1844

(MoJ, 1996: 26–27)

THE TARANAKI REPORT

KAUPAPA TUATAHI

WAI 143

Muru me te Raupatu

The Muru and Raupatu of the Taranaki Land and People

WAITANGI TRIBUNAL REPORT 1996

3rd

The claims were brought
to the Tribunal as 'Muru me te Raupatu'.
In Taranaki, 'muru' describes the confiscation
or plunder of property as punishment for alleged offences,
'raupatu', the conquest or subjugation of the people by Government control.

MoJ, 1996

The cover design by Cliff Whiting invokes the signing
of the Treaty of Waitangi and the consequent interwoven development
of Maori and Pakeha history in New Zealand as it continuously
unfolds in a pattern not yet completely known

A Waitangi Tribunal report
ISBN 1-86956-140-6

First published 1996
Reprinted with corrections 1997, 2001
Edited and produced by the Waitangi Tribunal
Published by Legislation Direct, Wellington, New Zealand
Printed by PrintLink, Wellington, New Zealand
Set in Times New Roman

The transactions promised to reserve to Maori vendors one-tenth of all land purchased, the clause in the Nga Motu deed reading:

> A portion equal to one tenth of the land ceded by them will be reserved by . . . the New Zealand Company . . . and held in trust by them for the future benefit of the said chiefs their families, tribes and successors forever.[12]

The company considered that these reserves would greatly increase in value with the settlement of the balance by industrious colonists and would have greater long-term value than the payments made on the deeds.

The Treaty of Waitangi was affirmed at Wellington soon after. The Reverend Henry Williams obtained 34 signatures at Port Nicholson on 29 April 1840, 27 at Queen Charlotte Sound on 4 and 5 May, 13 on Rangitoto Island on 11 May, and 20 at Waikanae on 16 May. The signatories included Wiremu Kingi Te Rangitake (signing as Wite) and his father Te Rere-Ta-Whangawhanga.[13] The former was to be prominent in the Taranaki wars.

2.3.3 Arrangements to examine the company's claim to acquisitions

During the debate on the Treaty at Waitangi, Lieutenant-Governor Hobson had promised that private purchases before the Treaty would be examined and 'lands unjustly held would be returned'.[14] Soon after, in August 1840, the New South Wales Legislature enacted the New Zealand Land Claims Ordinance (re-enacted in New Zealand as the Land Claims Ordinance 1841). Under the ordinance, the Governor was to appoint commissioners to examine claims to the previous purchase of land. In practice, when Maori affirmed a purchase, the commissioners were to recommend a land grant to the Governor. The area of the grant was dependent on the price paid and assumed land values and was limited to a maximum of 2560 acres, but the Governor had the discretion to grant more. The sliding scale envisaged land grants at one acre for every sixpence worth of goods given between 1815 and 1824, rising to between four and eight shillings per acre in 1839. The goods were to be valued at three times their Sydney prices.

Despite the ordinance, a special arrangement was proposed for the New Zealand Company. This was probably because of the company's special position, its large investment, its extensive claims to the acquisition of land, and the fact it had already on-sold sections in England. The company also had political influence through its distinguished directorship, with five of its directors being members of the British Parliament. Accordingly, by an agreement of November 1840, the company renounced its claims to massive areas in return for four acres for every pound it had spent on colonisation, to be taken from the lands in any deed.[15] This arrangement

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12. Nga Motu deed, in Turton, *Maori Deeds of Old Private Land Purchases in New Zealand*, p 393
13. See C Orange, *The Treaty of Waitangi*, Wellington, Allen and Unwin, 1987
14. See Colenso
15. A copy of the arrangements was transmitted to Joseph Somes by the Colonial Office on 18 November 1840 and a letter from Somes to Russell on 19 November 1840 conveyed the company's acceptance of the terms. Both are enclosed in Russell to Hobson, 10 March 1841, BPP, vol 3, pp 207–210.

was made law by an amendment to the ordinance in 1842, but as shall be seen later, the 1842 ordinance was disallowed by the British Government on 6 September 1843.

In any event, it must be presumed, however, that the New Zealand Company's arrangement was not seen to apply to the Nga Motu deed. Under clause 5, the agreement applied only to land acquired before Hobson's arrival, and Hobson had already arrived when the deed was signed. The ordinance also presumed the same, referring to transactions up to December 1839. None the less, in New Zealand a claim to Taranaki was filed on behalf of the company.

On 20 January 1841, William Spain was appointed Land Claims Commissioner to examine the company's Wellington claims, but owing to disputes between the Governor and the company, some time elapsed before he could assume his duties. He was later authorised to investigate any Taranaki claims.

2.3.4 Company assumes title though claims not proven; Maori protest

Although the New Zealand Company's purchase had not been proven; was null and void in terms of the proclamations; was contrary to the pre-emption clause in the Treaty; and was excluded from the special arrangement between the company and the British Government:

(a) In January 1841, the company surveyor began to survey the Taranaki lands. New Plymouth was laid out over 550 acres, and suburban and rural sections were proposed along the coast to beyond the Waitara River. The plans covered about 68,500 acres, being the whole of the cleared, coastal lands from New Plymouth to beyond Waitara.[16]

(b) Sections had been sold or promised in England before settlers came to New Zealand.

(c) In March 1841, the first immigrants were introduced. By 1843, there were over 1000, and as they arrived, they presumed to occupy allotments throughout the coast to beyond Waitara.

Almost immediately, Maori interrupted survey work and disputed the settlers' rights to land much beyond New Plymouth, forcing the settlers to retreat to the New Plymouth area.

In September 1841, Governor Hobson proposed to implement the New Zealand Company's agreement by allowing it an exclusive right to buy specified lands at Wellington, Whanganui, and Taranaki, suggesting for Taranaki a right to buy some 50,000 acres extending 10 miles north of New Plymouth along the coast and eight miles inland. When the company complained that this excluded Waitara, the Governor extended the area to four miles north of the Waitara River.[17] The proposal

16. See doc A1(a), pp 30, 34
17. *New Zealand Gazette*, 13 November 1841, and see also doc A1(a), p 41. The Governor's response in declining Spain's recommendations was on the principal grounds that in his view, he could not take land from people who had not agreed to sell and that a 'large number of Natives would be set aside by Mr Spain (namely those who were absent or in captivity at the time when their lands were said to have been sold), whose claims I am bound to recognise and maintain' (FitzRoy to Wakefield, 8 August 1844, enclosed in FitzRoy to Stanley, 22 February 1845, BPP, vol 5, p 143).

was not pursued, however, because the company claimed it had already purchased the lands concerned and should simply receive four acres for every pound spent.

The Governor and Spain both agreed the company would first need to show that its purchases were valid. The need for a hearing was clarified in the 1842 amendment to the ordinance. None the less, when hearings began in Wellington in May 1842, Wakefield delayed proceedings further while pressure was maintained on the Colonial Secretary in England to dispense with the inquiries into the purchases. The company was ultimately unsuccessful.

Meanwhile, Maori were disputing the settlers' entitlements. In July 1842, a party drove off settlers who had taken up land north of the Waitara River. In 1843, there was a further confrontation when 100 men, women, and children sat in the surveyors' path. There were various other challenges south of Waitara as different hapu asserted their right to the land.

2.3.5 Commission's recommendation to grant lands declined

Owing to the delays caused in Wellington, Spain did not commence the Taranaki inquiries until May 1844. The company then withdrew the New Zealand central and Taranaki central claims, leaving only the Nga Motu transaction under review. The claim was opposed by Maori. It was one contention that the Nga Motu deed had not been signed by the numerous Taranaki absentees.

In June 1844, however, the commission found the absentees had no interests, upheld the transaction, and recommended to the Governor an award of 60,500 acres (being the area then surveyed and comprising most of the Te Atiawa land), reserving one-tenth for Maori.

There was an immediate Maori protest. A party formed to drive out the settlers, and the Sub-Protector of Aborigines found it necessary to head it off with assurances that the Governor would favourably review the position.

Governor FitzRoy, who had replaced Hobson by then, disagreed with the position concerning absentees and declined to accept the recommendations.[18] This gave relief to Maori but caused settlers to threaten a recourse to arms.

2.3.6 Maori seek to limit settler expansion; Government moves to buy

The eventual outcome was that Maori agreed to transfer the FitzRoy block at New Plymouth on the basis that the settlers would expand no further. None the less, the New Zealand Company continued to introduce more settlers, with promises of land for each, and to maintain pressure on the Governor to buy more land. A new government in England was more sympathetic, and when Governor Grey was appointed in 1845, he had instructions on the matter and resolved to recover for settlers the area the Land Claims Commission had proposed. In 1847, three years after the FitzRoy sale, the Governor convened a meeting at New Plymouth with Te Atiawa leaders of both Wellington and Taranaki. Adopting a 'high tone' with them,

18. The commissioner's decision of 8 June 1844 is recorded in the report to the Governor of 31 March 1845: see commissioner's report with annexure, BPP, vol 5, p 57 et seq.