, however, which are more remote and in consequence still substantially unmodified ecologically, have been set aside as important sanctuaries for the continued preservation of native species of plants and animals, many of which are endangered or facing extinction. Access to these islands requires the permission of the Board.

Reserves in the Hauraki Gulf Maritime Park²

Land	Classification	Area (hectares)
Aldermen Islands	Nature	133.5462
Brown's Island (Motukorea)	Recreation	59.8934
Cuvier (Repanga) part	Nature	171.1820
Great Barrier Island (Aotea) part	part scenic, part historic part recreational	840.8949
Little Barrier Island (Hauturu)	Nature	2816.6120
Mercury Islands, excluding		
Great Mercury	Part nature, part scenic	346.4107
Motuihe	Recreation	178.6433
Motutapere	Scenic	45.8000
Motutapu	Recreation	1508.6679
Rakino, part	Recreation	9.6617
Rangitoto	Scenic	2310.8434
Tiritiri-Matangi Island	Scientific	206.5282

In recent years there has been a growing call for the acquisition of privately owned Gulf islands into public ownership. The opportunity granted private interests to

¹ 'The Hauraki Gulf Maritime Park Act 1967' - New Zealand Statutes 1967, Vol. 2, No 131, 968-975.

² *The Story of Hauraki Gulf Maritime Park*, Hauraki Gulf Maritime Park Board, 1983.

acquire them in the nineteenth century is now widely viewed as a mistake which needs to be reversed wherever possible. This has happened to a substantial extent through sale or gift. Motuihe was sold to the Crown in 1872, Cuvier in 1957 and Rakitu in 1995.³ Motukorea was gifted to the people of Auckland by the brewery baron Sir Ernest Davis in 1954, a deed described as "the greatest benefaction since Sir John Logan Campbell gave Cornwall Park to Auckland."⁴ Beehive Island, off Kawau, was similarly gifted to the public by Mrs. J. L. Wilson in 1969.⁵ Sadly, these successes have been offset by major failures in recent years, notably the bid to acquire into public ownership Pakatoa in 1994⁶ and Kaikoura Island in 1995,⁷ both due to the inability of public funding bodies to match market prices.

Arguably, it is inappropriate that some islands in particular remain privately owned, namely those that are too small to have much economic value while having great potential or actual biological importance. Such are the Noises (Motuhoropapa, Otata, Maria island and the David Rocks) which lie between Rakino and Waiheke. Perhaps the same could be said of Pakihi and Karamuramu, which lie between Ponui and Kawakawa Bay, although these islands have been extensively modified as a result of shingle removal since the 1890s. Similarly, Waimate and Motukopake, outside the entrance to Coromandel Harbour, would perhaps be better off ecologically if under public ownership.

4.4.2 Maori owned Islands

There are only two substantial areas of Maori owned land on Gulf islands: the 3, 510 acres of the Katherine Bay reserve on Aotea, created in the 1850s; and the 2,050 acres (966.7241 hectares⁸) on Waiheke transferred by the Crown to Ngati Paoa in settlement of Wai 10 in 1989. Only two complete islands of any size are still under freehold Maori title: Oruhi (Goat Island), off Papa Aroha, at 160 acres; and Motuhoa (Shoe Island) off Tairua, at 100 acres. All other islands are small, having little more than biological importance in terms of usage.

4.2 CONCLUSIONS (EXECUTIVE SUMMARY)

Surely the overriding fact in the alienation history of the Gulf islands is that about 88% of their area was alienated before 1865. In other words, the vast majority of their area was alienated before the advent of the Native Land Court. Hence the criticisms generally levelled at pre-1865 alienation processes are relevant to the majority of the land transactions involving Gulf islands.

Gulf islands were an obvious zone of early expansion for settler Auckland because of their extractable resources and ready access by water. For the same reasons, however,

³ *New Zealand Herald*, 1 April 1995.

⁴ J Eagles 'Auckland's forgotten island', *Island Time*, 1994-5, p 24.

⁵ *New Zealand Herald*, 14 June 1969.

⁶ *New Zealand Herald*, 18 January 1994.

⁷ *New Zealand Herald*, 1 September 1995.

⁸ A209, MLC Hamilton. I am unsure how this total area is arrived at since it seems to exceed the area of the Waiheke Station conveyed in that settlement.

these were the very resources that Maori needed to alienate with care if they hoped to consolidate for themselves an early role in the settler economy. Arable areas of Waiheke, suitable for commercial gardening, and inner Gulf islands close to Auckland like Motukorea, Motuihe and Motutapu, suitable for the running pigs and cattle, were especially important in this regard. Therefore the colonial authorities engaged in Maori land purchasing had special responsibility in respect of these areas to ensure that the vendors represented all the Maori rightsholders and that they fully understood the extent and terms of the transactions into which they entered. At stake were the longer-term as well as the immediate prospects of Gulf Maori engaging successfully with the settler economy of Auckland. The key question that this report has needed to address is therefore: Did colonial authorities from 1840-1865 discharge that responsibility satisfactorily? The answer must be at best a very qualified 'yes' and at worst a 'no' with extenuating circumstances.

The evidence probably most damaging to the performance of those colonial authorities are statements of Edward Shortland and Fenton.

- On the modus operandi of the Godfrey/Richmond Land Claims Commissions, in respect of Hauraki claims (most of which involved Gulf islands), Shortland stated "promises of future payment have in many cases been made to natives interested, to prevent their opposition, or to induce them to give favourable evidence."⁹
- On the issue of whether the vendors were the rightful owners, Fenton stated in his Orakei judgement, "the Court [NLC] had made a practice not to attach much importance to the purchases made by the Government [before 1865] as evidencing any title in the sellers."¹⁰ The investigations of George Clarke into customary rightsholding in Gulf islands were perfunctory and often granted insufficient opportunity for all rightsholders to lay claim before purchases were granted his official assent. The Aotea (Great Barrier) pre-emption waiver and Crown purchases are particular cases in point. Also, in the case of the Crown's 1858 Waiheke purchase, McLean, despite being aware of Ngati Maru concerns, proceeded with a deal involving only Ngati Paoa.
- On the issue of whether the vendors understood the extent of boundaries, apropos the 1841 Mahurangi purchase, Fenton stated in his Tiritiri-Matangi judgement, "it appears to the Court very doubtful whether the phrase 'all trees, waters, ... islands' was ever intended by either vendors or purchaser to include the mass of islands out in the Hauraki Gulf, lying at considerable distances from the mainland."¹¹ Yet on this ground the Crown claimed Tiritiri-Matangi and perhaps Rangitoto as well. Boundaries were descriptive and no surveys were required in the case of all these pre-1865 transactions, leaving room for discrepancies to arise between the boundaries intended by vendors and those eventually consolidated in law. In this regard, what happened on Aotea is again cause for concern.

⁹ Shortland, *Traditions and Superstitions of the New Zealanders*, London, 1854, pp 293-294.

¹⁰ Fenton, *Important Judgements*, p 88.

¹¹ *Ibid*, p 22.

Then there is the anomalous case of Motukorea (Brown's Island) which although never submitted to any Land Claim Commission for investigation was awarded to William Brown in 1844. It is remarkable that no check whatsoever was ever made into whether the island had been sold by its rightful owners or whether the terms of the transaction had been completed.

Not to be forgotten is the fact that the Crown failed to create Maori reserves from out of its purchases on Waiheke and Aotea in the 1850s. McLean's intention to create a reserve for Ngati Paoa/Hauraki from out of the Crown's 10,800-acre Waiheke purchase in 1858 never eventuated. The so-called Te Huruhi reserve created at the western end of the island in 1869 involved land under Maori title, upon which a 21-year alienability restriction was placed. Although a reserve was created for Ngati Wai at Katherine Bay, Aotea, from out of the Webster pre-Treaty purchase, no reserve was created for Hauraki from out of the Crown's more southerly purchases on the island of 1854 and 1856. As a result all Hauraki interests in Aotea were extinguished by 1856 - a loss which is still felt intensely by Hauraki today and which has made it difficult for them currently to reassert their mana whenua on the island.

European land purchasing in Gulf islands, by both the Crown and private individuals, had been so extensive from 1838-1865 that only about 12% of the islands remained thereafter to be investigated by the NLC. Most of that area comprised the 6,720 acres yet unalienated on Waiheke and the 6,960 acres of Hauturu (Little Barrier). Of this rump Maori estate in Gulf islands only the land on Waiheke had significant economic value, barring of course the valuable timber on Hauturu. All the Crown grants awarded by the Court on Waiheke were quickly sold, with the exception of that for the 'Te Huruhi reserve'. Perhaps the Court should have protected similarly the titles of other Waiheke blocks but the grantees had expressly requested that they be without restrictions. Te Huruhi remained in Maori hands until about World War I. The tortuous title investigation and sale of Hauturu to the Crown was brought to a conclusion only with legislation in 1894 which introduced an element of compulsion to the transfer.

During the early decades of the twentieth century the Crown displayed a certain presumption as regards the ownership of smaller Gulf islands, yet uninvestigated. In the case of Rangihua (Flat Island), off the west coast of Aotea, it went as far as to lease the island to a settler in 1899 despite the continued assertion by its customary Maori owners of their rights on the island. The Crown appears to have presumed that it owned all of the islands surrounding Aotea, on the grounds of its purchases of the 1850s. However, the Court ruled that Rangihua was definitely Maori owned. The Crown did not contest subsequent Maori claims to islands around the coasts of Aotea - namely Motutaiko and Mahuki in 1934.

This Crown presumption was displayed elsewhere in the Gulf. In 1923 Ohinau was taken under Public Works legislation for the purpose of a lighthouse, without any consideration being given to the payment of compensation to its customary owners - an omission that appears never to have been rectified. In the 1930s the Crown as good as declared the Aldermen Islands a nature reserve, long before any investigation of

their customary title had taken place. The same happened with the smaller Mercury Islands which were not investigated until the 1960s.

As already indicated, pressure on what little remained of the Maori estate in Gulf islands by the early twentieth century came from another quarter - nature conservation bodies. While few would dispute the need, in the national interest, for outlying islands such as the Aldermen and Mercury Islands to be declared nature reserves for the protection of endangered native flora and fauna, this has ultimately come at the expense of already minimal Maori resources. In 1969 the Maori owners of those islands - the descendants of Ngati Marutuahu, Hei and Hako - gifted them to the Crown in the traditional spirit of *tuku whenua*, with the provision that they be returned if no longer needed for that purpose. They received the gratitude of the nation but nothing by way of material compensation. The two extremely important rookeries off Waiheke and Ponui Islands, Horuhoru and Tarahiki (Gannet and Shag Rocks), were vested in Ngati Paoa in 1981, but were not then sold to the Crown, contrary to the original intention of the applicants for the investigation. There are many other smaller islands and islets in the Gulf also of biological importance, many of which remain with uninvestigated title. Logically, they need to draw under some sort of conservation management umbrella with the provision perhaps, in these times of Maori re-resourcing, of material compensation to the Maori donors. A personal suggestion is that the Crown acquire them with an exchange of economic land on the mainland. Joint management is another option.¹² I believe that it would be similarly appropriate for a more concerted effort to be made to acquire into public ownership the smaller Gulf islands still under private freehold title.

In conclusion, while to Maori all land is far more than just an economic resource - it having cultural, spiritual and historical importance as well - to the Hauraki and other iwi with *mana whenua* over Gulf islands this is especially so. For their oldest migration and other ancestral stories involve these places set in largely protected waters, places of arrival and departure, of conquest and defeat, of abundant food resources ashore and at sea. They are the setting of the arrival stories of both the Tainui and Arawa canoes. After many centuries of Maori occupation and usage, at times turbulent, they became the setting of new arrival stories, those of the Pakeha. These are places redolent of human heritage, both Maori and Pakeha, and possessed of great biological importance.

4.3 Suggestions for Further Research

Time constraints prevented the examination of "contemporary issues of concern to claimants," in respect of Gulf islands and presumably of the Hauraki Gulf (Tikapa Moana) as a whole, per the Directions of the commission. This fundamental subject warrants close and careful examination in its own right. At issue is the very ownership of foreshores and Gulf waters, resources that the *tangata whenua* maintain have never been alienated to the Crown. Likewise in all matters of conservation management the *tangata whenua* would expect that the record of their people as the

¹² These suggestions have been made by Mike Lee, former chairman of the Auckland Regional Council parks committee, *New Zealand Herald*, 23 October 1996.

kaitiaki (guardians) of natural resources over many centuries be recognised and accommodated in any new arrangements. The 'Report to the Minister of Conservation on Tikapa Moana', Hauraki Maori Trust Board, 1992, is a key document on the subject.¹³

Still to be examined are the Maori land (ML) plans, at Dosli Hamilton, of mainland blocks adjacent to small islands to establish which are, and which are not, included in them, that is, which are, and which are not, formally investigated and alienated. The small islands surrounding Waiheke are particularly at issue in this regard. A case could be made for investigating iwi views on the subject.

Also still to be examined are the ML plans for the other, larger islands investigated by the Maori Land Court more recently. Any gaps in the information presented in this report, of which there are probably a few, would thereby be filled.

¹³ Telephone conversation of author with Lianne Ngamane of Hauraki Maori Trust Board, 18 October 1996.

BIBLIOGRAPHY

A. PRIMARY SOURCES

I. Unpublished primary sources

Native (Maori) Land Court Minute Books:

Waiheke MB 1, 2.

Auckland MB 1.

Coromandel MB 1, 3, 9.

Hauraki MB 1, 2, 4, 9, 44, 73, 76, 79, 81, 87, 90, 91, 93.

Kaipara 3, 4, 5, 15, 19.

Maori Land Court, Hamilton, Block Order Files:

A207, A208, A209, C47, C73, C155, C428, C541, C543, , H178, H1994, H2188, H2189, H2190, H2191, H2192, H2193, H2194, H2195, H2196, H2205, H2206.

Maori Land Court, Whangarei:

Transcript of 'Aotea Motairehe', December 1995, Mangere.

Old Land Claims Archive (OLC/1):

331 & 332, 455, 457, 724-727, 801, 864, 1116-1117, 1122, 1126, 1130 & 1131, 1140, 1164, 1235, 1267, 1258, 1295, 1305.

Church Missionary Society Records, W.T. Fairburn, CN/O 39.

Deeds Index, Auckland Lands and Deeds Office:

7A/118, 12A/745, 12A/746, 13A/409, 14A/76, 14A/61, 14A/63, ID/189, ID/226.

National Archives Auckland:

BCAC A110 5392/56.

National Archives Wellington, Maori Affairs:

M/A 13/45.

Statutes of New Zealand:

'The Little Barrier Purchase Act 1894.'

'The Hauraki Gulf Maritime Park Act 1967.'

II. Published primary sources

Appendices to the Journals of the House of Representatives (AJHR)

1861 C-1, 1862 C-1, 1862 E-10, 1863 D-14, 1865-D1, 1865 C-2, 1885 H-13, 1890 H-13, 1891 G-1, 1893 A- 4, 1923 H-15, 1948 G-8.

New Zealand Government Gazette
1842, 1843, 1862, 1888, 1924, 1933.

Fenton, F.D., *Important Judgements Delivered in the Compensation Court and Native Land Court*, Auckland 1879.

Great Britain Parliamentary Papers New Zealand
1840 (569), 1845 (247), 1847-48 (1002).

Turton, H.H., *Epitome of Official Documents Relative to Native Affairs and Land Purchases in the North Island of New Zealand*, Wellington, 1877-83.

Turton, H.H. *Maori Deeds of Land Purchases in the North Island of New Zealand*, Wellington, 1877-78.

Turton, H.H., *Plans of Land Purchases*, Wellington, 1877.

B. SECONDARY SOURCES

I. Research Reports

Daamen R., Hamer, P. and Rigby, B. 'Rangahaua Whanui District 1: Auckland', Waitangi Tribunal Research Division, 1996.

Husbands, P. and Riddell, K. 'The Alienation of South Auckland lands, Waitangi Tribunal research series 1993/9, 1993.

Hutton, J. 'The interpretation of customary Maori land tenure by the Native (Maori) Land Court', Report for Rangahaua Whanui National Theme 'C', 1996.

Monin, P. 'History of Human Occupation' in 'Whakanewha Regional Park Management Report', Auckland Regional Council Parks Service, 1995.

Murdoch, G., 'He Korero Tawhito Mo Rangitoto: A brief outline of the Maori historical associations with Rangitoto Island, Auckland Regional Council, 1991.

Ward, A. 'Supplementary Historical Report on central Auckland lands', Waitangi Tribunal Research Division, 1992.

II. Waitangi Tribunal Reports

'Report of the Waitangi Tribunal on the Waiheke Island Claim', 1987.

III. Theses

England, W. 'The settlement pattern and pa of Waiheke', M.A. in Anthropology, University of Auckland, 1993.

Hutton, J. 'Troublesome Specimens: a Study of the relationship between the Crown and the tangata whenua of Hauraki 1863-1869', M.A. in Anthropology, University of Auckland, 1995.

Phillips, C 'The archaeology of Maori occupation along the Waihou River, Hauraki', PhD in Anthropology, University of Auckland 1994.

IV. Books

Campbell, J.L., *Poenamo*, Auckland, 1881.

Belich, J., *Making Peoples, A History of New Zealanders from Polynesian Settlement to the end of the Nineteenth Century*, Auckland, 1996.

Davidson, J., *The Prehistory of New Zealand*, Auckland, 1984.

Hauraki Gulf Maritime Park Board, *The Story of The Hauraki Maritime Park*, Auckland, 1983.

Holloway, K., *Maungarei, An outline history of the Mt Wellington, Panmure and Tamaki Districts*, Auckland, 1962.

Kelly, L. Tainui, *The Story of Hoturoa and His Descendants*, Wellington, 1949.

La Roche (ed), *The History of Howick and Pakuranga*, Auckland, 1991.

Monin, P. *Waiheke Island, A History*, Palmerston North, 1992.

Oliver W. H. (ed), *The Dictionary of New Zealand Biography Volume One, 1769-1869*, Wellington., 1990.

Phillips, F., *Nga Tohu a Tainui, Landmarks of Tainui*, Otorahanga, 1989.

Salmond, A., *Southern Jurist*, Wellington, 1995.

Shortland, E., *Traditions and Superstitions of the New Zealanders*, London, 1854.

Simmons, D., *Maori Place Names of Auckland*, Auckland, 1980.

Smith, S. Percy, *The Peopling of the North: Notes on the Ancient Maori History of the Northern Peninsula and Sketches of the History of Ngati-Whatua Tribe of Kaipara, New Zealand*, New Plymouth, 1897.

Smith, S. Percy, *Maori Wars of the Nineteenth Century*, 1910.

V. Academic Journals

Graham, G., 'Te Aotea: The Happenings there, Leading to the Last intertribal wars of Hauraki', *Journal of the Polynesian Society*, Vol. 54.

Monin, P., 'The Maori Economy of Hauraki 1840-1880', *New Zealand Journal of History*, Vol 29, 2, 1995.

VI Newspapers/Magazines

Various issues of the *New Zealand Herald*, *The Listener*, *The Auckland Star*, and *Island Time*, as specified in references.

THE ISLANDS LYING BETWEEN SLIPPER ISLAND ... AND TIRITIRI MATANGI

Document Index

Pages	Title
A 1-4	Turton, H H, <i>Maori Deeds of Land Purchases</i> , 1877, Mahurangi purchase, pp 251-253.
B 1-4	Fenton, F D, <i>Important Judgements</i> , 1879, Tiritirimatangi, pp 21- 26.
C 1-2	Shortland, E, <i>Traditions ... of the New Zealanders</i> , pp 293-294.
D 1-2	Turton, op cit, Motutapu etc, pp 319-320.
E 1	Block order file H178, Certificate of Title for Motuhoropapa, Otata and Ruapuke.
F 1	Turton, op cit, Motukorea, p 441.
G 1	Turton, ibid, Motuihe, pp 316-317.
I 1	Turton, ibid, Tarataroa (Rotoroa), p 492.
J 1	Turton, ibid, Pakatoa, p 453.
K 1-2	Turton, ibid, Ponui, pp 286-287.
L 1-2	'Little Barrier Purchase Act', <i>Statutes of N.Z. 1894</i> , pp 628-629.
M 1-3	Fairburn, W T, 'General Report of Hauraki Station for year ending March 31 1839', extract from letter of November 1838, CN/O 39.
N 1- 7	Turton, op cit, Great Barrier Island, pp 310-311, 469-471, 296-298.
O 1-5	Turton, op cit, Waiheke, pp 302-304, 306-307.
P 1	Turton, <i>Plans of Land Purchases</i> , 1877, Waiheke, p 184.
Q 1-3	Block order file C428, Ohinau.
R 1-8	'Act to establish the Hauraki Gulf Maritime Park' <i>Statutes of N.Z. 1967</i> , pp 968-975.

A 1
2251

Deed3—No. 192.

MAHURANGI AND OMAHA BLOCK, MAHURANGI DISTRICT.

1841
13 AP

MAHUR
DISTR
MAHURAN
OMAH

IA MOHIO nga tangata katoa i tenei Pukapuka ko matou nga Raugatira me nga tangata o Ngatipaoa o Ngatimaru o Ngatitamatera Ngatiwanaunga ka tuku ka hoko atu nei i enei kainga o matou (ko Mahurangi ko Omaha nga ingoa) me nga kainga katoa e takoto ana i roto i nga rohe e tuhituhia ana ki tenei Pukapuka kia te Karaka te kai tiaki o nga Tangata Maori mo te Kuini o Ingarangi mo ona uri iho mo tetahi tangata wahine ranei e waiho ai e Ingarangi hei kingi hei kuini ranei ake tonu atu te whenua nga rakau katoa nga wai katoa nga awa katoa nga keringawai katoa, nga faiapa katoa nga motu katoa (kihai i hokona i mua ake nei) me nga aha noa iho i runga i raro o enei kainga katoa o matou ko te Waimai a te Turu e kapea ki waho hei nohoanga mo matou ka hokona katoatia nei e matou kia te Karaka te kai tiaki o nga Tangata Maori mo te Kuini o Ingarangi hei kainga mo te Kuini o Ingarangi mo ona uri iho mo tetahi tangata wahine ranei e waiho ai e Ingarangi hei kingi hei kuini ranei ake tonu atu.

Ko te rohe ki te Hauraro ka timata i te Arzi ka haere ki uta a te kaka e maro ana ki uta heke noa ki te kouru o Wangateau ka piki heke noa ki te kouru o Waihe ka takoto i te mania ka piki heke noa ki te kouru o Puhoe ka piki heke noa ki te kouru o Waiwerawera ka piki ka haere i te taukaka heke noa ki te puke ki te rohe o te kainga o te Teira ki te Weiti te putanga ko te totoanga ki Kaipara ko Waitemata te rohe ki te Tonga a te tomokanga ra ano ko te rohe ki te Marangai ko te Moana haere atu i te tomokanga o Waitemata a haere tonu a te Arai ra ano me nga motu katoa o tenei taha-tika me nga wahi katoa kahoro i hokona i mua ake nei kei roto i nga rohe e tuhituhia ana ki tenei Pukapuka.

Boundaries.

Ka tangohia nei o matou nga utu me o matou kainga ka tuhituhia nei ki tenei Pukapuka koia enei e wha rau paraikete e ono tekau nga koroku e rua rau pauna moni kotahi rau nga kaone e rua nga hoiho e rua nga kau e rua rau Tarautete e toru tekau nga koti kotahi rau kiepa e wha nga kaho Tupeka e ono peke paraoa e rua peke raihi kotahi peko Huka Tirohia hoki o matou ingoa me o matou tohu ka tuhituhia nei ki tenei Pukapuka i tenei ra i Waitemata i te tahi tekau ma toru o Aperira i tenei tau o to tatou Ariki kotahi mano e waru rau e wha te kau ma tahi i te tirohanga o enei.

Receipt for goods.

- | | |
|---------------------------|-------------------------|
| Ko Paora. | Ko Wiremu Hoete. |
| Ko Ngakete. | Te tohu x o Waitangi. |
| Ko Pouroto. | Te tohu o Kahukoti. |
| Ko te tohu x o te Puia. | Te tohu x o Taiko. |
| Ko te tohu x o Taranui. | Te tohu x o Wakaturia. |
| Ko te tohu x o Haua. | Te tohu x o Hakopa. |
| Ko te tohu x o te Wera. | Te tohu x o Mohi. |
| Ko te tohu x o Irirangi. | Te tohu x o Hohepa. |
| Ko te tohu x o Te Kepa. | Te tohu x o Muriroa. |
| Ko te tohu x o Nuku. | Ko te tohu x o te Baho. |
| Ko te tohu x o te Ruinga. | Ko te tohu x o te Ware. |

Kai-titiro—
David Rough, Harbour Master.
Jno. S. Montfiore.
J. Coates.
Henry Tucker.

Ko nga utu enei ka riro mai i a Ngatiwatua mo tetahi o to ratou wahi i roto i nga rohe kua oti te tuhituhi ki tua o tenei Pukapuka Kotahi rau pauna moni Kotahi Hoiho me te nohoanga me te paraire Kotahi Poti. Tirohia o matou ingoa i tenei ra te rua tekau ma iwa o Hune i tenei tau o to tatou Ariki 1841. Ki te tirohanga o enei kaititiro.

18
29.

Receipt for goods.

- | | |
|--------------------------|--------------------------|
| Na Tautari. | Ko te tohu o x Parengae. |
| Ko te tohu o x te Horo. | Ko te tohu o x Titahi. |
| Ko te tohu o x Kaiarero. | |

Kai-titiro—
Wm. L. Standinger.
Ja. Stuart Fremau.
E. Elliott.

Tunkow
Deeds 192

A 2 2252

PROVINCE OF AUCKLAND,

[194

MAHURANGI AND
OMAHA
continued.
January, 1842.

Ko nga utu enei kua riro mai i a Ngatiwatua mo ta ratou wahi katoa i roto i te rohe kua tuhi tubia ki tua o tenei Pukapuka e toru Hoiho e rua nohoanga e ru paraire e wa tekau Paraikete e toru rau pauna moni i te toru o nga ra o Henueri i tau o to tatou 1842.

Na Paora
Na te Reweti.

Na te Hira
Na te Kawau.

Kai-titiro—
W. A. Cooper.
John Grant Johnson.
George M. Mitford.

TRANSLATION.

Know all people by this document that we the Chiefs and people of Ngatiapaia Ngati maru Ngatitamatera and Ngatiwhanaunga cede and dispose of these places of our (Mahurangi and Omaha) and the places lying within the boundaries described in the document to Mr. Clarke Protector of Aborigines on behalf of the Queen of England her heirs or some man or woman who may be chosen by England to be King or Queen for ever. The land all the trees the waters all the streams all the ditches all the fences and the forests (not already disposed of) upon or under the whole of this place of ours—Te Waimai a te Tumu being excepted as a place of residence for us—we sell to Mr. Clarke Protector of Aborigines on behalf of the Queen of England as a place for the Queen of England Her Heirs or some man or woman who may be chosen by England to be King or Queen for ever: The boundary on the North commences at Te Arai thence to the ridge which runs inland it then descends to the source of Whangateau thence and down again to the source of Waiwerawera thence up and along the ridge to the on the boundary of Te Teira's place to the Wade it comes out at the Kaipara portage Waitemata is the boundary on the South to its entrance the boundary on the East the sea from the entrance to Waitemata to Te Arai together with all the islands on the Coast and all the places not disposed of formerly within the boundaries described in the Deed.

1841.
13 April.
MAHURANGI
DISTRICT.
MAHURANGI AND
MAHA.

ipt for cash and
s.

We acknowledge the receipt of the payment for our places named in this Deed this is the payment: 400 blankets, 60 cloaks, £200 cash, 60 gowns, 2 horses, 2 head cattle, 200 pairs of trousers, 30 coats, 100 caps, 4 casks of tobacco, 6 bags flour 2 bags rice, and 1 bag sugar.

Witness our names and marks written under this deed on this day at Waitemata on the 13th day of April in the Year of Our Lord One thousand eight hundred and forty one.

In the presence of—
[Witnesses.]

[Signatures.]

1841.
29 June.

This is the payment received by Ngatiwhatua for part of their land within the boundaries described on the back of this Document £100 cash, one horse, saddle and bridle, and one boat. Witness our names on this day the 29th day of June in the Year of Our Lord 1841 in the presence of these witnesses.

[Witnesses.]

[Signatures.]

ipt for cash and
s.

1842.
3 January.

This is the payment received by Ngatiwhatua for all their places within the boundaries described on the back of this Document: 3 horses, 2 saddles, 2 bridles, 40 blankets, and £30 cash, on the 3rd day of January, in the Year of Our Lord 1842.

[Witnesses.]

[Signatures.]

ipt for cash and
s.

Correct Transl.

UNG,

Trans.
A True Cop.

Department.
Deed and Translation.

H. HANSON TURTON.

Wellington,

, 1874.

1841-51] Deed 193 **MAHURANGI DISTRICT.**
 - (Pomare's Claim)

A 3 p. 253

TRANSLATION.

Know all people by this document that I Pomare give up to Mr. Clarke Protector of Aborigines, on behalf of the Queen, my places and all the places of my tribe within the boundaries of the place sold by Ngatipaoa to the Queen. This is the payment made to me: One vessel and £50 cash.

Witness my name and mark on this 31st day of May in the year of our Lord 1841.
 [Witnesses.] [Signatures.]

Correct Translation.

T. E. YOUNG,
 Translator Native Department.

A true transcript of certified copy of Original Deed and Translation.

H. HANSON TURTON.

Wellington, February 7th, 1876.

18
311
MAH
DOR
MAHU
Receipt f
and £50.

Deeds—No. 194.

SALE OF RESERVE AT MAHURANGI BY NGATIWHANAUNGA.

Akarana Aperira 25, 1844.

WAKARONGO mai e nga tangata katoa ki tenei pukapuka a te Horeta ara a nga tangata katoa o Ngatiwhanaunga kua tukua e matou ki te Kawana te wahi whenua i whakata-pua o Ngatipaoa (kua tukua mai e Ngatipaoa mo matou) ko nga rohe ko te Tumu ko Waimai ka whakamahuetia tonutia atu ki a te Kawana ko te tui tenei mo te wakama-huetanga e wha rau pauna Tupeka na ka tuhi tuhia toku ingoa ki raro nei i tenei rau tekau ma rima o nga ra o Aperira i te tau o te taton Arika 1844.

Te tohu x o TE HORETA.
 Te tohu x o TE KITAHI.

Witness—Henry T. Clarke.

TRANSLATION.

Auckland, April 25, 1844.

HEARKEN all people to this document by Te Horeta, that is by all the people of Ngati-whanaunga we have ceded to the Governor (the piece of land reserved by Ngatipaoa (which Ngatipaoa have given to us) the boundaries are Te Tumu and Waimai. We give this land up altogether to the Governor. The payment for giving up this land is four hundred pounds of tobacco: And I have hereunto signed my name this 25th of April, in the year of our Lord 1844.

[Witness.]

[Signatures.]

Correct Translation.

T. E. YOUNG,
 Translator, Native Department.

A True Copy of Original Deed and Translation.

H. HANSON TURTON.

Wellington, October 28th, 1874.

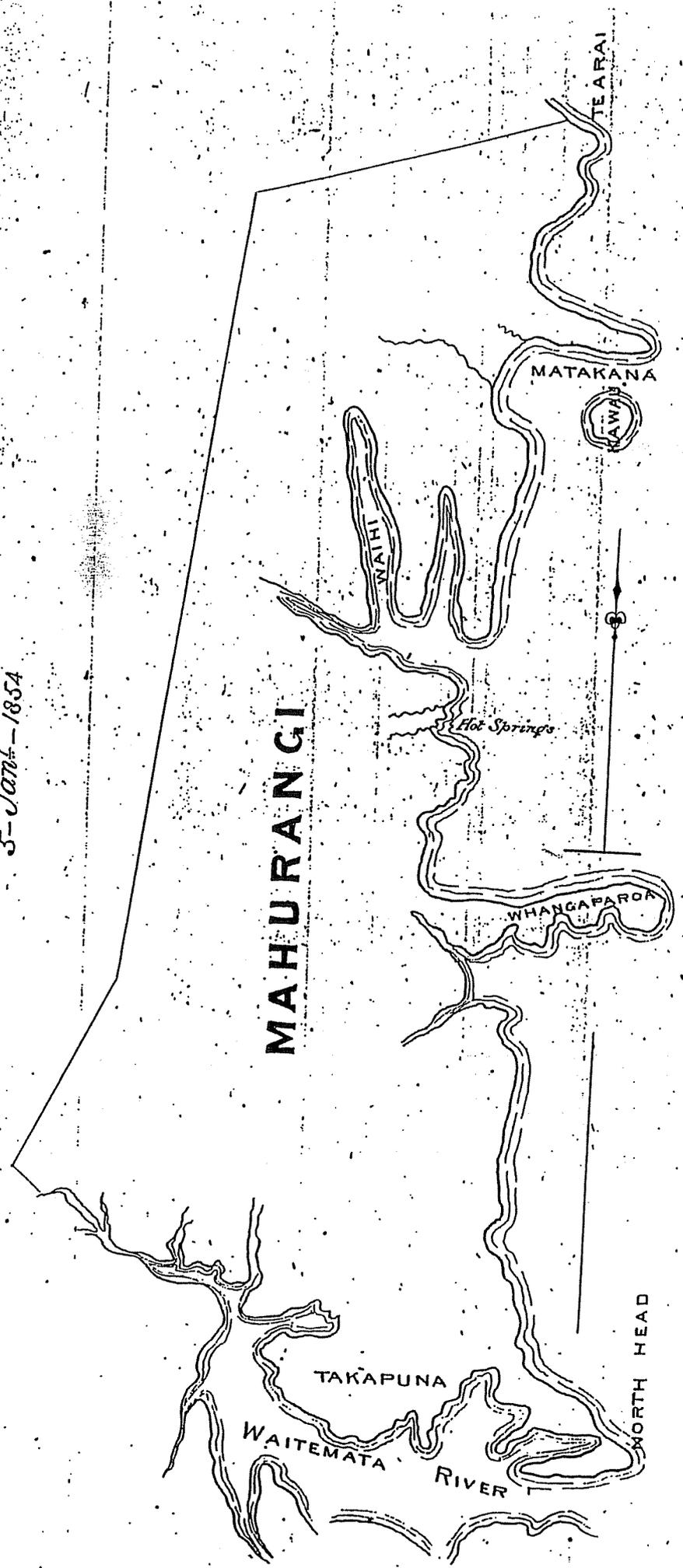
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tobacc

Deeds—No. 195.

PUKEKOHU, LAND AT TE WEITI, MAHURANGI DISTRICT.

KO TE TCHITURINGA o tenei pukapuka i te ra kotahi tekau o Tibema kotahi mano waru rau rima tekau ma tahi te whakaetanga o matou nga Kangatira o Ngatiwhanaunga te whakaetanga ano hoki o te Kuini o Ingarani mona na ko matou nga tangata i te...

5-Jan-1854



H 4

custom; and in this respect only the operation of the law interfered with. The Court determines in favor of all the claimants equally. The judgment of the Court, therefore, is unanimous in favor of Erina Takaanini, Te Wihana Takaanini, and Ihaka Takaanini, who ought to succeed to the hereditaments above mentioned in shares as tenants in common.

NATIVE LAND COURT.

June, 1867.

F. D. FENTON, ESQ., *Chief Judge.*

TIRITIRIMATANGI.

This is a claim by Matini Murupaenga and others, aboriginal natives, to have a certificate of title issued in their favour for the land of Tiritirimatangi, in the Gulf of Hauraki, and is opposed by the Crown. The case was commenced on the 8th of December 1866, and was adjourned to the 13th of March; was then further adjourned for six weeks to enable the Crown to procure certain documents, and was again further adjourned for one month, these documents, which were alleged to be necessary to the case of the Crown, not having been received by its representatives here. The case has now been concluded, and comes up for judgment.

The proofs for the plaintiff's case rest on the evidence of persons of the Ngatipoataniwha and Ngatitaihawa tribes and their relatives and co-claimants, and consist mainly of ancient occupancy, chiefly before the time of the Ngapuhi incursions into this part of the country—the main facts being, that the ancestors of the claimants lived there and cultivated there, were buried there, and had built a house there, the remains of which have been seen by the present generation, and may, as was stated by one witness, be discovered at the present day. From the time of the Ngapuhi invasion, the ancient possessors do not appear to have ever held permanent possession of the island, nor indeed to have exercised any dominion over it, beyond acts of a very transitory nature, indicating only temporary occupation, and no intention of permanent domicile. Although the case thus made out is in itself meagre, yet it is of sufficient validity to have justified the Court in ordering a certificate of title, if no counter claimant or objector had appeared.

But there appears as an opponent and counter claimant, the Crown, whose case must be carefully considered. The learned Counsel for the Crown places before the Court a copy of a deed of conveyance dated in 1841, executed by chiefs of the Ngatipaoa, purporting to convey to Her Majesty and her successors a large tract of country extending from Takapuna Head to Te Arai,—"and all the bays, waters, water-courses, ditches, fences, and islands (not before mentioned), and everything else above and below these lands." In a subsequent part of the deed, which may be called the *habendum* part, the phrase of description runs thus: "From the entrance of Waitea to Te Arai, and all the islands of this shore, and all places

inside the described boundary not before sold." This deed followed by others, conveying the same estates and signed by members of other tribes, amongst others by persons who may fitly be admitted to be representatives of the present claimants, and whose acts they should be bound. Now it appears to the Court very doubtful whether the phrase "all trees, waters, water-courses, ditches, fences, and islands," etc. apart from any extraneous circumstances, was ever intended by either vendors or purchasers to include the mass of islands out in the Hauraki Gulf, lying at considerable distances from the main land. These words appear to the Court to have little more meaning than is usually attached to similar words in an ordinary English conveyance, known to lawyers as "general words." And although the words which occur subsequently, "and all islands of this shore," etc., have apparently more force, and may be held to show a specific intention, yet *nosctur a sociis*, the words which follow, and which are clearly pure surplusage, lead to the conclusion that the several large islands on the far side of the ship channel, of which Tiritirimatangi is one, were never in the contemplation of the drawers or of the signers of the deed. The Court could not fail to be struck with the fact that no attempt was made on the part of the Crown to show by evidence that any of these islands—some of which are much nearer to the main land and smaller than Tiritirimatangi—were ever held, or supposed to be held, under titles derived from these transactions. On the contrary, in the case of Rangitoto, the Crown relied entirely on three distinct conveyances, signed, some of them, by the signers of the deeds now produced, which deeds would clearly have been entirely unnecessary if our deeds had the effect which the counsel for the Crown endeavours to attribute to them, especially as the words "not previously sold" would apply with equal force to Rangitoto as to Tiritirimatangi. The Court cannot believe that if the officers of the Crown, at the time of the completion of this transaction, thought that they had negotiated for and purchased large islands, such as Tiritirimatangi and Rangitoto, they would have omitted all mention of them in the conveyance, and relied for their title upon "general words"—"waters, water-courses, hedges, ditches, and islands." If the view taken by the Court is correct, the point for which the subsequent deed releasing the reservation called Waimai and Te Tumu was produced will be of no importance for the question does not arise as to whether the parties conveyed were the proper owners.

The other muniment put in by Mr. Gillies is the judgment of Mr. Bell, Commissioner of Land Claims, in which the ownership of Tiritirimatangi is incidentally mentioned. But the Court is unable to see what direct bearing this judgment can have on the case before it. It commences thus:—"This claim is for compensation for land on the North Head of Auckland Harbour, taken by the Crown in 1840 upon the establishment of the Seat of Government on the Waikato mata." That was the matter which Mr. Commissioner Bell was trying, and not the title to Tiritirimatangi. In the course of

the judgment Mr. Bell says that Mr. Taylor having formerly the right to the land in lieu of the North Head, which had been taken from him by the Government, selected, amongst other lands, Tiritirimatangi, which Mr. Clarke, Protector of Aborigines, had reported to have been purchased from the natives, but for which no grant had been issued to Mr. Taylor by the Crown; and Mr. Bell adds, "It is difficult to ascertain why the grant for Tiritirimatangi was not made by the Crown," and he concludes by ordering that "scrip be issued to John Logan Campbell for the sum of £250, and to Ranulph Macre for the sum of £250, in commutation of their claim to a grant of the Island of Tiritirimatangi, and in satisfaction of all claims in this case." It occurred to the Court that it was possible that the grant was never issued, because the Government had in the interim discovered that the native title had not been extinguished. In the notorious case of Pukekohe, the grants had even been issued, and the Government was compelled by such a discovery, and the obstinacy of the recusant natives, to call them all in, and compensate the grantees at a great cost. No doubt if the grant for Tiritirimatangi had ever been issued, as contemplated, the Court would have been incompetent to entertain the question of previous extinguishment of native title, for its jurisdiction would have been destroyed; but, in the absence of a grant, although the reason for the non-issue of it may, as Mr. Bell says, be "difficult to ascertain," the Court cannot hold the simple opinion of an officer of the Government, elicited by Mr. Bell, to be entitled to much weight. If Mr. Clarke's knowledge is conclusive, why was he not produced as a witness for the Crown in this case? Moreover, as a question of law, it is not clear how this judgment could, in any case, be made to affect the interests of the parties now claiming, for they were no parties to the suit, and were, as the evidence proves, ignorant of it, or of any other proceedings in Mr. Bell's Court regarding the island of Tiritirimatangi. Coke says that "law is the perfection of reason," and, no doubt, a man who has the capacity of thinking correctly, will, in ninety-nine cases out of a hundred, come to the same conclusion to which a rule of law would lead him, and it is surely common sense which says that if A brings an action against B for the recovery of a chattel or a field, the rights, such as they are, of C or D shall in no way be determined or prejudiced by the result unless he is cognizant of and a party to the proceeding. But we do not understand that Mr. Gillies relied upon these proceedings in Mr. Bell's Court to do more than show that in 1844 the Government were in the belief that the native title to Tiritirimatangi had been extinguished, and for that object, no doubt, the record is valuable.

The Court, then, is of opinion that the real origin of the Crown's title has not been shown, and that if the case for the Crown rested simply on the documentary evidence, it would scarcely avail to upset the claimants, although their case is undoubtedly weaker than most cases that come under our consideration. But the facts disclosed on the examination of the plaintiffs' witnesses, and in the direct testimony

for the defendant, appear to the Court to be of great force, and in case of this kind, in fact, to be of such a character as to remove from our minds the hesitation and doubt which the disclosure of the grounds of the Crown's opposition had caused us to entertain.

It appears that Messrs. Taylor, Macmillan and Campbell lived on the island at a very early date, without any forcible interruption or question even from natives; that they were succeeded by Mr. Duder, whose evidence made great impression upon the Court, though we attach no importance to the conversation about the land being the Queen's, for he did not know whether that declaration was made by the present claimants or by others; that Duder lived there without any attempt at eviction being made by the natives, and that he suffered no inconvenience from them except such as a man similarly situated would always be liable to, viz., the destruction of his pigs by the dogs of casual visitors; that from 1861 Duder lived there with the express authority of Government, and that he finally left the place because he could not obtain a license. — And then there followed the erection of a lighthouse, gradually rising, and visible to all beholders for miles round, as if challenging claims of title to the place. Yet, during all this period of time, extending over a quarter of a century, the natives made no claim, nor entered any protest. Murupaenga's explanation of this damnatory silence is that they knew that it was of no use appealing to the Government for redress, but as soon as a Court was established, where they could be fairly heard, they asserted their claim. But this explanation of a most singular silence cannot be received. The first Native Lands Act was passed in 1862, and was in force, and in actual operation in the district of country where these persons reside; and although its actual work was, from its cumbersome character, of limited extent, there existed no reason why these parties should not have made claim whilst the lighthouse was rising before their eyes. But they slept on their rights, if they then thought they had any, until the claim was made by Takapuna for Orakei, when this claim appeared almost simultaneously, and certainly of a very similar character.

Although, therefore, the Court is unable to discover the origin of the Crown's title, or by what means the native title has been extinguished, yet we are of opinion that the case made out by the claimants is altogether deficient of those elements of strength which would justify us in disturbing the Crown in its possession. To eject a person from his possession, it is not sufficient to show the weakness of his title, but a better must be displayed, and we think that this has not been done. Judgment must therefore go against the claimants.

It may be well, before concluding, briefly to notice one or two matters which have arisen in the course of this protracted trial.

In the first place, the doctrine set up by the learned counsel for the Crown that the proof of "holding" or the customary usage under which a native claim must be established must be, as of the year 1865, the date of the passing of our Act, cannot, in the judgment

of the Court, be maintained. His own argument, as to the use and power of a preamble, will go a long way to upset this interpretation. The principal object of the Act is to convert Maori holdings into tenures recognized by the law, and, if Mr. Gillies' doctrine is to prevail, the intention of the Legislature will fail. The law is that a statute must be interpreted "*ut res magis valeat quam pereat.*" The word "held," although, grammatically speaking, a participle indicating time, must be construed rather as a word of description, and not limited to any particular moment. The law of construction in cases of this sort is clearly laid down by Abbott, Chief Justice, in "*Rex v. Hall*, 1 Barn. and Cress. 123: "The meaning of particular words in Acts of Parliament, as well as other instruments, is to be found not so much in a strict etymological propriety of language, nor even in popular use, as in the subject or occasion on which they are used, and the object that is intended to be obtained. Thus, the *inhabitants* of any county, etc., taking that word in its strict or in its popular sense, are those persons only who have their dwelling therein. But the object of the statute being to raise a fund for the repair of bridges by the taxation of persons, * * * the word inhabitant has been held to include all the occupiers, although actually living in some other county." Thus, the object of The Native Land Act being to determine the native titles to land in New Zealand, and to establish recognised tenures in lieu thereof, we must so construe the Act as to give as much effect as possible to the clear intentions of the legislature; and if the construction contended for were allowed to prevail, the Act would very largely fail of effect. Mr. Gillies' objection to hearsay evidence, as applied to pedigrees, is also untenable. The trite rules of evidence, which during many centuries have been elaborated in England and made to suit the circumstances of a most advanced civilisation, cannot be invariably applied to trials in a Court of this description, where the uncultivated man, without a literature, and without a written history of his nation, or of his property and belongings, is brought into contact with the refinements of a system of law gradually developed by the efforts of a succession of civilised intellects. But the principles on which those rules are based are deduced from the most simple fairness, and may be found in the consciences of all men. And it is to these principles, more than to the rules themselves, that resort will be advantageously had; more than this, we do not think that the objections taken and urged with some force of language are even strictly correct as a matter of bare law. Taylor writes thus:—"Questions of pedigree form the second exception to the general rule rejecting hearsay evidence." This exception has been recognised on the ground of necessity; for as, in enquiries respecting relationship or descent, facts must often be proved which occurred many years before the trial, and were known but to few persons, it is obvious that the strict enforcement of the ordinary rules of evidence in cases of this nature would frequently occasion a grievous failure of justice. Courts of law have, therefore, so far relaxed these rules in

matters of pedigree as to allow parties to have recourse to tradition evidence, often the sole species of proof that can be obtained. *Necessitas non habet legem* is a legal maxim as well as a popular proverb.

The Court, before concluding, feels that it is in duty called upon to notice the non-production of the deeds for which the trial has been so frequently adjourned. The position of the learned counsel for the Crown has been, if possible, one of greater embarrassment than that of the Court itself, although, of course, his responsibility is less. The copies produced are in no legal sense records, but simply copies of deeds. If they are set up as records, we would say, as the Privy Council said in a recent case touching the repeal of a Crown grant by *scire facias*, "If they are records, of what Court are they records?"—See Bacon's Ab. Tit. Record. These copies were admitted simply on the ground that they afforded the best evidence that could be obtained, the originals being (if in existence) in the possession of an authority beyond the reach of any power conferred upon the Court. It is not for the Court to conjecture why these deeds have not been forthcoming, and Mr. Gillies was silent on the subject. It is necessary to allude to this question, the admission of copies in this trial must not be construed into a matter of course precedent. It will always be necessary to show that attempts have been made to obtain the best evidence, before the Court will receive the second best. It must also be apparent that the non-production of the originals may often operate injurious to the Crown's interest; for a native might, and very likely would deny his signature when viewing the copy, which he might frankly admit if placed before him in the original instrument. It may be well to add that if the muniments of the Crown estates were deposited in some place where they would be accessible to suitors, claimants, or intending claimants and their legal advisers, we think that many cases of the character of the one just decided would be kept back, and would not be brought into Court. For example, there can be no question that if the counsel for the natives who claimed Rangitoto could have inspected the deed of purchase before appearing in Court, the natives would never have appeared there at all. If the claim to Tiritirimatangi could have been determined at once, we have no doubt that the natives would have received the decision with little regret, certainly without a murmur; but the long protraction of the trial, and the apparent difficulties in the progress of the Crown's defence, have raised and strengthened hopes which, now that they are destroyed, will naturally be succeeded by feelings of disappointment and bitterness.

NATIVE LAND COURT.

CHRISTCHURCH, April 28th, 1868.

F. D. FENTON, ESQ., Chief Judge; and HENARE PUKUATUA, Arawa Chief, Native Assessor.

RAPAKI. (Interlocutory).

THE issues upon which it has been arranged that the Court should give an interlocutory decision are as follows:—

1. Are the Kaiapoi natives entitled to share the Rapaki Reserve by their descent from the Ngaitahu tribe?
2. Are all the descendants of the six old men and party equally entitled to the Rapaki Reserve?
3. Who are the descendants of the six old men of Rapaki?
4. Have any natives besides the descendants of the six old men a claim to the reserve by occupation?
5. Have those claimants to the Rapaki Reserve, who now come from Kaiapoi, not lost their right by having their abode at Kaiapoi from the time of the reserves being made?
6. Would the alleged agreement made at Kaiapoi at Mr. Buller's suggestion alter the title to the reserves at Rapaki?

Upon the first and last issue the Court can give a clear and distinct opinion, but the answers to the other issues depend entirely upon the tracing of persons and their relationships, which cannot be done at this stage of the proceedings, and must await further evidence. The general opinion, however, which the Court feels itself able to give will render this subsequent proceeding a matter of no difficulty, and indeed will in all probability so far indicate the views of the Court as to render further evidence unnecessary, by enabling the parties to arrange between themselves to whom the Rapaki Reserves should be granted.

As to the first issue, the Court is of opinion that the persons generally styled in the course of this trial "the Kaiapoi natives" are not entitled to claim any share in the Rapaki reserve by reason of their descent from a remote ancestor common to them and the persons similarly styled "the Rapaki natives"; or, in other words, on the ground that they are all members of the Ngaitahu tribe. It has never been the rule of the Court to recognise such a claim, and, even if stronger reasons had been shown than the counsel for the Kaiapoi natives has been able to produce, the Court would have been very reluctant to depart from a rule which has now received the sanction of innumerable precedents.

The husband of a sister is at liberty to do the same if he can. The other members of the family then sink to the condition of *tutua* (insignificant persons), retaining only their right to their *kaigna* or cultivation grounds.

Ngatiwakauc, perhaps the most turbulent tribe in the island, seem to carry to a great extent this system of raising one member of the family at the expense of the rest.

A chief, when speaking of the title by which he holds his lands, never fails to make a distinction between those which he has inherited from his ancestors, and those which he or his ancestors have obtained by conquest. Over the first his right is universally recognized. The latter appear to be tenable only so long as the party in possession are the more powerful. The claim which he advances is, however, quite characteristic of this people; namely, that they are the *utu* or compensation for the loss of his relations, who perished during the fight.

It is from purchasing lands, the right to which is thus contested by two hostile parties, either of whom is glad to avail himself of an opportunity to sell independently of the other, that Europeans have unwarily fallen into so many difficulties.

Besides the lands thus held, there are large districts on the borders of different tribes which remain uncultivated. These *kaigna tauoho*, or debatable lands, are a never failing cause of war till one party has lost all its principal men. The remnant then cease to have any political importance, and are re-

duced to the condition of mere cultivators of the soil, being contemptuously styled a *toenga-kai*, or offal.

When a dispute arises between members of the same tribe, who is the lawful owner of a piece of land, the principal persons on both sides meet together to discuss the affair. Their pedigrees are traced, and the ancestor from whom either party claims is declared. Any proof that an act of ownership (such as cultivating, building a house, setting pitfalls for rats, or erecting eel-weirs), was once exercised without opposition by one of these ancestors, is considered sufficient evidence of the right of his descendants to the land.

I have the honour to be, &c.

EDWARD SHORTLAND.

To the Chief Protector of the Aborigines,
etc., etc., etc.

ENCLOSURE C.

COROMANDEL HARBOUR 10th JUNE, 1844.

SIR.—In reference to the claims to land in the Hauraki district, which were investigated last year by Commissioner Richmond, I have the honour to bring under your notice the fact, that promises of future payment have in many cases been made to natives interested, to prevent their opposition, or to induce them to give favourable evidence.

This I have learnt from natives who were parties to such transactions, and who have made application to me respecting the non-fulfilment of such promises.

It has also come within my knowledge, that the evidence produced before Commissioner Godfrey has, in many cases, been given under similar influence.

I am aware that this practice has prevailed to a certain extent generally, at all similar investigations. Its effects, however, must be injurious both to the natives and to the claimants. It tempts the former either to threaten unjust opposition, or to give untrue evidence, to the injury of native absentee proprietors, who may never have parted with their rights. And as the Commissioners may recommend the issue of Crown grants to lands, the title to which rests on such evidence, cases will probably occur, where the lands may be resold to persons who intend to settle thereon; when, if any portion is included which has never been sold by the rightful owners, or if any promise remain unfulfilled, application will at once be made to the new comers, who will then for the first time learn that their title is incomplete.

Since all disputes arising from this source, will necessarily be referred to you for investigation, I lose no time in writing to you on the subject; and at the same time I take the liberty to suggest a mode of removing these imperfections from titles granted by the Crown, and of avoiding endless trouble hereafter.

1st. That a Protector of Aborigines be sent to mark out the boundaries of lands sold, distinctly, by posts, &c. He, I believe, would find no difficulty in effecting this with the aid of the natives. The claimant or his agent might be on the spot; and such a description might thus be furnished that a surveyor would have nothing to do but to estimate the contents of the area included.

2ndly. That cognizance be taken by the Government of all promises, of the nature above described, and that Protectors of Aborigines be instructed to draw up statements of them, signed by the claimant or his agent, who made the promise, and by the natives to whom the promise was made; so as to enforce their fulfilment, before the land fall into new hands.

Without some such precautions be taken, before the issue of a Crown grant, I fear that serious difficulty and responsibility will result to the Government.

I have the honour to be, &c.

EDWARD SHORTLAND.

*To the Chief Protector of the Aborigines,
etc., etc., etc.*

HURAKIA ISLAND
continued.
[500 acres.]

situated about 2½ miles N.W. of the Island Motu Ta. I am informed that this island was purchased by Thomas Maxwell, of Waiheke, on the 11th of January, 1840, from the Native Chiefs Adirangi and others, who received goods to the amount of £40 sterling for it. In the same year 1840, or at the beginning of 1841, I was present and saw the said Thomas Maxwell sign a transfer of this land to the claimant, G. F. Robinson. As his agent I delivered this deed of transfer to Mr. Warbrick for the purpose of having the claim examined at Coromandel Harbour.

FREDE. WHITAKER.

A. Warbrick.

Abraham Warbrick, being duly sworn, states: In the month of June, 1844, I received from Mr. Whitaker a deed of transfer of the Island of Hourakia, executed by Thomas Maxwell (deceased) to the claimant, G. F. Robinson, for the purpose of appearing before the Commissioner at Coromandel Harbour, investigating this claim. The boat that conveyed me to Coromandel Harbour was totally wrecked on the heads of that harbour the night after my arrival, and this deed was then lost, and has not since been recovered. I made an appearance before the Commissioner and stated this loss to him.

A. WARBRICK.

Tara.

Adirangi or Tara, a Native chief, not understanding the nature of an oath, but declaring to tell the truth, states: Before the arrival of the Government in New Zealand an agreement was made by me and other chiefs for the sale to Thomas Maxwell of the Island of Hourakia. I received no payment for this island; but before Mr. Maxwell died he agreed to give me 1 double-barrelled gun, 3 casks of gunpowder, 10 blankets, and 3 coats. This payment I was to have received for Hourakia and Otata. Ngatai and Ruinga did receive payment for Motutapu, Hourakia, and Otata. If the above payment be now given to me I will relinquish all my claim on the Island of Hourakia. Ngatai and Runinga took from Mr. Maxwell all the payment he had agreed to give for the islands, my share inclusive; and, in consideration of this, Mr. Maxwell agreed to give me the goods I have named, but he died without doing so.

HENRY T. CLARKE, Int.

1844.
10 September.
Commissioner
Godfrey's report.

EXTRACT FROM COMMISSIONER GODFREY'S REPORT.

PROOF of the execution of a deed for the transfer of this claim by Thomas Maxwell has been given by Mr. F. Whitaker, and of the loss of the said deed by Mr. A. Warbrick; and the Native Chief Adirangi (or Tara) has admitted an agreement made in January, 1840, for the sale of this island to the said Thomas Maxwell; but, as the said Adirangi does not acknowledge to have received the payment stipulated to be given to him, no grant is recommended.

EDWARD L. GODFREY,
Commissioner.

Auckland, 10th September, 1844.

The compensation promised by Mr. Maxwell to the Chief Tara was afterwards given by Mr. Robinson, when a Crown grant was issued to him as the claimant for 500 acres, dated 15th February, 1845, and signed by Governor FitzRoy. This grant was subsequently called in and cancelled, a new grant being issued to Mr. Reader G. Wood on 25th June, 1862, for 360 acres.

H. H. T.

1862.
21 May.
Commissioner Bell's
report.

EXTRACT FROM COMMISSIONER BELL'S REPORT.
In the Court of Claims.

In the matter of the grant, issued 15th February, 1845, to Francis Robinson for the Island of Hourakia.—Claim 202.

THIS grant was duly called in by the Attorney-General, and the description not being found to agree with the survey, the grant was ordered to be cancelled on the 21st May, 1862.

The claim for the new grant was put in by the attorney of the trustees under the will of Francis Robinson, who had died since the date of the grant. By the exemplification of the will produced before me, it appeared that the will was made on the 27 July, 1855, whereby, after making certain dispositions on behalf of his widow, he devised and bequeathed all his real and personal estate to Hardy Robinson, William Sidebotham, and Samuel Wright Wilkinson, upon certain trusts. Samuel W. Wilkinson renounced the trust on the 27 December, 1855, leaving Hardy Robinson and William Sidebotham sole trustees, who, in a formal notice to me, dated the 20th November, 1860, claimed the new grant in their names as such trustees.

The island was surveyed in 1861, and the total area found to be 360 acres. The attorney of the trustees, Walter Grahame, of Auckland, being authorized (under the power of attorney from the trustees, dated 20 November, 1860, and produced before me) to sell, agreed, under my advice and that of his counsel, T. H. Bartley, Esq., that the grant should not be immediately issued, but that an order should be made for its issue either to the trustees or to any one, a purchaser from them, so as to facilitate the dealing with the land under the power of attorney.

Order of Court.

It is accordingly hereby ordered that a grant be issued for the Island of Hurakia, containing (360) three hundred and sixty acres, to Hardy Robinson and William Sidebotham, trustees under the will of the late George Frederick Robinson, or to such person, being a purchaser from them, as they or their duly-authorized attorney may, by writing under their or his hand, designate in that behalf.

F. D. BELL,
L.C.C.

Auckland, 21 May, 1862.

NATIVE LANDS ACT, 1865.

DISTRICT OF
Auckland
PROVINCE OF
Auckland

Motuhoropapa
Otata
Ruapuke } Islands BLOCK

At a sitting of the Native Land Court of New Zealand, held
at the Provincial Council Chambers, Auckland
in the said District, on the second day of October
1867, before Henry A. St. Monro and Thomas Henry Smith, Esquires,
Judges and the
Assessors, Hataruiki and Te Rarhi

Plan received
of the
the Inspector of Survey
Oct 12/67

IT was ordered that a Certificate of the Title of Aperahama
Pohai, Hori Rakewa, Ngatai, Hataru Te
Pakewa, Honetana Te Iriangi, and
Neha Makiwhara

rescharged.

Investigation £ 1. 0. 0

of Plan . . . 10. 0

Certificate 1. 0. 0

£ 2. 10. 0

to a Parcel of Land at three Islands in the Hawaki Gulf in the

District aforesaid, containing Fifty two Acres, three roods

(52. 3. 0)

and known by

the names of Motuhoropapa, Otata and
Ruapuke

be made and

issued to the Governor.

Witness the hand of Henry A. St. Monro

Esquire, Judge, and the Seal of the Court, the

seventh day of October, 1867



Investigation of the Survey

II.—AUCKLAND DISTRICT.

Deeds—No. 12.

MOTUKOREA ISLAND, RIVER TAMAKI, AUCKLAND DISTRICT.

1840.
23 May.

Know all men by these presents That we whose names are hereunto subscribed Native Chiefs of New Zealand and owners of the Island after mentioned In consideration of 2 Double barrelled Guns, 10 Blankets, 2 Coats, 4 Casks of Gunpowder of 25 lbs. each, 4 pieces of print, 12 Shirts and 4 pairs of Trowsers paid to us by William Brown late of Edinburgh North Britain now residing at Waiomu on the Frith of Thames in New Zealand aforesaid, the receipt whereof is hereby acknowledged, We, by these presents do grant bargain sell and convey unto the said William Brown and his heirs and assigns that Island called Motu Koron situated at the entrance of the River Tamaki at its confluence with Prince Regent's Inlet in New Zealand aforesaid, together with all ways, water, watercourses, tabood grounds, trees, and other vegetable productions, mines, metals and other minerals, together also with the right of fishing and the fishes in the Creeks and Bays of said Island To have and to hold the said Island with the appurtenances thereunto belonging to him the said William Brown his heirs and assigns and to the only proper use and behoof of them for ever. And we the said Chiefs hereby bind ourselves and our successors to warrant the said Island hereby sold and its appurtenances to the said William Brown and his heirs and assigns And will for ever defend the same against all persons having or pretending to have any interest or title thereto. In Witness whereof these presents (after having been duly read over and explained to us by James Palmer residing at Waiomu aforesaid) are subscribed by us Kanini, Kati Kati, and Ngatai at Waiomu aforesaid this 22nd day of May in the year 1840 before these Witnesses the said James Palmer and Dr. John Logan Campbell also at present residing at Waiomu.

AUCKLAND DISTRICT.

MOTUKOREA
ISLAND.
William Brown.

Receipt.

[150 acres.]

(Sgd.) James Palmer
J. L. CampbellKANINI his mark.
KATI KATI
NGATAI

A True Transcript of Uncertified Copy of Original Deed.

H. HANSON TURTON.

Wellington, 15th July 1880.

No. 58.

P.O.

Deeds—No. 13.

EPSOM (LAND AT), NEAR ONE-TREE HILL, AUCKLAND DISTRICT.

1840.
3 June.

THIS Deed made the 3rd day of June in the year 1840 Between Kouwou Kouwou and To Hira Native Chiefs of the Tribe Ngatewata residing at Oraki near Auckland of the one part and Edward Other of Auckland aforesaid Surveyor of the other part. Whereas the said Native Chiefs are rightfully seized of the fee simple and inheritance of and in the piece or parcel of Land hereinafter described according to the Native Customs of New Zealand And Whereas the aforesaid Native Chiefs have contracted with the said Edward Other for the absolute sale to him of the said piece or parcel of land hereinafter described for the price or sum of Forty-two Pounds ten Shillings sterling who hath requested a conveyance thereof in manner hereinafter contained Now this Deed witnesseth that for and in consideration of the said sum of £42. 10. 0 Sterling paid to the said Native Chiefs by the said Edward Other (the receipt whereof they do hereby jointly and severally acknowledge) They the said Native Chiefs Kouwou Kouwou and To Hira do and each of them doth hereby convey and assure unto the said Edward Other his Heirs and Assigns for ever All that piece or parcel of land situate between One Tree Hill and Mount Hobson in the vicinity of Auckland aforesaid containing by admeasurement sixty-two acres, two Roods or thereabouts Bounded on the north by a Swamp part of and adjoining land the property of Mr. Dilworth 2,230 links on the East by land the property of Thomas Henry 780 links then by a line running West 30 links then on the East by the said land belonging to the said Thomas Henry 2,000 links on the West by land purchased from the Natives by Joseph May William Hart and Samuel Allon Wood 3,500 links and on the South by land the property of Mr. Robinson 1,080 links be the said several admeasurements a little more or less and as the same are more particularly delineated in the Plan of the said piece or parcel of land drawn in the margin hereof Together with all the rights members and appurtenances therunto belonging or in any wise appertaining And the said Edward Other doth hereby declare that no Widow whom he may leave shall be entitled to Dower out of the said piece or parcel of land hereby conveyed or any part thereof And they the said Native Chiefs Kouwou Kouwou and To Hira do and each of them doth hereby covenant and declare

Receipt for £42 10s.

Boundaries.
[62a. 2r.]

MATAHAREHARE Mōni, e rima nga Kaho paura mo te wenua o Mata-hare-hare o te rohe ki tātahi e rua
 continued. pea mairo nui atu pua nohinohi atu ranei ko tetahi rohe... awa wai maorako Tiki to
 Boundaries. [1,200 acres.] Ingoa ko tetahi rohe e rua pea mairo me hawe ki uta.
 Receipt. A e wakae ana a Tamaki e mea ana kua riro mai ki a ia nga utu kua wakahuatia
 nei he tino utunga mo te kainga kua korerotia nei ka tukua katoatia tana wahi te wahi
 ano hoki o ona tamariki, o ona wanaunga ki taua wenua, ka riro katoa tenei wenua i a
 Tame Kohe, a ka tukua taua Tame Kohe kia noho kia hanga ware kia ngaki kia hoko
 ranei i te wenua katoa i tetahi wahi ranei o te wenua ki te ritenga o nga ture o nga
 tikanga o Ingarangi, Tirohia hoki ka wakae ahau a Tamaki ka tuhituhi i taku Ingoa
 tohu ranei i te ono o nga ra o Akata i te tau o to tatou Ariki kotahi mano e waru rau e
 toru tekau ma iwa, ka wakaritea tenei ki te tikanga o nga kupu a ekore u wakahengia
 mo tetahi ho nohinohi ka tuhituhia te tau ki te ritenga o Ingarangi kahore ano hoki he
 ritenga Hira i tenei taima i Nu Tireni. Signed TAMAKI.
 Witnessed by— Ko te tohu x o TE RAUMATU.
 William Thomas Fairburn.
 John Ralph Wilson.
 A True Translation.
 GEORGE CLARKE.
 A True Transcript of Certified Copy of Original Deed and Translation.
 H. HANSON TURTON.
 No. 65r.
 O.L.C.
 Wellington, 17th October, 1878.

Deeds--No. 354.

MOTUIHE ISLAND, NEAR RIVER WAITEMATA, AUCKLAND DISTRICT.
 KIA mohio nga tangata katoa e kite nei i tenei pukapuka, Na, kua tukua kua hokona
 rawatia e matou e Wiremu Hoete, he rangatira no te Iwi Tutu, e Nuku, he rangatira no
 Ngatitai, e te Manako, he rangatira no Ngatitawaki, ki a te Pepene taua wahi wenua, ko
 Motu Ihe, me nga mea katoa i runga i raro o taua Motu, e tu ana ki te awa e rere atu
 ana ki Waitemata, ko Huhuanui te ingoa o taua awa, me tana moana ano hoki: mona,
 mo ana tamariki, kia ngakia ranei, kia hokona atu ranei, kia ahatia ranei ake ake; a
 ki te taha o taua Motu ki te marangai, ko Waiheke, a ki te taha ki te tuaraki ko Motu
 Tapu, a ki te taha ki te Hauauru ko Motu Korea, a kei waenganui o enei Motu ko
 Motu Ihe.
 Kua riro mai ki a Wiremu Hoete, ki a Nuku, ki a te Manako, hei utu mo taua
 Motu, mo Motu Ihe, Kotahi kua-kau, he uwa, e rua tekau Parakete, kotahi tekau
 Titaba, kotahi tekau Karane, kotahi tekau Ho, e ono Kaone, e rua Parakete. Wero,
 kotahi tekau ma rua Paipa papai, e ono Kohua, kotahi Horo.
 Tirohia nei o matou tohu kua tuhituhia nei i te rima o nga ra o Nohema i te tau o
 to tatou Ariki Kotahi mano e waru rau e toru tekau ma iwa. Nu Tireni.
 Ko nga kai titiro enei—
 Henry Tayler.
 Ko Hemi Pepene.
 Hoani Pepene.
 Rawiri.
 Tamati.
 Ko te tohu o x NUKU.
 Ko te tohu o te x MANAKO.

ENDORSEMENT.

TRANSFER FROM W. T. FAIRBURN TO HENRY TAYLER.
 RECEIVED of Henry Tayler Esq. the sum of two Hundred pounds sterling as a full
 and sufficient payment for all my right claim or title to the Island called Motu Ihe in
 Witness whereof I set my hand this twenty-first day of March One thousand Eight
 Hundred and forty. WILLIAM THOMAS FAIRBURN.
 The signature of Ngatai given on the 11 May 1858 to this Deed on receipt of Ten
 Pounds.
 Witness—F. D. Bell. NGATAI x his mark.

TRANSLATION.

KNOW all men who shall see this document that we (viz.) William Jowett of Te Iwi
 Tutu a Native Chief, Ko Nuku of Te Ngatitai a Native Chief, and Te Manako of
 Ngatiwaki, also a Native Chief have parted with and alienated for ever that Island
 known by the name of Motu Ihe with all things either above or below appertaining to
 the before named Island (which Island is situated in the channel running into Waite-
 mata known by the name of Huhuanui which is also the name of that part of the Frith)
 To Mr. Fairburn and to his children either to cultivate, to sell, or to dispose of in any
 way he pleases for ever. On the Eastern side of the above named Island stands
 Waiheke, on the Northern Motutapu, on the Western Motu Korea and in the centre of
 these stands Motu Ihe.

Ten Hoes, Ten Hoes, Ten Hoes, Six Gowns, Two Red blankets, twelve Dutch pipes,
 Six Iron pots and one shawl. See our marks written on the Fifth day of November, in
 the year of our Lord One thousand eight hundred and thirty-nine. New Zealand.
 These are the Witnesses—
 Henry Tayler.
 Ko Hemi Pepene.
 Hoani Pepene.
 Rawiri.
 Tamati.
 True Translation.
 HENRY T. KEMP.
 A True Copy of Original Deed, Translation, and Transfer.
 H. HANSON TURTON.
 Wellington, 11th January, 1879.

MOTUIHE continued.

Deeds--No. 355.

TAKAPUNA BLOCK, NORTH SHORE, AUCKLAND DISTRICT.
 NA kia mohio nga tangata katoa e kite nei i tenei pukapuka, na, kua tukua, kua hokona
 rawatia e matou e Takapuna, e Puhata, e te Awa, nga rangatira o taua wenua ko Takapuna
 kei te Kongutu awa o Waitemata, ki a te Tera hei kainga mona, ake, ake, ake. A
 kua riro i a matou hei utu tauhana mo taua wenua E rua tekau nga moni Tara. Otia
 ko era atu utu mo muri iho, E ono tekau takitahi moni Tara, e rua tekau nga Pu moori,
 e rua Tupara, o rua tekau Parakete, e rua tekau Puka, Kotahi tekau Tarautete, Kotahi
 tekau Hate, Kotahi tekau Titaba, Kotahi tekau Karane, Kotahi tekau Kohua, Kotahi
 tekau Kaone Kotahi rau pauna Tupeka. Kotahi tekau ma waru o Nohema i te Kotahi
 mano e waru rau e toru tekau e iwa o nga tau o to tatou Ariki. Maraitai, Nu Tirani.
 Signed Ko te tohu o TAKAPUNA x.
 Puhata.
 O TE AWA x.
 Ko nga kai Titiro—
 Wm. Thos. Fairburn.
 Sarah Fairburn.
 Elizabeth Fairburn.
 Na, kua riro mai inaianei nga utu katoa kua korerotia nei i roto i tenei pukapuka
 a kua riro rawa atu i a te Tera te kainga ko Takapuna kei te kongutu awa o Waite-
 mata, a ko nga rohe enei, Ko Wanauta kei te pito o te one ki roto ki te awa ki Waite-
 mata timata ai, haere tika tonu i reira ki Papakawau ki te pito ki raro o te one ki waho
 mntu ai. Na, tirohia nei to matou ingoa. I te witu o Maehe kotahi mano e waru rau
 a wa tekau o to tau o to tatou Ariki. Signed Ko te tohu o TAKAPUNA x.
 Puhata.
 TE AWA x.
 Ko nga kai titiro enei—
 Wiremu Hoete.
 William Thomas Fairburn.
 Richard Alexander Fairburn.
 True Copy.
 HENRY T. KEMP.

1839. 18 November. AUCKLAND DISTRICT. TAKAPUNA. Henry Tayler. Receipt for deposit.

1840. 7 March. Receipt for payment. Boundaries. [1,000 acres.]

TRANSLATION.

KNOW all men who shall see this document that we (viz.) Takapuna, Puhata, and Te
 Awa, Chiefs of that Tract of land called Takapuna (lying at the entrance of the River
 Waitemata) have alienated and sold to Mr. Tayler the above named land to be possessed
 by him for ever, for which we have received as an earnest for the said land Twenty
 dollars. But the payments yet to come are Sixty dollars, twenty muskets, Two double
 barrelled guns, Twenty blankets, Twenty Spades, Ten pr. Trowsers, Ten shirts, Ten
 Axes, Ten Hoes, Ten iron Pots, Ten gowns, One hundred lbs. Tobacco.
 Signed The mark of TAKAPUNA x.
 Puhata.
 Te Awa x.
 Eighteenth day of November One Thousand
 Eight Hundred and thirty-nine in the year
 of our Lord. Maraitai, New Zealand.
 The Witnesses—
 Wm. Thos. Fairburn.
 Sarah Fairburn.
 Elizabeth Fairburn.

1839. 18 November. AUCKLAND DISTRICT. TAKAPUNA. Henry Tayler. Receipt for deposit.

Now we have this day received all the payments before mentioned in this document and Mr. Tayler is the whole and sole possessor of the above named place called Takapuna.

1840. 7 March.

Deeds—No. 67.

TARATAROA ISLAND, ETC., EAST OF WAIHEKE, AUCKLAND DISTRICT.

Ko te tuhituhinga o tenoi pukapuka i te tekau ma rua o Hanuoro i te tau 1845, te whakaaotanga mo matou, mo nga Rangatira mo nga tangata o Ngatipaora o Ngati Tai— to whakaaotanga ano hoki o Makotoiha, (Charles Hunter McIntosh) mona, Na, ko nga Rangatira mo nga tangata o Ngatipaora o Ngati Tai nga tangata i nga Motu e tuhituhia nei ki roto i tenoi pukapuka na ka whakaaotanga nei aua rangatira mo aua tangata ki te hoko i enoi Motu ki a Makotoiha (Charles Hunter McIntosh) hei utu mo nga moni E toru tekau ma rua nga Pauna kotahi tekau nga Paraikoto, kotahi pihi Karoko, E wa Hipi kotahi to hipi Torawhi, ka ho atu nei ki nga Rangatira mo nga tangata, no konei ka hoatu nei ka tuku atu nei ki a te Makotoiha (Charles Hunter McIntosh) te Kai tuhituhi o te whare ruri whonua, ki a ia, ki ona uri iho ake tonu atu; i aua Motu a Tarataroa raua ko Kahakaha me nga mea katoa o runga ranei o raro i aua Motu pa pu ki te Pakoatanga o te Tai i tetahi taha i tetahi taha o aua Motu. Tirohia o matou ingoa me o matou tohu.

1845.
12 January.
AUCKLAND DISTRICT.

TARATAROA ISLAND.
O. H. McIntosh.

[400 acres.]

Signed NGATAI. HONATANA.
RUINGA KAHUKOTI. TE WHETUKI.

I tuhituhia nga ingoa mo nga tohu o enoi tangata i te tirohanga o—

Signed. Hohepa.
Poroaki.
C. Davis Interpreter.
E. Mourant Interpreter.

Kua riro mai i a matou nga mea katoa kua tuhituhia nei ki roto i tenoi pukapuka ara ko nga utu ia mo Tarataroa, mo Kahakaha, nga motu kua hokona o matou, £32 moni 10 Paraikoto 1 pihi Kariko 4 Hipi 1 Hipi Torawhi. Koia matou ka tuhituhi nei i a matou ingoa me a matou tohu i tenoi ra te 8 o nga ra o Oketopa 1845.

1845.
8 October.
Receipt.

I certify this to be a true copy of the Original.

T. S. FORSAITH.

TRANSLATION.

THIS Deed written on the 12th of January in the year 1845 (contains) the consent of us, the Chiefs and people of the tribes Ngatipaora and Ngatitai, the consent also of Charles Hunter McIntosh on his own behalf. Whereas the chiefs and people of Ngatipaora and Ngatitai are the owners of the Islands mentioned in this deed, they the said chiefs and people do hereby consent to sell these Islands to Charles Hunter McIntosh as payment for £32 Cash, 10 Blankets, 1 piece Calico, 4 Sheep (ewes) 1 Sheep (ram) delivered to the chiefs and tribes. Therefore we give up to Charles Hunter McIntosh Clerk of the Survey Office, to him and to his successors for ever those Islands (called Tarataroa and Kahakaha) with all things above or below those Islands right down to low water mark on every side of those islands. As Witness our names and marks.

1845.
12 January.

TARATAROA ISLAND.
O. H. McIntosh.
[400 acres.]

[Witnesses.] [Signatures.]

We have received the articles mentioned in this Deed as payment for Tarataroa and Kahakaha the Island which we have sold, viz £32 Cash, 10 Blankets, 1 piece Calico 4 Ewes and 1 Ram. We therefore subscribe our names and marks on this the 8th day of October 1845.

1845.
8 October.
Receipt.

[Witnesses.] [Signatures.]

A True Transcript of Certified Copy of Original Deed.

H. HANSON TURTON.

No. 64.

Wellington, 12th July, 1880.

P.O.

Deeds—No. 68.

WAIATARUA BLOOK, TAMAKI ROAD, AUCKLAND DISTRICT.

KIA rongoro nga tangata katoa ki enoi hoatutanga. Ko ahau ko Paora Kawharu no Okahu i Waitemata ka tino whakao kia hokoa, kia tukua ki a Hohepa Ropihana te wahi wenua i huaina ko Waiatarua, kia tangohia kia purutia o Hohepa Ropihana eous uri i muri

1845.
15 January.
AUCKLAND DISTRICT.

WAIATARUA.
Joseph Robinson.

and described unto the said Thomas Power his heirs and assigns for ever In Witness whereof the said parties have hereunto subscribed their names.

TE KAWAU X.
KO TE HIRA X.

KEENE.
THOS. POWER.

Signed by the above named Native Chiefs in the presence of Thos. E. Conry Solr. Auckland the above deed having been first read over and explained to them by Wm. Webster Merchant Auckland—

KOHIRAUUNI
No. 2
continued.

PAKATUA
 Ko te tuhuhinga o tenei pukapuka i te 29 o nga ra o Akuahi i te tau 1844 te whakasetanga hoki a Makatohio mona. Na ko nga Rangatira me nga tangata o Ngatipooa, nga tangata i te Motu e tuhuhia nei ki roto ki tenei pukapuka na ka whakase nei sus Rangatira me sus tangata ki te hoko i tenei Motu ki a Makatohio hei utu mo nga mouni me o matou tohu.

29 August.
 AUCKLAND DISTRICT.
 PAKATUA ISLAND
 C. H. McIntosh.

Signed NGATAI RUINGA.
 Signed Hoko.
 Signed NGAKETE TAIKO.

I tuhuhia nga ingoa me nga tohu o enei tohu i te tirohanga o—
 Signed Hoko.

Witnesses—
 (Signed) Wm. Brown of Auckland Merchant.
 (Signed) Robert McLeod, Interpreter.

Receipt.

Kua riro mai i a matou nga mea katoa kua tuhuhia nei ki roto ki tenei pukapuka ara ko nga utu ia mo "Pakatua" te Motu kua hokona atu e matou e rua tekau nga Pauna &c. [same as before]. Koina matou ka tuhuhia nei i o matou ingoa me a matou tohu i tenei ra te 29 i te tau 1844.
 Kai titiro [as above].

I certify this to be a true copy of the original.
 THOMAS S. FORSAITH.

TRANSLATION.

1844
 29 August.

PAKATUA ISLAND
 C. H. McIntosh.

[70 acres.]

This Deed written on the 29th of August in the year 1844, (containing) also the consent of Mr. McIntosh on his own behalf. Now, the chiefs and people of Ngatipooa, the owners of the Island herein mentioned—these chiefs and people do hereby consent to sell this Island to Mr. McIntosh as payment for £20 cash, 10 Blankets, 1 Cloak 1 package Tobacco which are hereby given to the chiefs and people. Therefore, there is now given up and surrendered to Mr. McIntosh, Clerk in the Survey Office—to him and to his successors for ever—that Island called "Pakatua," with all it contains above (the surface) or below. The shape of this island is delineated on the other side. As witness our names and marks.

[Witnesses.]

[Signatures.]

Receipt.

We have received all the articles mentioned in this deed, that is, the payment for the Island called Pakatua which we have sold—£20 cash 10 Blankets 1 Cloak 1 package Tobacco. Therefore we write our names and marks on this the 29th day in the year 1844.

[Witnesses.]

[Signatures.]

No. 50.

A True Transcript of Certified Copy of Original Deed.

H. HANSON TURTON.

P.C.

Wellington, 10th July, 1850.

Deeds—No. 31.

EPSOM (LAND AT), AUCKLAND DISTRICT.

1844
 18 September.

AUCKLAND DISTRICT.

EPSOM.
 William Potter.

Receipt for £50.

Boundaries.
 [50a. 2r. 25p.]

This Deed made the 18th day of September in the year 1844 Between Weteri a Native Chief of Waikato New Zealand of the one part And William Potter of Epsom in the vicinity of Auckland New Zealand aforesaid Inn keeper of the other part Whereas the said Weteri is rightfully seized of the fee simple and inheritance of and in the piece or parcel of land hereinafter described according to the Native customs of New Zealand And whereas the said Weteri hath contracted with the said William Potter for the absolute sale to him of the said piece or parcel of Land hereinafter described for the price or sum of Fifty Pounds Sterling who hath requested a Conveyance thereof in manner hereinafter contained Now this Deed witnesseth that for and in consideration of the said sum of £50 sterling paid to the said Weteri by the said William Potter (the receipt whereof is hereby acknowledged) He the said Weteri doth hereby convey unto the said William Potter his heirs and assigns for ever All that piece or parcel of land situate on the Manukau Road in the vicinity of Auckland aforesaid containing by admeasurement Fifty Acres Two roods and Twenty-five perches Bounded on the North by land by land belonging to William Hart 1,650 feet, On the East by land belonging to the said Weteri 1,354 feet, On the West by the Manukau Road 1,336½ feet, And on the South by land also the property of William Hart aforesaid 1,650 feet be the said several admeasurements a little more or less and as the same are more particularly delineated in the plan of the said piece of land drawn in the margin hereof Together with all the rights members and appurtenances thereunto belonging or in any wise appertaining And the said William Potter doth hereby declare that no Widow whom he may leave shall be entitled to dower out of the said piece or parcel of land hereby conveyed or any part thereof And he the said Weteri doth hereby covenant and declare to and with the said William Potter his heirs and assigns that He the said Weteri hath according to the Native custom of New Zealand good right full power

Assigns for ever. In Witness whereof the said parties hereto have hereunto subscribed their names.

WETERI his x mark.

EPSOM continued.

Signed by the above named parties in the presence of Thomas Edward Conry of Auckland Solicitor and Joseph Merrett of same place the above deed having been first read over and explained to the said Weteri by the said Joseph Merrett—
 Thos. E. Conry, Solr., Auckland.
 Joseph Merrett, Interpreter, Auckland.

A True Copy of Original Deed.

H. HANSON TURTON.

Wellington, 8th July, 1850.

No. 45.

P.C.

Deeds—No. 32.

REMUEA (LAND AT), EPSOM ROAD, AUCKLAND DISTRICT.

1844
 18 September.

AUCKLAND DISTRICT.

REMUEA.
 James Dilworth.

This Deed made the 18th day of September in the year 1844 Between Weteri and Aperahama Native Chiefs of the Tribe of Ngati to Ata of Waikato in the Colony of New Zealand of the one part and James Dilworth of Auckland in the said Colony Accountant of the New Zealand Banking Company at Auckland aforesaid of the other part Whereas the said Weteri and Aperahama are rightfully seized of the fee simple and inheritance of and in the piece or parcel of land hereinafter described according to the Native Customs of New Zealand And whereas the said Weteri and Aperahama hath contracted with the said James Dilworth for the absolute sale to him of the said piece or parcel of land hereinafter described for the price or sum of Seventeen Pounds Sterling who hath requested a conveyance thereof in manner hereinafter contained Now this Deed witnesseth that for and in consideration of the said sum of Seventeen Pounds sterling paid to the said Weteri and Aperahama by the said James Dilworth (the receipt whereof is hereby acknowledged) They the said Weteri and Aperahama doth hereby convey and assure unto the said James Dilworth his heirs and assigns for ever All that piece or parcel of land situate on the Epsom Road in the vicinity of Auckland aforesaid containing by admeasurement Ten acres and thirty-two perches Bounded on the North by land belonging to Mr. Graham 1,690 links On the East and North East by land belonging to Mr. Sommerville 434 links and 1,290 links then again on the East by land the property of the said James Dilworth On the West by the Epsom Road 24 links, and on the South in a line bearing East North East and East 3,186 links by the land of Mr. Moffitt be the said several admeasurements a little more or less and as the same are more particularly delineated in the plan of the said piece of land drawn in the margin hereof Together with all the rights members and appurtenances thereunto belonging or in any wise appertaining And the said James Dilworth doth hereby declare that no Widow whom he may leave shall be entitled to dower out of the said piece or parcel of land hereby conveyed or any part thereof And they the said Weteri and Aperahama doth hereby covenant and declare to and with the said James Dilworth his heirs and assigns that they the said Weteri and Aperahama hath according to the Native Customs of New Zealand good right full power and lawful and absolute authority to convey and assure the said piece or parcel of land hereinbefore mentioned and described to the said James Dilworth his heirs and assigns for ever. In witness whereof the said parties hereto have hereunto subscribed their names.

Receipt for £17.

Boundaries.
 [11 acres.]

(Signed) KO WETERI tona x tohu.
 APERAHAMA.

Signed by the above named parties in the presence of Thos. Edd. Conry of Auckland Solicitor and Joseph Merrett of same place the above deed having been first read over and fully explained to the said Weteri and Aperahama by the said Joseph Merrett—
 (Signed) Joseph Merrett Native Interpreter Auckland.
 (Signed) Thos. E. Conry Solicitor Auckland.

We certify the within written Deed to be a true and Correct Copy of the Native Deed.
 D. SMALE J.P.
 SIMON RICH, Settler, Epsom.

A True Transcript of Certified Copy of Original Deed.

H. HANSON TURTON.

Wellington, 14th June, 1850.

No. 46.

P.C.

Deeds—No. 33.

MOUNT HOBSON (LAND NEAR), AUCKLAND DISTRICT.

1844
 18 September.

AUCKLAND DISTRICT.

MOUNT HOBSON

This Deed made the Eighteenth day of September in the year 1844 Between Weteri a Native Chief of Waikato in the Colony of New Zealand of the one part And John Scott

TIRIKOHUA
continued.

the Boundary of Rama Rama, the plan of this land being endorsed on the other side of this Deed.

Witness our names underwritten—

(Sd.) { Hapimana, Piripi, Kereopa, Tarahutai, Te Warihi, Parateno, Paora, Ropiha, Patara, hami.
Piripi, Potaua, te Urupa.

Witnesses—

(Sd.) A. Sinclair, Junr.
(Sd.) John White, Interpreter.

Receipt for ... £230
21 June, 1853,
received cash 200
£430

We have received two hundred and thirty pounds the first instalment on the 9th day of June 1853 also the second instalment being two hundred pounds on the 21st day of June 1853 agreed in this Deed hence our now writing our names on this day the 9th of June for the first instalment and also for the second instalment on the 21st of June in the year of Our Lord 1853.

(Sd.) Piripi.
" Te Warihi.
" Kereopa.
" Paratono.
" Terohuai.
" Paora.
" Hapimana.
" Ropiha.
" Teurupa.
" Patara.
" Hami.
" Piripi.
" Potaua.

(Sd.) Te Mata.
" Epiha.
" Epiha, Junr.
" Te Urupa.
" Te Hemara.
" Natuma.
" Moiti te Rewarowa.
" Noki.
" Hona te Tahu.
" Te Hamara.
" Ropiha.
" Patara.
" Rawiri.

Witness to signatures—

(Sd.) Andrew Sinclair.
" John White, Interpreter.
" John Grant Johnson.

A True Copy of Original Deed and Translation.

H. HANSON TURTON.

Wellington, March 19th, 1875.

1853.
16 June.

AUCKLAND DISTRICT.
PONUI ISLAND

Deeds—No. 229.

ISLAND OF PONUI, AUCKLAND DISTRICT.

KO TE TUHITUHINGA o tenei pukapuka i te ra (16) tekau ma ono o Hui kotahi mano waru rau e rima tekau ma toru te whakaetanga o Te Karamu raua ko Te Kupenga te whakaetanga ano hoko o te Kuini o Ingarani mona, na ko Te Karamu raua ko Te Kupenga, nga rangatira i te kainga o tuhituhia nei ki tenei pukapuka, na ka whakaao nei raua ki te hoko i tenei whonua ki a Kuini Victoria hei utu mo nga pauna, ko tahi rau ka hoatu nei ki a maua, noke nei ka hoatu nei, ka tuku atu nei ki a Victoria te Kuini o Ingarani, ki te Kingi, Kuini ranei o muri i a ia ake, ake, ake, i taua whenua mo nga aha noa iho, aha noa iho o tenei kainga koia ia, ko nga katon o te Motu o Ponui, kahoro ano i riro i mua kia Te Pakeha, a o whakano ana matou ko te whakaotinga tenei mo Po Nui, ki te mea ka heke te tangata ki muri nei ki tenei motu, kia maua te whakaro-kua tuhituhia to ahua o te eneone ki tua nei. Tirohia.

I to aroaro o—

John Grant Johnson, Interpreter.
Andrew Sinclair, Junior.

NA TE KARAMU.
KUPENGA.

Receipt for £100.

Kua riro mai i a maua nga tangata o Ponui nga pauna kotahi rau kua tuhituhia nei ki roto ki tenei Pukapuku; Koia maua ka tuhituhia nei i o maua ingoa i tenei ra to 16 o te marama o Hui i te tau o te Tatou Ariki, kotahi mano waru rau ma rima tekau ma toru.

I to aroaro o—

John Grant Johnson, Interpreter.
Andrew Sinclair, Junior.

KARA MU.
KUPE NGA.

1853.
16 June.

AUCKLAND DISTRICT.
PONUI ISLAND

TRANSLATION.

THE WRITING of this is on the sixteenth day of June one thousand eight hundred and fifty three the agreement of Karamu and the Kupenga also the agreement of the Queen of England for herself, Now we Karamu and the Kupenga the owners of the land agreed to in this paper we agree to sell this land to Queen Victoria in payment for the sum of one hundred pounds money now given to us, for this we give and make over to Victoria the Queen of England and to the Kings and Queens after her for ever and ever this land and all that it may contain this being the whole of the island of Ponui not before sold to Europeans we agree that this shall be the last and final settlement for

Ponui, if any man or men dispute or claim the whole or part of Ponui we undertake to settle with him or them.

PONU I ISLAND
continued.

The sketch of Ponui is on the other side of this Deed.

Witness our names—

(Sd.) KARAMU.
KUPENGA.

Witness to signature—

(Sd.) John Grant Johnson, Interpreter.

We the owners of Ponui have received the sum of One hundred pounds as agreed Receipt for £100.
to in this paper hence we sign our names in this the sixteenth day of June in the Year
of our Lord one thousand eight hundred and fifty three.

(Sd.) KARAMU.
KUPENGA.

Witness to signature—

(Sd.) John Grant Johnson, Interpreter.

A true translation.

(Sd.) JOHN WHITE, Interpreter.

A True Copy of Original Deed and Translation.

H. HANSON TURTON.

Wellington, September 10th, 1874.

Deeds—No. 230.

MANGARIPA BLOCK, PAPAKURA, AUCKLAND DISTRICT.

1853.

13 July.

AUCKLAND DISTRICT.

MANGARIPA.

KO TE TUHITUHINGA o tenei pukapuka i te Tekau ma toru o nga ra o Hurai i te Tau kotahi mano waru rau o rima tekau ma toru te whakaaetanga o matou nga Rangatira o te Akitai, me te Uriika te whakaaetanga ano hoki o te Kuini o Ingarani mona, na ko matou nga tangata i te kainga o tuhituhia nei ki tenei pukapuka, na ka whakaae nei ki te hoko i tenei whenua ki a Kuini Victoria hei utu mo nga Pauna moni o Toru te kau kua homai nei kia matou, nokonei ka hoatu nei, ka tuku atu nei ki a Victoria te Kuini o Ingarani, ki te Kingi, Kuini ranei o muri i a ia ake, ake, i taua whenua me nga aha noa iho, aha noa iho o tenei kainga, ko ona rohe koia enei kei te Hauauru kei te Raina o Kuini i te Ahu, ko to te Hauraro ka tika iho i te Raina i te Ahu tapoko noa ki te ngahere a puta noa ki te awa i te ngakinga a Roka i Pokapu, ka marero ki te awa, ka haere i te awa, kopiko non haere tonu a kotia noatia ra ano e te raina o te rohe mai o te Marangai, to te Marangai he mea aru mai i te raina o Kuini a puta noa ki te awa, te rohe o te Tonga koia kei nga raina o Kuini o te Pamu o te Aperahama, ki te mea ka tohe te tangata ki tenei whenua, ma matou te tikanga ki a ia, kia ratou, kua tuhituhia te ahua o te oneone ki tua nei. Tirohia.

Boundaries.

HUNIA TE NAWE.
IHAKA TARAHAU.
HEME TE NGOHI.

TE ROU x his mark.

Witness—

A. Sinclair.

I te aroaro o—

John White, Interpreter.

Patrick J. Hogan, Draftsman, Survey Office.

Witness to signature of to Rou—

John White, Interpreter.

Kua riro mai i a matou nga Pauna moni o Toru tekau kua tuhituhia nei ki roto ki tenei pukapuka; Koia matou ka tuhituhi nei i o matou ingoa i tenei ra i te Tekau ma toru o Hurai i te tau o te tau o te tatau Arika, kotahi mano waru rau o rima tekau ma toru.

Receipt for £30.

HUNIA TE NAWE.
IHAKA RAMAU.
HEME TE NGOHI.

TE ROU x his mark.

Witness—

A. Sinclair.

I te aroaro o—

John White, Interpreter.

Patrick J. Hogan, Draftsman, Survey Office.

Witness to signature of to Rou—

John White, Interpreter.

TRANSLATION.

THIS DEED entered into on the thirteenth day of July in the year One Thousand Eight Hundred and fifty-three, the consenting of as the Chiefs of the Akitai and Uriika Tribes, also the consenting of the Queen of England for herself, Now we the owners of the Land described in this Deed agree to sell to Queen Victoria for the sum of £30 now given to us, wherefore we now give and make over to Victoria Queen of England and her Heirs for ever all this Land and all thereto belonging. The Boundaries are these, On the West by the Surveyor's line on the Ahu, on the North coming down from to Ahu in a straight line entering the Forest and continuing in a direct line until it cuts the Mangaripa creek at Pokapu near the cultivation of Roka going into the creek and continuing in the same until cut by the Eastern Boundary, the Boundary on the East is the line as cut by the Government Surveyors following the same on in a direct line

1853.

13 July.

AUCKLAND DISTRICT.

MANGARIPA.

Boundaries.

Statutes of N.Z.

New Zealand.



ANALYSIS.

- | | |
|--|--|
| <p>Title.
Preamble.
1. Short Title.
2. Unclaimed shares of purchase-money to be paid into Public Trust Office.</p> | <p>3. Estate of dissentients to sale vested in Public Trustee, who may convey to Her Majesty.
4. Certificate of title to issue to Her Majesty.
5. Moneys in Public Trust Office to be paid to claimants on demand.</p> |
|--|--|

1894, No. 27.—Local.

Title.

AN ACT to vest the Little Barrier Island in Her Majesty.

[24th October, 1894.]

Preamble.

WHEREAS the Hauturu or Little Barrier Island, containing six thousand nine hundred and sixty acres, more or less, situated in the Hauraki Gulf, in the Land District of Auckland, was, by an order of the Native Land Court dated the eighteenth day of October, one thousand eight hundred and eighty-six, declared to be the property of Rahui te Kiri, Tenetahi, Hiria Taukokopu, Paratene te Manu, Ngapera Taiawa, Ngawhare Taiawa, Hone Paama, Kino Rewiti, Rapata Ngatiwai, Te Nupere Ngawaka, Henare te Moananu, Ngapeka, Wi Taiawa, and Pita Kino, and a certificate of title under "The Land Transfer Act, 1885," has been issued to the aforesaid Natives for the said island :

And whereas the said Rahui te Kiri, Tenetahi, and Paratene te Manu, purporting to represent the whole of the hereinbefore-named owners, by a document dated the first day of July, one thousand eight hundred and ninety-one, agreed to dispose of the said island to Her said Majesty for the sum of three thousand pounds :

And whereas the said Tenetahi, Hiria Taukokopu, Paratene te Manu, Ngapera Taiawa, Ngawhare Taiawa, Hone Paama, Kino Rewiti, Rapata Ngatiwai, Te Nupere Ngawaka, Wi Taiawa, Pita Kino, and the successors duly appointed by the said Court to the share or interest of the said Henare te Moananui, deceased, have duly executed a deed of conveyance to Her said Majesty of their respective shares or interests in the said island, and, excepting the three Natives hereinafter next mentioned, have been paid their respective proportions of the aforesaid sum of three thousand pounds :

And whereas the said Tenetahi, Kino Rewiti, and Wi Taiawa have not received their proportionate shares of such sum, amounting to three hundred pounds, one hundred and fifty pounds, and one hundred pounds respectively :

L 2

And whereas the said Rahui te Kiri and Ngapeka have not yet executed the deed of conveyance, or accepted their proportionate shares, being one hundred pounds each, of the consideration aforesaid, although according to Native custom and usages they are bound by the terms of the document dated the first day of July, one thousand eight hundred and ninety-one aforesaid:

And whereas it is desirable to complete the aforesaid purchase in the manner hereinafter mentioned:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Little Barrier Island Purchase Act, 1894."

2. It shall be lawful for the Minister of Lands to cause to be paid into the Public Trust Office the proportionate shares of the purchase-money aforesaid of the said Tenetahi, Kino Rewiti, and Wi Taiawa, amounting to three hundred pounds, two hundred pounds, and one hundred pounds respectively, and the receipt of the Public Trustee for the same shall be a full and sufficient discharge and release to Her said Majesty as to the respective interests of the said Tenetahi, Kino Rewiti, and Wi Taiawa in the said island.

3. The shares or interests of the said Rahui te Kiri and Ngapeka in the said island are hereby vested in the Public Trustee, and on payment to him by or on behalf of the Minister of Lands of such sum as may be assessed in manner provided by section fourteen of "The Public Works Acts Amendment Act, 1887," as the value of the interests of the said Rahui te Kiri and Ngapeka in the said island, the Public Trustee may execute a conveyance in fee-simple of the same to Her said Majesty.

4. The District Land Registrar may thereupon cancel all previous entries on the Land Transfer Register respecting the said island, and issue a certificate of title to Her said Majesty for the same free from all encumbrances.

5. All moneys paid into the Public Trust Office under this Act shall be invested by the Public Trustee, and shall be paid out of the said office to the persons respectively entitled thereto on their respective application to the Public Trustee in that behalf.

Dec. 20 1839

1839

General Report of Hawaiki Station for the year ending March 31 1839

Our Missionsary labours at this Station and especially the schools have been considerably interrupted the past year, in consequence of Sp. Fever with which it pleased the Almighty to afflict the of this and other head every school in April and May 1838 which Epidemics again after them in Jan^y and Feb^y of the present year notwithstanding there has been a gradual increase in the attendance on the means of Grace. The nature in the different parts of the Health is proportionally similar, but has been forming in several places and many even a desire for instruction, many who long to be instructed in order to be able to read the Gospel here now enjoying after the death. During the past year a few of our negation have been removed by death some of them we trust from the evil come. We expect to have to state a sad circumstance which took place in Dec a party of Ngapuhia & Ngatiaparoua their way to the East Cape with eight Canoe landed at Motou the large barrier island containing about one hundred or seventy persons Men and women, after stripping in shall plantation of Kum he a messenger belonging to the Plains was dispatched to Hawaki in the night with the Ngatiwananga and Ngatiama joined by the school boys of Hawaki (the latter party promising to sail away to make peace between the parties) who however on seeing their own party likely to be worsted commenced firing upon the enemy their dead which turned the scale and the enemy were forced to fly for their to the woods. More than one hundred fell in this one bad affair including parties.

W. J. FAIRBANKS -

Tauranga Annual Report April. 1839 -

We cannot take a cursory glance of the year that has closed upon us without feeling our-
 selves ought to be of "Mercy" as well as of "judgment." Throughout the quarter past but a few months "war" and rumours of war have continued to harass us. In
 Nov^r of August six natives belonging to Whaka Mata were despatched and murder'd
 at Whaka Mata. In October the Treue was burned down by a party from Whaka

M 2

I must now account in proceedings as they
 were school matter attended at Mc Millan as they
 they have been gradually - the increase the average
 being as follows for the last month (1837) Boys school
 first infant school from ten to school fifteen
 second twenty five, three. All pupils has eight or
 at my house for the purpose of evening. There
 exceptional knowledge, average attendance on the school
 one hundred
 Receipts remain the same
 increased (that being only average attendance of
 they and I trust amount of as doing this then
 they exceed themselves, by the way the
 amount eight at the
 would have been happy if that time had the
 weather permitted them to
 the first and St. Catherine's
 the school of a most satisfactory
 that of the Boy of eight to the end of
 hundred names touched a school
 the names and at a distance

when the people of the place and of vicinity
 the German Nation of the circumstance, but
 more imminent (viz) Apertaining and following
 found their fees, and in their account of both men
 when more than 100 fell during the contest the German
 Nation succeeded in capturing all their arms and
 property of which they had a considerable quantity; the
 command of the party about 10 Men and a company of
 fled into the woods; I have heard since that the fugitives
 have escaped from the place and reached the Bay of Honduras
 in safety.

The last of the British of distant
 was with a party of 10. Jan 1739 the day after
 day in examining the relations of the other of which he
 took kept was pleased to expect himself great profits
 with what he had seen.

1778 I must now try to touch upon the
 by the Society respecting the death extremely
 of my purchase of land, although to an English
 ground large but having had occupancy to
 title land bounded by the sea, and some in the
 bounds, I have always concluded the distance to be about
 eleven miles, a great part of which is now
 owned by a Mr. ...

Order Four hundred Pounds	...	...	45	0	0
Two hundred and forty pounds	...	...	40	0	0
Gowns, &c. Twenty-five Pounds Sterling	...	...	25	0	0
Cash Two Pounds Sterling	...	...	2	0	0
			<hr/>		
			£160	0	0

being the full consideration within mentioned to be paid and given to us for the Sale and conveyance of the said Land and hereditament within mentioned.

(Enclosure in No. 348.)

TRANSFER FROM WILLIAM WEBSTER TO THOMAS HELLYER

1840.
13 October.

TAPUKAPUKA.
Thomas Hellyer.

I HEREBY acknowledge to have received from Mr. Thomas Hellyer the sum of One hundred and Sixty Pounds Sterling as payment for all the land mentioned in this deed and in case his title not being sanctioned by the British Government I hereby promise to return the above amount with Interest at 10 pr. cent. after written Six months' notice As witness my hand this thirteenth day of October 1840. £160

Witness—
James George.
James Simpson.

WILLIAM WEBSTER.

We hereby certify that the above is a true copy of the original deed this 16th day of December 1840 at Auckland Town.

W. McDONALD.
JAMES GEORGE.

Receipt for £160.

No. 109.
O.L.G.

A True Transcript of Certified Copy of Original Deed and Transfer.
H. HARRON TURTON.
Wellington, 13th November, 1878.

Deeds—No. 349.

ATOLE, OR GREAT BARRIER ISLAND (PART OF), AUCKLAND DISTRICT.

1833.
20 March.

AUCKLAND DISTRICT.
GREAT BARRIER ISLAND (Part of).
Abercrombie, Nagle, and Webster.

KNOW all men by these presents that we whose names and seals are hereunto subscribed and set Native Chiefs of New Zealand for and in consideration of the several articles of Merchandize mentioned as endorsed on the back hereof being of the full value of eleven hundred and forty-nine Pounds Sterling to us paid by William Abercrombie of Sydney in the Colony of New South Wales Esquire Jeremiah Nagle Commander of the British ship Neptune of Liverpool and William Webster now residing at Coromandel harbour New Zealand aforesaid before the sealing and delivery of these presents the receipt whereof is hereby acknowledged Have and each and every of us Hath granted bargained sold assigned released and conveyed and by these presents Do and each and every of us Doth grant bargain sell assign release and convey for ever unto the said William Abercrombie Jeremiah Nagle and William Webster their heirs executors administrators and assigns All that Island called Atole or Big Barrier lying in 30, 4 South latitude 175, 40 East longitude containing by estimation twenty thousand acres more or less or howsoever the said Island or any part thereof is bounded situated known or distinguished or intended so to be. Together with all ways waters watercourses paths pas burying or tapped grounds woods hedges ditches timber trees and all other vegetable productions mines metals and other minerals and all appurtenances whatsoever to the said Island belonging or in anyway appertaining Together also with the uninterrupted right of fishing and the fishes in the said waters, and all the estate right title and interest of us and each and every of us and of our Tribes of in or to the same or any part thereof To Have and to Hold the said Island with all the rights privileges advantages and appurtenances whatsoever unto the said William Abercrombie Jeremiah Nagle and William Webster their heirs and assigns Being lawfully and rightfully seized of in and to the said Island and premises and having good right and full power and authority in our own right to grant and convey all and singular the said Island and premises hereby granted and enfeoffed by us against all and every other persons or persons whomsoever claiming or to claim the said Island and premises or any part thereof or any privileged thereto appertaining and that it shall be lawful for the said William Abercrombie Jeremiah Nagle and William Webster their heirs and assigns and all persons claiming under them to hold and enjoy the same without any molestation disturbance or denial from hencefor and for ever.

Boundaries.
[20,000 acres.]

Horeta his x mark.
Urumihis her x mark.
Kitahi his x mark.
Te Muiini his x mark.
Te Ngau his x mark.
Te Mariri his x mark.
E Rite his x mark.
Tawa his x mark.
Te Kioere his x mark.
Te Ngahue his x mark.

Te Pukeroa his x mark.
Te Taumata his x mark.
Huatihua his x mark.
Tara Whatu his x mark.
Pakao his x mark.
Rapa Rapa his x mark.
Te Moana his x mark.
Tau Toko his x mark.
Te Heru his x mark.

Signed sealed and delivered the same having been just read over and faithfully explained and seemingly perfectly understood in our presence—

Witness—
Henry Downing.
James Beckett.

Be it remembered that on the Twentieth day of March One thousand Eight Hundred and thirty Eight quiet and peaceable possession and full seizin of the Island and hereditaments within mentioned to be granted and enfeoffed to the within named William Abercrombie, Jeremiah Nagle and William Webster was openly had and taken by the within named Chiefs and by them delivered to the within named William Abercrombie Jeremiah Nagle and William Webster their heirs and assigns according to the purport and true intent and meaning of the within written Indenture in the presence of us whose names are hereunto subscribed.

Peaceable possession taken and delivered.

We hereby acknowledge to have received on the day of the date of the within written Indenture of the within named William Abercrombie Jeremiah Nagle and William Webster the following mentioned articles of Merchandize, Namely, 10 Superior double Guns 80 Muskets 120 Blankets 40 Casks of Powder 4 casks of Tobacco 140 Cartouche Boxes 140 Belts 6 dozen Shirts 20 Hoes 20 Hatchets 40 Axes 20 Coats 14 pairs Drawers 12 Chests 40 Iron Pots 10 Superior Cloaks 30 fine Blue Caps 6 Superior Coats 30 Shawls 30 pairs Trowsers 15 bars Lead 80 Spades Cash £20 Sterling being of the value of Eleven Hundred and forty Pounds Sterling and being the full consideration within mentioned to be paid and given to us for the Sale and Conveyance of the said Island and hereditaments within directed.

Receipt.

Witness—
Henry Downing.

[Signatures as above.]

A True Copy.
HENRY T. CLARKE, Intr.

EXTRACT FROM COMMISSIONER'S REPORT.

THE portion admitted to have been sold is the land lying northward of the following boundaries, including the Island of Kaikoura: Commencing at Akatarere, on the West Coast, a little north of the small island Rangiahua, to Papakuri to the eastward, thence to Mangapiko, thence to the southernmost bay of the inner harbour, thence along the shore to a stream called Wairahi; following the windings of this stream it then runs in an easterly direction to the summit of the range of hills, then along the summit of said range northward to Mount Hirakimata, thence still proceeding in a northerly course along the summit of the range of hills to Pairoa, and Ohineuru on the south bank of the Creek Wangapoua, thence along the same bank of Wangapoua to the sea.

Commissioner's report.

Excepting from the above limits the land which belongs to Pukeroa, which is bounded in front by part of the inner harbour, on one side by the small stream Kaiarara, on the other side by a place called Kotuku, and on the back by a place called Ongungu. And also excepting all the cultivations and settlements of the resident Natives.

The rest of the island lying southwards of the above boundaries does not appear to have been purchased from the rightful owners. The Chief Tara and his party, who alone of the sellers maintain any right to lands within this portion, have acknowledged to have received for their share only three pair of blankets; and the opposition of Tomato Walker and Tarikirangi being even admitted by Tara to a considerable extent.

Coromandel Harbour, 10th June, 1844.
A True Transcript of Certified Copy of Original Deed and Commissioner's Report.
Wellington, 6th June, 1878.

EDWARD L. GODDARD,
Commissioner.

No. 11.
O.L.G.

N
I

TRANSLATION.

We the undersigned hereby agree to sell to James Harris and John Hatfield, their heirs and assigns a portion of land situate at the source of Waitemata for the following payments;

2 good Coats, 2 good prs. Trousers, 2 Cloaks, 3 pr. Boots, 6 Shirts, 4 Caps, 3 Cedar Chests, 2 canisters Powder, 2 boxes Gun Caps, 1 shot belt, 1 Double Gun and Case, 1 Native Mat, 2 Pistols, 1 Hat, 2 Waistcoats and Eight Pounds Cash £8. 0. 0.

The boundaries of the said land are as follow. Commencing at a Creek by the Landing place, thence along the Kaipara road to the ridge Kaiakeake; thence along the above ridge until it reaches a tree in the creek "Whatati," running through the creek to the mouth and thence along the windings of the creek Te Rangitopuni until it adjoins the creek at the Landing place.

These boundaries are correct. We have received the payment herein specified. And as we are agreed hereupon we affix our names and marks on the 10th of December in the year 1844.

[Witnesses.]

True Translation.

C. O. DAVIS.

A True Transcript of Certified Copy of Original Deed and Translation.

H. HANSON TULLOCH.

Wellington, 5th October, 1850.

1844.
10 December.
AUCKLAND DISTRICT.

RANGITOPUNI.
Harris and Hatfield.

Boundaries.
[2,470 acres.]

Nos. 90, 190, and 191.
P.C.

Deeds—No. 52.

WHANGAPARAPARA AND OKUPE BLOCKS, GREAT BARRIER ISLAND, AUCKLAND DISTRICT.

Know all men by these Presents that we the undersigned Native Chiefs of New Zealand do by these presents in consideration of the payment hereunder mentioned to us made sell convey and assure unto Frederick Whitaker of Auckland Gentleman and John Peter du Moulin of the same place Gentleman All that piece or parcel of land situate on the Great Barrier Island commencing at a point about a quarter of a mile to the North West of Three Islands called — ascending thence the ridge and running over Hirakimata from thence over Maungapiko from thence to Wakatautuna on the North Eastern coast from Wakatautuna to Owana thence to Matakoroa and Tokakuku from thence to Motu Manu from thence back to Otena from thence to Potekorua from thence to Raihea on the South West side of the Island and from thence to the starting place: And all the land included in the said boundaries and all and everything thereon standing and being: And also all those Three Small Islands above mentioned near the commencing point and all the right and appurtenances of all kinds whatsoever therein or thereon being. In Witness whereof we have hereunto subscribed our names this 12th day of December 1844.

Signed TOMATI WAKA.

The mark of x TOENGA.

TE ARIKIRANGI.

The mark of x RANGITIAKA.

The mark of x PIRANGI.

Signed by the above named Tomati Waka in the presence of (having been first duly interpreted)—

Signed Henry T. Clark, Interpreter, Auckland.

Signed William Webster, Mercury Bay, Settler.

Signed by the above named Toenga and by the above named Tomati Waka for his Wife Arikirangi in the presence of—

Signed Wm. Webster, Settler, Mercury Bay.

Signed Henry T. Clark, Interpreter, Auckland.

Signed by the within named Rangitika and Pirangi (having been first duly explained) in the presence of—

Signed C. Davis, Interpreter, Auckland.

Signed Gilbert Mair, J.P., Wangarei.

Consideration above referred to.

One Cutter complete with Dingy.

Two (2) Casks of Powder.

Ten (10) Blankets.

One (1) Coat.

One (1) Cap.

One (1) double barrelled Gun.

One (1) piece of Print.

One (1) piece of Tobacco, 16 inches long.

One (1) pair Oars.

Received from MESSRS. Whitaker and du Moulin on account of myself, my wife and children, Arikirangi, Toenga and others for the Land mentioned in the within Deed 10 Blankets,

1844.
12 December.
AUCKLAND DISTRICT.

WHANGAPARAPARA
AND OKUPE.
Frederick Whitaker
and J. P. du Moulin.

Boundaries.
[3,500 acres.]

WHANGAPARAPARA AND OKUPE continued.

One Coat, One Cap, One piece of Print, 77 lbs. of Tobacco, One pair of Ours and Cuttor and Dingy complete. Signed TOMATI WAKA. Signed TE ARIKIRANGI.

Signed in the presence of—
Sigd. John Kellins, Auckland.
Sigd. John Merett, Auckland.
John Prince his x mark, Native Chief.

1844.
18 December.
Second payment.

Received from Frederick Whitaker and John Peter du Moulin in consideration for our claim to Land named in this within deed, (20) Twenty Blankets (2) Two double barrelled Guns 2. Two kegs Powder 20. Twenty Shirts 3. Three Coats 3. Three pairs Trowsers, 2. Two Cows this 18th December 1844.

his x mark TARA.
his x mark PETOREHU.

Witness—
(Signed) Henry T. Clark, Interpreter, Auckland.
(Signed) Wm. Webster, Settler.

1846.
10 June.
Receipt for £10.

Received from Frederick Whitaker and J. P. du Moulin on account of myself and wife Arikirangi, Toenga and others for the land mentioned in the within deed being payment (in lieu of a double barrelled Gun and Two Casks Powder) the sum of Ten (10) Pounds sterling. Sigd. TOMATI WAKA.

In my presence having been duly explained by me—
Signed Thomas Spencer Forsaith.
Auckland, June 10th, 1846.

A True Copy. 12th Sepr. 1846.
FREDK. W. MERRIMAN, Solr., Auckland.

(Enclosure.)

1846.
12 August.
GREAT BARRIER ISLAND.
Partition of lands between Messrs. Whitaker and Du Moulin.

DEED OF PARTITION OF LAND SITUATE ON THE GREAT BARRIER ISLAND.

THIS deed made the 12th day of August in the year 1846. Between Frederick Whitaker of Auckland in the Territory of New Zealand Gentleman of the one part and John Peter du Moulin of the same place Gentleman on the other part Whereas by a pre-emption certificate bearing date the 3rd day of November 1844 issued in favour of the said Frederick Whitaker His Excellency the Governor consented on behalf of Her Majesty the Queen to waive the right of pre-emption over not more than One thousand five hundred Acres of Land situate on the Great Barrier Island commencing about half a mile to the Northward of Wangaparapara and running across the Island and extending to the Southward within a quarter of a mile of Okuki, And Whereas by another pre-emption certificate also bearing date the 3rd day of November 1844 issued in favour of the said John Peter du Moulin His Excellency the Governor consented on behalf of Her Majesty the Queen to waive the right of pre-emption over not more than Two thousand acres of land situate at the Great Barrier Island commencing about one half mile to the Southward of Wangaparapara, and extended around the South Head by the East Coast until it meets a line from the West Coast, And whereas by deed poll bearing date the 12th day of December 1844 Tamati Waka and other Native Chiefs therein mentioned did sell convey and assure unto the said Frederick Whitaker and John Peter du Moulin All that piece or parcel of land situate on the Great Barrier Island commencing at a point about a quarter of a mile to the North West of three Islands called — ascending thence the ridge and running over Iirikimata from thence over Maungapiko, from thence to Wakatautuna, on the North Eastern coast from Wakatautuna to Owano, thence to Matakoroa and Pokakuku, from thence to Motu Manu, from thence back to Otena, from thence to Potekerua, from thence to Raikoa on the North West side of the Island, and from thence to the starting point, and all the land included in the said boundaries and all and everything thereon standing and being. And also all those three small Islands above mentioned all which said land is included in the description given in the two said pre-emption certificates above recited And whereas all that piece or parcel of land mentioned or described in the pre-emption certificate firstly hereinbefore described was purchased for and on behalf of the said Frederick Whitaker, and all the other land to the Southward thereof included in and conveyed by the said recited deed poll being part of the land mentioned or described in the pre-emption certificate secondly hereinbefore recited for and on behalf of the said John Peter du Moulin, Now this Deed witnesseth that the said Frederick Whitaker and John Peter du Moulin have therefore mutually agreed to make a partition accordingly of the said land so conveyed to them as aforesaid by the said recited deed poll of the 12th day of December 1844. And that the said Frederick Whitaker shall have and enjoy to him and his heirs for ever in severalty All that piece or parcel of land mentioned or described in the pre-emption certificate firstly hereinbefore recited, and that the said John Peter du Moulin doth hereby release and convey the said piece or parcel of land to the said Frederick Whitaker his heirs and assigns And that the said John Peter du Moulin shall have and enjoy to him and his heirs for ever in severalty All that piece or parcel of land being the remainder of the said land so conveyed as aforesaid to them the said Frederick Whitaker and John Peter du Moulin by the said recited deed poll of the 12th day of December 1844, and being part of the land mentioned or described in the said pre-emption certificate secondly hereinbefore recited, And the said Frederick Whitaker doth hereby release and convey the said

- 1. Whangaparapara. [1,500 acres.]
- 2. Okupe. [2,000 acres.]

1844] AUCKLAND DISTRICT.

piece or parcel of land to the said John Peter du Moulin, his heirs and assigns. GREAT BARRIER ISLAND continued.
In Witness whereof the said parties have hereunto subscribed their names.
Signed FREDK. WHITAKER.
Signed JNO. PET. DU MOULIN.

Signed by the said parties in the presence of—
Sig. Fredk. W. Merriman, Solr. Auckland.
Sig. William Fool Gilbord, Painter, Auckland.

A true copy. 12 Sopr. 1846.
FREDK. W. MERRIMAN, Auckland, Gent.
A True Transcript of Certified Copies of the Original Deeds.
H. HANSON TURTON.

Nos. 69 and 70.
P.C.

Wellington, 22nd July, 1880.

Deeds—No. 53.

RANGITOPUNI BLOCK, RIVER WAITEMATA, AUCKLAND DISTRICT.

MEMORANDUM of Agreement made and entered this 12th day of December 1844 Between John Moore of Auckland Printer and the Native Chief Tau Tari. Whereas the said Tau Tari agrees to sell and the said John Moore agrees to purchase all that piece or parcel of land situated about one mile from the head of John Fair's creek about three miles from Stewart and Breton's Saw Mills and about sixteen miles up the Waitemata from Auckland for the sum of Eighty pounds worth of Slops, Bedding and other clothing and the receipt of which by the Native Chief Tau Tari is hereby acknowledged, and in consideration thereof the said Tau Tari hereby conveys assigns and assures to the said John Moore and his Executors Administrators and Assigns for ever the said piece of land hereinbefore described and particularly set out in the plan on the margin.

1844.
12 December.
AUCKLAND DISTRICT.
RANGITOPUNI.
John Moore.
[1,000 acres.]

Receipt.

Signed by the said Chief, the same having been first read over and explained to him in the presence of—
Wiremu Wateno.

Witness—
E. Meurant, Interpreter.
A True Copy of Original Deed.
H. HANSON TURTON.
Wellington, 23rd July, 1880.

No. 71.
P.O.

Deeds—No. 54.

OKAHUKURA BLOCK, RIVER WAITEMATA, AUCKLAND DISTRICT.

Kia rongu e nga tangata katoa ki enei hoatutanga, ko matou Rangatira o te hapu o Ngatwhatua e tino whakaa ana kia hokoa atu ki a Keremeta Patariti, ki a Hoera Hamiora Poraki, ki o raua uri i muri iho i a raua, me o raua o pai ai, totahi wahi whenua e takoto ana ki te taha mau i o te awa o Okahukura. Ko nga eka o taua wahi e waru pea nga rau, 800.

1844.
14 December.
AUCKLAND DISTRICT.
OKAHUKURA.
Partridge and Polack.

E whakaa ana ano hoki matou kia hoatu, kia tukua atu, kia hokoa atu, ki a Keremeta Patariti, ki a Hoera Hamiora Poraki, ko o raua uri me o raua o pai ai, nga rakau katoa, nga ana, nga wai, nga kohatu, me nga mea katoa e tu ana, o takoto ki runga ki taua whenua, hia oti atu taua whenua me nga mea o runga ki a Keremeta Patariti, ki a Hoera Hamiora Poraki, ki o raua uri i tenei takiwa, ana ake nei, a, ako, ake, ake.

Boundaries.
[800 acres.]

Nga kaha. Ka timata i te awa o Okahukura, i te taukaka o Kikitangiao: ka huri ki tua ki te ritenga ake o te awa o Te Marama: ka rohe mai kei te awa o Te Karaka, ka eko ki te kaka o runga, ka huri, a ka makere ki te awa o Ngahokowhitu; ka haere i roto i te awa o Paremoremo, a hono noa ki tera rohe ki te ritenga ake o te awa o Te Marama.

Receipt.

Nga utu. 5 tupara, 1 koroku pai, 11 paraikete, 2 kaho paura, 2 waipata paura, 2 wehikoti, 2 pouaka tingara, 3 tara moni.
Kua oti te whakahaere nga kaha o tenei whenua o Paora Kawharu, o Keremeta Patariti, me etahi atu tangata, kua keria nga kaha ki te poka, a kua whakaritea etahi kaha ki te kara, he mea whakatu.

E whakaa ana matou ki te pono o tenei tuhuhunga, a ka tuhia o matou ingoa ki raro nei i tenei ra o Tihema 14, i te tau o to tatou Ariki 1844.

HAIMONA tona x tohu. PAORA tona x tohu.
KAIPAKA tona x tohu. HAURAKI x.
Harehi Roweti, Kai whrkamaori, Akaraua.
Hunga titiro—
J. O'Neill.
A. Grey Chapman.
Jno. Common.
2 tupara mo enei ra e takoto ake nei ka riro mai.

Hone Maia.
Paoa Tau.
Ko te Nga.

Herewini Nganiho.
Ratima Pene.

2296

Witnesses—

Sd. Ihaka Takanini.
Sd. John White, Interpreter.
Sd. H. T. Kemp, J. P.

True Translation.

DONALD McLEAN, Chief Commissioner.

March 19th, 1856.

A True Copy of Original Deed and Translation.

H. HANSON TURTON.

Wellington, September 21st, 1874.

Deeds—No. 239.

RANGITAWHIRI BLOCK, GREAT BARRIER ISLAND, AUCKLAND DISTRICT.

Ko MATOU e mau ake nei nga ingoa e tino whakaae ana kia hokoa atu kia tukua atu kia oti rawa atu ki a te Kuini o Ingarangi tuku iho ki nga Kingi me nga Kuini i muri i a ia to matou whenua e takoto ana i te pito whakarunga o te motu o Aotea ko te ingoa nui o taua wahi ko Rangitawiri E whakaae ana matou kia riro atu nga rakau nga wai nga kohatu me nga mea katoa o taua whenua a ka whakaotia rawatia atu taua whenua me nga wahi tapu katoa me nga mea katoa atu o runga o raro mo nga moni e rua rau erua tekau na me riro mai ki o matou ringaringa i tenei takiwa kotahi rau erua tekau pauna a kia pahure nga marama kotahi tekau ma rua ka riro mai ki a matou nga toenga kotahi rau. Ko nga kaha o tenei whenua koia enei:—ka timata i Tokakuku i te tai marangai ka rere i roto i taua awa eke noa ki te Wharau tae noa ki ta te Waka Kaha ko te Karamu te ingoa, haere tonu mai i reira ka wahia te tahi o te Ahumata marere noa ki tatahi ki Raihoa haere tonu i te paenga tai tuhono noa ki te timatanga ki Tokakuku kei roto kei enei kaha nga wahi i tukua kia Apakarame i mua, a, ko nga mea i mahue i te utunga o mua kua riro mai i a matou i tenei ra. E whakaae tika ana matou ki enei korero no konei ka tuhia o matou ingoa me nga tohu i tenei ra o Akuhata te rua tekau ma ono i te tau o to tatou Ariki kotahi mano waru rau rima tekau ma wha.

Hunga Titiro—

C. O. Davis, Interpreter, Auckland.

Kua riro mai i a matou i runga i nga ringaringa o te Makarini raua ko te Kepa hei utu mo te whenua ka oti te whakahaere nga kaha i roto i tenei pukapuka kotahi rau o rua tekau pauna ko te utu matamua tenei.

Akarana, Akuhata 29, 1854.

Te Matewaru tribe living at Coromandel.	}	Himiona Purau.	Taimona te Kakari.
		te Ngahohe.	Hemi Mano.
		Hakopa Wakarewa x.	Meri Wahapuku x.
		Patumoana.	Ko te ingoa o Paora te Putu na
		Natanahira.	Himiona i tuihuti.

Hohepa purehu x tarakihi.

Hunga Titiro—

C. O. Davis, Interpreter.
Archd. A. MacInnes, Clerk N. Land Purchase Dept.
John P. Russell, Settler, Wairarapa.
John Grant Johnson, Dist. L. Commr.
H. T. Kemp, J.P.

1854.
August.
AUCKLAND DISTRICT.
RANGITAWHIRI
BARRIER
LAND.

for £120,
purchasement.



TRANSLATION.

We the undersigned hereby agree to sell, make over and give up for ever to the Queen of England and her successors the Kings and Queens of England our land being the Southern portion of the Barrier Island by name Rangitawhiri We agree to give up all timber streams minerals and other appurtenances and we hereby altogether relinquish our claims to this land its tapued places and to everything thereupon or beneath the surface in consideration of the sum of two hundred and twenty pounds, one hundred and twenty of which we receive now and the remaining hundred to be paid in twelve months from this date. The boundaries of this land are as follows commencing at Tokakuku on the eastern side of the Island and running through the stream of the same name to Te Wharau and thence to Waka's boundary line named Te Karamu thence to the summit of the mountain called te Ahumata and thence to a place named Raihoa in the waters of the Sea and continuing the line of coast till it adjoins Tokakuku. The claims of Mr. Abercrombie are included in these boundaries and the balance due on account of these claims we now receive from the Government. We fully agree to the matter embodied in this document In token of which we affix our names and our marks on this twenty-sixth day of August in the year of our Lord one thousand eight hundred and fifty four.

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26 A
AUCKLAND DISTRICT
RANGITAW
GREAT BARRI

Boundaries.

True translation.
C. O. DAVIS.

Received from the hands of Mr. McLean as a payment for our lands described in this document one hundred and twenty pounds being the first instalment.
Auckland, August 29, 1854.

Receipt for £1 first instalment

HIMIONA PURAU,
and 9 others; belong to the Matiwaru tribe living at Coromandel.

Witnesses—
C. O. Davis, Interpreter, and 4 others.

£100. Akarana, Akuhata 21, 1855.

1855.
21 August

Kua riro mai ki a matou i tenei ra i nga ringaringa o te Makarini nga pauna moni kotahi rau takitahi ko te utunga whakaotinga tenei mo to matou kainga e takoto nei nga rohe ki tua o tenei pukapuka ka tahi nei ka tino oti pu atu ake tonu atu.

Receipt for £10 last instalment.

Kai Titiro—
Ebenezer Baker, Clerk N.L. Purchase Office.
John Hobbs.

PAORA TE PUTU X.
RA TU MOANA.

TRANSLATION.

£100. Auckland, August 21, 1855.
Received by us on this day at the hands of Mr. McLean the sum of One Hundred Pounds sterling, once told. This is the final payment for our land whose boundaries are described on the other side of this document, and which is now fully and for ever surrendered.

1855.
21 August

Receipt for £10 final instalment

Witness—
Ebenezer Baker, Clerk N.L. Purchase Office.
John Hobbs.

PAORA TE PUTU X.
RATUMOANA.

A True Copy of Original Deed, Receipts, and Translations.

H. HANSON TURTON.

Wellington, September 10th, 1874.

Deeds—No. 240.

GREAT BARRIER ISLAND (LAND ON), AUCKLAND DISTRICT.

1856.
27 Decemb

TENEI PUKAPUKA tuku whenua e tuhituhia kei i tenei ra i te rua tekau ma whitu 27 o nga ra o Tihema i te tau o to tatou ariki kotahi mano e waru rau e rima tekau AUCKLAND DISTRICT

LAND ON GREAT
BARRIER ISLAND
continued.

to whenua i hokoa o Whitika raua ko te Morona. Ko te kaha ki te tuaraki kei te whenua i hokoa ki te runanga Pakeha ko te Whitika to Kai whakarite o taua whenua.

Heoi kua oti i a matou te hurihuri to mihi to poroporoake te tino tuku rawa i tenei Kainga o a matou tipuna tuku iho i a matou me ona awa me ona manga me ona roto me ona wai me ona rakau me ona otaota me oua kohatu me ona wahi parae me ona wahi ataahua me ona wahi kino me nga mea katoa ki runga ranei o te whenua ki raro ranei o te whenua me nga aha nona iho o taua whenua ka oti rawa i a matou te tino tuku rawa atu i tenei ra e whiti nei kia Wikitoria to Kuini o Ingarangi ki nga Kingi Kuini ranei o muri iho i a ia a ako tonu atu.

A mo to matou whakaaetanga ki nga tikanga katoa o roto i tenei Pukapuka ka tuhia iho o matou o matou ingoa me o matou tohu.

A mo to whakaaetanga o te Kuini o Ingarangi mona ki nga tikanga katoa o roto i tenei Pukapuka ka tuhia iho e te Makarini to Kai whakarite whenua o te Kawana o Nui Tirenī tona ingoa.

TAMATI WAKA TAREWA.
WIREMU HOPIHONA.
TE RETIMANA ngatipou katoa.

Nga Kai titiro ki enei homaitanga utu me enei tuhinga ingoa—

C. O. Davis, Interpreter, Auckland.
Elwin B. Dickson, B.A.

1856.

27 December.

AUCKLAND DISTRICT.

LAND ON GREAT
BARRIER ISLAND.

Receipt for £200.

Boundaries.

TRANSLATION.

THIS DEED of Sale conveying Land written on this the twenty seventh 27 day of December in the Year of our Lord One thousand eight hundred and fifty six is a Deed of the full and unreserved assent of us the Chiefs and People of Ngatimaru and Ngatiwai whose names are hereunto attached on behalf of ourselves our relations and descendants born after us to give up and make over a portion of our Land to Victoria the Queen of England and to the Kings or Queens her successors for ever and ever.

And in consideration of our full consent to sell this piece of our Land Victoria the Queen of England agrees on her part to pay us the Sum of Three Hundred Pounds £300 once told. Of this amount we have received Two hundred Pounds £200 on this day from Donald MacLean Esquire. The third 3rd hundred Pounds £100 is to be paid to us in the month of June in the year One thousand eight hundred and fifty seven 1857.

The boundaries of the Land are these. Commencing at Matahoros on the Sea Coast at the Land formerly sold to Messrs. Whitaker and Du Moulin thence running along the Sea Coast to Whakatautuna thence on to Harataunga and as far as the Whangapoua stream. This is the termination on the Eastern Coast. On the Western Coast it commences at Whangati at the Land bought formerly by Messrs. Whitaker and Du Moulin running along the Sea Coast to Kohatupaopao and to Parahake until it reaches Akatarere. There it ends. The boundary on the South is at the Land bought by Messrs. Whitaker and Du Moulin. The boundary on the North is at the Land which was bought by the Company of Europeans Mr. Whitaker being the Attorney for the said Land.

Now we have for ever given up and wopt over and bidden farowell to and transferred this Land which has descended to us from our ancestors with its streams and its rivers and its lakes and its waters and its trees and its pastures and its minerals and its level spots with its fertile spots and its barren places with all above the said Land and all below the said Land and with all appertaining to the said Land we have now entirely given up under the shining sun of this day to Victoria the Queen of England or to the Kings or Queens her successors for ever and ever.

And in testimony of our consent to all the conditions contained in this Deed we have hereunto affixed our names and marks.

And in testimony of the consent of the Queen of England to all the conditions contained in this Deed Donald MacLean Esquire Land Commissioner of the Governor of New Zealand has hereto affixed his name.

(Signed) TAMATI WAKA TAREWA.
WIREMU HOPIHONA.
TE RETIMONA (Ngatipou katoa).

Witnesses to these payments and signatures—

(Signed) C. O. Davis, Interpreter, Auckland.
Elwin B. Dickson, B.A.

A True Copy of Original Deed and Translation.

H. HANSON TURTON.

Wellington, January 6th, 1875.

1856.

31 December.

AUCKLAND DISTRICT.

ONEWHEROWHERO,
WAITEMATA.

Deeds—No. 241.

ONEWHEROWHERO BLOCK, WAITEMATA, AUCKLAND DISTRICT.

HE PUKAPUKA whakaaetanga pono tenei naku na Paora Tuhoro kia hokona kia tino tukua rawatia atu kia Wikitoria to Kuini o Ingarangi ki nga Kingi Kuini ranei o muri iho i a ia ake tonu atu taua wahi whenua aku ko Onewherowhero to ingoa ki to taha tua-

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WAIPARAHEKA
continued.

Boundaries.

Right of road to
Moylo's residence.

Her and Her assigns namely that piece of land the boundaries whereof commence on the river Weiti at the corner of Moylo's fence thence in the course of the river Weiti to the surveyor's pole near the native huts and on the west thirty seven 37 chains and seventy 70 links on the south twenty four 24 chains on the east twenty six 26 chains and falls into the river Weiti at the European's fence where the boundaries join With the free right of road to that European to his residence With its Trees Minerals Waters Lakes Streams Good places and bad Plains Forests and all appertaining to the said Land above the surface of the Land or beneath the surface of the Land and all the Right Title Interest Claim and Demand whatsoever of us and each of us hereunto subscribed to the said Land. Now we have for ever given up and wopt over bidden farewell to and transferred under the shining sun of this day that land which descended to us from our forefathers the boundaries whereof have been above recited and the plan whereof is attached to this Deed as a lasting possession to The Queen and Her assigns absolutely for ever. And in testimony of our consent to all the conditions of this Deed we have hereunto signed our names and marks. And in testimony of the consent of John Rogan Esquire on behalf of Her Majesty to all the conditions of this Deed he also hereunto signs his name.

(Signed) JOHN ROGAN,
Dist. Commr.

TAMATI REWETI.

TORARA.

The mark x of TAWAEWAE.

Witness to the signatures and marks—

(Signed) M. M. Taylor.

W. F. Blake, Senr.

Receipt for £25.

Received by us this day the twenty fourth 24 day of October in the year of Our Lord One thousand eight hundred and fifty seven 1857 The sum of Twenty five Pounds the full Consideration Money promised in the Annexed Deed of Sale to be paid to us by John Rogan, Esquire.

(Signed) TAMATI REWETI.

TORARA.

The mark x of TAWAEWAE.

Witnesses to the payment of the said money—

(Signed) M. M. Taylor.

W. F. Blake, Sonr.

True translation of original deed and receipt

JOHN ROGAN,

District Commissioner.

A True Copy of Original Deed and Translation.

H. HANSON TURTON.

Wellington, September 23rd, 1874.

Deeds—No. 244.

1858.

12 June.

WAIHEKE ISLAND (LAND ON), AUCKLAND DISTRICT.

AUCKLAND DISTRICT.

WAIHEKE.

TENEI PUKAPUKA i tuhuhia i tenei tekau ma rua (12) o nga ra o Huno i te tau o te taton Ariki 1858 ho Pukapuka tino hoko tino hoatu tino tuku whakaoti atu na matou na nga Rangatira mo nga Tangata o Ngatipaoa no ratou nga ingoa o mau i raro nei a hei whakaatu tenei Pukapuka mo matou mo o matou whanaunga mo o matou uri mo te tahituhinga o o matou ingoa ki tenei pukapuka i raro i te ra e whiti nei kua whakarerec rawatia kua tino tukuna rawatia atu kia Wikitoria Kuini o Ingarani ki ona uri ki nga Kingi ki nga Kuini o muri iho i a ia me ana mo a ratou o whakarite ai hei whakaritenga mo nga Pauna moni E waru rau £800. 0. 0 kua utua mai ki a matou o Te Makarini mo te Kuini (a e whakaactia nei e matou te rironga mai o ana moni) ko taua wahi whenua katoa kei Waiheke ko te ingoa o taua wahi whenua—ko nga roho kei raro i te Pukapuka nei o mau ana te korero whakahaere ko te mapi hoki o taua whenua kua apititia ki tenei. Me ona rakau me ona kowhatu mo ona wai me ona awa nui mo ona roto mo ona awa ririki me nga mea katoa o taua whenua o runga ranei o raro ranei i te mata o taua whenua me o matou tikanga me o matou take me o matou paanga katoatanga ki taua wahi; Kia mau tonu kia Kuini Wikitoria ki ona uri ki ana ranei o whakarite ai hei tino mau tonu ake tonu atu. A hei tohu mo te matou whakaatanga ki nga tikanga katoa o tenei Pukapuka kua tuhuhia nei o matou ingoa me o matou tohu. A hei tohu hoki mo te whakaatanga o te Kuini o Ingarani mo taua wahi ki nga tikanga katoa o tenei Pukapuka kua tuhuhia nei te ingoa o Te Makarini Kaiwhakarite Whenua. Ko nga roho enoi o taua whenua ka timata i Maruakarara ka haere i te takutai o te moana a Rarohura, a Waihihi, a haere tonu Tikitikiatongia a te ana kowhatu i Ruruwhango, ka haere na uta makero rawa atu ko Te Toanga haere tonu i te taha o te moana a Te Waihirere, ka hoki whakautu ka rere i runga i te raina o te ruritanga tawhito o Opopo a Puketotara ka koki ka haere tonu i taua raina a makero non ki te moana i o Opopo ka tahi ka haere i te taha o te moana a Tokata haere tonu a Taniwhanui ka rere whakautu na runga i te raina ruritanga o te pihia o nga Pakeha a tutuki noa ki te ara toanga kua ki Pikau ka haere tonu i te taha o te moana a Waikururiki ka rere whakautu i runga i te raina o te Pakeha makero rawa ki te Rakiwhau ka heke i roto i taua awa a tutuki rawa ki te

Boundaries.

wahi i whakawhiti ai te raina tawhito i to awa, haero tonu a Whakataupoho ka whati ka abu ki te pa tawhito i Maunganui ka whati ka abu tika tonu ki Whakatauihu ka anga ki To Iwi-tuaroa a Puketutu ka whati ka makero ki te awa o Rangihoua ka haero tonu a te ngutu awa o Rarowhena ka eke i roto i taua awa rero tonu atu a to Maruakarara, ka tutaki nga roho.

Ko nga tangata i kite i to hoatutanga o nga moni mo te tuhinga o nga ingoa—
DONALD McLEAN.

Tikaokao x.	Wiremu Hoete.
Paengahuka x.	Poihipi Ngamare x.
Kapakapa by Mohi x.	Wiremu Kepa x.
To Ruinga x.	Hiwinui.
Pahau x.	Mohi Whakaharuru x.
Hori Pokai x.	Hori Rakema x.
Paora Tawera x.	Ngatai x.
Patara Pouroto x.	Ngakete by Hori Pokai.

Witness to signatures—

Charles Heaphy, Surveyor, Auckland.
George Friend, Aect., L.P.D., Auckland.
Wm. B. Baker, Chf. Clk., L.P.D., Auckland.

Kua riro mai ki a matou i tenei ra i te tekau ma rua o nga ra o Hune i to tau o to Tatou Ariki Kotahi mano o waru rau o rima tekau ma waru (1858) nga Pauna moni Ewaru rau takitahi (£800 . 0 . 0) Ko te utu tenei kua whakahuatia ki te Pukapuka tuku e mau i runga ako nei kia utua mai ki a matou o Te Makarini mo to Kuini.

Receipt for £800.

HORI POKAI x.
PATARA POUROTO x.

Nga Kai-titiro—

George Friend, Aect., L.P.D., Auckland.
William B. Baker, Chf. Clk., L.P.D., Auckland.

TRANSLATION

THIS DEED written on this twelfth (12) day of June in the Year of our Lord 1858 is a full and final sale conveyance and surrender by us the Chiefs and People of the Tribe of Ngatipaoa whose names are hereunto subscribed And Witnesseth that on behalf of ourselves our relatives and our descendants we have by signing this Deed under the Shining Sun of this day parted with and for ever transferred unto Victoria Queen of England Her Heirs the Kings and Queens who may succeed Her and Her and Their Assigns for ever in consideration of the Sum of Eight hundred Pounds (£800 . 0 . 0) to us paid by Donald McLean Esquire on behalf of the Queen Victoria (and we hereby acknowledge the receipt of the said monies) all that piece of our Land situated at Waiheke and named— the boundaries whereof are set forth at the foot of this Deed and a plan of which Land is annexed thereto with its trees minerals waters rivers lakes streams and all appertaining to the said Land or beneath the surface of the said Land and all our right title claim and interest whatsoever thereon. To Hold to Queen Victoria Her Heirs and Assigns as a lasting possession absolutely for ever and ever. And in testimony of our consent to all the conditions of this Deed we have hereunto subscribed our names and marks. And in testimony of the consent of the Queen of England on her part to all the conditions of this Deed the name of Donald McLean Commissioner is hereunto subscribed. These are the boundaries of the Land commencing at Maruakarara thence along the sea coast to Karohara, Waihihi and on to Tikitikiatonga thence to the cove at Ruruwango where it turns inland coming out again at To Toanga thence along the sea coast to Waihirero where it turns inland and runs along the line of the old survey at Opopo to Puketotara where it turns again continuing along the said line till it falls into the sea at Opopo, thence along the sea coast to Tokata thence to Taniwhanui running thence inland along the survey line of land belonging to the Europeans till it falls into the cart road at Pikau thence along the shore to Waikurariki thence inland along the survey line of European land to Rakiwhau and down that stream till it reaches the spot where the old line crosses the river thence to Whakataupoho where it turns and runs to the old pa at Maunganui turning there it runs in a straight line to Whakatauihu whence it runs to Iwituroa to Puketutu where it turns and falls into the Rangihoua stream thence on to the mouth of Rarowhena and up the course of that stream to Maruakarara where the boundaries meet.

1858.
12 June.
AUCKLAND DISTRICT.
WAIHEKE.

Tikaokao x.	(Sd.) DONALD McLEAN.
Paengahuka x.	Wiremu Hoete.
Kapakapa x.	Poihipi Ngamare x.
To Ruinga x by Mohi.	Wiremu Kepa x.
Pahau x.	Mohi Whakaharuru x.
Hori Pokai x.	Hori Rakema.
Paora Tawera x.	Ngatai.
Patara Pouroto x.	Ngakete x by Hori Pokai.

Witnesses to the payment and signatures—

Charles Heaphy, Surveyor, Auckland.
George Friend, Aect., L.P.D., Auckland.
Wm. B. Baker, Chf. Clk., L.P.D., Auckland.

WAIHEKE
continued.
Receipt for £800.

Received this twelfth day of June in the Year of Our Lord One thousand eight hundred and fifty eight (1858) the Sum of Eight hundred Pounds sterling (£800 . 0 . 0) being the consideration money expressed in the above-written Deed to be paid by Donald McLean Esqre. on behalf of Her Majesty the Queen to us.

HORI POKAI X.
PATARA POUROTO X.

Witnesses—

George Friend, Acct., L.P.D., Auckland.
William B. Baker, Chf. Clk., L.P.D., Auckland.

A True Copy of Original Deed and Translation.

H. HANSON TURTON.

Wellington, September 21st, 1874.

1858.
28 June.

AUCKLAND DISTRICT.
WAIHEKE.

Deeds—No. 245.

WAIHEKE ISLAND (LAND ON), AUCKLAND DISTRICT.

TENEI PUKAPUKA i tūhūhia i tenei rua tekau mā waru o nga ra o Hune i te tau o to tatou Ariki 1858 he Pukapuka tino hoko tino hontu tino tuku whakaoti atu na matou na nga Rangatira me nga Tangata o Ngatipaoa no ratou nga ingoa o mau i raro nei a hei whakaatu tenei Pukapuka mo matou me o matou whanaunga me o matou uri mo te tūhūhinga o o matou ingoa ki tenei pukapuka i raro i te ra o whiti nei kua whakareea rawatia kua tino tukuna rawatia atu kia Wikitoria Kuini o Ingarani ki ona uri ki nga Kingi ki nga Kuini o muri iho i a ia me ana me a ratou o whakarite ai hei whakaritenga mo nga Pauna moni kotahi tekau takitahi kua utua mai ki a matou o To Makarini mo te Kuini (a o whakaaetia nei o matou to rironga mai o aua moni) ko taua wahi whenua katoa kei Waiheke ko — to ingoa o taua wahi whenua ko nga roho kei raro i to Pukapuka nei o mau ana te korero whakaaetia ko te mapi hoki o taua whenua kua upititia ki tenei. Me ona rakau me ona kowhatu me ona wai me ona awa nui me ona roto me ona awa ririki me nga mea katoa o taua whenua o runga ranei o raro ranei i te mata o taua whenua me o matou tikanga me o matou take me o matou paanga katoatanga ki taua wahi; Kia mau tonu kia Kuini Wikitoria ki ona uri ki ana ranei o whakarite ai hei tino mau tonu ake tonu atu. A hei tohu mo to matou whakaaetanga ki nga tikanga katoa o tenei Pukapuka kua tūhūhia nei o matou ingoa me o matou tohu. A hei tohu hoki mo te whakaaetanga o te Kuini o Ingarani mo taua wahi ki nga tikanga katoa o tenei Pukapuka kua tūhūhia nei o matou ingoa o To Makarini Kaiwhakaitia Whenua. Ko nga roho enei o taua whenua ka timata i Opui ka rero atu ki te Rakiwhau whakamau atu ki te tuku whakararo o Nga Tuturu ki te maunga i runga o Te Huruhi, ko te putanga kei to wharo o Taiko—ka haere i runga o Te Ahu ka puta ki Whakataupoho.

Boundaries.

Ko nga tangata i kite i te hoatutanga o nga moni
me te tūhūhinga o nga ingoa—

William B. Baker, Chf. Clk., L.P.D., Auckland.
James Fulloon, Clk., Auckland.

Receipt for £10.

Kua riro mai ki a matou i tenei ra i te 28 o nga ra o Hune i te tau o to Tatou Ariki Kotahi mano e waru rau i rima tekau mā waru (1858) nga Pauna moni kotahi tekau (£10 . 0 . 0) Ko to utu tenei kua whakaaetia ki te Pukapuka tuku o mau i runga ake nei kia utua mai ki a matou o To Makarini mo te Kuini.

HORI POKAI X.

Nga Kai-titiro—

William B. Baker, Chf. Clk., L.P.D., Auckland.
James Fulloon, Clk., Auckland.

1858.
28 June.
AUCKLAND DISTRICT.
WAIHEKE.

TRANSLATION.

THIS DEED written on this twenty eighth day of June in the Year of our Lord 1858 is a full and final sale conveyance and surrender by us the Chiefs and People of the Tribe Ngatipaoa whose names are hereunto subscribed And Witnesseth that on behalf of ourselves our relatives and descendants we have by signing this Deed under the shining sun of this day parted with and for ever transferred unto Victoria Queen of England Her Heirs the Kings and Queens who may succeed Her and Her and Their Assigns for ever in consideration of the sum of Ten Pounds (£10 . 0 . 0) to us paid by Donald McLean Esquire on behalf of the Queen Victoria (and we hereby acknowledge the receipt of the said monies) all that piece of our Land situated at Waiheke and named — the boundaries whereof are set forth at the foot of this Deed and a plan of which Land is annexed thereto with its trees minerals waters rivers lakes streams and all appertaining to the said Land or beneath the surface of the said Land and all our right title claim and interest whatsoever thereon To Hold to Queen Victoria Her Heirs and Assigns as a lasting possession absolutely for ever and ever. And in testimony of our consent to all the conditions of this Deed we have hereunto subscribed our names and marks. And in testimony of the consent of the Queen of England on her part to all the conditions of this Deed the name of Donald McLean Esquire Chief Commissioner is hereunto subscribed. These are the boundaries of the Land commencing at Opui running thence to the Rakiwhau and on to the lower side of the Nga Tuturu to the hill

Boundaries.

1867.
18 October.

AUCKLAND DISTRICT.

WAIHEKE ISLAND.

Ngatimaru claims.

Receipt for £300.

Boundaries.

Deeds—No. 247.

WAIHEKE ISLAND (CLAIMS OF NGATIMARU), AUCKLAND DISTRICT.

TENEI PUKAPUKA i tuhituhiā i tenei te tekau mā waru o nga ra o Okotopa i te tau o te tatau Ariki 1867 he Pukapuka tino hoko tino houtu tino tuku whakaoiti atu na matou na nga Rangatira me nga Tangata o Ngatimaru no ratou nga ingoa o mau i raro nei a hei whakantū tenei Pukapuka mo matou mo o matou whanaunga mo o matou uri mo to tuhituhiā o o matou ingoa ki tenei pukapuka i raro i te ra o whiti nei kua whakarerea rawatia kua tino tukuna rawatia atu kia Wikitoria Kuini o Ingarani ki ona uri ki nga Kingi ki nga Kuini o muri iho i a ia me ana me a ratou o whakarito ai hei whakaritenga mo nga Pauna moni E toru rau (£300 . 0 . 0) kua utua mai ki a matou o Tiemi Make, Komihana mo to Kuini (a o whakaaetia nei o matou te rironga mai o aua moni) ko taua wahi whenua katoa kei Waiheke ko to motu o Waiheke te ingoa o taua wahi whenua ko nga rohe kei raro i te Pukapuka nei o mau ana te korero whakahaero ko to mapi hoki o taua whenua kua apititia ki tenei. Mo ona rakau mo ona kowhatu mo ona wai mo ona awa nui me ona roto mo ona awa ririki me nga mea katoa o taua whenua o runga ranei o raro ranei i te mata o taua whenua mo o matou tikanga mo o matou take mo o matou paanga katoatanga ki taua wahi; Kia mau tonu kia Kuini Wikitoria ki ona uri ki ana ranei e whakarite ai hei tino mau tonu ake tonu atu. A hei tohu mo to matou whakaaetanga ki nga tikanga katoa o tenei Pukapuka kua tuhituhiā nei o matou ingoa mo o matou tohu. A hei tohu hoki mo to whakaaetanga o to Kuini o Ingarani mo taua wahi ki nga tikanga katoa o tenei Pukapuka kua tuhia nei te ingoa o Tiemi Make Kaiwhakarite Whenua. Ko nga rohe enei o taua whenua ka timata i te tahataha moana i te Roro o mae aea haere tonu ka rohe i te moana i te taha ki te hauauru, i te taha whakararo, i te taha ki te marangai, i te taha ki te tonga tae noa to wahi i timata ai. Otira ekoro e meingatia kia ho tetahi wahi o te take o te paanga o te tikanga o te iwi o Ngatipaoa o tetahi tangata ranei o taua iwi ki etahi o nga pihi o nohoia e ratou inaianei, ki etahi o nga pihi whenua kua oti te rahui mo ratou ki roto ki nga rohe o taua whenua ara ki taua motu o Waiheke.

Wirapo Hotereni Taipari.
Rapana Maunganoa x his mark.
Matiu Kaimate.
Raika Whakarongotai.
Watana Tuma.
Miriamā te Ngahue x her mark.
Mata Paraoke x her mark.
Te Marau x his mark.
Pahau.

Renata Taniwha.
Hoterene Taipari x his mark.
Riwai Kiore x his mark.
Piniha.
Aperchama Te Reiroa x his mark.
Hirini Ngaone x his mark.
Karauna.
Mango.

A. H.

JAMES MACKAY, Jr.

Witness to signatures (1S)—

Alex. Hogg, Land Agent, Shortland.

1867.

18 October.

AUCKLAND DISTRICT.

WAIHEKE ISLAND.

Ngatimaru claims.

Receipt for £300.

Boundaries.

TRANSLATION.

THIS DEED written on this eighteenth day of October in the Year of our Lord 1867 is a full and final sale conveyance and surrender by us the Chiefs and People of the Tribe Ngatimaru whose names are hereunto subscribed And Witnesseth that on behalf of ourselves our relatives and descendants we have by signing this Deed under the shining sun of this day parted with and for ever transferred unto Victoria Queen of England Her Heirs the Kings and Queens who may succeed Her and Her and their Assigns for ever in consideration of the sum of Three hundred Pounds (£300 . 0 . 0) to us paid by James Mackay the Younger Esquire Civil Commissioner on behalf of the Queen Victoria (and we hereby acknowledge the receipt of the said moneys) all that piece of our Land situated at Waiheke and named the Island of Waiheke the boundaries whereof are set forth at the foot of this Deed and a plan of which Land is annexed thereto with its trees minerals waters rivers lakes streams and all appertaining to the said Land or beneath the surface of the said Land and all our right title claim and interest whatsoever thereon To hold to Queen Victoria Her Heirs and Assigns as a lasting possession absolutely for ever and ever. And in testimony of our consent to all the conditions of this Deed we have hereunto subscribed our names and marks. And in testimony of the consent of the Queen of England on her part to all the conditions of this Deed the name of James Mackay Jr. Commissioner is hereunto subscribed. These are the boundaries of the Land commencing at the sea coast at Te Roro o mae aea, thence bounded by the sea coast on the west, north, east and south sides to the point of commencement. Provided that nothing herein contained shall be deemed to prejudice the right, title, or interest of the tribe Ngatipaoa or any members thereof to lands now held by them, or reserved for their use anywhere within the limits of the said island of Waiheke.

Wirapo Hotereni Taipari.
Rapana Maunganoa x his mark.
Matiu Kaimate.
Raika Whakarongotai.
Watana Tuma.
Miriamā te Ngahue x her mark.

Renata Taniwha.
Hoterene Taipari x his mark.
Riwai Kiore x his mark.
Piniha.
Aperchama te Reiroa x his mark.

Mata Paraone x her mark.
To Marau x his mark.
Pahau.

Hirini Ngaono x his mark.
Karauna.
Mango.

WAIHEKE ISLAND
continued.

JAMES MACKAY, Jr.

A. H.

Witness to signatures (18)—
(Sd.) Alex. Hogg, Land Agent, Shortland.

A True Copy of Original Deed and Translation.

H. HANSON TURTON.

Wellington, January 7th, 1875.

Deeds—No. 248.

WAIHEKE ISLAND (CLAIMS OF NGATIMARU), AUCKLAND DISTRICT.

Kia riro mai i a matou i nga tangata o mau ake nei nga ingoa, i tenei whitu o nga ra o Tihema i te tau o to tatou Ariki, kotahi mano o waru rau o ono tekau ma iwa nga Pauna moni Kotahi rau o rima tekau £150. O. O hei utu whakamutunga mo nga take mo nga paanga o Ngatimaru, mo ona hapu katoa ki to motu o Waiheke.

Kua oti atu o matou paanga ki taua whenua katoa, mo nga paanga mo nga take katoa o Ngatimaru, mo ona hapu katoa ki a Kuini Wikitoria te Kuini o Ingarangi, ki nga Kingi ki nga Kuini o muri iho i a ia mo ona me o ratou tukunga iho Ako tonu atu: mo ona awa, mo ona wai mo ona rakau, mo ona kowhatu, mo ona mea katoa i raro i runga ranei i taua whenua.

A mo te rironga mai o onci moni i to ringaringa o To Paki (E. W. Puckey) ki a matou i tenei ra ka tuhia iho o matou ingoa me o matou tohu.

Riwai to Kiore x tana tohu.

Parata to Mapu.

Papakoura x tana tohu.

Hawira.

Mata Parata x tana tohu.

I Haka Tarawhati x tana tohu.

Wiremu Kawariri x tana tohu.

Ripeka x.

Ihaka to Kaaho x tana tohu.

Kipa to Whatanui.

Tautari Pukeroa x tana tohu.

Hona Taiawa x tana tohu.

Raiha to Ataiti x tana tohu.

matinga ono.

Pirika.

Henare Pita x tana tohu.

Iingi Kero a puru.

Rapana Maunganoa x tana tohu.

Warako To mata pihi x tana tohu.

Wiromu to Pea.

Karauna Hau.

Rawiri.

teretiu.

Wiremu Pukeroa.

Mata Paraone x tana tohu.

Wiriaata x tana tohu.

Hoori Timo x tana tohu.

Na Tanahira te hurupa x tana tohu.

Kirikau x tana tohu.

Tereweti to rang x tana tohu.

Aherata to nui x tana tohu.

Signed in the presence of—

A. C. H. O'Neill, Settler, Otago.

TRANSLATION.

We the persons whose names are hereunder written have received on this seventh day of December in the Year of Our Lord one thousand eight hundred and sixty nine the sum of One hundred and fifty Pounds sterling (£150) in final payment for the claims and interests of Ngatimaru and all the hapus thereof to the island of Waiheke.

We have parted with all our claims to all that land and with all the claims and interests of Ngatimaru and all the hapus thereof to Queen Victoria and to the Kings and Queens who may succeed Her and Her or Their descendants for ever: Together with its streams, its waters, its trees, its stones and everything either above or under the said land.

And in token of the receipt of this money by us from E. W. Puckey on this day we hereunto subscribe our names and make our marks.

[Witnesses.]

Correct Translation.

T. E. Youko, Translator, Native Department.

A True Copy of Original Deed and Translation.

H. HANSON TURTON.

Wellington, January 7th, 1875.

1869.

7 December.

AUCKLAND DISTRICT.

WAIHEKE ISLAND.

Ngatimaru claims.

Receipt for £150.

1869.

7 December.

WAIHEKE ISLAND.

Ngatimaru claims.

Receipt for £150.

COROMANDEL

COUNTY

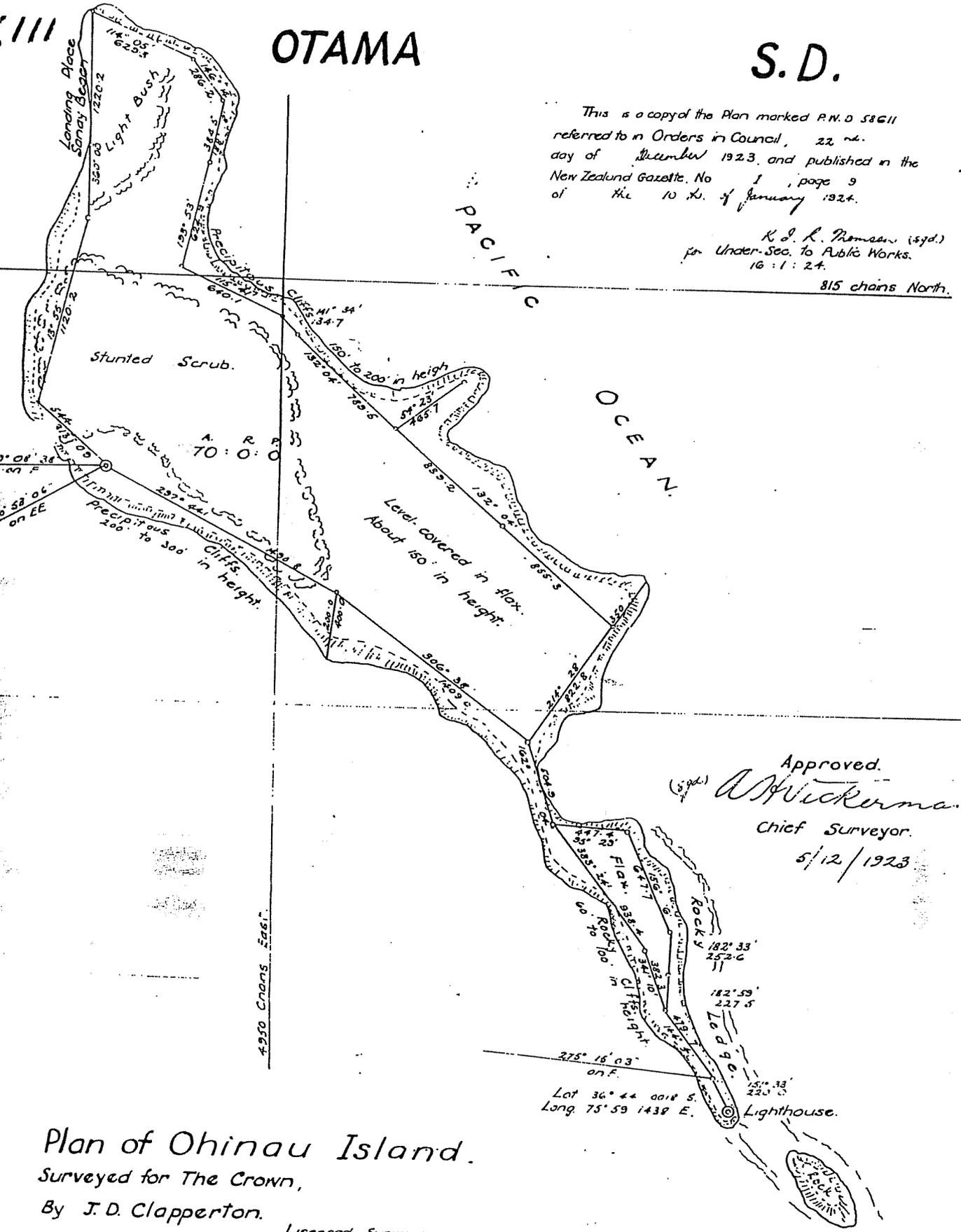
OTAMA

S.D.

This is a copy of the Plan marked P.W. D 58611 referred to in Orders in Council, 22nd day of December 1923, and published in the New Zealand Gazette, No 1, page 9 of the 10th of January 1924.

R. J. L. Roman, (s.d.)
for Under-Sec. to Public Works.
16:1:24.

815 chains North.



Approved.

W. Wickham

Chief Surveyor.

5/12/1923.

Plan of Ohinau Island.

Surveyed for The Crown,

By J. D. Clapperton.

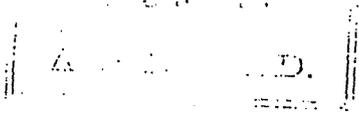
Licensed Surveyor.

Nov. 1923.

Scale 5 chains to an inch

22727.

Q. 2



[Extract from *N.Z. Gazette* No. 1, 10th January, 1924.]

Native Land in Block XIII, Otama Survey District, taken for the Purposes of a Lighthouse.

JELLCOE, Governor-General.
ORDER IN COUNCIL.

At the Government Buildings at Wellington, this 22nd day of December, 1923.

Present:

THE HONOURABLE SIR FRANCIS BELL PRESIDING IN COUNCIL.

IN pursuance and exercise of the powers and authorities vested in him by the Public Works Act, 1908, and of all other powers and authorities in anywise enabling him in this behalf, His Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of the said Dominion, doth hereby proclaim and declare that the Native land described in the Schedule hereto is hereby taken for the purposes of a lighthouse, and that the said land shall vest in His Majesty the King as from the eleventh day of February, one thousand nine hundred and twenty-four.

SCHEDULE.

APPROXIMATE area of the piece of land taken: 70 acres, being Ohinau Island, situated in Block XIII, Otama Survey District (Auckland R.D.). (S.O. 22727).

In the Auckland Land District; as the same is more particularly delineated on the plan marked P.W.D. 58611, deposited in the office of the Minister of Public Works at Wellington, in the Wellington Land District, and thereon coloured red.

C. A. JEFFERY,
Acting Clerk of the Executive Council.

Q 3

31 January 1974

Mr Paraone Reweti,
No. 5 R.D.,
Welcome Bay,
TAURANGA.

Dear Mr Reweti,

OHINAU ISLAND

Your enquiry by telephone on 30 January 1974 concerning the Ohinau Island refers. The above Island has an area of 70 acres and is located in the Coromandel County situated in Block XIII of the Otama Survey District.

The Island was taken under the Public Works Act 1908 for the purposes of a Lighthouse. An Order in Council issued and was published in the New Zealand Gazette Number 1 Page 9 dated 10 January 1924. An application for investigation of title was lodged on 14 May 1923. On 13 March 1924 the application was dismissed, the reason quoted being that the land was taken under the Public Works Act. No application for assessment of compensation was ever filed and therefore there was never any compensation assessed by the Court.

Further application for investigation of title was filed on 1 August 1949 by Ngawhira Reweti but the application was finally dismissed on 14 October 1953 for lack of prosecution.

It appears the prospective owners at that time were as follows :-

Maraea Tiki Viniata	of	Whitianga
Ngawhira Reweti	of	Whitianga
Miriama Takerei (minor)	of	Whitianga
Toko Nicholson	of	Foxton
Neville Nicholson	of	Dannevirke

We trust the above information is of some assistance to you.

Yours faithfully,


(J.A.H. Tait)
for REGISTRAR



ANALYSIS

- | | |
|---|--|
| Title | |
| 1. Short Title | 6. Chairman of the Board |
| 2. Application of Reserves and Domains Act 1953 | 7. Meetings of the Board |
| 3. Interpretation | 8. Functions of the Board |
| 4. Hauraki Gulf Maritime Park | 9. Utilisation plans |
| 5. Hauraki Gulf Maritime Park Board | 10. Special powers of the Board Schedule |

1967, No. 131

An Act to establish the Hauraki Gulf Maritime Park, and to provide for the administration thereof

[24 November 1967

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Hauraki Gulf Maritime Park Act 1967, and shall be read together with and deemed part of the Reserves and Domains Act 1953 (hereinafter referred to as the principal Act).

2. Application of Reserves and Domains Act 1953—In its application to the Hauraki Gulf Maritime Park and the Hauraki Gulf Maritime Park Board, the principal Act shall be read subject to the provisions of this Act.

3. Interpretation—In this Act, unless the context otherwise requires,—

“Hauraki Gulf Maritime Park” or “Park” means the Hauraki Gulf Maritime Park constituted under this Act:

"Hauraki Gulf Maritime Park Board" or "Board" means the Hauraki Gulf Maritime Park Board established under this Act.

4. Hauraki Gulf Maritime Park—(1) There is hereby established a maritime park under the name of the Hauraki Gulf Maritime Park, which shall comprise—

- (a) The public reserves described in the Schedule to this Act;
- (b) All other public reserves and other areas from time to time included in the Park under the succeeding provisions of this section.

(2) The Minister may from time to time, by notice in the *Gazette*,—

- (a) Declare that any public reserve within the limits specified in subsection (3) of this section vested in Her Majesty shall be added to and form part of the Park from a date specified in the notice:

Provided that no public reserve that is vested in an administering body or is subject to any Act administered by any Minister other than the Minister of Lands shall be added to the Park under this paragraph except with the consent of the administering body or that other Minister, as the case may be:

- (b) With the consent of the Minister charged with the administration of the Act to which the land is subject or of the trustees, as the case may be, declare that any other land within the limits specified in subsection (3) of this section which is subject to the provisions of any Act or is vested in any trustees and set apart for a particular public purpose shall be added to and form part of the Park from a date specified in the notice:

- (c) Declare that any land forming part of the Park (including any public reserve described in the Schedule to this Act) shall cease to form part of the Park from a date specified in the notice.

(3) No public reserve or other land shall be added to the Park under subsection (2) of this section, unless it is situated within the following limits:

- (a) All islands in the Hauraki Gulf;
- (b) All other islands adjacent to the east coast of the North Island between the eastern headland at the

STATUTES
THIS COPY
ANNOTATED
BY THE
LIBRARY
OF THE
PARLIAM.
OF NEW ZEALAND

entrance to Whangamata Harbour and Home Point at the northern end of Bland Bay:

- (c) That part of the mainland of the North Island bounded on the seaward side by the part of the east coast described in paragraph (b) of this subsection;—

and, for the purposes of this subsection, the foreshore (as defined in the Harbours Act 1950) of any such island or adjacent to the part of the mainland so described shall be deemed to form part of the island or of the mainland, as the case may be.

(4) No public reserve or other land on the mainland of the North Island shall be added to the Park under subsection (2) of this section, unless it has a frontage to the seacoast. For the purposes of this subsection, any reserve or other land that is separated from the seacoast by a road or street or public reserve shall be deemed to have a frontage to the seacoast.

(5) Every public reserve which for the time being forms part of the Park shall continue to be a public reserve for the same purpose as that for which it was held immediately before it became part of the Park by or pursuant to the provisions of this Act, or, where that purpose is changed pursuant to section 18 of the principal Act, for that changed purpose.

(6) All land which is added to and forms part of the Park pursuant to paragraph (b) of subsection (2) of this section shall be administered for the purpose or purposes for which it was held under the Act to which it was subject or under the trust, as the case may be, immediately before it became part of the Park, and, subject to the provisions of the principal Act and this Act, shall continue to be subject to the first-mentioned Act or to the trust, as the case may be. So long as any such land forms part of the Park, the principal Act shall apply to it as if it were a public reserve.

5. Hauraki Gulf Maritime Park Board—(1) For the purposes of this Act there is hereby established a Board, to be called the Hauraki Gulf Maritime Park Board, consisting of—

- (a) The Commissioner of Crown Lands for the North Auckland Land District;
- (b) One member, to be appointed by the Minister on the recommendation of the Auckland City Council;
- (c) One member, to be appointed by the Minister on the recommendation of the Devonport Borough Council;

R 4

- (d) One member, to be appointed by the Minister on the recommendation of the Auckland Regional Authority:
- (e) Not more than six other members, to be appointed by the Minister.
- (2) The appointed members of the Board shall be appointed for a term not exceeding three years, and may from time to time be reappointed. Notwithstanding that his term of office has expired, any appointed member of the Board, unless he sooner vacates office pursuant to paragraph (b) or paragraph (c) of section 8 of the principal Act or his appointment is revoked under subsection (3) of this section, shall remain in office until his successor comes into office.
- (3) The Minister may from time to time, by notice in the *Gazette*, reduce the number of appointed members of the Board, and for that purpose may revoke the appointments of such members as may thereby be rendered necessary.
- (4) Subject to the provisions of this Act, the principal Act shall apply to the Board and the members thereof as if it were a special Board appointed under the principal Act.

6. Chairman of the Board—(1) The Commissioner of Crown Lands shall be the Chairman of the Board.

(2) The Chairman shall preside at all meetings of the Board at which he is present.

(3) In the absence from any meeting of the Board of the Commissioner of Crown Lands, the members present shall choose one of their number to be the Chairman of that meeting.

7. Meetings of the Board—(1) The first ordinary meeting of the Board shall be held at such time and place as the Chairman appoints, and subsequent meetings shall be held at such times and places as the Board appoints.

(2) Meetings of the Board may be called at any time by the Chairman, and he shall call a special meeting whenever any three members so request in writing.

(3) At all meetings of the Board, five members shall constitute a quorum.

(4) Every question before the Board shall be determined by a majority of the votes of the members present and voting thereon.

(5) The Chairman of any meeting shall have a deliberative vote, and in the case of an equality of votes shall have a casting vote also.

(6) In the absence from any meeting of the Board of the Commissioner of Crown Lands, he may appoint an officer of the Department of Lands and Survey to attend the meeting in his stead. While any person attends a meeting of the Board under this subsection, he shall be deemed for all purposes to be a member of the Board.

(7) The fact that any person attends and acts as a member of the Board at any meeting of the Board shall be conclusive proof of his authority to do so.

(8) The powers of the Board shall not be affected by any vacancy in the membership thereof.

(9) The Board shall cause minutes of all its proceedings to be kept.

(10) Subject to the provisions of this Act and the principal Act, the Board may regulate its own procedure.

8. Functions of the Board—(1) The functions of the Board shall be to administer, manage, and control the Park in accordance with the provisions of the principal Act and this Act and the means at its disposal in such a manner as to ensure to the public the maximum proper use and enjoyment of the Park consistent with the preservation of its natural features and the protection and well-being of its flora and fauna.

(2) The Board shall be deemed to be the administering body of all public reserves for the time being forming part of the Park and of all other areas for the time being forming part of the Park as if they were public reserves. Where immediately before it became part of the Park any public reserve was under the control and management of or vested in any administering body, then, so long as the reserve forms part of the Park that body shall have no jurisdiction in respect of the reserve.

9. Utilisation plans—(1) The Board shall from time to time prepare and submit to the Minister for his approval utilisation plans for all land for the time being forming part of the Park.

(2) The utilisation plans shall provide for and ensure—

- (a) Full use of any reserve for the purposes for which it is set apart under the principal Act or any other Act;
- (b) Compliance with the provisions of any Act or any trust in relation to any land forming part of the Park, not being a public reserve.

R 6

(3) The Board shall in the exercise of its functions comply with the utilisation plans as approved by the Minister and with any amended plans which may from time to time be approved by the Minister on the recommendation of the Board.

(4) No approval by the Minister for the purposes of this section shall operate as an approval or a consent for any purpose of the principal Act.

10. Special powers of the Board—(1) Subject to the provisions of section 9 of this Act, the Board may carry out such farming operations on any land forming part of the Park as it considers desirable and consistent with the provisions of this Act.

(2) The Board may enter into an agreement with the Minister providing for the carrying out by the Land Settlement Board of farming operations, including development and improvement of the land on behalf of the Hauraki Gulf Maritime Park Board, on any land forming part of the Park on such terms and conditions as may be agreed upon between the Minister and the last-mentioned Board.

(3) Subject to the deduction of any administration charge which may be fixed from time to time by the Minister of Finance, the net profit, as determined by the Minister of Lands, for each year ending with the thirtieth day of June from the farming operations carried out by the Crown pursuant to an agreement under subsection (2) of this section shall, without further appropriation than this subsection, be paid to the Board. Where the farming operations in any year are run at a loss, then, until the loss has been recouped from profits in ensuing years, no such profits shall be paid to the Board.

(4) There shall be paid to the Board out of the Works and Trading Account, without further appropriation than this subsection, the net profit, as determined by the Minister, from the carrying out by the Crown of farming operations on Motutapu Island during the period commencing on the first day of July, nineteen hundred and sixty-six, and ending on the date on which any agreement in relation to Motutapu Island entered into under subsection (2) of this section comes into operation.

(5) The Board—

(a) May from time to time, with the approval of the Minister, contribute money from its funds for or towards the purchase of any specified land by the

Crown to be held as a public reserve for addition to the Park; and

(b) Shall from time to time, if the Minister so directs, set aside money from its funds as a reserve fund to be applied for the purposes specified in paragraph (a) of this subsection.

(6) The Board shall be deemed to be a local authority for the purposes of section 192 of the Harbours Act 1950, and shall be entitled to exercise in respect of any wharf the management of which is vested in the Board under that section the powers conferred on a local authority by or pursuant to that section and section 193 of that Act.

Section 4 (1) (a)

SCHEDULE

PUBLIC RESERVES CONSTITUTING THE HAURAKI GULF MARITIME PARK

ALL those areas in the North Auckland Land District described as follows:

Firstly, Section 10, Block V, Rangitoto Survey District, containing 3,728 acres, more or less. (S.O. Plan 45588) (Recreation Reserve—Motutapu Island).

Secondly, Lots 2, 3, 4, 6, 7, and 9, D.P. 39418, being part Kawau Island, situated in Blocks V and VI, Kawau Survey District, containing a total area of 86 acres and 1 perch, more or less, and being all the land comprised and described in certificate of title, Volume 1687, folio 31, North Auckland Registry, subject to a right of way over Lot 7 created by Transfer 512095. (Recreation reserve—Kawau Island Domain.)

Thirdly, Motuora Island, situated in Block VII, Kawau Survey District, containing 197 acres, more or less, and being all the land comprised and described in certificate of title, Volume 767, folio 256, limited as to parcels, North Auckland Registry. (S.O. Plan 89A) (Recreation reserve).

Fourthly, Poor Knights Islands (Tawhiti Rahi), approximate latitude 35° 31' 30" south, longitude 174° 44' east, containing 482 acres 2 roods, approximately. (S.O. Plan 29179) (Reserve for scenic purposes).

Fifthly, Hauturu (Little Barrier) Island, situated in Little Barrier Survey District, containing 6,960 acres, more or less. (S.O. Plan 38373) (Reserve for preservation of native fauna).

R 8

SCHEDULE—*continued*

Sixthly, Part Repanga (Cuvier) Island, situated approximately 15 miles south-east of Cape Barrier, a point in Block VIII, Tryphena Survey District, at the southern extremity of Great Barrier Island, containing 723 acres 1 rood and 35 perches, more or less, and being part provisional register, Volume 27, folio 117, North Auckland Registry. As shown on the plan marked L. and S. 4/94, deposited in the Head Office, Department of Lands and Survey, at Wellington, and thereon edged red. (Reserve for preservation of flora and fauna.)

Seventhly, those islands in the Mercury (Iles d'Haussez) Group shown on New Zealand Map Series 1, Sheet N40 and described as Stanley Island, the approximate centre for which the map reference is 378865, containing 212 acres, more or less, and Double Island, the approximate centre for which the map reference is 397882, containing 85 acres, more or less. As shown on the plan marked L. and S. 4/94A, deposited in the Head Office, Department of Lands and Survey, at Wellington, and thereon edged red. (Reserve for flora and fauna.)

This Act is administered in the Department of Lands and Survey.
