'...the real history of all mankind is shameful. But there is hope in bits of it.' - George Bernard Shaw

Thesis submitted for the degree of Doctor of Philosophy in the Australian National University September 1967
This thesis is my own work for which I accept full responsibility.

A. D. Weeks
11 September 1967
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A senior lecturer in history in the University of Auckland, himself a New Zealander, recently asked his students to examine the proposition that New Zealand historians writing on Maori-Pakeha relations are affected by a guilt complex stemming from the actions of their forefathers. Indeed, such works as Keith Sinclair’s *The Origins of the Maori Wars* and M.P.K. Sorrenson’s writings on the King movement present a sorry account of unscrupulous settler pressure for land, of so-called humanitarians who failed to discharge their trust and of officials whose decisions were affected by pomposity and insensitivity towards the Maori people in their charge. On the other hand, Keith Sinclair has also found cause to ‘give a cheer’ for the fact that, even in the midst of the Anglo-Maori Wars, settler politicians legislated for Maori parliamentary representation.¹ And an American historian, John A. Williams, while plainly showing the weaknesses in Maori policy about the end of the nineteenth century, also found, at least in comparison with policies towards racial minorities in his own country, some wholesome and hopeful trends in the New Zealand situation.²


This thesis attempts to re-examine the attitudes of settlers, officials and humanitarians towards the question of the government of the Maori people, to describe the policies and administrative machinery they created for this purpose and to assess the results of their work. The time-span of 1861-93 was chosen for two main reasons. Firstly, civil government and administration affecting the Maoris in this period has not before been comprehensively surveyed. Comprehensive studies of the period up to the wars, and descriptions of the wars themselves, have been followed (except for theses on particular aspects of Maori administration, such as Sorrenson's detailed study of land purchase and John Barrington's study of Maori schools) by a leap into the period about the turn of the century. Secondly, a comprehensive machinery of administration, in the form of a greatly expanded Native Department, was extended over the Maori people only from 1861. This did not, as has been commonly assumed, collapse into insignificance when the wars began. Victory in the wars did not automatically mean that the settlers had control over the Maoris. That control had to be consolidated. Hence the Native Department endured until 1892 and its principal officers, the Resident Magistrates in the out-districts, who administered justice with the aid of Maori assistants, were not finally

dispensed with until the following year. This thesis then will centre on the organisation and work of the Native Department. It will also describe the rise of its rival, the Native Land Court, which began about the same time as the Department and out-lived it. Both institutions will be considered in the context of the general evolution of policy.

The basic aims of policy were in fact laid down in the first years after New Zealand became a Crown Colony and well before comprehensive machinery was instituted to attain them. These aims are stated in the Introductory section (and examined in more detail in Appendix A). Most concentration is given to the 1860s, the great formative decade of New Zealand race relations, when all the important practical decisions were taken, policies and administrative machinery selected and alternatives rejected. I have attempted to indicate the significance of those rather shadowy figures, the Native Ministers of the period, and of some of the officials administering Maori policies. The 1870s and 1880s reveal the working out of these policies and the effect they have had upon the Maori people. The wars of the 1860s have been discussed only in so far as they relate to civil policy and administration, although some details of their origin have been considered in appendices.

Although this is primarily a study of European policies and administrative machinery, as revealed in official records and the
private papers of European politicians, I have also tried to show Maori responses to those policies, to indicate how far the Maoris' Polynesian institutions and values were modified by them and, conversely, some of the ways in which those values endured.

Neither side of the study, either European attitudes and policies or Maori responses, is intended to be exhaustive. There is obviously scope for detailed work on individual European policy-makers and institutions and on changes within Maori society—perhaps through local area studies in the light of a thorough reading in Polynesian anthropology. But in the scope of a 100,000-word survey, I have attempted to show how a European community sought to bring a somewhat unwilling Polynesian race under its control and assimilate it into the main stream of settler life, and to assess the results of that attempt up to 1893.

I have been assisted in the research for this thesis by a great many interested and considerate people, Maori and European. I am indebted to Professor Sinclair and Associate Professor Sorrenson of the University of Auckland, for encouragement, advice and the use of library facilities, to the Secretary of Maori Affairs, Mr. J.M. McEwen, for making available, for the first time, the Maori Affairs archives upon which this thesis largely depends, to Messrs. Jones and Haydock in the Department of Maori Affairs office, Auckland, to Mr. J.D. Pascoe,
Chief Archivist, Misses Judith Hornabrook and Pamela Cocks, Mr. I. Horsfield and other members of staff in the New Zealand National Archives, Wellington, for very generous and prompt assistance in expediting my reading. Thanks are due also to Mr. Littlejohn in the office of the Clerk of the House of Representatives for making available unpublished parliamentary papers, and to the chief librarians and staffs of the General Assembly Library, Wellington, the Alexander Turnbull Library, Wellington, the Library of the Australian National University, the National Library of Australia, the State Library of Victoria, the Melbourne Parliamentary Library and the Mitchell Library, Sydney, who have given me every necessary assistance. I am obliged to Mr. Koro Dewes, Department of Maori Studies, Victoria University of Wellington, for instruction in the Maori language and Mr. B. Puriri, Department of Maori Affairs, for assistance with the translation of Maori letters. Among others - the list is far from exhaustive - who have given advice and information are Professors F.L.W. Wood and J.C. Beaglehole and Dr. H.G. Miller of Victoria University of Wellington who suggested certain lines of enquiry, Messrs. M. Te Hau, W. Parker, K. Haukamau and P. Te Whata who offered a variety of Maori viewpoints, Mr. D. Bryce, grandson of the former Native Minister John Bryce, and Messrs. N.J. Allen, C. Hare and E. Keating, officials of the New Zealand Workers Union and Engineers Union, who commented on Maori participation in the trade union
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Scarr for comment on several draft chapters, Mesdames A. Lamberts and
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My greatest debts of gratitude, however, are to my supervisor,
Professor J.W. Davidson, whose guidance and criticism have assisted at
every stage of the work and to Dr. F. West, who first sponsored my
application to the Australian National University and acted as
supervisor in Professor Davidson's absence. Such strengths as this work
may have owe very much to them. I should finally like to record my
obligation to my wife, Helen, for her encouragement and for her capable
management of family responsibilities during the lengthy period that I
have been pre-occupied with this study.

A.D.W.
Abbreviations and Conventions

<table>
<thead>
<tr>
<th>Abbreviation</th>
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<tr>
<td>A.G.</td>
<td>Official prefix to Attorney-General's file</td>
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<tr>
<td>AJHR</td>
<td>Appendices to the Journals of the House of Representatives (New Zealand)</td>
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<tr>
<td>AJLC</td>
<td>Appendices to the Journals of the Legislative Council (New Zealand)</td>
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<tr>
<td>Att-Gen.</td>
<td>Attorney-General</td>
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<tr>
<td>C.C.</td>
<td>Civil Commissioner</td>
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<tr>
<td>Col. Sec.</td>
<td>Colonial Secretary (this refers to the official in the New Zealand Executive; the Secretary of State for Colonies in the British Government will be referred to by name)</td>
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<tr>
<td>DSC</td>
<td>Daily Southern Cross</td>
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<tr>
<td>GBPP</td>
<td>Parliamentary Papers, Great Britain</td>
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<tr>
<td>IA</td>
<td>Internal Affairs Department - formerly the Colonial Secretary's Department</td>
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<tr>
<td>J</td>
<td>Justice Department</td>
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<tr>
<td>JC</td>
<td>Justice Department, Courts</td>
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<td>JC-HN</td>
<td>Justice Department Courts, Hamilton</td>
</tr>
<tr>
<td>JC-WG</td>
<td>Justice Department Courts, Wanganui</td>
</tr>
<tr>
<td>JPS</td>
<td>Journal of the Polynesian Society</td>
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<tr>
<td>JR</td>
<td>Jurist Reports</td>
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<tr>
<td>MA</td>
<td>Maori Affairs Department</td>
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<tr>
<td>MA-NA</td>
<td>Maori Affairs Office, Napier</td>
</tr>
<tr>
<td>MA-WG</td>
<td>Maori Affairs Office, Wanganui</td>
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MT-N Maori Trustee's Office, Nelson (successor to the Commissioners of Native Reserves, Nelson)
n. number (this form has been adopted, in preference to 'no.,' to avoid confusion with 'N.O. ')
NK Nan Kivell collection, National Library of Australia
N.L.P. Native Land Purchase Department
N.O. Native Office; the official prefix to the numbering on all inwards and outwards correspondence of the Native Department
NZH New Zealand Herald
NZLR New Zealand Law Reports
PD New Zealand Parliamentary Debates
R.M. Resident Magistrate
S.C. Select Committee
Unpublished PP Unpublished papers presented in the New Zealand parliament
U-Sec. Under-Secretary in the Native Department. (References to private correspondence normally refer to the Under-Secretary by name, e.g. Clarke to Rolleston. The personal name of the Under-Secretary has also been used in official references where he was still a clearly identifiable figure, exerting some influence on policy. With G.S. Cooper's Under-Secretaryship the position became very formal, and the form 'U-Sec.' has been adopted thereafter)

The first two numerals of official file numbering on inwards correspondence indicate the year, and the sequence in which letters or memoranda were received. Thus N.O. 75/229 refers to the 229th letter received in the Native Office in the year 1875; J 92/112 refers to the 112th letter registered by the Justice Department in 1892.
Glossary of Maori Words

(These are abbreviated and more usual definitions; fuller explanation of important terms is given in context or in footnotes.)

ariki - a senior ranking chief.
aukati - (v.t.) to debar, (n) a frontier.
hahunga - disinterment and reinterment of the bones of the dead.
haru - subdivision of tribe
iwi - tribe or people.
kainga - domestic settlement.
kanga - cursing or execration.
kauri - a species of indigenous conifer (*Agathis australis*)
kohuru - treachery, unprovoked murder.
makutu - witchcraft, sorcery.
mana - prestige, authority.
muru - compensatory plunder.
niu - Pai Marire ceremonial pole.
pa - fortified settlement (latterly any Maori village).
penui - notice or proclamation.
puremu - adultery.
rangatira - a chief.
raupo - a species of bulrush (*Typha augustifolia*).
runanga - council or assembly.
tangi - lamentation over the dead.

tapu - under religious or ceremonial restriction, sacred;  
whahi tapu - sacred place, burial ground).

taua - an armed band.

utu - satisfaction, compensation.

whanau - subdivision of hapu, a family group.

whare - domestic house

wharepuni - sleeping-house.

whenua - land.

In the case of two place names, Wanganui and Mangonui, which in the nineteenth century were also spelt Whanganui and Mongonui, the modern and generally accepted form has been adopted. The words 'Maori' and 'Pakeha' (a European settler in New Zealand or his descendants) have been regarded as part of accepted New Zealand idiom and not italicised. The term 'Kupapa', originally an adjective meaning 'neutral', was also taken over into settler idiom to describe Maoris who fought on the Government side. 'Hauhau' a term derived from the bark-like utterance climaxing a Pai Marire incantation, was eventually applied by the settlers and troops to designate almost any Maori in arms against the Government.
THE official aim of policy determined upon at the assumption of British sovereignty over New Zealand was to extend the rule of law over the Maori tribes and 'amalgamate' them with the incoming colonists. \(^1\) 'Amalgamation' implied the abandonment by the Maoris of their own institutions in favour of English institutions. It involved close association of settlers and Maoris and, possibly, intermarriage between them. Necessarily the old Maori order, and even separate Maori racial identity, were to be extinguished or 'assimilated' into settler society. \(^2\)

The amalgamation policy was formulated primarily by humanitarians. In the late 1830s missionaries in New Zealand began to despair of persuading the Maoris to abandon warfare, cannibalism and other sanguinary practices, and increasingly favoured invoking the assistance of British authority and power to interdict them. Secondly, since settlement - as distinct from formal British authority - was intruding into New Zealand regardless of missionary wishes, it was held that the Maoris, unlike the aborigines of North America and Australia, should be intermingled with the settlers, not merely 'protected' in large reserves clinging to a shabby version of their old society. It was believed not merely that the adoption of settler institutions would improve the Maoris but that, as settlement was expected to sweep through the country inevitably, to the ultimate destruction of reserves and their Maori inhabitants, the only chance the Maoris had of averting the fate of the aborigines of Australia, was to adopt settler skills and participate in settler institutions as

\(^1\) The points made in this introductory section, several of which are controversial, are argued fully and documented in Appendix A below.

\(^2\) The term 'assimilate' replaces the more usual 'amalgamate' in some official pronouncements, for example the preamble to FitzRoy's Native Trust Ordinance, 1844 - *Ordinances of New Zealand*, Sess. III, n. IX.
quickly as possible. Missionary and humanitarian policy was, therefore, much more concerned to replace Maori institutions with English ones, than to preserve elements of the old Polynesian order.

The amalgamation policy was vigorously advocated by the settlers too. They had obvious interests in having the Maoris brought under British law and the whole of their lands opened to settler inter-penetration. Settlers also regarded the Maori social order as squalid and turbulent and demanded that it be Europeanised. However, unlike the humanitarians, who wanted to compensate the Maoris for the loss of their old institutions with a substantial share of privileges and responsibilities in the new, the settlers were jealous of sharing power with the Maoris and inclined to keep them in tutelage. Amalgamation as pursued by settler politicians, therefore, was likely to be an abortive policy, involving destruction of Maori society without an adequate grant of responsibility in settler institutions.

Both humanitarians and settlers underestimated the extent of Maori conservatism. From the time of the Treaty of Waitangi the chiefs, in particular, declared their opposition to the surrender of their status and their authority over their own people and resisted the efforts of the early governors to establish over them the rule of English law. The Colonial Office, retracting somewhat from its earlier demands for a rapid pace of amalgamation, authorised governors both to incorporate Maori custom into colonial law if that would reconcile the chiefs to acceptance of it, or to declare Native Districts wherein Maori custom should have the force of law and be enforced by recognised chiefs under the guidance of the Protectorate of Aborigines. In his Native Exemption Ordinance, 1844, FitzRoy vacillated between legalising custom - he incorporated the principle of utu by providing that offenders in theft or assault cases might avoid imprisonment by paying of a heavy fine to their victims³ - and leaving Maori districts independent/

³ See below pp. According to Raymond Firth, 'The idea of obtaining utu was the fundamental incentive in the institution of muru or compensatory plunder'. (Firth, Economics of the New Zealand Maori, p.413).
government control. His tendency to respect Maori values and aspirations was, however, probably the most hopeful attitude exhibited by any early New Zealand governor and it was unfortunate that FitzRoy was discredited by Hone Heke's rising, and his trend of policy largely discontinued.

Grey's first governorship had the most unfortunate results for the future course of race relations. In the name of the amalgamation policy he disbanded the Protectorate Department, appointing in its stead a single Native Secretary, and rejected the policies both of utilising Maori custom and of declaring Native Districts. The Maoris were to be subject to English law, mediated principally through Resident Magistrates, assisted by Maori Assessors. These officials were appointed under the Resident Magistrates Ordinance, 1847, which, contrary to Grey's assertions, owed much to FitzRoy's Native Exemption Ordinance, particularly the limitations placed on the execution of warrants and summonses in Maori districts. Moreover, knowing they could not enforce their decisions outside the main settlements, Grey appointed few Resident Magistrates.

4 The Native Secretary was an urban official of the Governor with little initiative of his own. He arranged hospitality for visiting Maoris, mediated in such disputes as reached his ears, and conducted land purchase operations. The position was held briefly by J.J. Symonds, then by C.A. Dillon. After the division of New Zealand into two Provinces, under the 1846 constitution, Major Nugent became Native Secretary to Grey in New Ulster (the Northern Province) and H.T. Kemp, an ex Sub-Protector, Native Secretary to Lieutenant-Governor Eyre in New Munster.

5 The Assessors did not receive regular salaries but were paid £5 for each judgment of the Resident Magistrate's court successfully executed.

6 Those appointed in 1853 included A. Beckham (Auckland), J. Symonds (Onehunga), T. Curling (Napier), J. Flight (New Plymouth), W.S. Durie (Wanganui), H. St.Hill (Wellington and Otaki), W.B. White (Mangonui), J.R. Clendon (Russell), and F.D. Fenton (Kaipara). Only the last three established any wide jurisdiction among the Maoris of their district but it was by no means a complete one and in the last resort they could not enforce their will against recalcitrant Maoris.
but waited upon the combined effects of missionary influence and land purchase operations to bring the out-lying Maoris within range of government control. In effect, he had ruled out the policy of confirming the chiefs in their traditional authority, and failed also to extend an alternative authority over the tribes. Nor had he found the chiefs adequate functions in the new order. His personal blandishment of leading Maoris was no substitute for this, and the provision of a few hospitals and schools and employment on roadworks, though excellent in itself, was on too small a scale to bind the chiefs to the Government. Moreover, although representative institutions were granted to the Colony the property qualification effectively debarred Maoris from the franchise. Meanwhile Grey's land purchase operations appeared as an added threat to the integrity of Maori society, already weakened by the disruptive effects of Christian teaching, a money economy, the attractions of European towns and the efforts of the Government to extend English law.

The period 1853–61 witnessed the development of two Maori institutions intended to restore and sustain the authority of the chiefs and to control increasing anarchy in tribal society. One was an elaboration of traditional local councils or runanga into quasi-judicial bodies, enunciating and enforcing upon their respective villages or hapu, a more or less stringent code of laws, covering both traditional offences and matters arising from contact with settler institutions. The second was the King movement, which also sought to preserve chiefly authority, tribal integrity and the land upon which both were based.

7 A hapu was an aggregation of whanau or wider families. Several hapu normally constituted an iwi or tribe, though from time to time a flourishing and powerful hapu might establish itself as a separate iwi.
The Government meanwhile continued its fumbling efforts to extend judicial and administrative machinery over the tribes. In 1854-5 Resident Magistrates were appointed at Poverty Bay, Rotorua, the Chatham Islands and Rangiaowhia, in the Waikato. But the Maoris, although generally valuing the R.M.s' as mediators, did not recognise the ultimate authority of English law either in disputes between themselves, arising out of custom, or even in disputes between Maoris and settlers. The magistrates were withdrawn from each of the above-named districts.

Government efforts to frame and introduce more suitable machinery were hampered by jealousy between Governor Browne, who had reserved responsibility in Native Affairs to himself, and the settler Assembly and ministers, who controlled finance. More particularly, personal rivalry exaggerated policy differences between Donald McLean, Browne's Native Secretary, and F.D. Fenton, whom McLean had displaced and who thereafter identified himself with ministerial policy. McLean

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8 Hereafter referred to as R.M.s.

9 They were respectively H.S. Wardell, T.H. Smith, A.S. Shand and Dr. W.S. Harsant.

10 Smith became Assistant Native Secretary to Donald McLean, running the Native Office in Auckland. Harsant became R.M. at Raglan, a settler outpost on the Whaingaroa Harbour, and had little influence with the Maoris.

11 McLean, a Highlander, came to New Zealand via Australia as a young man. He worked at various unskilled rural occupations before becoming Sub-Protector in Taranaki under FitzRoy and, after the abolition of the Protectorate Department, Land Purchase Officer for Grey. He became Chief Land Purchase Officer in 1854 and Native Secretary (in addition) in 1856.

12 Francis Dart Fenton came from England with legal training. He squatted on land in the Waikato before being made a customs clerk by Grey and thence, R.M. at Kaipara. He briefly succeeded Nugent as Native Secretary in 1856 before being displaced by McLean, on the amalgamation of the offices of Chief Land Purchase Officer and Native Secretary.
preferred to build a machinery of administration through the major chiefs; Fenton preferred to by-pass the more conservative chiefs and work through the *runanga*. Fenton's ideas formed the basis of C.W. Richmond's 13 Native Circuit Courts Act and Native District Regulations Act, 1858, which provided for two long-standing needs in Maori policy. Firstly, the *runanga*, under the chairmanship of the local magistrates, were given power to pass bye-laws, thus making the normal pattern of English law more appropriate to local needs; secondly, selected chiefs were to be given regular salaries, an independent jurisdiction up to £5, and a place on the bench with the European magistrate in more serious cases.

But Fenton, sent into the Waikato to pioneer the system, meddled too much with Maori land tenure and antagonised important chiefs, whereupon McLean and Browne withdrew him. In turn the Assembly, jealous of voting finance which, not they, but the Governor would control, refused funds for more than a fraction of the medical and social services Browne and McLean contemplated or more than a few of the magistrates whom they sought to appoint. In 1860 there were, in addition to the R.M.s appointed by Grey, only two more permanent R.M.s 14, three more making tentative circuits through the Waikato and Wellington Province, 15 one special

13 C.W. Richmond was a leading representative of one of Taranaki's most prominent families. He became the first Native Minister of the Colony (though Governor Browne still held ultimate responsibility in Native Affairs), and retired from politics to a Judgeship of the Supreme Court in 1861.

14 Harsant was R.M. at Raglan; H.T. Clarke, an able son of George Clarke (lately Chief Protector), had been appointed to Tauranga in 1859, to cover the Bay of Plenty.

15 H.S. Wardell, lately R.M. of Poverty Bay, was based at Wellington and made circuits in the Wairarapa; Hanson Turton, a former Wesleyan missionary, had been sent through the Waikato and Manawatu to Wellington, in 1859-60, largely to sound out Kingite reactions to magistrates following Fenton's withdrawal from the Waikato; Henry Halse, formerly Assistant Native Secretary at New Plymouth was based at Auckland but also sent on circuit to the Waikato to follow up Turton's visit.
commissioner attempting to individualise title on the Kaiapoi reserve in Canterbury, about seven medical officers in Maori districts, and three more officials, designated Assistant Native Secretary, in Taranaki, Nelson and Otago.

The most effective of these was James Mackay who covered the Nelson, Marlborough and West Coast (South Island) districts. Here, particularly in consequence of gold discoveries, the Maoris were overtaken by settlement some eight years before their North Island counterparts and Mackay, an extremely strong-willed man, did heroic work in preserving for them mining rights, moderately substantial reserves, a share in the economic opportunities of the district including gold mining itself, and substantial justice in disputes with settlers. He worked through the principal chiefs and enjoyed their confidence. His authority was increasingly accepted even in disputes arising out of custom. Mackay, more than anyone else, demonstrated in the pre-1861 period, what could be done by a magistrate to extend the rule over a Maori district.

Over most of the North Island however, sporadic tribal warfare continued, and periodical killings arising out of makutu and puremu disputes. Redress by taua muru was still customary, and to their great

16 W.L. Buller, son of the Wesleyan missionary, James Buller.
17 These were stationed at Mangonui, Whangarei, Waimate (Bay of Islands), Rangiaowhia and the Wairarapa.
18 These were Robert Parris, James Mackay and A.C. Strode. All had land purchase as well as magisterial duties. Parris was the principal negotiator for the Waitara block. Two R.M.s appointed by Grey – White of Mangonui and Clendon of the Bay of Islands – were elevated to the status of Circuit Court Judges under the Acts of 1858.
19 Makutu and puremu are respectively, 'witchcraft' and breaches of the Maori sexual code. Puremu is frequently translated as 'adultery' but this is a fairly specific offence in European law and does not take into account considerations of rank and situation which affected the gravity of the offence in Maori society.
20 A taua is an armed band, a taua muru an armed band for the purpose of compensatory plunder.
annoyance, was applied against settlers also - particularly the squatters who had spread extensively into Maori districts. The King Movement meanwhile had gained in strength. Although its moderate wing, at least, was not specifically anti-European only one or two Europeans suggested recognising it and seeking to establish an effective administration through it. Settlers opposed it as threatening to lock up all Maori lands against settlement and place them in permanent subordination to Maori power; Governor Browne opposed it largely as a personal slight to his own authority; humanitarians opposed it as hindering the replacement of Maori institutions with European institutions - the 'amalgamation', policy which was their goal. Few, humanitarians or settlers, wanted to help the Maoris in their effort to preserve the integrity of their society.

The King Movement had intensified settler fears that the great chiefs would succeed in blocking the sale of any more land. In the Waitara purchase the Government sought to override the claims of one of these, Wiremu Kingi, and found itself involved in war with the Taranaki Maoris aided by strong contingents of Kingites. Governor Browne eventually achieved an uneasy peace in Taranaki, but mid-1861 found him demanding submission to the Government by the King Movement on pain of military invasion.

At the same time, when the Maoris were probably less susceptible to European Government than at any time before, the Governor and the ministry that had lately been formed under William Fox, at long last reached substantial agreement on what they believed was required to extend the rule of law over the out-districts. It was, in fact, little more than the Chief Protector of Aborigines had suggested in 1842-3: firstly, suitably

21 William Fox, educated at Oxford and the Inner Temple, became a New Zealand Company agent in the Wellington district. He replaced Stafford as Premier in July 1861.
qualified magistrates to enter the Maori districts; secondly, adequate salaries, responsibility and training for the important chiefs through whom the magistrates must work; thirdly, modification of the requirements of English law to suit local conditions. Much more finance than before was voted by the 1861 Assembly for these purposes and for the provision of the schools, hospitals and technical advisers the Maoris desired. In mid-1861 also, seeking to prevent war with the King Movement, the Colonial Office removed Browne and reappointed Grey for a second term.
THE RUNANGA SYSTEM 1861-3
THE RUNANGA SYSTEM 1861-3

1

Grey's policy

In October and November 1861 Grey, Fox, Sewell and Fenton worked out, in joint conference and exchange of memoranda, a policy for the administration of Maori districts which came to be called 'the Runanga system' or alternatively 'the new institutions'. Because the tidy organisation sketched in the memoranda was never attained in practice, because the grandiose expectations held for the plan by its authors were far from being fulfilled, and, above all, because the plan failed to prevent the renewal of the war in 1863, it has been judged a failure and its fortunes after 1863 never seriously considered by historians.1 Nevertheless, though much modified, the machinery of government that was extended throughout the country during 1861-3 became, with the addition of the Native Land Court, the basis of administration in Maori districts for up to 30 years.

The Native Circuit Courts Act and Native Districts Regulation Act of 1858 provided the legislative basis for the plan. The out-districts

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1 B.J. Dalton, for instance, writes: 'In districts untouched by war the pretentious framework of Greys 'new institutions' remained for a time, but merely because no one troubled to dismantle it'. (Dalton, War and Politics in New Zealand, 1855-1870, p.179). Dalton derives this observation from a remark by A.H. Russell who, as Native Minister in 1866, sought to accomplish the dismantling. But Russell found that he could not dispense with the existing machinery entirely. See also J. Rutherford, Sir George Grey K.C.B. 1812-1898: a Study in Colonial Government, pp.467-8 and N.D. Harper, 'An Experiment in Maori Self-Government, 1861-5', Report of the Australian and New Zealand Association for the Advancement of Science, 1932, pp.158-62.
of the North Island were to be divided into about 20 large Districts, each of several Hundreds. The Maori runanga already operating were to be designated 'Village Runangas', organised under Resident Magistrates appointed to each Hundred, and authorised to make regulations for their locality. Each Hundred was to send its leading men to a District Runanga, which, under the chairmanship of a European Civil Commissioner, would make regulations for the District. Both grades of Runanga would forward their regulations for the approval of the Governor-in-Council, upon receipt of which they would have the force of bye-laws.

The R.M.s and Civil Commissioners, with the powers of Circuit Court Judges, were to enforce the statute and common law of the colony, together with the bye-laws of the Runangas. The principal chiefs, designated Assessors or Kai-Whakawa and paid small salaries, were to be associated with the magistrates on their circuits and exercise the power, independently of the R.M.s, to hear disputes of up to £5 value, and levy fines of up to £1. Paid Maori police – a Warden and several constables – were to be appointed in each Hundred to assist them.

Both the legislative functions of the Runangas and the judicial functions of the R.M.s and Assessors (which were supposed to be distinct) were to be used to regulate important local questions such as cattle trespass, fencing, dog nuisance, drunkenness, health and sanitation. They were to suppress what were deemed to be injurious Maori customs and particularly to prevent tuau muru, since redress of grievances was now to be offered by the Magistrates' and Assessors' courts.

2 The Government-sponsored Runanga are hereafter distinguished from the unofficial Maori runanga by the use of a capital R and no italics.
Moreover, the R.M.s and Runangas were to undertake the crucially important duty of defining tribal, *hapu* or individual interests in land and, when these were confirmed by Crown Grant, to authorise the alienation of land to Europeans. This proposal envisaged the preservation of corporate tribal authority over land, both during the determination of title and alienation. It therefore contrasted with an alternative view, widely favoured among settlers, that Maori title should be individualised as quickly as possible and direct dealing between individual Maoris and settlers permitted.

The revenue accruing from land sold or leased would be available for building hospitals, schools and churches, while the Government would provide or supplement the salaries of medical officers, school-teachers and clergy.³ The cost of the new institutions, estimated at about £49,000 for the first year and £43,000 thereafter, was to be provided from a £25,000 vote which ministers agreed to put to the Assembly and a channelling of some of the Colony's annual contribution to the cost of imperial regiments in New Zealand into Maori affairs.⁴

Although the principles behind the scheme were not new, having been advocated in part by the Chief Protector of Aborigines, George Clarke, in 1843 and elaborated upon under Governor Browne,⁵ it appeared that, for the first time, they were being implemented on a sufficiently thorough-going scale to offer the Maoris a substantial measure of legislative, judicial and police power in their local areas.⁶

³ *AJHR*, 1862, E-2, pp.10 ff.


⁵ See below Appendix A, pp. 520-22 and 571-2.

⁶ 'It is not merely government but self-government which is to be introduced'. (Sewell Journal, 20 October 1861, vol.1, p.315).
It was the Government's hope that this, together with the cessation of pressure from McLean's Land Purchase Department, would restore the chiefs' confidence in European intentions. Fox and Sewell, holding to the principles of the 'Waikato Committee' of the Assembly which, in 1860, had condemned Fenton's withdrawal from the Waikato, took the view that the King movement reflected principally the Maoris' craving for law and ordered administration and that they would, if the Government offered them this, willingly open their territory to settlement. Through the Runanga system the goal of amalgamation and the settlers' desire for land would both be attained. The new institutions were therefore an attempt to find a way through conflicting interests without war. They were not, as has been suggested, a mere blind put up by Grey to deceive the Maoris while he made preparations for a war he had already determined upon. Grey's correspondence with Kingite leaders and his whole conduct of policy up to April 1863 in fact show that he too expected fairly readily to gain the submission of the King movement, though he was prepared to attack it if submission was not forthcoming.

In settling upon this policy Grey and his advisers ruled out several other alternatives which Newcastle, the Secretary of State for Colonies, had asked the Governor to consider. At Kohimarama (Auckland) in 1860, Browne had held the first of what he intended to be an annual conference or parliament of chiefs. In addition, a Native Council Bill to create a permanent advisory council of chiefs was awaiting the Royal assent.

7 AJHR, 1860,F-3.

8 E.g., by John Gorst (See H. Miller, Race Conflict in New Zealand, 1814-1865, p.91).

9 See below, Appendix C, pp.603.
With characteristic zeal for the goal of amalgamation, Grey rejected both alternatives, on the grounds that they would rival the General Assembly for the loyalty of the Maoris, be divisive of the two races and ultimately an embarrassing impediment to the achievement of one law and administration for the country. The Runangas, he believed, went far enough in the direction of a distinct legislature and administration for the Maoris and would train them for ultimate participation in the existing European legislatures. 10

It had been appreciated in London that the colonial Government would have no easy task bringing the King movement under its control. The heightened passions generated by the war in Taranaki, the threat of a European invasion of the Waikato and Governor Browne's virtual ultimatum of June 1861, had all served to intensify the separatist and nationalist character of the King movement. The circumstances were less favourable in 1861 than at any time before, for persuading the chiefs to abandon the King and accept a subordinate role in government. What was now more feasible was some plan by which the Government would accept the King movement, allow it to operate as best it could in the North Island heartland, offer it assistance and advice but not try to bind it - and wait for time to ease the distrust that had grown up. Suggestions to this effect had come from Sir William Martin, 11 and Newcastle had

10 Grey to Newcastle, 30 November 1861 - AJHR, 1862,E-1, Sec.II, p.33.
11 A.J. Harrop, England and the Maori Wars, p.137. Sir William Martin had been the first Chief Justice of the Colony. He had retired from office but retained an active interest in Maori policy, being probably the Colony's most vigorous and intelligent proponent of Maori rights.
asked Grey to consider whether, in some areas, the establishment of Native Districts, separate from the European Provinces, would not be the best means of promoting 'the present harmony and future union of the two races'. Moreover, it appeared that, if the Government were prepared to recognise the King, the moderate Kingites at least, would have been prepared to work with it for the promotion of effective and orderly administration over the interior tribes. On 3 December 1861 John Gorst reported from Waikato that Tamehana and a runanga of the Ngatihaua tribe had expressed a willingness to accept Grey's new institutions, provided that the laws of the Waikato Runanga constituted under Grey's plan went for assent, not only to the Governor, but also to the Maori King. Gorst asked for instructions on how to treat this suggestion. He subsequently reported that the King's Council at

12 Newcastle to Grey, 5 June 1861 - AJHR, 1862, E-1, Sec. III, p.4. This suggestion had particular reference to the King movement. Newcastle had also stated: 'I look forward to the introduction by you of some institutions of civil government and some rudiments of law and order into those native districts whose inhabitants have hitherto been subjects of the Queen in little more than name'. (cit. Harrop, England and the Maori Wars, p.130).

13 John Gorst, a young Cambridge graduate, had come to New Zealand in 1860 and on behalf of the Anglican Church authorities, assisted in the establishment of schools in the Waikato. In late 1861 the Government asked him to report on Kingite opinion.

14 Wiremu Tamehana Tarapipipi Te Waharoa, 'the Kingmaker'. His name is spelt either 'Tamehana' or 'Tamihana' in contemporary records. Government records tend to favour the latter. Maori sources, including Te Hokioi, the King movement newspaper, though also inconsistent, generally prefer 'Tamehana', as do modern Maori authorities and descendants of the Kingmaker. I am obliged to Mr. Koro Dewes, Department of Maori Studies, Victoria University of Wellington, for advice on this point.

15 Gorst to Fox, 3 December 1861 - AJHR, 1862, E-1, Sec. II, p.46.
Ngaruawahia had also discussed the question fully and concluded that if the Governor would let the King and his flag stand, they would adopt his plans and try to work with him for the common good. 16

It was possibly in response to Gorst's inquiry that, on 7 December, Fox wrote a memorandum which included these passages:

If as a Condition in the making or assenting to such laws, the Natives or any part of them, from motives of any kind, chose to recognise a Head or Chief without whose assent no such laws should be introduced we see nothing in principle objectionable to such a Rule...As an experiment at all events, we see nothing which should hinder its being fairly tried; nor in practice would it conflict with the ordinary course of government...So also in the appointment of Magistrates or assessors; if they chose to make the assent of their principal Chief a condition of their appointment, there would be nothing repugnant to the Queen's authority in such a Rule, provided the punishing power of the magistrates and the ordinary Execution of the law were made to flow from and be dependant on the Governor.

In this form and to this extent, we see no objection to the recognition of Matutaeri [sic], 'Matutaera', the Maori King. On the contrary we see many political uses in having some constant nucleus of organization of the Native race.

The name of King is objectionable but some other may perhaps be found. 17

This was as near to accepting the principle of the recognition of the King as the Government ever came. Certainly Fox's proviso (italicised above) would have proved very difficult for the Maoris to accept, but his memorandum might, if acted upon, have provided a basis for discussion with at least the moderate Kingites. However, it seems that it was not handed to Grey in time for his discussions with the

17 Fox memo., 7 December 1861 - PM 1/1. My italics.
King Maoris in the Waikato later that week. Instead Grey was given a memorandum of 6 December (apparently prepared before Fox tentatively rethought the question) stiff and antagonistic in tone, urging that, while no hostilities would be threatened against the King movement unless it molested Europeans, it should be treated with indifference. Grey's language to the Kingite chiefs should, it advocated, 'distinctly mark the Governor's disapprobation' of the movement and the folly of preserving a separate nationality.

In fact, very few in the Colony were interested in negotiating with the Kingites on any terms which included recognition of the King, under any name. For considerations of security as well as self-interest, most settlers wanted a complete subjection of Maori power to European power. Missionaries and lay humanitarians in the Colony were also inclined to believe that the Maoris' well-being depended upon their coming under the main stream of government and settlement. The land-hungry made plain their particular views, the squatter, J.D. Ormond, stating in the Hawkes Bay Provincial Council:

...no final adjustment of the difference of race, and no peace on a lasting basis, would ever be made unless [the General Government's] policy was based on resisting the erection of a barrier between the two races by closing the land against the colonization of the British people.

If the Maoris were encouraged to stop selling land, Ormond argued, a few years of peaceful institutions would see permanent barriers laid down:

18 It bears a pencil note to the effect that it was entered into the ministers' memorandum book and a copy made for the Governor on 4 January 1862, that is, after Grey's return from the Waikato.

19 Ministers to Grey, 6 December 1861 - AJHR, 1862, E-2, pp.19-22.
...to settle the king movement and leave the land league behind would be to leave the germ of a greater difficulty and a greater crisis than they had yet seen.20

This was the root of speculator and squatter antagonism to the 'peace policy' of the Fox ministry, and Fox, knowing it well, must have hesitated, after he had written his memorandum of 7 December, to press a course that implied the establishment of the King movement in just such a way as Ormond feared.

Grey, because of his autocratic personality and longstanding personal commitment to the policy of amalgamation, was disinclined to share power with a semi-autonomous Maori authority in the Waikato.21 In addition, both he and the ministry grossly under-rated the strength of Maori nationalist sentiment, and placed too much confidence in their ability to wean the Maoris away from the King movement, in favour of the new institutions.22 Thus, when he met the Kingite spokesmen in December 1861,

20 Hawkes Bay Herald, 14 September 1861. The Rev. John Morgan, a Waikato missionary, wrote: 'Sir George Grey will not be able to secure the peace of the Colony without breaking up the land league'. (Morgan to Browne, 18 September 1861 - GB 1/2).

21 'Grey's opposition to the separatist tendency of Kingism was in complete harmony with the underlying principle of his whole policy, the amalgamation of the two races...[He] saw it in fact as a national revolt against the Europeanisation of the Maori and the introduction of a new order of things'. (Harper,'An Experiment in Maori Self-Government, 1861-5', p.161).

22 After visiting the Waikato Fox wrote of the King movement as 'miserable mountebanking' and a 'piteable travesty'. (Fox, notes of journey - AJHR, 1863, E-13, p.6). He, like other European observers, was deceived by the outwardly ludicrous imitations of European institutions with which the King movement surrounded itself, into not sufficiently appreciating the serious purposes, widely and strongly supported, that underlay them.
Grey sought no agreement with the moderates, on terms which included recognition of the King; on the contrary, he more than fulfilled his ministers' injunctions to denounce the King movement.\textsuperscript{23} Despite Kingite objections to the presence of a Queen's magistrate in their territory, Gorst was appointed Civil Commissioner in the Upper Waikato.

OTHER appointments under the 'new institutions' had preceded that of Gorst and many more followed throughout 1862. Grey's choice as Civil Commissioner at the Bay of Islands was the man he had driven from office 15 years earlier - George Clarke, former Chief Protector of Aborigines. Colonel A.H. Russell, controller of Maoris employed on public works in Grey's first governorship and, more recently, a squatter in Hawkes Bay, became Civil Commissioner of that district. Dr. Edward Shortland, a Cambridge graduate and former Sub-Protector became Civil Commissioner of Hauraki.\textsuperscript{24} J. Armitage, a squatter and former associate of Fenton, became Civil Commissioner of Lower Waikato,\textsuperscript{25} and at the request of the chief Poihipi, G. Law, a teacher at the Otawhao mission, was made Civil Commissioner of Taupo.\textsuperscript{26} W.B. White at Mangonui, was

\textsuperscript{23}See below, Appendix C, for details of Grey's dealings with the Kingite leaders, and further discussion of the assumptions that underlay his and his ministers' policies.

\textsuperscript{24}Edward Shortland was the younger brother of Willoughby Shortland, Acting-Governor in 1842-3. Both had come to the Colony on Hobson's staff. Shortland returned to New Zealand about 1861, after a long absence, largely on Fox's urging.

\textsuperscript{25}That Fenton's efforts in 1857 were well remembered by some was indicated by the fact that the Ngatitipu and Ngatiteata of Lower Waikato asked for his return. But he declined to take a permanent appointment in a Maori district, agreeing only to assist Armitage in taking up his post before returning to his private legal practice and his position as Assistant Law Officer of the Crown. (MA 1/2, N.O. 61/191).

\textsuperscript{26}Fox, notes of journey, December 1861 - AJHR, 1863, E-13, p.8.
elevated from R.M. to Civil Commissioner and Robert Parris of Taranaki, J. Mackay of Nelson and A.C. Strode of Otago were confirmed as Assistant Native Secretaries of their districts.

In consequence of the antagonism that had developed between the Assembly and the Native Secretary during Browne's governorship, Fox was determined to 'sweep McLean and his Department clean out of the Government'. McLean had in fact resigned the Native Secretaryship in June 1861, shortly before Fox took office, but he remained Chief Land Purchase Officer, while his appointees remained in the Native Office in Auckland. Now Fox appointed T.H. Smith, who had become Acting Native Secretary, as Civil Commissioner in the Bay of Plenty and Rotorua, where he had been R.M. six years before, and shortly almost the whole staff of the Native Office found itself scattered about the North Island, grumbling about the 'change of dynasty' and maintaining an active and nostalgic correspondence with McLean. Thus W.B. Baker became R.M. at East Cape, John White on the Wanganui River, G.S. Cooper at Waipukarau, (Southern Hawkes Bay) and Walter Buller in Rangitikei-Manawatu. The ineffectual Henry Halse was retained as Assistant Native Secretary, acting as a mere clerk to the Native Minister.

Other R.M.s, and the clerks who were allocated to each, were found from Maori-language speakers among old missionary families - the Preeces, the Woons and the Clarkes for example - or old settler

27 Parris to McLean, 26 September 1861 - McLean MSS, 335.
28 E.g., W.B. Baker to McLean, 10 November 1862 - McLean MSS, 148.
families such as the Mairs. All in all seven Civil Commissioners and approximately 20 R.M.'s - together with their clerks or interpreters - were appointed or confirmed in existing appointments under the new institutions. They were normally constituted as Justices of the Peace, as R.M.'s under Grey's 1847 ordinance and as Judges under the Native Circuit Courts Act of 1858. The Civil Commissioners were also given authority under the Native Districts Regulation Act of 1858. A R.M. drew a salary of about £350, a Civil Commissioner about £500 - high salaries by the standards of the time, the latter being equivalent to the salary of a permanent head of a government department. Whereas in 1861 only the Bay of Islands and Mangonui had Circuit Court Judges, and (outside the main towns) only Tauranga had a permanent R.M. (H.T. Clarke), by December 1862, Waimate, Hokianga, Raglan, Waiuku, Taupo, Rotorua, Thames, Central Wanganui, East Cape, Manawatu, Wairoa, Waipukarau and Upper and Lower Waikato, previously never attended by a magistrate, or only briefly attended, were supplied with permanent R.M.'s or Circuit Court Judges. At the same time the number of subsidised or salaried Medical Officers to Maori districts was increased from eight to

29 Other interpreter-clerks were R.C. Mainwaring, who had come to the Colony with Gorst, and James Fulloon, a half-caste formerly employed in the Land Purchase Department. C.O. Davis was brought into the Native Office in 1862 to revitalise the pedagogical Government newspaper, The Maori Messenger. He had been a clerk and interpreter in the Native Office from the time of the Protectorate, but he resigned in 1857 having incurred the displeasure of McLean, probably because he gave some friendly advice to leaders of the King movement. He seems thereafter to have been concerned with the printing of two abortive newspapers and other literature in the Maori language.
Though the districts and the problems with which these men had to cope were mostly beyond their capacity to handle adequately, for the first time at least an attempt had been made to throw a network of civil administration over the whole country. The new magistrates were despatched with Fenton's efforts of 1857 held up to them as a model, and with rousing injunctions as to the high duty, not only of teaching the Maoris the advantages of submission to law, but also of training them in the arts of self-government.  

The Land Purchase wing of the Native Department lingered. McLean was still nominally its head, but John Rogan actually controlled the Land Purchase Commissioners and Andrew Sinclair the survey staff, including four Maori cadets in training. Authority to purchase land was also vested in special commissioners such as Featherston, the Superintendent of Wellington. McLean however, was not a man to be lightly dispensed with. At first he had wanted to resign all appointments and take two years leave overseas but this was declined by both Browne and Grey, who wanted him to settle questions in both islands about reserves and land purchase boundaries, of which he alone had detailed knowledge. Before long he was called upon to negotiate with the

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30 For returns of officers employed by the Native Department, see AJHR, 1863, E-10; 1864, E-7 and MA 1/3, N.0.63/34a.

31 E.g., Smith to H.T. Clarke, 11 November 1861 - MA 4/4; Smith to Baker, 8 November 1861, MA 4/4; Fox to Law - 21 June 1862 - MA 4/5.

32 MA 1/3, N.0.63/296.

33 W.S. Grahame to McLean, 20 August 1861 - McLean MSS, 243; McLean to Browne, 26 May 1862 - GB 1/2.
Maoris over such problems as the acquisition of mining rights in the Coromandel Peninsula and the feud in Manawatu between the Ngatiraukawa and Ngatiapa tribes, and to use his influence to keep the Hawkes Bay chief Te Hapuku from giving allegiance to the Maori King. He was offered the position of Civil Commissioner in Hawkes Bay but, aware of the unpopularity of the new institutions among the Hawkes Bay squatters, declined. However, he did abandon his intention of leaving the Colony and in early 1863 resigned his emoluments as Chief Land Purchase Officer to seek and win election as Superintendent of Hawkes Bay.

Of the ministers, only Fox and Henry Sewell, the Attorney-General, had a very active interest in running the new institutions. Walter Mantell, Native Minister from July to December 1861, took no interest at all and Dillon Bell, who acted as Native Minister until 1862, was dismissed by Fox for lukewarm support of Government policy.

34 Bell to Browne, 30 June 1862 - GB 1/2; E. Shortland to Buller, 11 November 1863 - MA 4/59; Halse to McLean, 6 December 1862 - MA 4/5.
35 McLean to Browne, 9 December 1862 - GB 1/2.
36 Bell to McLean, 17 March 1863 - McLean MSS, 146. McLean retained the official title of Chief Land Purchase Officer until the Land Purchase Department was abolished in 1865.
37 Mantell took little part in the larger arrangements of the Government, having joined Fox's ministry with the particular purpose of seeing that promises made to the South Island Maoris, when he transacted the enormous Ngaitahu purchase, were fulfilled. (Mantell to Fox, 11 July 1861 - Mantell MSS, 338). An extraordinarily temperamental person, given to intense flights of passion over supposed injuries, he retired to Wellington in December 1861 having arranged that Dillon Bell would run the Native Office in his stead. Bell (who had been arrogating to himself the role of principal adviser in Maori affairs after McLean had resigned the Native Secretaryship) preferred this position to that of Native Secretary, which he had been expected to assume. (Halse to Smith, 29 November 1861 - Smith Letters; Sewell Journal, 6 October 1861, vol.I,p.311).
Direction of policy was still awkwardly divided between Governor and ministers. In constitutional arrangements of November and December 1861, Grey had given control of the day-to-day running of the Native Department to his responsible ministers, though he continued to exercise a large measure of authority in Maori affairs\(^{38}\) and interfered frequently in the administration of the new institutions. In Manawatu, for instance, the R.M., acting under the Native Minister, made one set of appointments of Maori staff, while Grey, who happened to visit the district, made another, and this could not be sorted out without causing irritation and disappointment.\(^{39}\) The relationship between Civil Commissioner and R.M. was also the subject of controversy. Sewell, as Attorney-General, wanted the R.M. to be the most important officer, communicating direct with the Government, and the existing R.M.s, already doing duty for the Attorney-General's Department as Coroners, Returning Officers, District Registrars of births, deaths and marriages - to name some of their manifold functions - declined to be supervised by a Civil Commissioner in these responsibilities.\(^{40}\)

\(^{38}\) Both Governor and ministry sought the substance of power while trying to saddle the other party with theoretical responsibility; the issue could never be clearly decided while a man of Grey's nature and ambitions was Governor and while imperial troops remained in the Colony. See Sinclair, *Maori Wars*, pp.238-40 and Rutherford, *Grey*, pp.455-7.

\(^{39}\) Halse to Buller, 23 February 1863 - Mantell MSS, 233.

\(^{40}\) R.C. Barstow (R.M. Russell) to Att-Gen., 15 March 1862 - AJHR, 1863, E-4, p.3.
Grey, on the other hand, wished the R.M. to be subordinate to the Civil Commissioner, whom he described as being virtually Lieutenant-Governor of a large Native District. Eventually it was laid down that the R.M.s were to be 'political agents of the Government...subject to instructions from the Commissioner, through whom they will communicate', but that in their judicial capacity they would write direct to the Attorney-General, sending duplicates of the letters to the Civil Commissioner. As the distinction between political and judicial functions was not always clear in practice, R.M.s wrote either to the Civil Commissioner or the Attorney-General as they saw fit. On some occasions they wrote direct to the Native Office and, on others, direct to Grey. Relations between Civil Commissioner and R.M. remained uncertain and were frequently unhappy.

It was, therefore, with the handicap of division and indecision at the centre of Government, that the Civil Commissioners and R.M.s commenced work in the out-districts.

41 Grey memo., 29 November 1861 - G 35/1; Sewell called them 'Prefets a la Francais'. (Sewell Journal, 15 December 1861, vol.II, pp.11 and 20).

42 Fox to G. Clarke, 27 November 1861 - MA 4/4.

43 The last practice was a continuing source of irritation to ministers, who sought to limit Grey's independent initiative in Maori affair. On one occasion they threatened Clendon, R.M. Hokianga, with suspension if he continued it. (Shortland to Clendon, 15 January 1864 - MA 4/59).
Maori Responses

IN all districts initial procedure followed the same pattern. The R.M. or Civil Commissioner toured his district, meeting the chiefs and explaining the nature and purpose of the new institutions. Where they were agreeable a selection of chiefs was made to fill the positions of Assessors, Wardens and 'Karere' or Messengers, (the term 'policeman' having been dropped as likely to be alarming and offensive to the Maoris). Normally there would be one Assessor, with an associated Karere, from each village on the magistrate's circuit, and one man of standing as Warden for the whole Resident Magistracy. An Assessor was paid from £30 to £50 per annum, a warden £20, and a Karere £10. Distinctive trappings of office were deemed essential - a cap with gold bands for an Assessor and a uniform of blue coat and trousers and boots for the Karere.¹ The next steps were to secure the erection of courthouses for the magistrate's circuit, and to constitute the Runangas.

The initial Maori reactions to the new appointments were infinitely varied. With much justification, the main Kingite tribes regarded the belated display of salaries and offices as a thinly disguised attempt to deceive them and reduce them to subservience. Consequently Gorst met with no cooperation in Upper Waikato. Within five months he had been threatened with expulsion by one of the more volatile chiefs, had

¹ Halse to Buller, 21 November 1862 - MA 4/5.
seen all attempts to adjudicate in disputes between Maoris and Europeans refused and suffered the humiliation of having a half-caste forcibly removed from his court into the jurisdiction of a Maori runanga. Tamehana was apparently willing to let Gorst hear disputes with the aid of a Kingite assessor but the runanga made him retract this offer. Gorst reported that his presence was only tolerated because he had not succeeded in making Assessors.

Similarly, Armitage made no progress in the southern or Kawhia end of his district, and Hunter Brown, who was sent to reconnoitre the Urewera country, found Kingite sentiments too strong to warrant his staying. Because he had entered the Taupo district under the sponsorship of Poihipi, Law had little chance of winning the cooperation of the Kingite ariki, Te Heuheu, a traditional enemy of Poihipi.

A number of other tribes, though not noticeably inclined to rally round the King's flag, also showed a determined rejection of the Queen's magistrates. Several of the Bay of Plenty coastal tribes spurned Smith's somewhat inconsiderate approaches; the Tokomaru Bay people

2 Gorst, The Maori King, ed. Sinclair, pp.163 and 188.
3 Morgan to Browne, 4 March 1862 and 2 April 1862 - GB 1/2.
4 Gorst to Att-Gen., 23 May 1862 - AJHR, 1862, E-9, Sec.III, p.9. The important chief Taati te Waru (whether sincerely or not it is impossible to tell) said that he would have accepted an Assessorship but that the runanga would not allow it, 'lest they should lose their mana'. (Gorst to Col.Sec., 5 February 1862 - ibid., p.4).
5 AJHR, 1862, E-9, Sections II, IV and VIII. Ariki are chiefs of higher rank than the more numerous rangatira.
6 He failed to keep an appointment with a gathering of hapu who had prepared and cooked food and waited three days for his arrival. (Fulloon to Smith, 13 February 1862 - AJHR, 1863, E-4, pp.51-2).
under Henare Potae showed a resolute independence; the Poverty Bay Maoris, Baker observed, 'flatter themselves that they bullied the last magistrate out of the place,' and were not courted again. More seriously the central and southern Hawkes Bay chiefs proved uncooperative.

The major practical grievances which underlay the continued assertion of independence of these tribes (and which also affected, to a lesser extent, the tribes which did accept magistrates) centred upon the related questions of indebtedness and land. The fall in agricultural prices in the later 1850s had left the Maoris, after a period of considerable prosperity, with agricultural machinery falling into disrepair and unpaid for, coastal schooners half-purchased, and a habit of taking goods on credit. Storekeepers batten upon the Maoris' improvidence, frequently foisting goods upon them at exorbitant prices and charging interest on the debt. No tribe was free of debt - every magistrate in the late 1850s and early 1860s reported the problem, though it probably affected coastal trading tribes more than it did those of the remoter interior. Some of the Maori runanga made rudimentary efforts to gain better trade terms by withholding produce in order to force storekeepers to lower their prices, but had little or no success.

7 Baker to Att-Gen., 26 March and 3 June 1862 - AJHR, 1863, E-4, p.48.
8 Russell report, 9 June 1862 - AJHR, 1862, E-9, Sec.VI, pp.19-21.
9 Cf. the reports of H.T. Clarke, 27 November 1861, and Hunter Brown, June 1862 - AJHR, 1862, E-9, Sec.IV, pp.9 and 32. The more isolated Urewera people had not become as indebted as the coastal Whakatohea tribe.
10 Hunter Brown report - loc.cit.
The Government recognised that, 'The fear of being compelled to pay their debts, if Queen's magistrates are appointed, is well known to be the sole motive which actuated many natives in refusing to assist in the introduction of the New System'. But although ministers were irked by the effect the traders had in generating Maori resentment, and instructed magistrates not to press too strenuously for the recovery of debts, they stated that they could not prevent traders from letting Maoris have goods on credit. Law, at Taupo, commenced a cooperative store to undercut the traders and the Government gave him some financial assistance. But the store failed within six months and the Government made no further attempt to interfere with the free play of commercial enterprise.

Fears that their lands would be taken in payment of debt - as some creditors had threatened - intensified the Maoris' distrust of what was implied in the advent of magisterial authority. In addition, a number of chiefs had made illegal sales of land to squatters, against the wishes of other owners. Fear that the establishment of the rule of law would enable the squatters to complete their bargains (or, because the transactions violated the Native Land Purchase Ordinance, that the Maori title would be held to be extinguished and the land vested in the Crown), operated strongly in Poverty Bay and Hawkes Bay.

11 Fox to Law, 21 June 1862 - MA 4/5.

12 Halse to Buller, 15 February 1863 - MA 4/5. The Maoris expressed puzzlement that the Government could interfere with the sale of arms and spirits but could not cheapen trade. (Hunter Brown report, June 1862 - AJHR, 1862, E-9, Sec.IV, p.32).

13 Halse to Law, 18 December 1862 - MA 4/5.
The Fox Government, however, recognising these fears, sought only to oblige the squatters to come to equitable terms with the Maori owners through the new institutions, and to confine negotiations for further lands to the same channel. In December 1861 Crosbie Ward, a member of Fox's Government, was sent to Hawkes Bay where he brushed aside legal difficulties and prompted a Maori to sue - under a cattle trespass ordinance - a squatter named James Shirley, who had refused to pay 'grass money'. He visited the principal chiefs, who agreed to take similar action in the courts in subsequent disputes, and enjoined both Europeans and Maoris to cease illegal leasing and work out some regular and legal arrangement through the Runangas shortly to be constituted. However when A.H. Russell took up his appointment as Civil Commissioner he met total lack of cooperation from the chiefs. Led by the independent old ariki, Te Hapuku, they declined to form a Government Runanga or to take cases in the courts. The failure of the courts, in earlier years, to give them redress against squatters, had generated a distrust that was not easily overcome; meanwhile they had had considerable success in compelling the payment of rent, or compensation for trespass, by impounding European stock. Apart from a number of persistent and rancorous

14 Ward to Grey, 23 January and 23 December 1861 - AJHR, 1862, E-9, Sec.VI, pp.7-10. Shirley, having refused to pay 'grass money' had his dairy cattle impounded by the Maoris. His prosecution (before a bench which included three leading chiefs whom Ward had enlisted, on doubtful authority, as Assessors) resulted in an award of £30 damages to the Maoris. Shirley counter-claimed for damages to his stock, but his suit was dismissed, partly on the grounds that the Maoris had been denied any other means of redress. Ward however gave Shirley £30 'compensation' from Government funds. The somewhat contrived nature of the conviction provoked a wave of indignation among Europeans throughout the country. (See The Aucklander, 8 July, 1862).
disputes with determined squatters, they were fairly much in control of the situation, in some cases extracting rent in advance from several squatters. For this reason, and because of the question of their indebtedness, the Hawkes Bay chiefs preferred to keep control of the situation in their own hands, than to admit the interference of government officers and courts of law.

The squatters, for their part, desired neither to be tenants of Maori Runanga - for they did not expect them to sell the freehold - nor to assist in the establishment of courts that would treat them as Shirley had been treated. They continued to ensnare the Maoris further in debt and to agitate for the right of direct purchase, rumours of which were in the air. Though magistrates were appointed throughout the Province and heard a few cases, they were generally ignored by the Maoris and cordially detested by the settlers. Southern and central Hawkes Bay remained substantially ungoverned by law.

15 Carter (Superintendent, Hawkes Bay) to Col. Sec., 12 May 1861 and 16 May 1861 - Unpublished PP, 1861, n. 75.

16 Russell report, 9 June 1862 - AJHR, 1862, E-9, Sec. VI, pp. 19-21.

A few months later, Russell's son, A.H. Russell Jnr., acting in his father's absence, had cause to complain to Cooper, R.M. Waipukarau, about the taking of cattle by Maoris, from a European who owed them money:

...it is most amazing that they will not apply to law, they must know that you are appointed Resident Magistrate - will you see to this and lecture them severely upon their conduct, they deserve to suffer more punishment for their wilful behaviour, but at present I suppose we must get them to give up their Lynch law quietly.

(Russell, Jnr. to Cooper, August 1862 - MA-NA 1/2).
Meanwhile, in other districts, magistrates had met with more success. In some cases they gained an initial advantage from inter-tribal rivalry. Several tribes on the boundaries of the Kingite heartland, traditional rivals of the Upper Waikato tribes, were increasingly fearful of their new assertiveness through the King movement. For this reason sections of the Arawa confederation, several hapu in the Lower Waikato, and the Raglan Maoris under Wiremu Nera (particularly the last because they had offered land for sale) were inclined to associate themselves with the Government for greater protection.

Throughout the island the smaller and weaker tribes, hitherto subject to incursions from more powerful neighbours, tended to welcome European authority more warmly than did the powerful tribes - as in fact they had since the beginning of European settlement. The Rarawa of the far north and the small Ngaitai tribe of the Bay of Plenty, sandwiched between the Whakatohea and the Whanau-a-Apanui, provided good illustrations of this. 17

In addition, the Maoris were still looking for some solution to the disruption which had beset their society since the advent of musket warfare, disease, and white settlement. Some had seized on Christianity

17 In 1872, W.B. White wrote of the Rarawa: '...their feeling towards the Government has always been of the most friendly and indeed, dependent character, for they know perfectly well that their geographical position, as well as their comparative paucity of numbers would compel them to look outside for support, and they appreciate the fact that the Government can and does offer the most trustworthy support. From my first intercourse with them, September, 1848, I have never had occasion to doubt this'. (White to Nat.Min., 21 June 1872 - AJHR, 1872, F-3, p.3). For the Ngaitai see H.T. Clarke Journal, 27 November 1861 - AJHR, 1862, E-9, Sec.IV, p.8.
as an answer to their ills, but had found it wanting. In the 1850s they tried to make their runanga serve the purpose of legal tribunals and enforce impossibly rigid moral codes. But by the 1860s the runanga had, in many cases, become unbearably oppressive, capricious and tedious, and frequently the vehicle by which one fulfilling faction mulcted another. Turton, on his exploratory circuit in 1859–60, reported several disturbing instances – the case of a woman being fined two shillings because her child had licked a potato before grace was said, of a hapu sending its women among the men of a rival hapu and then fining the temptresses' victims for adultery, of snooping on family quarrels to extort payment for oaths and curses, of fines for criticisms of the decisions of the runanga, of a runanga sitting five long nights over an eight shilling dispute. Turton added, 'It is from this kind of thraldom and perpetual interference that so many of the middle and lower class of Maoris would, I believe, delight to be liberated'.

About the same time J.R. Clendon, R.M., noted that the young men at Hokianga had tired of the exactions of their chiefs and appealed to him for advice.

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18 Turton report, 20 November 1861 – AJHR, 1862, E-5A, pp.7-8. Turton himself attended a tribunal where a Maori 'judge', roia (lawyers), plaintiff, defendant and bystanders, indulged in a furious denunciation and counter-denunciation over a trivial sum; wearying, they eagerly accepted the visiting magistrate's intervention, and, on Turton's awarding ten shillings damages to the plaintiff, happily collected the sum in the courtroom because the defendant had no money. (Ibid., p.4).

19 AJHR, 1862, E-5A, p.8 and E-7, pp.16-17 and 27.
Meanwhile, the continued growth of a commercial economy had introduced a multitude of new contractual relationships with Europeans which the old order could not readily handle. Moreover, in the late 1850s and early 1860s a craze for drinking spirits swept through the coastal tribes, to the utter demoralisation of tribal leaders and the destruction of their sense of responsibility to their people. In an increasing number of districts Maoris were becoming disgruntled with their own efforts to maintain order and stability in their society. The disruptive forces - the cajolery of squatters and traders, disease, now the liquor evil - were too strong for the hereditary leaders to handle unaided. This was the sort of situation which led to reports, in 1860-61, that a number of tribes in the Bay of Plenty, Rotorua, East Cape, Wairarapa and even Waikato districts would welcome a magistrate, rather to help the Maoris find an equitable way of settling disputes and resolving problems than to impose the full restraints of English law upon them.

Consequently, a number of R.M.s appointed under the new institutions were pleased and surprised at their initial receptions. The coming of 'the law' was hailed in some districts as enthusiastically as the coming

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20 Maoris were being paid £50 a year as permanent farm workers, or ten to fifteen shillings a day for road-making, fencing and shearing. (Fox to Mantell, 16 July 1863 - Mantell MSS, 281). Piece-work was usually done by gangs of men from one hapu or tribe, but there was an increasing mixing of tribes, and the criteria for leadership in commercial enterprise did not necessarily include hereditary rank or warrior prowess. There was also considerable movement of Maori labour about the country, especially in the extractive industries. For example, the Arawa were digging kauri gum at Whangarei in Northland in 1862. (Buller to Halse, 5 April 1862 - AJHR, 1863, E-4, p.17).
of the gospel had been 20 years earlier. T.H. Smith, rejected by the Arawa in 1856, now found himself welcomed by them, because, he reported, they were fearful of the influence of Waikato, wearied by the loss of their young men in recent feuds, and dissatisfied with their runanga. In Northland, northern Hawkes Bay, Rotorua, Manawatu, Wairarapa, the Wanganui River and parts of Lower Waikato, the East Coast, the Bay of Plenty and Taupo, some form of the new institutions was established.

INEVITABLY, it was not the neat pattern which Grey had outlined in his memoranda. This was particularly so with respect to the Runangas. Grey and his ministers differed as to the relative importance of the District and Village Runangas. The Governor looked to the larger body to assume real legislative and administrative functions, and hoped that the smaller village runanga of the Maoris would die out. The ministers regarded the District Runanga as an institution alien to Maori society, and, following Fenton's theory of 1857, proposed to take the existing Maori runanga and see if this could 'work itself into form' as a useful instrument of government, but with as few alien procedures as possible.


23 Fox to Grey, 31 October 1861 - AJHR, 1862, E-2, p.14; Buller to Nat. Min., 10 October 1862, Mantell MSS, 227.

24 Sewell Journal, 20 October 1861 (vol.I,p.233) and 3 November 1861 (vol.I, p.339); Sewell to Smith (instructions), 14 December 1861 - AJHR, 1862, E-9, Sec.IV, p.4.
In fact the heterogeneous mixture of tribes in most Districts prevented the assembling of District Runangas. Smith could not hope to unite such virulent enemies as the Arawa, the Ngaiterangi and the Ngatiawa in one assembly, nor Armitage such jealous rivals as the Ngatinaho and Ngatitipa. Law, Civil Commissioner at Taupo, had an aversion to constituting Village Runangas because of their litigious and inquisitorial tendencies, and sought men for 'Runanga Nui' but was baulked by Kingite opposition from constituting one. On the East Coast, W.D. Baker, R.M., at first assembled his Assessors at periodic intervals for instruction and informal discussion but the arrangement later petered out largely owing to the inconvenience to the Assessors from far off and the expense to the Maoris at Baker's headquarters of providing for them. In the Manawatu district, where Kingite influence was strong, it was considered sufficient progress to have the R.M. and his jurisdiction accepted and the Runanga system was not attempted.

Only in the relatively homogeneous and stable districts of Northland did Civil Commissioners assemble District Runanga, before the renewal of war. George Clarke, at the Bay of Islands, believing that if he

26 'Great' or 'Big Runanga'.
27 Law to Nat. Min., 28 November 1862 - encl. in Grey to Newcastle, 4 December 1862, GBPP, 1863/467, p.90.
28 Baker to Attorney-General, 25 March 1862 - AJHR, 1863, E-4, p.43.
29 Fox to Buller (instructions), 8 May 1862 - ibid., p.72.
30 And only in one further district, the Chatham Islands, after the renewal of war.
commenced with the Village Runangas they would become so entrenched that he would never get the larger body to meet, constituted first a District Runanga for all Ngapuhi hapu. W.B. White, at Mangonui, followed suit for the Rarawa, and in both Districts regular meetings began to be held at about nine-monthly intervals. Clarke's Runanga consisted of the duly accredited and salaried Assessors, two or three representatives being selected from each Hundred in the District, by the European officers in consultation with major chiefs such as Waka Nene and Mohi Tawhai. The election of delegates by the Maoris was deemed inadvisable as this would have pitted one hapu against another, engendered popular passions, and led to the election of men whom only their immediate supporters would have recognised. However, by the inevitable operation of kinship loyalties and obligations, each representative at the first meeting of the Bay of Islands Runanga, brought a friend whom he wanted to intrude into the assembly. Clarke had difficulty excluding these without giving offence, and also in keeping out the retinue that some chiefs insisted on bringing, the throng who came out of curiosity, and the Maori grog sellers who were at this time flourishing in many districts, with the aid of European suppliers. He kept the Runanga together for two days, while it wrangled over elaborate questions concerning office-bearers and procedure, the chiefs being anxious to emulate the formalities of the European Provincial Councils.

32 Barstow (R.M. Russell) to G. Clarke, 24 January 1863 - JC-Russell 1.
33 Clarke to Nat.Min., 5 April 1862 - AJHR, 1862, E-9, Sec.I, pp.8-10.
W.B. White organised a compact Runanga of seven members at Mangonui but seated the other Assessors of the district as non-voting members. He, like Clarke, had to adjust initial bickerings over office and salary. Both Runangas then settled down and, observing the formal procedures of a European meeting, passed useful resolutions outlawing the taua, and attempting to regulate stock trespass and fencing disputes.\(^{34}\) They also arranged for the building of hostelries at Mangonui and Waimate for Maoris visiting those settlements, and a hospital at Mangonui.\(^{35}\)

The District Runanga did not, however, command the prestige that members of the Government hoped they would. Grey had told the Maoris in the north that the Runanga was to be the supreme body, controlling the chiefs through its law-making powers, and that the Maori police could arrest even chiefs if they broke the laws of the Runanga.\(^{36}\) Chiefs of ancient lineage, not on the Runanga, were asked to sink their particular ambitions and particular hapu interests in loyalty to the

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34 Ibid.; also *The Aucklander*, 7 October 1862.

35 The hostelries were small wooden buildings, of two or three rooms, roofed with iron, but were regarded by both Europeans and Maoris as a great improvement on *raupo whare* (bulrush houses). The Government recognised the need to provide hostelries and some provisions at important meetings, both to prevent Maoris from having to stop at grog-houses and to prevent local chiefs from being ruined by the obligations of hospitality to visitors. (Halse to Carleton, 25 November 1862 - MA 4/5; Barstow to Nat.Sec., 20 February 1862 and Barstow to C.C. Waimate, 5 November 1862 - JC-Waimate 1).

36 Notes of meetings at Kerikeri, 7 November 1861 - MA 1/2, N.O. 61/150.
Runanga of the whole District. But the European dream of securing the Maoris’ submission to laws and regulations (even those of their own making) was not to be attained so easily. The artificial and alien nature of the District Runanga meant that it was without strong influence over the tribes, its decisions not respected of themselves. Chiefs valued an invitation to join it, as a mark of the recognition of their chieftainship, but once a meeting of the District Runanga had dispersed, its members reverted to their traditional function as heads of a hapu or group of hapu, and could and did, act quite contrary to the rulings they had just joined in passing. Chiefs who were not placed on a Runanga felt obliged to assert their dignity by ignoring or disparaging its proceedings. White's device of seating all important men as non-voting members was, however, a useful means of averting this result and he, in fact, was most successful in working the Runanga system.

Meanwhile, experiments with the small unit in Grey's plan, the Village Runanga, were also having mixed fortunes. In almost every village there was a runanga, of a traditional sort. In many districts each of these eagerly expected that the R.M. would liberally endow it with salaried officers and pay it for meeting under his chairmanship. 38

37 E.g., Fox to Maihi Kawiti, 4 June 1862 - MA 4/73.
38 Law to Nat. Min., 28 November 1862 - encl. in Grey to Newcastle, 14 December 1862, GBPP, 1863/467, p.90; Fenton to Col.Sec., 7 February 1862 - AJHR, 1862, E-9, Sec.II, pp.7-8; Armitage to Att.-Gen., 1 April 1862 - ibid., p.25.
This was partly a characteristic expression of the cupidity commonly to be found when a native society is intruded upon for the first time by a richer society, which the native people inwardly despise and see fit to mulct. It was also an indication of the village assemblies' disinclination to forego quickly their recent quasi-judicial activities - tedious and often unsatisfactory though they were - and submit to becoming mere rule-making bodies, subject to the magistrate and denied executive or judicial functions. The magistrates were obliged to point out that the new institutions involved a separation of functions, that only they and the Assessors would receive salaries and exercise judicial and executive powers and that in any case the Government could not possibly afford to pay the runanga in every village. Consequently in district after district disappointed Maoris withheld their cooperation and hopes of incorporating the Maori runanga into the new institutions faded. 39

In the Hundred of Taupari, however, Armitage got a Runanga to meet by having the Warden of Police give the members five shillings a day each from his salary, and in Kohekohe Hundred, Wi te Wheoro, an enthusiast for the law and a strong anti-Kingite, also assembled a

39 See, e.g., the experience of J. White, R.M. Central Wanganui. Mission influence was strong on the river, and the runanga had been under the control of the Maori catechists, all fees and fines exacted in the process of upholding a morality enjoined by the missions, going to mission funds. A deputation of 25 Maoris waited on White to ask for salary for the Government Runanga he proposed, saying that if they did not receive it they would simply continue the 'Runanga o te Hahi' (Runanga of the Church) as before. White replied that only the Assessors and Police would be paid, and it would henceforth be illegal for the Church runanga to levy fines and fees. 'This was the close of the Runanga idea', he reported. (White to Mantell, 11 May 1863 - Mantell MSS, 228).
Runanga. Even these crowded and disorderly assemblies passed a number of resolutions: some were requests for aid—a blacksmith, wheat, seed potatoes; some dealt with cattle trespass, dog nuisance, the clearing of thistles, damages for whare destroyed by fire; others dealt with the erection of courthouses; and others again concerned the question of puremu, a cause of such constant dispute in Maori society that, as one European officer reported, '[a Maori] judges law a good deal by the way it grapples that crime', Shortland, Civil Commissioner of Hauraki, assisted the Assessors and Village Runangas of his district to pass regulations and enforce fines against drunkenness and the bringing of liquor within villages; magistrates and clergy had similar success in respect of the liquor question among some South Island communities. This, however, was about the total extent of Runanga activity under the new institutions.

On one vital question, that of land, the magistrates, even among the most cooperative tribes, made almost no progress. The Ngatiporou refused to sell Baker a single acre for his courthouse but voluntarily ceded him 120 acres, demonstrating that the initiative in the disposition of land clearly remained in their hands. Thereafter, Baker wrote, 'The word whenua [land] is banished from my vocabulary. To utter a word

40 Armitage to Attorney-General. 26 April 1862 - AJHR, 1862, E-9, Sec.II, pp.39-40.

41 Whitmore to Col.Sec., 27 January 1864 -MA-NA 1/2. See also Armitage to Nat.Min., 19 June 1862 - AJHR, 1863, E-4, p.30.

42 Shortland to McLean, 7 September 1863 - MA 4/59.

having reference to it is to imperil my position and popularity'. 43
It was made plain to Smith by the Bay of Plenty and Rotorua Maoris that as proof of its benevolent intentions, the Government should acquire no more land. 44 Armitage made one effort to introduce the subject of individualisation of land tenure in his Runanga of Ngatitipa, but as this immediately produced a threatened withdrawal of one section of the Runanga he shelved all consideration of the question. 45

Only John White in Central Wanganui successfully settled a disputed boundary case in formal proceedings. On his first trip up the river he gave judgment in two cases, once for the plaintiff, an Assessor, and once for the defendant, a man of the Assessor's tribe. In each case the disputed boundary was laid off and accepted by the disputants and assembled Maoris. 46 These decisions started a ferment of discussion


44 Smith to Nat. Min., 26 December 1861 and 28 May 1862 - AJHR, 1862, E-9, Sec.IV, pp.5 and 20. Smith gave an equivocal reply to the Bay of Plenty Maoris, saying that while all transactions should henceforth be made through the Runangas 'it would not be right to restrict the liberty of any tribe or individual with respect to the disposal of his own property'. This was the doctrine underlying the Waitara purchase.

45 Armitage to Fenton, 6 January 1862 - AJHR, 1862, E-9, Sec.II, pp.8-9.

46 White to Mantell, 28 April 1863 - JC-WG 4.
among the Wanganui River tribes as to whether the practice of referring land disputes to White should be continued. Most of the pro-Government Maoris were in favour, the Kingite Maoris against. White eventually advised against further involving the Crown, as his adjudication would 'in the eyes of the stupid Waikato people touch the very point for which they are making the fuss'.

In June 1862 an affray at Hokianga showed the Maoris' temper with regard to major land disputes. There an ancient and smouldering quarrel, exacerbated by European offers to purchase the land, flared up in a series of bloody encounters between followers of the chiefs Tirarau and Matiu. Tirarau flatly refused to submit the case to the Runanga, as George Clarke suggested, and one prominent member of the Runanga, Arama Karaka, (who had lately sworn never to take up arms again) joined the conflict. The magistrates were defied and only the intervention of Grey and some of the neutral Ngapuhi enabled the dispute to be referred to the arbitration of a panel of chiefs in Auckland. Clearly the Runanga system was not a promising mode of determining land title and one of the major motives of the Government in establishing it seemed to have been destroyed.

47 White to Mantell, 6 May 1863 - Mantell MSS, 228.

48 AJHR, 1863, E-4, pp.6-16. Most of the chiefs on Government pay refrained from becoming involved; the chiefs that were left out of Government favour were inclined to be more defiant. Arama Karaka joined Matiu's side to avenge the death of his father, killed fighting Tirarau 20 years before. (Maning to McLean, 20 June 1862, McLean MSS, 311).
ON the other hand, the ordinary civil and criminal jurisdiction of the R.M. proved much more acceptable to the Maoris. In Northland, Rotorua, parts of the Bay of Plenty, Taupo, the East Coast and Lower Waikato, in northern Hawkes Bay, Manawatu, Wairarapa and the Wanganui River district, the regular progress of the R.M., accompanied by his principal Assessors and Karere, became the accepted machinery of justice and administration. In these districts, except with regard to major land disputes and cases involving reference to the Supreme Court, the R.M.'s were generally certain of having malefactors brought before them by the Karere, of having their verdicts accepted and fines or damages promptly paid. The system worked neatly in remote districts like Central Wanganui, where the tribal system was still largely intact. The R.M., John White, has left accounts of his circuits on the river, which he travelled in a canoe poled by his Karere: at each settlement a raupo courthouse, thronged by all the Maoris of the village, the magistrate flanked by his Assessors, defendants flanked by blue-uniformed Karere, the whole proceedings efficient and White's judgments respected by the participants.49 White was careful to work in cooperation with the principal chiefs - indeed the Assessors' concurrence in his judgment was required by the Resident Magistrates Ordinance and the Circuits Courts Act. Outside the formal hearings the R.M. settled a great many more disputes by personal advice and arbitration. Exalted by his success

White wrote, 'As I find the Assessors would give the New Policy support we grasped the nettle firmly as we ought to do and were not stung'.

E.M. Williams, R.M. of Waimate, a district long penetrated by settlement, related, after a year's work, that he had a weekly court at his headquarters and a periodical round among five raupo courthouses in the villages. He heard many complex arguments over trifling disputes and found the patient listening to these, with his Assessors, very wearying. His earnestness, however, was rewarded in that only one verdict had been disputed to the date of his reporting. His summing up of the situation was a balanced one: it was not immediately clear, he said, that the Maoris had accepted the supremacy of the law - he had had no serious cases - but their general willingness to cooperate was plain.

In mixed districts disputes between Maoris and Europeans were at least as important as those between Maoris alone. Barstow, R.M. Russell, reported 44 mixed cases in three years 1860-3; White, R.M. Mangonui, 82 cases in that period. In both areas Maoris were more frequently

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50 White to Nat. Min., 10 December 1862 - MA 24/22, N.O. 62/118a. See also A.H. Russell (C.C. Hawkes Bay) to Grey, and Russell to Nat. Min., 24 November 1862 - MA-NA 1/2. Russell described the good reception of the R.M. in Wairoa, Northern Hawkes Bay. The Assessors supported him and allowed Russell to reverse the decisions of their own runanga. Russell named the men he wanted appointed Assessors and one intelligent policeman at £1 a month.

51 Williams to C.C. Waimate, 17 February 1863 - JC-Waimate 1.
plaintiffs than defendants in mixed cases. The law allowed the R.M.s to be flexible in the administration of justice. The principles initiated by FitzRoy, in 1844-5, of levying a fine of four times the value of property stolen, in cases of theft, and of paying part of the fines for theft and assault to Maori plaintiffs, were frequently used. A large and indefinable number of disputes — including, in some districts, minor disputes about land — were settled out of court, by the adjustment of a claim, or the smoothing of a misunderstanding arising from language barriers. If possible, magistrates almost always used their informal intercession and the mediation of respected Assessors, to avoid a court hearing, which tended to excite passions, involve tedious presentation of evidence, and keep large parties of litigants and their supporters about the courts.

Once the leaders of a tribe had given their confidence to a magistrate the staunchness of their support was often remarkable. The most consistent support came from the younger generation of chiefs — the older men being more readily inclined to recall the glories of their old order and to resort occasionally to the use of a taua.

52 See below, Appendix A, pp. 524-6
53 AJHR, 1863, D-10, D-11.
54 Barstow to Col.Sec., 9 October 1863 - JC-Russell 1.
55 A case is recorded of a Karere of Wairoa, northern Hawkes Bay, pursuing a wanted man to Waikato and fetching him back for trial. (Whitmore to Col.Sec., 27 September 1864 - MA-NA 1/2).
Where the decay of Maori social structure had proceeded far the problem was different. Barstow found it much harder to control crime in two hapu of his people which were 'so broken that there exists no chief in either hapu of sufficient authority to exercise any effective control'. However, by 1863 Barstow was able to report that he had found a readiness among the broken tribes of the Bay of Islands to accept his jurisdiction without the advice and participation of Assessors.

The ad hoc machinery of the new institutions also assisted in winning Maori cooperation. The R.M.s, in their capacity as political and intelligence agents, established what were essentially diplomatic contacts with the principal chiefs, gauging their allegiance to the King or to the Governor, and sounding their reactions to movements by the Government or the Kingite leaders. The Assessors enjoyed being brought into this process and most R.M.s and Civil Commissioners were fed a stream of information - much of it mere rumour, some of it of great importance - by means of the Karere, who became indispensible links between R.M.s and Assessors and between R.M.s of neighbouring districts. In several districts the Karere were engaged to carry the regular mail of the Colony; indeed the overland postal services of the North Island depended upon the Maoris well into the 1870s. In the

57 Barstow to Att-Gen., 15 March 1862 - AJHR, 1863, E-4, p.3.
absence of organised Runangas such development works as were carried out – for example, the laying out of a new village, the founding of a school, the building of hostelries for visiting Maoris, or the introduction of stock and crops – were arranged by the R.M. in informal consultation with the principal chiefs. 60

There was much to show however, that even in the districts where the Runanga and R.M. system worked best, there was still a long way to go. European officials were irked to find that unofficial Maori runanga continued to meet as before. In some cases the chiefs and runanga who had not received salaries and recognition by the Government, remained an active source of obstruction and defiance to the new institutions. At Waimate an opposition runanga repudiated and rivalled Clarke's District Runanga, 61 and every district had a proportion of Maoris – sometimes large, sometimes small – who wanted nothing of European authority and continued to work a form of their traditional institutions.

The Assessors, for their part, could not suddenly detach themselves from their people and assume the mantle of impartial judicial officers. Once the Government had declined their requests for salary, the village runanga tended to absorb the paid Assessors, share their salaries, and resume their former proceedings. Because the runanga was traditionally an expression of the intense political activity of local Maori communities, and its quasi-judicial functions, largely imitative of European models, were superimposed, European notions of strict justice were inevitably distorted by the politics of the community and

extraordinary decisions and penalties resulted. The Government soon began to hear of cases where newly appointed Assessors had exceeded the £5 jurisdiction they were allowed under the Native Circuit Courts Act and levied excessive penalties.  

To these reports the Government usually turned a blind eye or merely cautioned the Assessor concerned to be more circumspect and be guided by the R.M. in future. Some R.M.s were inclined to watch the proceedings of the runanga from the sidelines, mitigating its severity, and actually relying upon it in tangled cases involving Maori custom. This was particularly so with regard to puremu disputes - matters of great importance to the cohesiveness and good ordering of Maori communities and ones which inevitably gave rise to intense feelings. Thus W.B. Baker, R.M. East Coast, regarding the runanga, in essence, as a 'community of any number of persons exceeding one family', not an institution, deemed it expedient to allow it to thresh out puremu questions instead of trying to impose the formalities and possible confusions and delays of English law. But even when magistrates made use of Maori tribunals they regretted the necessity to do so and generally condemned them. In every district much of the R.M.s effort was directed towards persuading his people to give up their runanga.

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62 E.g., R.O. Stewart report, 13 September 1884 - MA 23/4, N.O. 84/2839. (Stewart was recalling his experiences as R.M. at Raglan).

63 E.g., MA 4/73, p.129a.

64 Baker to Att.-Gen., 9 June 1862 - AJHR, 1862, E-4, p.50; H.T. Clarke Journal, 27 November 1861 - AJHR, 1862, E-9, Sec.IV, p.6. Of the two attempts to translate English law into Maori - Fenton's and Martin's - one treated adultery as a criminal offence subject to a fine, the other a civil offence entitling the injured husband or wife to claim damages.
proceedings in favour of appeal to his court. Not all appreciated that this could only be a slow and difficult process, and, while such matters as *puremu* and *makutu* were not covered by English law, could never be completed as long as some form of traditional Maori social organisation survived.

When they found that the Maoris' practice of confusing impartial justice with domestic intrigue was carried into their own courts some R.M.s responded with a vigorous condemnation of Maori honesty and capability. Baker, for example, quoted cases showing how he had to use the utmost vigilance to avoid convicting innocent parties in his court, on the basis of a tissue of false evidence. When Fenton, as Assistant Law Officer, called on magistrates to make up jury lists and involve their people as much as possible in the hearing of disputes, as envisaged by the Circuit Courts Act, many reported that there were only three or four men in each district of sufficient impartiality and intelligence to be jurymen. The belief that Maoris could not act impartially in disputes also affected European confidence in the Assessors.

It was soon realised that the chiefs' view of their responsibilities to their own *hapu* militated against the exercise of impartial judgment in disputes involving people of another *hapu* - especially those involving land. Though there were a number who did show a willingness to punish

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65 He wrote: 'Their notorious partiality - their unscrupulous disregard of truth, and so far as others are concerned, of justice - are every day apparent. Perjury of the deepest dye is looked upon by them as a venial offence, only reprehensible when they fail to gain their end.' (Baker to Att.-Gen., 6 May - AJHR, 1863, E-4, p.46).

66 Ibid.
their own people, in the interests of strict justice and peaceful ordering of society, European officials generally regarded these as rare birds indeed. On the other hand, when an Assessor attempted to exercise, over a man from another hapu, the limited jurisdiction allowed him by the Circuit Courts Act, he was usually defied.

When offers of appointments were first made, in districts which accepted the new institutions, each chief, though courteous in nominating his neighbour, hoped himself to be the recipient of office and salary. Subsequent to the initial meetings R.M.s were badgered by chiefs seeking recognition and plagued by their jealousies of each

67 E.g., an incident concerning the chief Te Wheoro (Armitage to Att-Gen., 26 April 1862, AJHR, E-9, Sec.II, p.39) and another concerning Ngatawa of the Whanau-a-Apanui. (Ibid., Sec. IV, p.8).

68 Ibid. R.O. Stewart, former R.M. Raglan, later wrote:

As regards the fitness of any Maori chief to administer impartial justice, I consider, and have seen that their very position as chiefs of a tribe militates against their exercising judicial functions, except over the limited tribe to protect the members of which is their natural duty as chiefs....The rivalry between tribes has not yet died out, and it is setting a chief on a very slippery place to ask him to forego the feeling of rivalry and mulct his henchman, while letting a foreigner go free and get the benefit.


69 See The Aucklander, 9 December 1862.
other. They generally felt obliged to recommend more appointments than were necessary and to ensure that the salaries of Maori officials in their districts were uniform. Because chiefs who announced their conversion from the King movement were normally secured in their loyalty by a salary, several professed conversion insincerely. Long-standing and often decrepit Assessors appointed in the 1850s had to be pensioned or kept on pay lest they become embittered and ferment trouble, while the men who claimed office or were chosen for office by their people were not always very suitable men to implement the rule of law and had to be matched by appointees of the R.M. — usually the younger chiefs who were more inclined to adopt the European order. 70

The result of these processes was a plethora of Assessors, Wardens and Karere many of whom were of little or no help to the magistrates. A return of January 1864 lists some 495 Maori officers with another 35 on pension. The Bay of Islands had 53, the Bay of Plenty and Rotorua 84, and Central Wanganui 52. 71 The process of culling the appointments began almost as soon as they were made. Though a man of high birth, Mangonui Kerei, Warden of Russell, had to be dismissed after he had beaten two women, assaulted another Maori and taken his horse, threatened to shoot his brother and defied the magistrate's summons — all

70 G. Clarke to Nat. Min., 30 December 1861 – AJHR, 1862, E-9, Sec.1, p.3; Sewell to Smith, 3 March 1862 – ibid., Sec.IV, p.17; W.B. White to Nat. Sec., 2 June 1862 – AJHR, 1863, E-4, p.5; J. White to Mantell, 18 February to 11 March 1863 – JC-WG 4.

71 AJHR, 1864, E-7. The Warden of Police at Hokianga was Papahurihia, leader of a religious cult which flourished in the Bay of Islands in the 1830s and 1840s. (See return of officers, AJHR, 1864, E-7, and Ormond Wilson, 'Papahurihia, First Maori Prophet', JPS, Vol.74 (1965), n.4, pp.473-83).
perfectly predictable actions in an eminent Polynesian chief of a somewhat disordered tribe, but not acceptable in an Assessor of the Crown. Others were dismissed because of their Kingite sympathies, for drunkenness, for failing to attend when required on court days, or for declining to give up the practise of polygamy.

Because the chiefs were frequently disinclined to submit themselves to the rulings of their own Runanga or the posturings of their own police, the Government was in little better position to enforce the law than it had been before, even in the districts which had accepted the new institutions. Defiances of magistrates and police came not only from the Kingite heartland. In December 1862, the Hawkes Bay chief Karaitiana led a party which rescued one of his hapu from a lock-up at Clive, where he had been detained for a petty theft, and informed the authorities, 'There is no policeman who had power to take a Maori in charge. You know that our law is that we shall try our own criminals'. A similar assertion was made the following February when a large party of half-intoxicated Maoris rescued from the Provincial police, in the streets of Napier, a chief who had been detained for disorderly

72 Barstow to C.C. Waimate, 25 March 1863 - JC-Russell 1. M.P. Kawiti, another Ngapuhi Assessor of high traditional rank, was dismissed for similar reasons. (Williams to Nat.Min., 23 January 1866 - JC-Waimate 1).

73 Barstow, report for 1863 - JC-Russell 1, p.98; Halse to Buller, MA 4/4, 1862 n.26; G. Clarke to Nat.Min., 16 December 1863 - Mantell MSS, 135; Armitage to Att-Gen., 12 April 1862 - AJHR, 1862, E-9, Sec.II, p.37.

74 See encl. in Grey to Newcastle, 6 December 1862 - AJHR, 1863, E-3, p.4; also Russell to Nat.Min., 27 November 1862 - MA-NA 1/2.
Even the more cooperative Ngapuhi were not willing to surrender men for offences involving long gaol sentences. Settler indignation flared when a Bay of Islands Maori attempted to rape an English woman. The Assessors, while admitting the man's guilt, declined to surrender him for a gaol sentence, and offered instead to pay on his behalf a £50 fine. The authorities perforce had to accept this. Aubrey, R.M. Whangarei, was obliged by an assembly of Maoris to release a man whom he had committed to the Supreme Court on a burglary charge. The Crown Prosecutor issued a warrant to the Auckland police for this man's arrest but Bell, then Native Minister, countermanded it and wrote:

It is an unhappy illustration of the state of things in this country that even in the midst of the European settlement of Wangerei [sic.] the magistrate dare not put a native prisoner on board a ship and send him up to be tried...yet there is less outrage to the administration of justice in admitting the fact than there is in the farce of taking a warrant in Auckland which could not be enforced without provoking a serious clash with the Northern Maoris.

With difficulty, White, R.M. Central Wanganui, did persuade the Assessors to allow the remand of a chief to the Supreme Court in Wellington, but he also reported that the Wanganui River Maoris were anxious to have the Supreme Court sit in the up-river district itself since they 'dread the separation of those committed more than the degradation of imprisonment'.

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76 AJHR, 1863, D-9.

77 Bell to Domett, 17 January 1863 - IA 63/118. Domett minuted (20 February 1863) that in the future the Crown Prosecutor was to communicate with the Government before acting in such cases.

78 White to Mantell, 31 July 1863 - Mantell MSS, 236.
A great many offences by Maoris were committed under the influence of liquor. Excessive drinking, fostered by European suppliers, increased enormously during the late 1850s; no longer could hope be entertained that few Maoris would acquire a taste for liquor. Some leaders of the tribes continued to urge the Government to enforce more stringently the Sale of Spirits Ordinance, which prohibited the selling of liquor to Maoris, but these were an increasingly small minority. On the contrary, the Maoris showed an ever increasing resentment of the paternalistic legislation that denied them the free access to liquor that Europeans enjoyed. Grey experimented with Orders-in-Council prohibiting entirely the landing of liquor on the Bay of Plenty and East Coast but the magistrates in that area were pestered with demands for relaxation of the restriction which, they were told, was only requested by the Maori mission teachers and a few chiefs, not by the tribes. Fines levied on publicans who were convicted of selling liquor to Maoris were raised by Grey from a puny £5 or £10 to £50 or £60 and part of the fine awarded to Maori informers. But a large proportion of the Maori population had become so addicted that it was almost impossible to obtain information and would-be informers were known to be intimidated by gangs of drunken young Maoris.

79 Halse to H.T. Clarke, 6 December 1861 - MA 4/4; H.T. Clarke Journal, 27 November 1861 - AJHR, 1862, E-9, Sec.IV, p.10; Smith to Nat.Min., 25 January 1862 - ibid., p.12; Fulloon to Smith, 13 February 1862 - AJHR, 1863, E-4, p.51; Pani Tuwhaka to Halse, 3 October 1863 - ibid., p.7.

80 Barstow (R.M. Russell) to Nat.Min., 23 January 1862 and Barstow to Col.Sec., 7 February 1863 - JC-Russell 1.
salaries paid to Assessors and Police actually stimulated drinking, while the Government Runangas in the North were very reluctant to restrict the access to liquor of themselves and their people. The flush of the liquor craze swept through the 'friendly' districts in the 1860s - it had not yet reached the Kingite heartland in force - disrupting the economic and social order of the tribes and reducing once proud chiefs to the level of shambling addicts, willing to mortgage the hard-won trading schooners, stock and crops of their people for the sake of liquor. European officials viewed this horror with mingled pity and contempt and furiously debated how to handle it.

Barstow, R.M. Bay of Islands, appalled at the demoralisation and lawlessness caused by liquor in his district, pleaded for stronger prohibition laws, stating: 'I object to class legislation but not to race legislation. I should no more make the same law for European and Maori than feed my horse and dog alike'. George Clarke, on the other hand, noted the Maoris' objection to discriminatory laws, and believed that the wave of drunkenness had passed its climax. He argued that Maoris should have greater facilities to buy liquor but that the laws against intemperance should be strictly enforced. It was clearly

81 Mitai Taua to Nat.Sec., - MA 2/40, N.O.62/1209. When Grey, launching the new institutions in the North, urged the Maoris of Kerikeri to pass laws regulating the sale of spirits he was taken aback by the blunt assertion of the Maori spokesman that 'of all good things there is none so good as grog'. (Hare Hikairo to Grey, notes of meetings, 7 November 1861 - MA 1/2, N.O.61/150).

82 Barstow to Nat.Min., 28 December 1863 - Mantell MSS, 135. This is a correspondence between the Northland magistrates on the liquor question, printed for the House of Representatives but later suppressed.

83 Clarke to Nat.Min., 9 February, 16 December and 29 December 1863 - ibid.
difficult to police a restriction on sale of liquor to Maoris once liquor was in the district, and equally difficult to prevent the landing of it on hundreds of miles of coastline with many natural harbours, but for the time being the prohibition school prevailed. A reluctant Runanga passed, on Grey's request, a resolution (which was duly gazetted) tightening the restrictions against the acquisition of liquor by Maoris. However, as the Provincial authorities and their scanty police forces gave little or no support to the R.M.s in their efforts to stop publicans and their drunken European clients from foisting liquor and unwelcome attentions on Maori communities, regulations were of little effect.

The medical care offered under the new institutions was patchy and inadequate. The 20 or so doctors subsidised by the Government, though sent by the R.M.s or the Native Office, on regular circuits of the pa in their district, too often waited in the towns for Maoris to come to them. The loneliness of their life in rural districts led many of them into drunkenness and a succession of liaisons with Maori women; the Maoris significantly requested that doctors sent to them be married men, preferably elderly. But although very rudimentary, the system of subsidised medical officers represented an advance in the Government's conception of its responsibilities, creditable in a laissez faire age.

85 Russell to McLean, 26 June 1862 - MA-NA 1/2.
86 Buller to Mantell, 16 April 1863 - Mantell MSS, 257; Russell to Hitchings, 31 May 1862 - MA-NA 1/2.
A Maori visiting a local town, and most Maoris within 15 miles of one, could be reasonably sure of free medical treatment. The Maoris, although still fearful of European hospitals, certainly appreciated the opportunity to visit, or be visited by, a doctor. When an epidemic was reported the Government usually sent a doctor to the area promptly.

But preventive medicine - other than smallpox vaccination and general advice on diet and hygiene - was not considered by the Government as part of its functions, or within its resources, and ailing Maoris were either unable or disinclined to sustain the nursing treatment prescribed by visiting doctors. In these circumstances the Maori population continued to live in more or less squalid conditions and to decline rapidly through epidemic disease.

Important consequences followed from attempts by R.M.s and Civil Commissioners and by some private individuals to found village schools. Despite some financial encouragement from the Government, most of

88 See Russell to Nat.Min., 27 June 1862 - MA-NA 1/2, for illustration of this in northern Hawkes Bay.

89 One of the last acts of cooperation between the Government and the King movement was the sending of doctors to combat an epidemic in the Matamata district in November and December 1862; Tamehana gave them hospitality and was thanked by the Government for it. (Bell to Tamehana, 15 December 1862 - MA 4/73).

90 These included George Clarke (assisted by Clendon and Williams) and W.B. White in Northland, A.H. Russell and R. Donaldson in Hawkes Bay, and G. Parsons, R.M.s Clerk, Waiapu.

91 Halse to Parsons, 20 January 1862 - MA 4/4; Halse to Barclay, 17 January 1862 - MA 4/4; Halse to White - 22 October 1863 - MA 4/59; Halse to Russell (C.C. Hawkes Bay), December 1862 - MA 4/5, n.985. Russell was encouraged 'to keep up a little elementary schooling among the children, without aiming at too much in the way of instruction'
these enterprises flourished briefly and died, through lack of persistence of either the Maoris or the school-teacher. Nevertheless, the village school system came to be increasingly regarded as the most simple effective and economical mode of reaching a large proportion of Maori children.

GIVEN the unwillingness of the chiefs to subscribe fully to European law and enforce it on their people, can it be said that the new institutions of 1861-3 were significantly successful or showed sufficient promise to justify persistence with them? G.S. Cooper, in uncooperative Hawkes Bay, wrote that 'a Resident Magistrate in a Maori district is little better than a cipher'. J. White in more cooperative Wanganui believed he could police the district if he were allowed to enrol 30 or 40 Maori police under a European officer, but this request was declined as too expensive and too risky. The Government, however, as Bell had stated, could not enforce warrants against recalcitrant Maoris by the use of European police or soldiers, without risking a serious clash. White put the problem plainly when he wrote:

How can I make myself believe that the Maoris can be led driven or coaxed unless the power used be distinctively Maori; any purely European policy is looked on by them as the shadow of a reality of future aggression.

93 Cooper to McLean, 21 January 1863 - McLean MSS, 190.
94 White to Mantell, 11 May 1863 - Mantell MSS, 228.
95 J. White to Mantell, 4 March 1863 - Mantell MSS, 227. See also White to Mantell, 11 May 1863 - JC-WG 4.
The only course then, short of taking military expeditions against the tribes - 'friendly' and Kingite alike - was to persevere with efforts to enlist the support of the chiefs. And this, for all that the Runanga scheme was largely inoperative and the law subject to periodic defiance, the new institutions were increasingly doing.

The reports of the R.M.s show that they were gradually making inroads, not on the heartland certainly, but on the borders of the King's territory. In districts bordering the Waikato there was a steady trickle of appeals to the R.M.s court by Maoris aggrieved by the decision of Kingite chiefs, and sometimes whole hapu came over.\(^96\)

Outside the Waikato there was a gradual blurring of distinctions between King and Queen Maoris during 1862 and early 1863. J. White's first up-river tour brought Kingite and Queenite Maoris into his court, giving evidence and accepting his judgments. Kingite soldiers even came in their uniforms and swore oaths, reluctantly, on the Bible.\(^97\) Buller reported that the line of distinction between King and Queen Maoris in Manawatu was less marked and that there was more harmony between each

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\(^96\) Buller, in Manawatu, received the allegiance of the Ngatihia, a hapu of Ngatiraukawa, and turned their whare runanga into a Queen's courthouse. He also secured the submission of Kawana Hunia, principal chief of the Ngatiapa, who had been at odds with Durie, R.M. Wanganui. (Buller reports, 24 June and 14 July 1862 - Unpublished PP, 1862, n.61). Gorst and Armitage received the allegiance of a small hapu near Ngaruawahia, aggrieved by a Kingite decision over a disputed eel weir. (Gorst to Att-Gen., 9 April 1862 - AJHR, E-9, Sec.III, p.6). Armitage also noted that the rank and file of Ngatinaho, previously disaffected, now followed the lead of their Queenite chief Te Whero. (Armitage report, 3 February 1862 - AJHR, E-9, Sec.II,p.16). White to Mantell, 14 May 1863 - Mantell MSS 228; White to Mantell 6 June 1863 - Mantell MSS, 229; G. Law report, 28 November 1862, encl. in Grey to Newcastle, 4 December 1862, GBPP, 1863/467, pp.87-90.

side. H.T. Clarke later recalled the steady decline in Kingite enthusiasm in the Bay of Plenty at this time.

There was hope that given no upheaval from outside their districts, and by proceeding circumspectly, the R.M.'s would, as Maori distrust died, have moved their jurisdiction forward. After six months in his district John White in fact secured the secession of four more chiefs and their hapu from the King movement and extended his frontier from 86 to 120 miles up the Wanganui River. He also succeeded in winning approval for the building of courthouses in the domains of the powerful chief Pehi Turoa, a man who leaned to the King movement from distrust of the Europeans but who resented a direct Kingite demand to keep White out of his territory. The war, however, interrupted White's progress.

George Law also began to make considerable progress among the divided tribes of the Taupo district—especially after the death of Te Heuheu in October 1862—so much so that Rewi Maniapoto, the leader of the extremist Kingites, personally intervened to check him.

Meanwhile in districts such as Waiapu, Northern Hawkes Bay and Rangitikei-Manawatu more hapu had began to tire of runanga without the supervision of a European magistrate and to request the assistance of

98 Buller to Nat.Min., 21 January 1863—GBPP, 1863/467, pp.165-6; Buller to McLean, 13 June 1862—McLean MSS, 161,


100 White to Nat.Min., 29 April 1863—JC-WG 4.

101 See letters of White to Nat.Min., and Mantell for March, April and May 1863—JC-WG 4. White asked for authority to make Pehi, and his son Tahana, Assessors. (White to Mantell, 8 May 1863).

102 G. Law report, 28 November 1862, encl. in Grey to Newcastle, 4 December 1862—GBPP, 1863/467, pp.87-90.
Government officers.

The respect and cooperation that the tribes accorded the R.M. system once they admitted it to their district, suggests that given time, European law and administration would have gradually extended and deepened its hold on the North Island, though it would have been a long time before all the tribes would have readily permitted arrests, particularly of chiefs, for crimes likely to lead to long gaol sentences, or before the extreme Kingites would have felt inclined to cooperate. Regular adjudication on land questions too, would have had to have been pursued very circumspectly, the manner and pace being dictated by Maori rather than settler requirements. While it was too much to expect the chiefs unaided to surrender their kinship loyalties for strict impartiality, it was apparent that, associated with a European in the deliberate exercise of impartial judgment, they too were capable of acting dispassionately and fairly. Nor, for all that they failed to fulfil the Government's exaggerated expectation, were the Runangas beyond becoming useful instruments of Government. Again it would have taken time, an absence of political turmoil, a better arrangement of district boundaries - and possibly the inducement of salaries or the payment of expenses - before a general system of government Runangas could have been established. But once the Runangas

103 Bell to Mantell, 8 January 1863 - Mantell MSS, 244. He quoted a case of excessive tyranny by a runanga:

The other day they adjudged a pretty kotiro [girl] of theirs to a gent she didn't fancy - and on her refusal to moe [sleep with him] handcuffed her with good iron handcuffs and kept her without food till she vowing she w'd ne'er consent consented.
of Northland, Kohekohe and Hauraki had passed through the stage of wrangling over office and procedure - an inevitable stage of growth and adaptation - they proved capable of passing useful resolutions on the needs of the local Maori communities. This was indicative both of Maori intelligence and adaptability and of the educative influence of the Runanga, and the resolutions might eventually have served as bye-laws, according to Grey's original plan, as the rule of law gained ground.  

On balance then, there was a sufficiently encouraging response to the new institutions from the Maori side to justify optimism among Europeans of goodwill. From evidence of their continued working in the Mangonui district Sir William Martin, in 1865, believed that they should be continued and elaborated upon. Henry Sewell considered that:

...upon the whole, a work had been begun, which, with time and patience - unless interrupted by external disturbances - might have restored peace to the Colony, and reconciled native self-government with British supremacy.

Unfortunately, before the work was interrupted by 'external disturbances', it was already being marred by lack of support from the settler community.

104 Buller, R.M. Manawatu, regretted that he was not encouraged to assemble a Runanga, remarking: 'To my mind, the "Runanga" properly understood, is the life of the whole affair'. (Buller to Mantell, 23 April 1863 - Mantell MSS, 257).


THE new institutions had been launched at a time when a large proportion of the settler community wanted the Maoris subdued by war. Fox's 'peace policy', and the new institutions were therefore judged hypercritically and intolerantly. Settler resentment at heavy expenditure on Maori affairs was fed by the bickering and jealousy of the chiefs over salary and office. The gifts of food, clothing, watches, ploughs, saddlery or British flags, and the payment of travelling expenses and lodging for chiefs visiting Auckland which were variously, forms of economic assistance, repayment of hospitality offered by the chiefs to European visitors, or weapons of diplomacy intended to forge or cement an alliance - were condemned by settler opinion as mere bribes to secure Maori allegiance, futile and wasteful. Even the subsidising of teachers in the Maori villages was sneered at by some who claimed that there was no way of 'improving' the Maoris but by the sword.¹

Among those who expressed the strongest objections to the new instructions was one who had much to do with administering them - Dillon Bell, the Acting Native Minister and Native Secretary. He not only opposed numerous appointments made in the out-districts but dragged

¹ Donaldson to Nat.Sec., 17 March 1862 - AJHR, 1862, E-4, p.24.
his feet over requests for agricultural implements or stock, or grants for flour mills and access roads, sent in by the Runangas or the R.M.s.\(^2\) Taking advantage of Bell's absence from the Native Office in April 1862, Fox displaced him and ran the Office himself.\(^3\)

This, however, only served to increase the fear in settler minds, of their old bogey – an irresponsible and nepotistic Native Office. The fact that George Clarke and three of his sons were back in harness was alarming to the many settlers who recalled the Protectorate Department, and its allegedly philo-Maori policies.\(^4\) The old Chief Protector's behaviour in 1862 was said to be meddlesome and overbearing.\(^5\) A.H. Russell was despised in Hawkes Bay for his 'sneaking missionary tendencies'.\(^6\) The return to the Native Office of C.O. Davis, a man suspected of intriguing with the King movement, was widely condemned.\(^7\) Armitage was despised because he drank heavily, lived with a Maori woman and had half-caste children; he was found dead drunk in a ditch.

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\(^2\) Bell to Mantell, 6 November 1861 and 26 December 1861 – Mantell MSS, 243; Bell to Smith, 6 January 1862 – Smith Letters; Morgan to Browne, 20 May 1862 – GB 1/2.

\(^3\) Bell to Mantell, 8 May 1862 – Mantell MSS 243; Bell to Browne, 27 May 1862 – GB 1/2.

\(^4\) The three sons were H.T. Clarke, R.M. at Tauranga, Marsden Clarke, assistant to Gorst, and Hopkin Clarke, assistant to George Clarke himself.

\(^5\) 'His sons have been known to steal away his horses and hide them lest he go to a Native meeting and make a mess of it'. (Maning to McLean, 26 June 1862 – McLean MSS, 311).

\(^6\) McLean to Browne, 8 August 1862 – GB 1/2.

\(^7\) He was tried for seditious libel in 1865, but acquitted. (See \textit{NZH}, June and July 1865).
in June 1862 and dismissed by Fox. The reputation the Native Office had gained under McLean, for laziness, inefficiency and secretive proceedings, persisted.

The Runanga system fell into contempt once it was clear that the Maoris did not want to decide land title questions and alienate land through them. Even before this was apparent ministers had advised Grey that settlers and speculators would be intolerant of circumscribed dealings under the Runangas; Hawkes Bay opinion underlined the point. Ormond wrote angrily of the squatters' dependence upon the Maoris, who could exact what rents they chose by taking settlers' stock or boycotting shearing or other work squatters required to be done. He asserted that the 'league against land selling etc. in this Province [is] only kept in existence by the terror the runanga poses'. To acquire the freehold of land therefore, settlers sought to pull down the Maori runanga, not bolster them by giving them official status.

8 Armitage to Nat.Min., 19 June 1862 – AJHR, 1863, E-4, p.30. He seems to have been reinstated soon after the invasion of the Waikato in July 1863, only to be killed with two other Europeans, within a few weeks, apparently by a Ngatimaniapoto party when he moved ahead of his Ngatinaho escort. (AJHR, 1863, E-5, pp.23-4).

9 It was later referred to by Fox himself as 'the Temple of Mystery'. (Fox to Mantell, 19 February 1863 and 19 August 1863 – Mantell MSS, 281).

10 Fox memo., 31 October 1861 – AJHR, 1862, E-2, p.15.

11 See Hawkes Bay Herald, 14 January 1862 et.seq.

12 Ormond to McLean, 23 December 1863 – McLean MSS, 326.
More generally, settlers wished to control all aspects of New Zealand life, and not share authority with people they regarded as semi-barbarians or be dependent on them in any way. When the Mangonui Runanga passed a resolution on fencing The Aucklander voiced popular European sentiment in stating: 'it only wants the Governor's approval to subject Europeans settled in that district to Maori law administered by Maoris'. 13 Settler revulsion at such a situation was an important reason why settler politicians did not ratify more of the resolutions and why the Runanga system was not more zealously fostered.

Sewell expressed the truth of the matter plainly in 1862 when he wrote: '...institutions of government for the natives can be successful only on the condition of securing the cooperation of the colonists and the mutual goodwill of the two races'. 14 That cooperation was notably lacking. Despite the most helpful and conciliatory approaches by the Maoris, Europeans remained adamantly uncooperative. When Armitage's Runanga wanted to appoint a European policeman to assist in disputes between parties of both races, the other settlers stated they would withdraw their custom from the man in prospect – he was a local tradesman – if he accepted the appointment. 15 At Armitage's request, Fox did secure – in the 1862 session of the Assembly – an amendment to the Native Districts Regulation Act to permit regulations of the Runangas to extend to European land and European settlers dwelling in predominantly

13 The Aucklander, 7 October 1862.
Maori districts. But this was to be conditional on the consent of a majority of the Europeans involved, and such consent was beyond hoping for. In fact it may safely be asserted that the Runanga system failed to develop, not because of an insuperable lack of response from the Maoris, but because few Europeans really wanted to see it develop.

Once Fox saw the way European opinion was shaping he lost heart. As early as May 1862 he told Armitage to postpone questions about gaols, courthouses and hospitals till he had called a general Runanga, and that this too should wait till after the General Assembly session in June, 'when the Government will be in a position to determine with more precision the extent to which it will be able to support your views, and to meet those of the Natives in this matter'.

Before the Assembly met the failure of the new institutions to make dramatic progress in breaking down the King movement, had destroyed their only justification in many settlers' eyes. Because Grey's whole policy of civil institutions, was being used to undermine the King movement, not to cooperate with it respectfully, the inevitable result was a stiffening of reactions by Kingite leaders, who sought to prevent the magistrates from extending their jurisdiction. Gorst, in Upper Waikato itself, made no progress at all.

16 Fox to Armitage, 5 May 1862 - ibid., p.39.
17 McLean later noted that it would have been better to have sent to the Waikato an instructor in agriculture, capable of settling disputes if specifically called upon the the Kingite chiefs to assist. (Unsigned, undated memo., McLean's handwriting - McLean MSS, 14, n.35). Such a course would probably have proved very acceptable to the Kingites, who were in the position of modern African nations, anxious to maintain independence but eager for technical aid and advice 'without strings'.

In May 1862 he came into Auckland with a view to giving up altogether. The ministers were depressed; they were inclined to want to send Gorst to another district and 'shut Waikato up', that is, withdraw all Europeans from the district and impose a trade embargo on the King movement, in the hope that it would then collapse in disillusion. But Grey decided, 'it will not do, the Europeans must hold their ground. It would appear as if we were driven out of Waikato'. Gorst therefore declined an appointment to Raglan and returned to the Waikato.

18 Morgan to Browne, 20 May 1862 - GB 1/2. This course was being urged early in 1862 by the Waikato missionary Ashwell, supported by fellow-missionaries Grace and Reid. (Ashwell to Venn, 1 July 1862 - Ashwell Letters and Journals). The Kingite collapse might, however, have taken a good deal longer than the clerics anticipated.

19 Morgan to Browne, 4 March 1862 - GB 1/2. Sewell's attitude is hard to determine. He claimed much later to have advised Gorst's withdrawal. (Sewell Journal, 18 December 1864, II, p.298). But any proposal to mark off the King's territory semi-permanently was apparently unacceptable to him:

This notion of establishing a pale, with an outside district, has always appeared to me to be the most foolish mistake that could be made. Its inevitable result must be collision and a conflict of races. A border country is in its very nature a country of war.

(Sewell, The New Zealand Native Rebellion, p.48).
Meanwhile, the devious Dillon Bell, smarting under his recent dismissal from the Native Office, conceived a way of bringing Fox's 'peace policy' into disrepute. He had been informed by Gorst that 'My residence in Waikato is bringing me to look upon vigor and power as the highest qualities in a Government'. Bell therefore joined in urging Gorst's return, not to serve any more summonses, but to write a report on his recent experiences. This report, coming from a young intellectual, an idealist, sympathetic to the Maoris, and manifestly not a landshark, proved to be utterly damning to the King movement. Gorst wrote:

I confess that when first sent into the district...I entertained the hope and expectation, that a reconciliation and alliance might be effected between the English Government and the leaders of the King party [but not the Kingite 'administration' as such] and that all the King's officers might be employed in the organisation of Government in the district. It appears to me now that the fulfilment of this hope was from the first impossible, for two reasons: (1) Because the King subsists entirely upon the feeling of opposition to our Government. It is possible that the King Movement originally may have been a movement for law and order; it has altogether lost that character now. (2) Because the King and his Council have not the slightest power to enforce obedience to the law. As a scheme for creating a Government the King Movement has failed long ago.

20 Bell to Browne, 27 May 1862 – GB 1/2.
21 Ibid., and Bell to Browne, 30 June 1862 – GB 1/2.
Gorst gave many illustrations both to show the depth of Kingite hostility to the Government, and to show that, while the King provided a rallying point for disaffected Maoris, these adherents did very much as they pleased, under cover of the King's name, but were in no way submissive to his authority. In passing, he argued that it was senseless to try to remove the King, without trying to remove the cause of the 'feeling of common danger' which provoked the Maoris to establish him. This was sound counsel but it was not the most urgent point of Gorst's argument. He went on to state:

But there is a danger, which is a very much more serious and permanent source of peril to the Colony than that one the symptoms whereof is the Maori King - it is the utter lawlessness and anarchy of the native population of New Zealand....The great mischief of all is not that the natives choose to be governed by a King instead of by us, but that they are not in any real sense governed at all.

So long as that state of affairs continued - and here he referred to other districts besides Waikato - 'peace and prosperity in Native districts will be an impossibility'. He then stated: 'The great remedy then for the evils of the land is Government - but I mean vigorous Government - I mean authority which is able to protect life and property by enforcing obedience to the law. Magistrates and laws were in abundance he argued; it was police power that was defective; the task of establishing sufficient police power was fraught with difficulty and danger, 'but there can be no peace in the Colony till it has been fairly met and full solved'.

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23 Ibid., pp.18-19.
This might have been Governor Browne speaking before his attempt to 'police' Wiremu Kingi; it was no more than the previous government of Weld, Stafford, Whitaker and C.W. Richmond, and most of the colonists with them, had been urging for years. Gorst's report was called for in parliament by Fox's opponents. When published it was hailed throughout the settler press and greeted by a chorus of 'I-told-you-so' from the long-standing advocates of 'vigorous action' and Grey was 'greatly pleased with its truth telling'.

Gorst's report was in fact born of the irritation and depression produced by the frustration of his hopes and ideals. His hopes had been based on false assumptions to begin with, for his notion of 'alliance' with the King movement meant, not the offering of friendly respect and assistance towards it as a virtually independent entity but, in effect, the undermining and seduction of its integrity. In the Waikato itself, Gorst, like most educated Europeans in the Colony, showed little understanding or tolerance of the tumultuous and untidy efforts of the chiefs to order their society. His tidy conceptions led him to take an unduly pessimistic view of the fortunes of the civil institutions of 1861-3 and his sweeping judgment that they 'proved in every place a total failure', was wildly inaccurate. Nor was his sympathy with Maori efforts and requirements acute enough to prevent his viewing the

25 Bell to Browne, 30 June 1862 - GB 1/2.
26 Morgan commented on his lack of patience and perseverance and wrote that he was 'soon elated and soon depressed'. (Morgan to Browne, 29 September 1863 - GB 1/2).
resolutions of Armitage's Runangas as simply 'amusing'. His ideas on the need for a police power in the land had much justification, but he was foolish in thinking that a Government police could act effectively anywhere without Maori cooperation or in the Waikato at all without provoking a clash.

The net result of his report of 5 June was to give an important trick to those who wished — for baser reasons than his own — to coerce the King movement; it contributed largely to the discredit of Fox's 'peace policy', and gave new impetus to a policy of 'strong' government. Although the placing of magistrates in hitherto neglected districts certainly helped to retain the attachment of chiefs who would otherwise have been exposed to all the blandishments and pressures of the King movement, and although John White and Law actually began to gain ground at the King movement's expense, few settlers were prepared to sustain the slow and patient approach needed if the Maoris were to accept civil government peacefully. Once Gorst's damning report of events in the Waikato was published the quiet progress in the Wanganui and Taupo districts could not change the settler verdict that, in so far as they had been intended to supplant the King movement, the new institutions were a failure. When the General Assembly met in June, Fox clung rather hopelessly to the central idea of the new institutions, speaking of the Runanga as the point d'appui to which to attach the machinery of self-government, and introducing a Native Lands Bill which would have confirmed the power of the Runangas, under the Governor-in-Council, to determine land title. But a combination of North Islanders'.

28 Ibid., p.161.
29 PD, 1861-3, p.422.
contempt and jealousy of Maori authority, and South Islanders' resentment at the expenditure in the North, soon produced his fall. 30

The incoming Premier, Alfred Domett, 31 confused the Government Runangas with the Maoris' own councils and used the extortionary and tumultuous proceedings of the latter to damn the former. He 'did not care to deny that he still believed that, if the Natives had been taught first to respect the power of English arms, the schemes proposed for their benefit would have had much better chance of success'. 32 Domett in fact took little interest in the work of government, least of all Maori affairs, and the control of Maori policy rested with Grey and Dillon Bell 33 — whom the Governor virtually compelled to become

30 Announcing the resignation of his government Fox stated:

Ministers have retired not solely as regarding the vote of last night [on the acceptance by the colonial Government of responsibility in native affairs] as an adverse one...much less...as a vote of want of confidence, but because we became aware in the course of the debate which preceded it, and from private conferences with honourable members who we had reason to suppose would support us, that we had not a reasonable prospect of such a compact and united support as would enable us to carry out those measures which we consider essential, cardinal points of our native policy...(Ibid., p.477. See also W.P. Morrell, The Provincial System in New Zealand 1852-76, p.125; Sinclair, Maori Wars, pp.249-51).


32 PD, 1861-3, p.516.

33 Bell, though not a university graduate, was educated in France and England, and well-read. He joined the N.Z. Company settlement at Cook's Strait at the age of 17.
Native Minister. These two worked closely with Gorst in the 
prosecution of a 'strong' policy towards the King movement, implementing 
a further memorandum by Gorst in favour of police barracks in the 
Waikato, and planning for armed gunboats on the river. 34

The Assembly, however, desired to leave sufficient responsibility 
for Maori affairs with the imperial authorities, in order to avoid both 
the cost of, and the blame for, the probable hostilities in Waikato and 
Taranaki. It was therefore obliged to accord Grey considerable influence 
and give his policies some recognition. Moreover, despite his intolerance 
of large expenditure on salaries or grants of aid to Maoris, Bell vaguely 
believed that 'We must still do everything we possibly can to induce the 
natives to accept some kind of institutions from us'. 35 

Domett and  

34 Gorst, seeking 'To provide some instrument by which obedience to law 
can be enforced without the risk of provoking a war of races' 
advocated the building of a police barracks at Kohekohe, Wi Te Wheoro's 
district, which, after Armitage's dismissal, had come under Gorst's 
supervision. (Gorst memo., 28 June 1862 - AJHR, 1866, E-4, pp.35-6). 
Grey apparently suggested a barracks at Otawhao, in Upper Waikato, 
which Gorst realised would be too manifest a provocation and 
suggested that it be formed as an industrial school, to enrol a 
body of young men, ultimately to be rivals to the King's soldiers. 
(Morgan to Browne, 27 June 1862 - GB 1/2; Gorst, The Maori King, 
ed. Sinclair, p.193). The Otawhao institution was a very promising 
school indeed - the last institution seriously to undertake the 
training of young Maoris in the trades until the 1960s. Suspicion 
of its ulterior purpose, however, condemned it in Kingite eyes. The 
Kohekohe barracks might have been useful in almost any other district 
but Waikato, but, it too heightened the King movement's fear and 
distrust.

35 Bell to Smith, 10 June 1862 - Smith Letters.
and Bell therefore continued the appropriation of some £50,000 to carry on Grey's 'plan of Native government', actually increasing the Colony's direct contribution by £7,000, at the same time assuring the House that expenditure on the new institutions would be curtailed if war was renewed.  

The system was carried on in a half-hearted fashion. Existing R.M. districts were kept staffed, and one new district, the Chatham Islands, received its first permanent R.M., W. Thomas. A few important chiefs were appointed to office. New appointees, like Thomas and Hunter Brown of Wairoa, were still urged to establish local Runangas and make them produce a set of regulations that pleased the Government, but Buller of Manawatu was restrained from calling a general Runanga, and George Whitmore, who replaced A.H. Russell as Civil Commissioner of

36 PD, 1861–3, pp. 546–7; PD 1864–6, p. 581. Expenditure on Maori affairs rose from £16,228 in 1860–1, to £25,315 in 1861–2 and £57,021 in 1862–3. See AJHR, 1869, B–2, Table R (2). Tables in McLean MSS, 30 and 31 give figures which differ slightly but not significantly. Expenditure in 1862–3 included, besides salaries, the general expenses of the Native Office (some £4,000 p.a.), medical attendance of Maoris (£3,192), loans to chiefs (£1,200), presents and entertainment (£1,200), and uniforms for Maori officials (£756). A further £8,447 was paid to schools, mostly, at this stage, to church boarding schools. (See AJHR, 1863, B–8 and return of expenditure, McLean MSS, 31).

37 Thomas became R.M., Circuit Court Judge, Postmaster, and Registrar of Births, Deaths and Marriages.

38 Instructions to Hunter Brown, 17 February 1863 – MA 1/3, N. 0.63/54.

39 Halse to Buller, 21 November 1862 – Mantell MSS, 227.
Hawkes Bay, was known not to believe in the system. The £50,000 devoted to Maori administration did not go further than provide salaries, running expenses and a very limited amount of economic assistance. Neither Grey nor his ministers had contemplated large expenditure on development work – the Runangas were supposed to find this by the alienation of land – nor would the Assembly have approved it. The more ambitious projects conceived by officers in the field were therefore shelved. Still the Government generally did meet requests, involving no more than about £50 of expenditure, to assist a school, build a bridge or access road to enable a village to sell its crops, or equip a smithy where agriculture equipment could be repaired, and it kept up the gifts of seed wheat, potatoes, and agricultural implements that Grey had commenced 15 years before.

The lack of finance was probably not as serious an impediment to the working of the new institutions as the want of zealous and efficient direction of them by the Government. Grey himself, angry at the rebuffs he had received from the King movement, had lost his enthusiasm for the new institutions. Bell had become nearly blind

40 McLean to Browne, 5 September 1862 - GB 1/2. Whitmore had been military secretary to General Cameron but, like a number of officers in British regiments, resigned his commission to make a career in the Colony.

41 W.B. White was told that his plan for building model villages was cordially approved but that there was no money available for such a project. (Halse to White, 31 December 1862 - MA 4/5).


with ophthalmia and confined his attentions to the Taranaki question. Mantell was brought into the Government in December 1862 and given direction of Maori affairs in the Wellington Province, but he was probably more hindrance than help, because of his hypersensitive fear of being by-passed (which led him to meddle unnecessarily in petty matters) and his fancied wit (which resulted in letters expressing strange conceits or careless contempt, rather than sound advice).

Almost all the useful resolutions of the Runangas met a cold reception. Requests for economic aid were treated as grasping; resolutions on the puremu question as quaint. The resolutions on stock trespass, fencing, clearing of thistles and sale of spirits were treated as too vague or simply ignored, and the neglect to confirm them was the subject of bitter complaint among the Maoris. Only a Kohekohe

44 Bell to Whitmore, 25 April 1863 - MA 4/59. When Gorst was expelled from Upper Waikato in April he became Bell's scribe.

45 Halse circular, 5 December 1862 - Mantell MSS, 217.

46 On one occasion when John White asked him for advice on several complicated issues he wrote: 'If you ask me point blank what course to take I say straight on; if you say that is impossible, I then say take the nearest you can to it. And God speed you'. And on another occasion: 'As to advice put your trust in Providence'. (White to Nat.Min., 18 November 1863 – JC-WG 4). He affected a stiff aloofness from Maoris of Kingite inclinations neither seeking to establish friendly relations with them nor encouraging his officers to do so. (E.g., Mantell to White, 14 February 1863 – MA 4/59).


resolution on wandering European cattle and the Bay of Islands
resolution on the sale of spirits were ever confirmed by the Executive
Council and gazetted. 49

The R.M.s were generally left in their enormous districts,
obliged to travel frequently in extremely arduous conditions of terrain
and climate, 50 required to do incessant judicial work and political
negotiation, which involved seeing Maoris all day and writing reports
late at night, specifically told not to expect precise orders as the
time lag in communication frequently rendered them redundant, 51 but
obliged by a nagging Audit Office to account for every penny of
expenditure. 52

Most depressing of all was the tendency of the Government to
neglect to follow up important advantages. Wairoa, in northern Hawkes
Bay, had waited a full year after the Maoris had agreed to accept the
new institutions before it received its permanent R.M. A.H. Russell,
reported that he had difficulty keeping the Maoris from wavering, a
principal chief, Ihaka Whanga, stating that he was reluctant to abolish
their own runanga system 'until he saw the law established in its stead'. 53

49 Minutes of Executive Council, 6 July 1863 - EC 1/2.

50 Drowning in rivers rivalled shipwreck as a cause of death in nineteenth
century New Zealand. A return of 1870 (AJHR, 1870, D-46) revealed
1,115 Europeans drowned in rivers - exclusive of harbours, swamps,
wells and the sea - from 1840 to 1870. The doctor appointed to serve
the East Cape Maoris was drowned in a river crossing shortly after
his appointment and not replaced.

51 Bell to Whitmore (C.C. Hawkes Bay), 25 April 1863 - MA 4/59.
52 Buller to Mantell, 5 and 14 May 1863 - Mantell MSS, 257.
53 Russell to Nat.Min., 26 January 1863 - MA-NA 1/2.
Local officers, who might be expected to have known best, generally had more faith in the new institutions than those more remote from contact with the Maoris. Russell, for example, wrote:

The Government cannot know what they lose by not acting more promptly - had their present policy been carried out with spirit from the first mention of it I am of the opinion that much greater progress would have been made.54

But although they were disinclined to encourage Maori Runangas or pay heavily for Maori social and economic advancement, the Assembly and ministers were eager to strengthen the magisterial powers of the R.M.s and so tighten the grip of European law over the country. The jurisdiction of R.M.s and Circuit Court Judges had been found to be too small and it was costly and impracticable to refer cases to the Supreme Court, even if the Maoris would have cooperated. Amendment acts of 1862 substantially increased the jurisdiction of both classes of officers and made procedures more flexible. In explanation of the change Sewell - who remained as Attorney-General in the Domett ministry

54 Ibid. Referring to the Manawatu district, Fox wrote to Mantell:

I confess I was nearly out of hand at the neglect of the district by your colleagues whose tardiness in confirming appointments etc. bid fair to undo all that Grey and Buller had done, and which but for the insouciance of the 'Tari' [the Tari Maori, or Native Office] was fair way of great success.

(Fox to Mantell, 19 February 1863 - Mantell MSS, 281).
until mid-September 1862 - wrote:

It is necessary in order to establish some authority to which the Natives will submit and to which they will look up as a governing power to arm the Magistrate with very extensive jurisdiction. He must be able to administer Justice on the spot and at the instant in order to wean the Native from his own barbarous habits of enforcing rights or redressing wrongs.\textsuperscript{55}

To encourage Maori acceptance of the jurisdiction of the Supreme Court, the Assembly amended the Juries Act to permit the enrolment of a Maori jury in criminal or civil cases between Maoris and the enrolment of a mixed jury in civil cases between a Maori and a European.\textsuperscript{56} Sewell had intended that Maoris should also have the right to call for a Maori jury or at least a mixed jury in mixed criminal cases, but the Domett ministry would not accept this.\textsuperscript{57} Bell argued that to go too far in the direction of allowing Maori jurors power over Europeans in criminal cases, would be to excite so much European animosity that racial harmony would be impaired rather than increased.\textsuperscript{58} However, the

\textsuperscript{55} Sewell memo., 22 September 1862 - PM 2/l, (also AJHR, 1863, A-1, p.6); The Resident Magistrates Jurisdiction Act and The Native Circuit Courts Act Amendment Act, 1862. The latter reduced the number of Maori jurors required in a Circuit Court hearing. With regard to disputes between Maoris R.M.s had empanelled varying numbers of Maori jurors or none at all, according to inclination and whether or not capable and willing men were available. But they rarely, if ever, did without Assessors.

\textsuperscript{56} The Jury Law Amendment Act, 1862.

\textsuperscript{57} Sewell memo., 22 September - PM 1/2.

\textsuperscript{58} PD, 1861-3, p.502.
amendments passed were soon brought into operation. One Metane Te Huiki of Wairoa, having been voluntarily surrendered by his relatives, was tried before a Maori Grand Jury in Napier in September 1862, for the murder of his wife. Mixed juries were not uncommon in later years, while coroners' juries, empanelled according to very flexible rules, began to be used more regularly in cases of Maori deaths, and they normally included Maoris.

The question of Maori reserves also received attention from the 1862 Assembly. Under the 1856 Native Reserves Act, Boards of Commissioners consisting of local politicians or clergy, acting in a part-time capacity, had administered the old New Zealand Company

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59 Report of trial, McLean MSS, 31A. Also A.H. Russell to Grey, 23 October 1862 - MA-NA 1/2. The evidence was scanty and the jury, diligently following the direction of the Judge, acquitted the accused. Te Huiki nevertheless had to be hastily shipped off to Dunedin with a public subscription to start him off in the south, lest the dead women's relatives kill him according to the time honoured Maori principle of utu. Te Huiki's wife had been found dead in a stream, and although the evidence was too slight to rule out the possibility of suicide - as the Grand Jury rightly concluded - Maori opinion argued that if Te Huiki did not kill his wife he at least drove her to suicide. (Russell to Superintendent, Otago, October 1862 - MA-NA 1/2).

60 See below p. 247 note 161.

61 E.g., A.H. Russell to Dr. Hitchings, 11 October 1862 - MA-NA 1/2. Russell claimed that an inquest held by Hitchings on a Maori child was the first 'native inquest' in the Province. See also Buller to Nat.Min., 9 September 1863 - G 17/3, n.175; Whitmore to Nat.Min., 25 April 1864 and Whitmore to Col.Sec., 27 September 1864 - Ma-NA 1/2.
reserves together with a few reserves made since. The Commissioners, however, had frequently neglected or mismanaged their responsibilities and it was fortunate for the Maoris that, contrary to the intention of the 1856 Act, they had placed little extra land under their control. In the review of the Commissioners accounts and proceedings after McLean's departure from the Native Office many anomalies had been found, including the sale of a reserve by the Taranaki Board to one of its own members - Robert Parris. The Fox ministry shut down all further transactions by the Commissioners, and the 1862 Assembly passed a new Native Reserves Act based on the ideas advanced by James Mackay from his experience as Assistant Native Secretary in Nelson. Maoris no longer had to convey land to the Crown but could simply place it under the administrative control of the Governor, who would administer it through officers of the Native Department. Leases or sales of reserves so vested could be made with the approval of the Governor-in-Council, that is, of the government of the day. Under the act, White, R.M. Central Wanganui, and Edwards, R.M. Waikanae, were given authority over reserves in their districts, and George Swainson, became full-time reserves Commissioner in Wellington. Swainson began the painstaking work of scrutinising deeds and defining reserves, making accurate

62 See below p579 for the lack of cooperation James Mackay had from the Commissioners of Native Reserves in Nelson.

63 Sewell to Commissioners of Native Reserves, Taranaki, 4 November 1861 - MA 4/4. The Taranaki Commissioners were lectured on the grave impropriety of their act and the reserve was taken from Parris. It was returned, however, not to the Maoris, they being deemed to have received full payment for it, but to the Province.

64 Domett to Edwards, 8 October 1862 - MA 4/4; White to Mantell, 25 March 1863 - Mantell MSS, 227. White set about laying out a township in the important Putiki reserve near Wanganui.

65 Domett to Swainson, 11 October 1862 - MA 4/5.
surveys, ascertaining the owners and arranging for leases on better terms than the Maoris had hitherto haphazardly arranged for themselves, and making a careful application of revenue by arrangement with the beneficial owners. This was a beginning to the sort of staff work that was necessary to transform theories of trusteeship for Maori interests into reality.

Much the most important preoccupation of the Assembly and Government in 1862 was, however, the Native Lands Act. The Waitara purchase had shown that the establishment of a tribunal to ascertain Maori title was clearly necessary and had furthermore, so discredited the system of purchase by the Crown, that both the Colonial Office and disinterested opinion in New Zealand felt that the Crown must disengage from it. The Maoris themselves generally wanted a cessation of purchase altogether rather than an abolition of Crown pre-emption, but they had long resented the profits the Crown made on the resale of lands and some did ask for the right of direct sale to settlers in the expectation that they themselves would receive the prices which the Crown was paid. There was therefore some force in Bell's argument that the Native Lands Act might re-establish confidence between the

66 In his despatch of 5 June 1861 Newcastle had told Grey that Her Majesty's Government would be willing to assent to 'any prudent plan' for the individualisation of Maori land title and direct purchase of Maori land, under proper safeguards, by settlers. (PD, 1861-3, p.610; PM 2/1, p.7).


European community and the Maoris, by assuring the latter firstly, of their legal right to all their lands, including the uncultivated lands (for not all European opinion had yet conceded that the Maoris' entitlement to their lands, expressed in the Treaty of Waitangi, included the waste lands) and secondly, the full market value of those lands when they chose to alienate them.

But these principles had been well catered for in the scheme — advanced by Grey in his new institutions and Fox in his Native Lands Bill of 1862 — for alienation of land through the Runangas. This method, however, would have greatly circumscribed would-be purchasers and once Fox's ministry had fallen, Bell introduced a new bill more calculated to suit European tastes. Bell was not markedly sympathetic to speculators, but he was a devious man, lacking in principle, who bent easily to powerful pressures; and at Bell's elbow in the Domett ministry were the noted financiers and speculators Thomas Russell and

69 See, e.g., The Aucklander, 5 September 1862.
70 Bell memo., 6 November 1862 — AJHR, 1863, A-1, pp.8-11; PD, 1861-3, p.611.
71 With reference to the contemplated purchase of Stewart's Island, Bell noted that various speculators had tried from time to time to obtain his sanction for advances to Maoris, in contravention of the Native Land Purchase Ordinance and added:

I have invariably stated, that so far as it lay in my power, I would do my best to cause the loss to themselves of every shilling they might spend in unlawfully tampering with the Native Title over any lands not yet ceded to the Crown.

Frederick Whitaker. 72

The new Native Lands Act left the Maoris worse off than they had been before. The form of Native Land Courts authorised by the new act - panels of important chiefs in each district meeting under the chairmanship of a European magistrate - was sound enough; it envisaged working through existing Maori authority and finding (as far as it was possible to agree on the matter) actual rights of ownership of land according to Maori custom, before the grant of a legal title to groups of owners or, possibly, individuals. But the essential guarantee that the Maoris would receive full market value for their land - sale by public auction only - was not provided for. Instead, once the Maori had a certificate of title awarded by the land courts and endorsed by the Governor this could be used as the basis for the transfer of the land to individual purchasers. The act therefore would simply 'to a great extent convert the Native Lands into transferable paper'. 73 Moreover, it declared that illegal private transactions with the Maoris for their lands before the grant of a certificate, would merely be 'void', not unlawful. 74

The way was open for a mammoth spree of land speculation and jobbery,

[Note: Footnotes]

72 Whitaker became Attorney-General, a semi-political office but not a cabinet one, in mid-September 1862, Sewell having been dropped by Domett, at the insistence of Russell and Bell, because of his lack of sympathy with the Native Lands Act. (Sewell Journal, 9 September and 13 September 1863, vol. II, p.130).

73 Sewell Journal, vol. II, p.98, 3 August 1862. Until amended by Sewell and his supporters in the Legislative Council the Bill allowed the sale of land on the basis of a certificate of title even before its endorsement by the Governor, who was supposed before giving that endorsement, to satisfy himself as to the provision of adequate reserves for the Maoris. (See Domett memo., 29 December 1862 - PM 1/2, p.49).

74 Native Lands Act, 1862, s.30
pending the passage of the land through the courts; the Auckland
landsharks openly avowed this intention, while in Hawkes Bay
squatters were already making arrangements with complaisant chiefs. 75
Grey accepted the act on the grounds that it was the best he could get
from the Assembly, and that it finally defeated the vocal section of
European opinion which still bitterly opposed the recognition of
the Maoris' right to the waste lands. Moreover, he wanted the Maori
interior strongholds opened by inroads of European settlement. Any
scruples he may have had about the legalised jobbery invited by the
act were assuaged by the provision that he could declare reserves,
which would prevent complete Maori landlessness. 76

It was to be several years, however, before the Native Land Act
received the approval of the imperial authorities and machinery could
be established to implement it. Meanwhile the state of the law with
regard to Maori interests in land remained confused. Fenton, reviewing
the position in 1863, noted that the Supreme Court declined to interfere
in matters arising out of Maori land title and refused to issue
injunctions to restrain the cutting of timber on Maori land, or to
stop Maori feuds over land. But the inferior courts usually adjudicated
in cases of stock trespass on Maori land, under the Cattle Trespass
Ordinances of the General Government, and awarded damages to Maori
complaintants, though this appeared to contravene the opinion of the
higher courts 'that the law knows no right or interest of the native in

76 Bell memo., 5 November 1862 - FM 1/2, p.7.
wild land of the colony. The Fox government had also had the Hawkes Bay squatter Shirley prosecuted in the lower court under a Cattle Trespass Ordinance. A.H. Russell, the Civil Commissioner had, furthermore, been ordered to continue prosecutions against squatters, on behalf of the Crown, for breaches of the Native Land Purchase Ordinance, which enshrined the Crown's pre-emptive right to transactions for Maori land. Russell was urged to begin with the ex-missionary William Colenso, whom Fox had found occupying personally a piece of land given by the Maoris for church purposes — one of a number of such gifts which, the Maoris justifiably claimed, were being misapplied. Colenso was fined £5, whereupon the clamour from the Province on his behalf vied with that raised about Shirley.

Fenton to Domett, 27 February 1863 — J 1/22, AG 63/209. Sewell, while Attorney-General in Fox's Government argued that a Maori should bring an action in cases of cattle trespass, not on the basis of their title, but to protect their occupation. (By which he meant their kainga and cultivations scattered over vast unfenced territories) Sewell Journal, 17 November 1891, vol.II, p.3.

See above p.30.

Fox, Notes of Journey, December 1861 — AJHR, 1863, E-13, p.10.

Both cases were the subject of petitions to the Assembly, where Colenso was member for Napier. Russell had had to hear Colenso's case himself as none of the other magistrates was willing. His £5 fine was low enough to prevent Colenso from appealing to a higher court. He signed his judgment as 'R.M. and C.C.' which led to the accusation that he had exceeded his authority, there being no such thing as a Civil Commissioner's Court. (Unpublished PP, 1862, S.C. on petition of inhabitants of Hawkes Bay; see also Hawkes Bay Herald supplement, 28 June 1862).
The pro-squatter Government of Domett attempted no such prosecutions, Bell informing A.H. Russell that as agreements between Maoris and squatters were generally kept, 'it was hardly worthwhile to interfere against an entire population engaged in transactions in violation against the law'. Henceforth threats of prosecution were levelled only against Europeans whose intransigence threatened to cause a breach of the peace. In Hawkes Bay the condonement of squatting did not generally distress the Maoris, who drew a steady income from rents, but neither did it do anything to advance among them the concept of the rule of law.

Meanwhile Fenton, as Assistant Law Officer, attempted to bring the practice of individual magistrates into line with that of the higher courts. In the next case that came to his attention – the question of a Whangarei Maori's right to claim damages in the R.M.'s court from a European who had destroyed his home and orchard while burning bush –

81 Bell to Russell, 17 September 1862 – MA 4/5. Bell attempted to introduce a clause in the Circuit Courts Amendment Act to allow magistrates to regulate grass money disputes according to equity and good conscience, but it was rejected in the House on the grounds that the principle of the Land Purchase Ordinance – total prohibition on dealings by private parties for Maori land – should not be disturbed. Yet an attempt to strengthen the Land Purchase Ordinance was defeated. (Native Land Purchase Ordinance Amendment Bill, Bills Not Passed, 1862).

82 Some illegal occupations did cause rancour and were still unsettled in 1865. (See Ormond to McLean, 29 March 1865 – McLean MSS, 326). A return of 1865 shows 10 J.P.'s and one R.M. illegally occupying Maori lands. (AJHR, 1865, G–2) and McLean, the Superintendent had also acquired interests.
Fenton reiterated his opinion that Maori customary land title was insufficient basis for a claim and recommended a £25 grant from the Government to settle the matter. This was duly paid. But most cases of this nature did not usually come before a zealous professional like Fenton. Magistrates in the out-districts from time to time still awarded compensation to Maoris for stock trespass or other damage on their customary lands and this was usually paid. In the 1860s, New Zealand's legal and administrative system was raw, unco-ordinated, and frequently anomalous. The appearance of uniformity escaped it until much later in the nineteenth century.

That the law provided the Maoris no safeguard was also demonstrated with regard to the right of the Government - sought for military and political purposes in Waikato and Taranaki - to take roads through Maori land. Two successive Attorney-Generals, Sewell and Whitaker, maintained that in the Treaty of Waitangi the Maoris had given sovereignty to the Crown, and that the right of passage (Sewell's opinion) and the right of defence (Whitaker's) were prerogative powers of the Crown: therefore the Governor, as representing the Crown, could take Maori land for roads. Fenton, on the other hand, held that the Crown had surrendered power in the matter to the New Zealand Assembly, which had the power to extinguish, by statute, any owner's right.

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84 Sewell, The New Zealand Native Rebellion, pp.42-3; see also Sewell's MS.memo on the subject, 22 November 1862, J 1/22, A.G. 63/91.
85 Fenton's opinion, 28 November 1862 - J.1/22 A.G. 62/2618. Fenton added that even if the Governor had a legal right to take roads, the exercise of that power would be a breach of what had been accepted by successive Secretaries of State for Colonies, as a valid Treaty, and would therefore contravene the legal maxim that 'the honour of the king is to be preferred to his profit'. No such consideration of honour apparently restricted the Assembly.
Finally, Newcastle told Grey to treat the matter as one of necessity, not of strict law and make the roads if he saw fit. This last approach at least had the virtue of forthrightness, but the whole discussion revealed how shadowy was the protection offered the Maoris by the Treaty of Waitangi or by law, when these conflicted with the interests of those holding the reins of government. What the Maoris clearly required, if they were adequately to safeguard their interests, was not legal protection, but political power.

This issue was also raised in the 1862 Assembly through the introduction of a group of resolutions by J.E. FitzGerald. The first of these reiterated the principle that the 'entire amalgamation of all Her Majesty's subjects in New Zealand into one united people', should be the goal of all law and policy; the second stated that the Assembly should assent to no law which did not accord both races equal civil and political privileges; the third, fourth and fifth resolutions asked that Maoris be brough into the Government, both Houses of the Assembly, the Provincial Councils, juries and responsible positions in the courts of law, with the least possible delay. Speaking in support

86 Newcastle to Grey, 22 March 1863 - AJHR, 1863. A few months later Whitaker used a similar argument to justify the confiscation of Maori land. 'Policy and substantial justice', he said, 'are better calculated than technical rules of law to determine these questions'. (Whitaker opinion, 14 July 1863 - PM 1/2). Clearly those who pleaded for the rule of law were only too ready to put it quietly aside if they found it inconvenient.

87 PD, 1861-3, pp.483-4.
of his resolutions FitzGerald said that Grey's Runanga system must be scrapped as trivial and unworkable, but the District Runangas might be converted into Provincial Councils, equal in power and functions with the European Provincial Councils. The King movement should also be given this dignity. Laws that made a distinction between the races, such as the Arms Ordinance or Sale of Spirits Ordinance, should be abolished in favour of those which applied equally.

FitzGerald advanced two important points. Firstly, the rule of law, equal for both races, should be clearly stated and implemented in official policy, even if it took years before the Maoris fully accepted it. Secondly, it was futile to wait until the Maoris were ready for the privilege and responsibility of sharing in machinery of government — they should be given that responsibility and allowed to grow in experience. Yet, admirable though these principles sounded, it is doubtful how deeply FitzGerald was concerned for Maori rights, or how far he seriously expected his compatriots to agree to sharing legislative and executive power with the Maoris, to the extent implied in his resolutions. He was periodically moved by

88 Ibid., pp.489-91; FitzGerald had advanced these ideas the previous year in his newspaper The Press, 27 July 1861.

89 At that time, FitzGerald said, a policeman stood for the law in European eyes only; in Maori eyes he stood as a 'badge of their racial servitude'. (PD, 1861-3, p.510).

90 Ibid.

91 A point raised by Bell — ibid., p.502. See also below p.69 for a newspaper comment on FitzGerald's advocacy of 'amalgamation'.
high-minded emotions respecting Maori rights, which issued into spectacular oratorial displays. But his emotions were shallow, and deviousness and self-interest lay not far beneath. His 1862 programme also aimed at unrestricted direct purchase of land and he told J.C. Richmond that, under his resolutions:

'He would adopt the King Movement and furnish it with means. By this he would hope to bring about a reductio ad absurdum of the thing, or if it has enough life to effect of any organization and establish a power, he would hope to rule it by means of the purse strings, and at all events to give some few chiefs such a taste of the pleasures of position as to enter the small end of the wedge in respect of land sales.\(^92\)

In the end only the first two resolutions passed the Assembly, for members found no difficulty in paying lip service to the doctrines of racial equality. The third resolution, to give Maoris representation in the Assembly, foundered on the old obstacles of settler contempt for the Maoris and reluctance to share power with them, and fear that the political system would be debased by Europeans manipulating the Maori vote. Even so it was defeated by only 20 votes to 17 and the 'ayes' included some of the leading politicians in the Colony.\(^93\) The debate had at least had the effect of making the question of Maori political representation a live issue.


\(^{93}\) Among them Fox, Bell, Gillies and Mantell. (PD, 1861-3, p.513).
THE events and discussions of 1861-3 had resulted in the promotion of the two most important features of the nineteenth century Maori administration - the Circuit Court system, administering criminal and civil law in the out-districts, and the Native Land Court. Further important developments were foreshadowed in FitzGerald's resolutions, and in early experiments with village schools. Maoris were giving, and would probably have continued to give, increasing support to the institutions that were established and would no doubt have found a liberal and genuine implementation of FitzGerald's resolutions very acceptable. But European opinion did not wish to advance further, with regard to civil or representative institutions, until the great issues had been settled in the Waikato and Taranaki.

A despatch from Newcastle had arrived in October 1862 authorising the recognition of the King according to the terms Tamehana had put to Gorst the previous December, namely, that a Waikato Native Council should make local laws which would be submitted for assent to the King as well as to the Governor. Tamehana pressed Grey for agreement to this when the Governor visited the Waikato again, at Maori insistence, in January 1863. This was the last chance Grey had of entering into a

94 Bishop Selwyn had first put the scheme for modified recognition of the King movement, under the terms of Newcastle's despatch, to Tamehana, at a meeting at Peria (middle Waikato) in October 1862. Tamehana had expressed interest, but at that meeting uncompromising sentiments were dominant and the Kingmaker had felt obliged to align himself with them. (AJHR, 1863, E-12, pp.4-12).

95 This visit seems to have occurred largely at the Maoris' invitation, and the Government apparently hoped for some concession from them. Domett and Bell did not at first want Grey to go, 'to get a repetition of the language used at the Taupari meetings last year'. (Bell to Mantell 6 December 1862 - Mantell MSS, 243). But later Bell wrote: 'All Waikat wants Grey to go up and his is going I think; he wants me to advise him to go which I don't like - but on the whole its best not to throw away a chance'. (Bell to Mantell, 28 December 1862 - ibid.).
workable partnership with the King movement but he was evasive. He used Gorst's argument that though Tamehana and the moderates might mean well, the Kingite leaders could not control their followers and quoted the recent case in Rangitikei of the forcible release from custody by Kingite 'soldiers' of a Maori named Wirihana who had attempted to rape an English girl. 'The real question' at the time was this, wrote Grey later, 'was our jurisdiction or that of the so-called Maori King to prevail even in the security of our own settlements?'. He elaborated the theme again later in a dispute with Sir William Martin, claiming that to allow the heartland to set up an independency would be to abolish all law among Maoris even those interspersed in the settled districts, since Maori offenders would claim their nationality and be supported, as Wirihana was supported, by the heartland.

This was Grey's best argument against the King movement, but it involved an unduly harsh judgment on the moderates. In fact they had already exercised a restraining influence on the extremists - otherwise things might have gone more hardly with Gorst in 1862; they were to do so again in early 1863 with regard to the discreet removal of Gorst on account of his further provocations, and in the case of Rewi's threatened attacks on Auckland. If they had had their hand strengthened by a modified recognition of the King, and received earnest assistance from the Government over a period of time, it is likely - notwithstanding Gorst's gloomy opinions - that Tamehana and the moderates would have evolved a workable administration among the interior tribes.

98 For details see AJHR, 1863 - E-1, and 1865, E-1.
strengthened by a modified recognition of the King, and received earnest assistance from the Government over a period of time, it is likely - notwithstanding Gorst's gloomy opinions - that Tamehana and the moderates would have evolved a workable administration among the interior tribes. Given evidence of Government support, instead of hostility, it is also likely, with confidence re-established, that they would have assisted Grey in the government of Maoris on the periphery.

But the form of Government and administration which would have emerged would probably have been something like a British protectorate of a quasi-independent Maori nation. Because Kingite strongholds in fact extended well beyond the Waikato - even into districts such as Wairarapa and Manawatu - Europeans feared that the bulk of the North Island would be barred to settlement and Government control. This was acceptable neither to Grey nor the settlers. Their interests required that the King movement be pulled down, not consolidated. Tamehana's request of January 1863 was therefore not encouraged and one of the most promising possibilities in the development of government and administration among the Maori people effectively closed off. 99

99 Grey sent Newcastle a past report, which noted Tamehana's statement that the King movement would accept a place in government under the terms of Newcastle's despatch, with a covering note stating simply that the Maoris had subsequently withdrawn from this agreement, on the ground they had been grievously wronged over Waitara, 'and that they would therefore not again come under the authority of the Queen'. (Grey to Newcastle, 6 February 1863 - AJHR, 1863, E-3, pp.6-7). Many years later, in answer to the charge that he had missed an excellent chance of establishing good relations with the King movement, Grey elaborated his account of this important exchange; (Cont.)
Throughout early 1863 Gorst with his police barracks, and a newspaper (Te Pihoihoi Mokemoke) commenced in opposition to the Kingite paper (Te Hokioi), sought to undermine the King movement. Both Gorst's press and the courthouse-cum-barracks at Kohekohe were removed by the Kingites and presently Gorst himself was told by the moderates to withdraw, least he provoke further actions by Kingite...

I...with the full assent of my Responsible Advisors, offered to constitute all the Waikato and Ngatimaniapoto country a separate province, which would have had the right of electing its own Superintendent, its own Legislature, and of choosing its own Executive Government...the Waikato tribes would within their own district...have had the exclusive control and management of their own affairs. This offer was, however, after full discussion and consideration, resolutely and deliberately refused, on the ground that they would accept no offer that did not involve an absolute recognition of the Maori King, and his and their entire independence from the Crown of England, terms which no subject had power to grant, and which could not have been granted without creating worse evils than those which their refusal involved. (Grey to Granville, 27 October 1869 - AJHR, 1870, A-I B, pp.81-2).

This report somewhat surprised the Colonial Office, and differs in important details from the accounts of 1863. Te Pihoihoi (Gorst's newspaper) of 10 February 1863, reports Grey as telling the Maoris evasively that the recognition of the King could not be the work of a day or even of months, but that they should send a deputation to Auckland to discuss the matter with himself and his ministers. Though, no-one Maori or European, subsequently denied that Grey had made the offer he later claimed to have made, the Kingites seem to have left the second Waikato confrontation with Grey, not with any sense of the Governor's having offered them a liberal measure of self-government but with the idea that he was determined to 'dig around him [the King] till he falls'. (Gorst, The Maori King, ed. Sinclair, p.208; Rewi Maniapoto to Grey, 26 March 1863 AJHR, 1863, E-1, p.5). The extent of his offer to constitute a semi-autonomous Maori province though it may have been made in some form in 1863, seems to have increased over the years as a product of Grey's imagination and self-justification.
extremists, which would bring Government reprisals upon the whole of 100
Waikato.

Meanwhile, in Taranaki, Grey, rejecting offers of assistance from Tamehana, had reoccupied Crown land held by the Maoris in compensation for the Government's seizure of Waitara. In May 1863 Taranaki Maoris, incited by Rewi Maniapoto and other Kingite extremists, attacked his troops. Grey asked the King's council to formally condemn this action and disassociate themselves from it. But though the moderates clearly enjoined peace and worked to restrain the extremists, they held Grey blameworthy for persisting in the face of clear warning, and inviting the attack on his soldiers. 101 Grey took this as equivocation and made plans for an attack on the Waikato and the subjugation of the King movement. In June and July 1863 he was given sufficient pretext by alarms about the intentions of Maori extremists towards the English settlements, to launch General Cameron on his invasion of the Waikato. Gorst shared in the drafting of the proclamation heralding the invasion and his view of the King movement was reflected in the alteration of the charge that the moderate Kingites were 'unwilling' to restrain them. 102

100 They had never wanted him in the first place; and there is much justification from their bitter belief that Grey had sent Gorst 'that it might be said, perhaps, that the evil originated with the Maoris whereas his was the persistence in coming here'. (Te Hokioi, 15 June 1862). The Government and the settlers did in fact regard the incidents of the 'courthouse' and printing press, and the expulsion of Gorst as part of a mounting campaign of violence which the King movement either instigated or condemned. (See e.g., Bell to Grey, 30 April 1863 - AJHR, 1863, E-1, p.1).

101 See below Appendix B 'From Tataraimaka to the Invasion of Waikato'.

102 Drafts of the proclamation are to be found in MA 1/3 and MA 24/22. The official text is printed in AJHR, 1863, E-5, pp.5-6.
intelligent and sensitive men, like Tamehana and Tamati Ngapora – King Matutaera's nephew, then dwelling near Auckland – who would willingly have mediated between the Government and Maori nationalism, were driven into the arms of the extremists by the Government's attack. European fear and avarice and even self-righteous humanitarianism, which believed that separatism would hinder the well-being of Maori society, approved Grey's determination to make the King movement submit. 103

The invasion of the Waikato opened a new period in the development of the machinery of Maori government and administration with the settlers in a much better position than before to impose policies suited to their taste.

103 For further examination of these attitudes see above pp.14-18, and below, Appendix C, 'The Origins of the Anglo-Maori Wars – A Reconsideration'.
WAR, AND THE SHAPING OF THE PEACE, 1863-9
Early War Policies

CAMERON’S advance into the Waikato resulted in the occupation of Ngaruawahia by December 1863. But the King movement not having been crushed to the Government’s satisfaction, requests for terms by portions of the King tribes were turned aside and the advance continued. Thereafter the war spread rapidly to involve most of the North Island tribes. The Waikato Maoris were supported by the bulk of the Taupo Kingites, the Whakatohea of the Bay of Plenty, the Tuhoe of the Urewera country and other inland chiefs like Te Waru of the upper Wairoa river. In 1864, the bulk of the Arawa joined the fighting on

1 Whitmore (C.C. Hawkes Bay) to Col.Sec., 27 January 1864 - AJHR, 1864, E-3, p.15; C.S. Volkner to Smith, 26 January 1864 - Smith Letters; Nesbitt (R.M. Rotorua) to Smith, 25 February 1864 - ibid; Whitmore to Col. Sec., 25 May 1864 - MA-NA 1/2; Grey to Newcastle, 8 March 1864 - AJHR, 1864, D-6, p.4. Contrary to widely accepted opinion the famous battle of Orakau was fought not so much by the Ngatimaniapoto as by the Ngatiraukawa of Maungatautari, some Taupo Maoris, and some of the Urewera and other inland hapu. Louis Hetet, a Frenchman who dwelt at Otorohanga in the Kingite heartland throughout the war, reported that despite Rewi's frequent messages, most Ngatimaniapoto declined to join him in such a foolish act of bravado as the defiance of Cameron’s army in a fixed position in open country. (Hetet to Fox, 19 April 1864 - G 17/3). Te Waru of the upper Wairoa returned home with 13 out of 70 men (another account says five out of 50) and their suffering, while Ngatimaniapoto rested in security generated a deep sense of grievance. (Whitmore to Col.Sec., 25 May 1864 - MA-NA 1/2; AJHR, 1868, A-4, p.17).
PRINCIPAL TRIBES
OF THE NORTH ISLAND

1. Rarawa
2. Ngapuhi
3. Ngatiwhatua
4. Ngatipaoa
5. Ngatimaru
6. Ngatitamatera and Ngatiwhanaunga
7. Ngatihaua
8. Waikato Tribes
9. Ngatimaniapoto
10. Ngaiterangi
11. Ngatiawa
12. Whakatohea
13. Whanau-a-Apanui
14. Ngatiporou
15. Arawa Tribes
16. Tuhoe
17. Ngatiraukawa

18. Ngatiuwharetoa
19. Rongowhakaata and Aitanga-a-Mahaki
20. Ngatikahungunu
21. Te Atiawa
22. Taranaki
23. Ngatiruanui
24. Ngarauru
25. Ngatiraukawa, Ngatiapa and Muaupoko
26. Te Atiawa and Ngatitoa

Compiled, with amendments, from a map drawn in the Defence Office, Wellington, 1869.
the Government side, checking the movement of East Coast Maoris to Waikato. No open rising occurred in the southern districts of Wairarapa and Manawatu though parties of southern Kingites went to Taranaki to fight. Wi Tako of Waikanae, after equivocating for several months, made formal peace. The majority of Hawkes Bay Maoris, who had severed their connections with the King movement because of its refusal to agree to a reinvestigation of the Waitara purchase, at first remained at peace. Nevertheless as the war continued it became increasingly difficult for any tribe, in the central districts of the island at least, to avoid finding itself committed to one side or the other.

The division between 'loyal' and 'rebel' Maoris followed tribal lines to a great extent but the pattern was by no means clear cut. Many tribes, especially in Lower Waikato, were split and even sections of generally loyal tribes such as the Arawa joined the rebels. In many cases tribes which dwelt on rivers had long been split into rival up-river and down-river sections and these divisions emerged in the war. Marriage ties also affected the pattern. Even a section of

2 IA 63/2648.

3 Fox memo., 5 June 1864 - AJHR, 1864, E-2, p.73.

4 'Loyal' and 'rebel' are inappropriate terms and reflect a strictly Government point of view. They are henceforth used, without inverted commas, merely for convenience.

5 E.g., lower Wanganui, lower Whakatane and lower Wairoa (Hawkes Bay) Maoris were largely pro-Government, while upper Wanganui, upper Whakatane and upper Wairoa Maoris, even of the same tribe, became rebels.
Ngapuhi, led by Mangomui Kerei, whose sister married Potatau's brother in 1861, was disposed to aid the King movement and tried to ship gunpowder to it. Christianity provided no reliable indication of pro-Government sympathy, most of the Kingites themselves being Christian in the early months at least.

The rise of the Pai Marire ('good and peaceful') cult gave an entirely new character to the war. Beginning in late 1862 in South Taranaki it bore some of the essential character of a 'cargo cult', namely an invocation - where secular means seemed inadequate - of supernatural assistance, to help the participants overcome a sense of social and economic deprivation, in relation to the intruding Europeans. In 1864 under the stress of European military advances the cult took a violent turn and became known as Hauhauism. The weaving of prophecies about the preserved head of a British officer named Lloyd were followed in May 1864 by an attack down-river by the Hauhaus of the Upper Wanganui - met and defeated by the Lower Wanganui Maoris, both loyal and Kingite, on the island of Moutoa. Elements of the new cult included a belief that the founding prophet, Horopapera Te Ua, received visitations from the Angel Gabriel and the Virgin Mary; that the Bible and Prayer Books should be burned and the crude Pai Marire

6 The gunpowder was intercepted but no further action taken for fear of antagonising the Ngapuhi. (Barstow to Col.Sec., 13 June 1864 - JC-Russell 1.

7 It seems to have had some connection with the sudden windfall of European goods occasioned by the wreck of the vessel Lord Worsley on the South Taranaki coast. (Parris to Col.Sec., 8 December 1864 - AJHR, 1865, E-4, pp.5-6)

8 See reports of John White (R.M. Central Wanganui) for April and May 1864 - JC-WG 5.
ritual memorised; that all days were alike to be sacred; that men
and women were to live together promiscuously to people the land
(a characteristic Maori response to the decimation of the race by
disease); that when Lloyd's head had circled the island the Europeans
would be driven out and pro-Government Maoris made slaves of the
believers; that men would then come from heaven to teach the arts of
the Europeans to the Maoris; and that meanwhile the English tongue
could be learned in ritual circlings of a sacred pole, the niu.
Te Ua spoke of the Maoris as the lost tribes of Israel, signed himself
'a peaceable Jew' and referred to the building of the 'new Canaan'.
A principal target of the Hauhaus were Christian priests, and ancient
customs such as the drinking of the blood of enemies were advocated. 9

The Pai Marire cult began to supplant Kingism as the main
manifestation of Maori nationalism. Former Kingites who had virtually
worshipped the King's flag and flagstaff converted them into/flying
Hauhau pennants. Some, not affected by the violent form of the cult,
even pronounced themselves ready to take the oath of allegiance to the
Queen called for by Government proclamations. 10

9 White claimed that in May the Hauhaus sought to take him alive and
use him as an ito, an object of sacrificial revenge, by opening a
vein in his neck and drinking his blood. (White to Logan, 17 May
1864 - ibid.). The blood of the missionary Volkner, killed in
February 1865, was drunk by the assembled Maoris in a ritual which
combined ancient notions with borrowings from the Christian communion.
10 White to Featherston, 19 October 1864 - ibid.
September 1864 Matutaera and the Kingite leaders met Te Ua in South Taranaki. The kingites adopted the Pai Marire form of worship and exchanged their baptismal names for non-Christian ones. Matutaera henceforth became Tawhiao and sealed his letters with a seal given him by Te Ua. 11

Although, after the defeat at Moutoa, Te Ua gave up Lloyd's head to one of John White's police, 12 and Te Ua himself was overthrown by his subordinates in January 1865, 13 there were other soldiers' heads and new leaders who were even more militant. During early 1865 the movement swept through Waikato, the Bay of Plenty, the Urewera and the East Coast from East Cape to Wairarapa. Fear of invasion and confiscation of their lands had made the East Coast tribes outwardly more circumspect, but inwardly it had created deeper antagonisms towards the Government, and it only needed the recklessness of authority engendered by Hauhauism to throw more tribes into rebellion. In February 1865 the missionary C.S. Volkner was martyred at Opotiki, some of his own congregation assisting the Hauhau prophets. Formerly neutral and loyal Maoris took up arms against the Europeans and in bitter fratricidal strife with Maoris who did not join the new faith.

11 See photograph, p. 457

12 White to Logan, 29 June 1864 - JC-WG 5.

13 Like most of the prophets in the Pai Marire tradition (e.g., Te Kooti, Rua) Te Ua took several wives, who were often already the wives of other men. If a prophet's followers wish to overthrow him they used a charge of puremu to topple him. This happened to Te Ua and his successor, Taikomako. (White to Waddy, 17 January 1865 - JC-WG 5; DSC, 31 October 1867).
Hauhauism swept up the rank and file of tribes regardless of the wishes of the chiefs, who were frequently ignored. 14 Young Maoris joined either side for the love of adventure or plunder. 15 Which side they joined was to some extent the result of chance influence and numerous instances are recorded of men fighting for one side and later changing to the other. 16 From the battle of Moutoa till the final campaigns in the Urewera, European commanders noted that brothers were fighting brothers and fathers fighting sons. 17 This was an indication of how terribly the war and Hauhauism further undermined the already shaken Maori social structure. From the 1860s the leadership of great chiefs, whose authority was founded on a combination of hereditary rank, warrior prowess and general ability, was largely supplanted in Maori society by the leadership of prophets, sometimes men of humble birth but possessed of magnetic personality and skilled in formulating doctrines and practices that gave outlet to the deep fears and frustrations of a depressed and bewildered people.

14 For instance in Hawkes Bay most of the kin of the chief Tareha joined the new faith in defiance of him, and the followers of Karaitiana Takamoana, bitter opponents of Te Hapuku since the feud of the 1850s, went over to the latter because he, unlike Karaitiana, welcomed the Hauhau prophets. (McLean to Mantell, 24 April 1865 - Mantell MSS, 216; Cooper to Nat.Sec., 6 January 1865 - MA-NA 1/2).

15 E.g., Campbell to McLean, 27 February 1868 - McLean MSS, 174, on the recruitment of Ngatiporou soldiers.


Nevertheless the traditional chiefs still counted for a great deal. Often they viewed Hauhausim as a threat to their own positions and the Government found that it had the support of chiefs who would never have been strong opponents of the King movement. Important men such as Wi Tako of Otaki, Pehi Turoa and Topine Te Mamaku of the Wanganui River, neither good Kingites nor good Hauhaus, simply stood for themselves like feudal barons and chose their course as pride and judgment of their interests best suggested. At no time was Maori opposition to the Government other than deeply and minutely fragmented. It would have gone very much harder with the Government had it been otherwise.

PAKEHA society revealed its own peculiar divisions. The six years 1863–9 witnessed a rapid series of ministerial changes resulting from shifting coalitions of factions in the General Assembly — coalitions

18 Apart from a minor foray in Taranaki, Pehi hesitated until early 1865 before he attacked down-river and then not so much because he had succumbed to Hauhau persuasion but because he had been thrown into a passion by a Government proclamation calling on the chiefs to take the oath of allegiance, and because Hori Kingi of Lower Wanganui was offering to sell land in which Pehi claimed an interest. (See White reports for January and February 1865, esp. White to Waddy, 3 January 1865 — JC-WG 5). At a later stage Pehi became a supporter of the Government against Te Kooti.

19 'Pakeha', the Maori term for a European settler in New Zealand, or his descendants, is a convenient one which overcomes the ambiguity that would arise if, for example, the expression 'European society' was used here.
which were shaped as much by personal ties and Provincial interests as by agreement on matters of principle or success in the handling of Maori policy. The leaders of the coalitions were Whitaker and Fox from October 1863 to November 1864, Weld from November 1864 to October 1865 and Stafford from October 1865 to June 1869.

The principal measures of 1863, introduced by the Domett ministry and carried by the Whitaker-Fox ministry, were aimed at crushing Maori resistance and opening Maori land to colonisation. The Suppression of Rebellion Act permitted trial by court martial and the suspension of habeas corpus; the New Zealand Settlements Act authorised the confiscation of rebels' land; and the New Zealand Loan Act authorised the Government to borrow £3 million for the suppression of the rebellion, the recruitment and location of military settlers and developmental works in the conquered districts. These measures were

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20 The Domett Government did not long survive the meeting of the General Assembly in 1863. It had been hastily put together to keep Fox out in 1863, was deeply divided by personal antagonisms, its leader regarded as a lazy and spasmodic worker, and Bell, the Native Minister, thought to be too weak a character for the work in hand. Whitaker and Russell were believed to have engineered the change and they dominated the new ministry together with Fox — who bore the most appropriate surname of any New Zealand politician. (See J.C. Richmond to Mary Richmond, 23 October 1863 — Richmond-Atkinson Papers, ed. Scholesfield, vol.II, p.67; Gillies to C.W. Richmond, 9 November 1863 — ibid., p.73; Ormond to McLean, 30 October 1863 — McLean MSS, 326).

21 Rutherford, Grey, p.496.
intended to achieve immediate goals; a fourth act, the Provincial Compulsory Land Taking Act, which allowed Provincial Councils to take any land, including Maori land, for public works, was intended to destroy for all time the Maoris' capacity to obstruct the roading and development of land according to European inclinations. This act was, however, disallowed by the vigilant Edward Cardwell, who had replaced Newcastle at the Colonial Office, in order to maintain the principle of reserving control over Maori affairs to the General Government of the Colony.  

The Public Works Lands Act of 1864, however, gave the General Government the power to take Maori land compulsory with provision for compensation only to loyal Maoris.  

After 1864 there were to be no more legal quibbles over the right of Government to build roads or telegraphs through Maori land, though the physical capacity of the Maoris to resist them had still to be overcome.  

Some debate on the treatment of Maoris prisoners was provoked by humanitarians in the Colony and in England. The first Maori prisoners taken in Taranaki and in the Waikato and shown to be directly involved in the killing of soldiers were sentenced to death for murder. But it was plain that their actions were those of subordinates in war, obedient to the commands of superiors, and the sentences were commuted.  

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22 Cardwell to Grey, 26 May 1864 - AJHR, 1864, D-5, p.6.  

23 Compensation was to be determined by Compensations Courts appointed under the New Zealand Settlements Act to recompense Loyal Maoris who lost their land in general confiscations.  

24 Executive Council minute, 4 August 1863 - EC 1/2; Richmond-Atkinson Papers, ed. Scholefield, vol.II, pp.49-50; DSC, 1 and 14 April 1864.
No trials were held under the Suppression of Rebellion Act, 1863 - the Government apparently being doubtful of securing convictions even under that draconian measure until the court martial of the murderers of the civilians, Volkner and Fulloon, and even that was superseded by a civil trial. An attempt in March 1864 to prosecute for sedition certain Kingite emissaries, arrested by James Mackay in the South Island - apparently under common law rather than the Suppression of Rebellion Act - broke down for want of evidence. In accordance with instructions from Cardwell captured Maoris were generally treated as prisoners of war. They were placed in hulks or - after transportation to Tasmania was considered - despatched to the Chatham Islands. Increasingly, however, ex-rebels, except those subject to trial for the murder of civilians, were simply settled in a given district on promise of good behaviour, or placed under the supervision of a friendly chief. At a later and more savage stage of the war, the Government offered rewards for the delivery of two or three outstanding rebel leaders 'deal or alive'. This drew a protest from the Secretary of State, Granville, who asked what colonial statute authorised this procedure. He was silenced by Prendergast, Attorney-General in 1869, who admitted the lack of a specific colonial statute,

25 Sewell Journal, 28 November 1863, vol.II, p.254. (Sewell here records Whitaker's doubts); See also IA 64/2671 (a 'nil' return, dated 12 December 1864, of cases dealt with under the Suppression of Rebellion Act, 1863.

26 DSC, 24, 28 and 29 March 1864.

27 Cardwell to Grey, 26 December 1864 - AJHR, 1865, A-6, p.10.

but contended that English common law precepts on 'fleeing felons', gave ample authority. In any case, wrote Prendergast, English governments had done and were doing worse things to their Irish subjects. In point of fact, legalistic arguments were virtually meaningless in the New Zealand situation of the 1860s and governments did virtually what they found expedient, covering their activities where necessary by Acts of Indemnity.

The war brought important changes to the administrative machinery of the Native Department. At Grey's request, Edward Shortland, previously Civil Commissioner for Hauraki, became Native Secretary. However the ministry was anxious to assert its full control of Maori affairs and Fox, as Colonial Secretary and Native Minister, ran the Native Office as a branch of the Colonial Secretary's Department. Shortland was given little more than a clerk's duties and he resigned his office in August 1864. The ubiquitous Halse again became Acting Native Secretary. In Wellington Province the Superintendent, Featherston, was accredited in place of Mantell to direct Native Department officers on behalf of the General Government.

30 E.g., 1865, n.1; 1866, n.11; 1867, n.39; 1869, n.71.
31 MA 1/3, N.O. 68/250.
32 The C.C.s and R.M.s were circularised to the effect that henceforth they would refer to the action of the 'Kawanatanga' [government] not the 'Kawana' [governor] in their dealings with Maoris, and encourage the chiefs to write to the Government not to Grey. (Native Office circular, 1 August 1864 - MA 4/59).
33 MA 4/60, n.340.
There were a few reductions in the Department. Gorst had left the Colony; Baker was withdrawn from East Cape and Law from Taupo on account of their exposed positions. Grey ended the tawdry Government paper *The Maori Messenger* and paid off C.O. Davis. This left a gap which Whitmore, the Civil Commissioner in Hawkes Bay, supported by McLean and the Provincial Government, began to fill with a new paper, *Te Waka Maori o Ahuriri*.

On the other hand, such was the importance of holding certain tribes in loyalty where possible, and of building a civil administration in the path of the advancing army, that new appointments soon began to be made. In August 1863 R.O. Stewart became R.M. in Lower Waikato.

In May 1864 R.C. Mainwaring, previously Gorst's assistant at Otawhao, became R.M. in the Upper Waikato, and W.G. Mair, R.M. for Taupo. Gorst and Bell went to Sydney to recruit military settlers. According to Fox, Bell made overtures from Sydney to his colleagues in the Government in Auckland, to have Gorst place in the Legislative Council to represent them. Gorst was ready to accept but Bell's colleagues demurred — for reasons unstated — and Gorst went off to England very hurt. This, Fox implied, was the cause of Gorst's attacks on the Government (in *The Maori King* and elsewhere) for its policy towards the King movement — a policy which Gorst had shared in making and was apparently prepared to defend in the Legislative Council. (Fox to Grey, 30 August 1864 — *AJHR*, 1864, E-2, p.87).

Though the North Taupo Maoris built a special pa to protect Law when the war broke out. (Halse to Nat.Min., 15 May 1863 — MA 4/6).

Davis shortly began to print small items for Maori clients; for one of these — a tract allegedly printed for the King movement and critical of the Arawa — he was charged by the Weld Government with seditious libel, but was acquitted. (*DSC*, June-July 1865; Unpublished PR, 1865, n.25; *Wellington Independent*, 23 September 1865).

The first number appeared on 13 June 1863. It is filed MA 1/3, N.o. 63/530.

Stewart memo., 13 September 1884 — MA 23/4, N.o. 84/2839; *AJHR*, 1864, E-Shortland to Mainwaring, 17 May 1864 — MA 4/59. Law was dismissed for embezzling Government funds. (Halse to R.M. Taupo; 2 December 1864 — MA 4/59).
J. Booth, catechist of the Church of England in Upper Wanganui, was made 'Commissariat Officer' by Featherston, to distribute food and clothing to the up-river tribes then hovering between Hauhauism and neutrality, and to supply the Government with intelligence. One of the ablest men in the Native Service, James Mackay, was moved from the small Nelson goldfields to the increasingly important Thames field and did general duty as Civil Commissioner in the Thames and Waikato districts. Long-neglected Poverty Bay began to be visited by R.M.s from Hawkes Bay.

The Native Department officers were exempted from military service and ordered to be active in their districts until driven out by hostilities. They were to present the Government's case on the need for the war, refute the preaching of Hauhau emissaries, chide, make gifts and offer pay, plunder, and promises of support in tribal rivalries, in an effort to keep tribes from joining the rebellion, and if possible to attach them to the Government side. They were to inform the Maoris of Government victories, explain

39 He was not very popular at first because he refused to allow the chiefs to make a feast out of all the rations. (Booth to Featherston, 12 August 1864 - JC-WG 5).

40 He began work in the area early in 1864 and was formerly constituted C.C. Hauraki in December 1864. (Halse to Mackay, 30 December 1864 - MA 4/59).

41 Shortland to C.C. Hawkes Bay, 13 February 1864 - MA 4/59.

Government proclamations, and take the oath of allegiance from any rebels who wished to submit; they were to send back detailed information on the fluctuating loyalties of the chiefs and the movement of Maori war-parties. 43

It is not possible to say that this work was the most important influence that decided a tribe for peace or war — a Government victory or defeat, the presence of a large rebel force or a large European population, the confiscation of land or the effect of tribal rivalries were more fundamental influences — but it nevertheless enabled the Government to capitalise on its advantages. For instance, McLean, after a long parley with the Ngatiporou chief Mokena Kohere in June 1865 secured his adhesion in these words: 'I will get all my people to join the Government when we get to my place...I want the Government to give me a backbone, to give me support'. 44 Another famous Ngatiporou chief, Ropata Wahawaha, having crushed Hauhauism among his own people, readily accepted the opportunity McLean provided him to fight Hauhauism among the Rongowhakaata of Poverty Bay, who had held him captive many years before. 45 Other chiefs who were wavering between loyalty and rebellion, such as Wi Tako of Waikanae, Pehi Turoa of Wangamui, and the Hawkes Bay chiefs, were considerably influenced by the attention of Government officers and the information they brought.


44 McLean Journal, 6 June 1865 — McLean MSS.

45 Renata Kohere claims that the rivalry of the Ngatiporou and Poverty Bay Maoris endured long after the wars and was exhibited in a ceremonial free-for-all fist fight in a paddock behind the Matawhero Hotel whenever Ngatiporou Maoris visited Gisborne in strength. (Kohere, Autobiography of a Maori, pp.46-7).
Chiefs who felt themselves neglected soon developed anti-Government inclinations; left alone there can be little doubt that rebel emissaries—who were also very active—would have over-persuaded many of them. Moreover, chiefs who had joined the rebels and suffered loss could be persuaded, in a mood of disillusion, to make peace. Pehi Turoa again provided an example.

On the other hand, a tactless or ineffectual R.M. in a critical district was a disaster and, as the events of 1868 were to prove, could allow whole districts of Maoris to go into rebellion. In noting the appointment of Major Edwards as R.M. of Otaki, Sewell congratulated himself that the Government had found a man of judgment and added: '...the presence of a good man in a district is the best safeguard. The difficulty is to find them.'

The civil officers' work was closely integrated with that of the military. They were involved in organising their people into commissariat corps to carry food and supplies to regular troops or irregular Maori allies, in inducing some Maoris into the settler militia, and, later, in organising Maori contingents. Some of

46 Halse to R.M. Waikanae, 7 June 1865 - MA 24/21, shows how Government officers countered proselytising by Hauhau emissaries at Waikanae. (AJHR for the period 1863-70 contain a great many more examples of this sort of work. E.g., AJHR, 1867, A-1A, pp.8-12).

47 See below pp.


49 Halse to Nesbitt (R.M. Rotorua), 24 July 1863 - MA 4/59; Shortland to J. White (R.M. Central Wanganui), 14 July 1864 - ibid.
White's police on the Wanganui River became paid army orderlies to provide liaison between the civil and military authorities. The office of Interpreter to the Forces became very important. Men like J. Fulloon (later killed by the Hauhaus) and W.G. Mair, former clerks to R.M.s, gained prominence through it and several new appointees such as Charles de Thierry and E.W. Puckey, began their careers this way. The civil officers were often more effective than military officers in controlling the Kupapa Maoris who assisted the Government, and the stream of information they had acquired from long residence in a district, or now gathered from their Maori contacts, was invaluable to the military, who did not generally take up new positions without the advice of a civil officer.

Throughout the war, however, the relationship between civil and military authorities were awkward, ill-defined and at times exceedingly bitter. With much justification the civil officers prided themselves on knowing better than anyone else the true sentiments of Maoris in their districts. Moreover, the weight of their official interest was in organising a stable polity, not in widening the conflict. Many had come to have a genuine personal affection and

50 White to Brigadier Waddy, 18 January 1865 and White to Colonel Carey, 24 January 1865 – JC-WG 5.

51 E.W. Puckey was a child of the Kaitaia missionary family; Charles de Thierry a son of the famous 'Baron' de Thierry.


53 A good example of this was Parris's shepherding of the military landing at White Cliffs in 1865. (Parris to Nat.Min., 18 May 1865 – AJHR, 1865 E-8, pp. 1-3).
respect for the Maoris. They therefore resented the division of authority, especially if they were subordinate to stiff-necked military officers. Squabbles arose over such questions as the supply of arms to Kupapa Maoris, the making of terms with rebels and the disposition of rebel prisoners. One of these resulted in James Mackay being temporarily placed under arrest by Colonel Greer, the military commander at the Bay of Plenty, while Parris, throughout the war, fought a running feud with the local military commanders.

A most confused situation arose on the Wanganui River, where a bitterly jealous White was placed under military commanders of the district, successively designated General Government Agents after war commenced. Booth, Commissariat Officer of Upper Wanganui, was nominally under White but soon acted independently. White was told to confine himself to his judicial duties, but the Maoris had learned

54 Maori chivalry sometimes shook hidebound official minds. In February 1862 Parris's horse fell on him, crushing his ribs, and the previously hostile Maoris of north Taranaki carried the injured man 25 miles to New Plymouth on a stretcher. Parris wrote: '...their conduct I do assure [you] had a very strong effect upon me'. (Parris to McLean, 6 February 1862 - McLean MSS, 335). Parris never attained the view that the Maoris had a right to resist European control of the country, but once European dominion was assured, he had a good record in trying to curb petty brutality and some of the worst despoliations of the Taranaki Maoris.

55 Parris to H.A. Atkinson, 8 April 1865 - Richmond-Atkinson Papers, ed. Scholefield, vol.II, pp.158-9; Captain D.M. Hamilton to Searanoke, 19 September 1865 - Searanoke MSS, NK 6465.

56 AJHR, 1869, A-18, pp.3-7.
to look to him and, as he reported, '...it is impossible to have daily intercourse with the Natives and refuse to give them information on the progress of the war, on roads, confiscations, etc. which they consider me to be in possession of, without engendering in their minds the most intense suspicion'. 57 White had his hour of glory when he assisted the Central Wanganui Maoris in organising their defences against the Hauhaus at the battle of Moutoa in May 1864 but when the fighting revived in 1865, it was Booth and the General Government Agent at Wanganui who proved more efficient, and White suffered the humiliation of having to forward, from his 24 Assessors, a request (which was duly granted) for his removal. 58

The civil officers reacted strongly to rabid anti-Maori outcries in the press and blanket charges of Hauhauism against all the Maoris in their district. They did a service to the Maoris by ascertaining precisely which hapu were indeed strongly in rebellion and which were only reluctant accomplices or in fact pro-Government. 59 Thus T.H. Smith intervened for the Maoris west of Tauranga in 1864 when they were generally condemned as rebels; fortunately Grey listened to him and supported him against the ministers' condemnation of his 'interference'. 60 Mackay, Smith's successor in the Bay of Plenty,

57 White to Col. Sec., 24 November 1864 - JC-WG 5.

58 White to Grey, 20 February 1865 - ibid. The Assessors had needed ammunition urgently; White, by now cowed into a slavish regard for official directions, had applied for it through 'the proper channels'; Booth and the General Government Agent raised it in a few days and the Assessors considered that White was willing to let them be wiped out for his precious regulations.


60 AJHR, 1864, E-2, pp.8-11.
throughout the latter half of 1864, gave Grey detailed information about Tamehana's inclination to make peace and refuted the charge that the Kingmaker had become an out-and-out Hauhau. This information contributed largely to the averting of a campaign, much desired by the settlers, against the Matamata area and the Upper Thames. In fact, apart from the initial invasion of the Waikato and Chute's brutal campaign in Taranaki in 1866 - carried out against Parris's bitter protests - the actual campaigns against the Maoris were remarkably free from indiscriminate devastation (though the same cannot be said for the confiscation of land) and much credit for this can be attributed to the information and advocacy of the more intelligent civil officers.

After the conquest of a district the official duties of the R.M.s were:

...to superintend the interests of friendly Natives, as well as those who have surrendered, to settle any disputes which may arise between them and the soldiers; and to see that no injury be done Natives without redress being obtained. You will also investigate any complaints of Native property being plundered, or their persons molested.62

They were also to take a census of the Maoris in their districts, to try to revive agriculture and to improve the health and sanitation of their people. 63

The looting of Maori property by invading troops was inevitable; it occurred in the wake of any European victory and was committed by

61 Ibid., D-6, pp.12 and 17.

62 Shortland to Mainwaring, 17 May 1864 - MA 4/59; See also Fox to J. Mackay, 22 February 1864 - ibid.

63 Loc. cit.
British soldiers, settler militia and Kupapa Maoris alike. Despite its firm general instructions the Whitaker–Fox government qualified considerably its attitude to the question of loot. Army commanders were instructed early in the war to hand looted horses and cattle to the R.M.s to dispose of 'according to law', with 10 per cent payment to their captors. Theoretically the commissariat was supposed to buy them if it wanted them, while Maoris whose stock was looted were to lay an information with an R.M. and have offending soldiers summoned. But if settler militia did the plundering the Maoris were not encouraged to expect redress since, it was argued, settlers had lost horses and other property at Maori hands. Moreover, rebel Maoris were officially said to be to all intents outlaws and if they applied to the courts for the return of cattle or other redress it

64 E.g., Parris to Mantell, 14 July 1865 – MA 24/21, describing the situation after the fall of Weraroa pa.

65 Shortland to R.M. Raglan, 4 March 1864 – MA 4/59.

66 Native Office circular to R.M.s of Waikato, 17 June 1864 – ibid. It was held that, 'The existence of Martial Law in a District, does not deprive the subject of his Civil rights, nor does it suspend the ordinary operation of the Courts of Law'. (Halse to Parris, 21 February 1863 – MA 4/5).

67 Halse to R.M. Port Waikato, 4 October 1864 – MA 4/59.
is not likely they would meet with any'. Though there were a number of instances of R.M.s prosecuting soldiers or militia in the courts, sometimes with success, at best the civil officers could only mitigate looting, it principally resting with military commanders to control their men.

Nevertheless the coming in the wake of the soldiers, of a civil authority instructed to restore normal relations as soon as possible did lessen the worst molestations of Maoris once the lawlessness and depravity of a battle situation had passed. While extreme settler opinion favoured a result similar to that which occurred in Australia and North America, where native populations were eliminated entirely from whole districts, Governments did not allow this to happen in the conquered areas of New Zealand. The war was nominally fought to extend the rule of law over the Maori tribes, and civil authority did establish itself remarkably quickly. The Waikato R.M.s began immediately to appoint Maori Assessors and police and to hear cases on the frontier posts that were established. They frequently found themselves exerting more effort to control military settlers than punish Maoris. The British regiments were generally very well disciplined and their commanders more inclined to cooperate with the civil officers after a campaign than before one.

Reconstruction consisted largely of settling returned rebels on small reserves of land - their old cultivations or the land of loyal kinsmen - and telling them to recommence agriculture. Returned rebels, and some Kupapa tribes as well, were frequently quite destitute, for war completely dislocated agriculture. Stock and trading schooners

68 Shortland to R.M. Raglan, 8 July 1864 - ibid.
had been sold to pay for arms. Planting seasons had been lost while tribes were fighting, agricultural implements and mills had fallen into disrepair. Only the minimum of subsistence cropping was practiced, and a flood, a drought or a blight could, and did, result in the starvation of many. Once again the Fox-Whitaker government was at first very cold about the need for aiding surrendered rebels, believing apparently that a Maori had only to be placed on a patch of ground and he could fend for himself. At first they did not even supply seed potatoes, but the pressure of R.M.s, army doctors and friendly chiefs persuaded them to supply, first the women and children of rebels, and then the rebels themselves. Food - flour, sugar and biscuits - and seed potatoes were given in increasing quantities.

By mid-1865 Mainwaring, R.M. Waikato, was supplying about 450 ex-rebels in this way. The incoming Weld ministry in fact became concerned at the extent to which the Maoris were looking upon Government doles as a right and becoming dependent and pauperised. In the Waikato the Government began to require public works on roads, buildings and bridges in return for food, and to ask all R.M.s to cut down gradually on doles of provisions. But the need for Government assistance, and the consequent problem of pauperisation remained throughout the war,

69 '...as the Natives show themselves so indolent about it [cultivating the ground] ...take no further notice in the matter until the want presses more hardly upon them'. (Shortland to Mainwaring, 18 June 1864 - MA 4/59).

70 Shortland to R.M. Raglan, 24 June 1864 - ibid.; Native Office circular, 18 August 1864 - ibid.

71 Mainwaring to J. Mackay (C.C. Auckland), 7 June 1865 - MA 24/21.

72 Native Office circulars, 24 July and 5 September 1865 - MA 4/60; Rolleston to Mackay (C.C. Auckland), 29 August and 24 November 1865 - ibid.; Rolleston to C.C. Tauranga, 6 October 1866 - MA 4/61; Haultain to Stafford, 1 December 1866 - Stafford MSS, 38A.
lasting for about 12 months in each newly fought-over district before
the Maoris' own cultivations began to revive.

Another form of assistance administered through the R.M.s was
the granting of pensions to Maoris wounded while fighting on the
Government side, and to the widows of those killed. This began
apparently as Grey's suggestion and was readily acceded to by the
Government after the spontaneous display of gratitude and respect -
unique in its way - showed by settlers and officials of Wanganui at
the brilliant and heroic defence of the settlement by Wanganui River
Maoris at the battle of Moutoa. 73 The system was later regulated
by statute. 74

The civil officers also incurred responsibilities with regard to
Maori prisoners, receiving them from military authorities - often not
without complaint from the latter - taking the oath of allegiance and
settling and watching them on reserves, and collecting evidence against
those charged with murder. 75

MEANWHILE, though interrupted by military campaigns in some
districts, the Circuit Court system continued to operate, though to a
greatly reduced degree in districts recently fought over. The Karere
continued to serve summonses and keep order in court, the R.M.s and
Assessors to travel their districts, hear cases and settling disputes

73 Grey to Ministers, 19 April 1864 - G 35/1; Fox notes, 22 May 1864 -
AJHR, 1864, E-2, pp.71-2.
74 See below p. 256-7
75 J. Mackay to Nat.Min., 27 June 1865 - AJHR, 1865, E-5, p.16; Smith
by arbitration.  

The immediate effect of Cameron's victories in the Waikato was to make the tribes of other districts more submissive to European authority. The Ngapuhi, who could not at first conceal their sympathy with the small victories of their fellow Maoris in the first months of the war, and tended with justification to blame the Government for starting it, began by the end of 1863 to blame instead the intransigence of the Kingites. W.B. White took a party of Rarawa and Aupouri chiefs to the Waikato where they saw the battle of Orakau and returned home determined to cooperate with the Government. Buller noted a marked decline in Kingism in Manawatu, a considerable increase in the number of cases brought to his courts and the request of former Kingite hapu for appointments of Queen's Assessors from their ranks. A quite abrupt change occurred in Hawkes Bay. Whitmore noted in November 1863 that, 'The submission to law shown during the past week is new to the Province'. In one criminal case a single policeman arrested a Maori from amidst a large concourse of his friends and conveyed him to gaol without an attempt at rescue.

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76 E.g., J. White's reports - MA 24/21, N 0. 63/1995.
77 Barstow to Nat.Sec., 22 May and 25 June 1863 - JC-Russell 1; Barstow to G. Clarke (C.C. Waimea), 14 January 1864 - AJHR, 1864, E-3, p.41.
78 White report, 5 September 1868 - AJHR, 1868, A-4, p.36.
79 Buller to Col.Sec. (Nat. Dept.), 12 May 1864 - GBPP, 1865[3425], p.27.
80 Whitmore (C.C. Hawkes Bay) to Col.Sec., 13 November 1863 - MA-NA 1/2.
But although the progress of British arms made the magistrates' task increasingly easy, they were not for many years assured of regular Maori submission to their judicial authority. Because the Maoris of districts such as Hawkes Bay had become submissive out of awe of British power rather than respect for the law as such, it was not long before Hauhauism swept them into defiance again. Nor did the Government have the resources to support every magistrate who faced defiance over some local crime. Certainly there was a new willingness to act if the victim was a European. In December 1863, asserting that they 'intended to show them that we didn't intend to put up with this sort of thing any longer', the Whitaker–Fox government sent 100 men to Kaipara and arrested one Ruarangi, who had killed a European woman and her child. 81

But Maori life was cheaper and on a number of occasions magistrates were instructed not to concern themselves too much over the deaths of Maoris in disputes over women, or land, or makutu, unless the tribes involved were willing to surrender the culprits. 82 The Ngapuhi did in fact surrender a man of unsound mind named Nicotema Okeroa, who had killed a chief of rank; though too demented to plead, Okeroa was sentenced to death after a travesty of a trial, and executed, apparently because the Government believed the Ngapuhi would not surrender any more.

81 Gillies to McLean, 22 December 1863 – McLean MSS, 228; Grey to Cardwell, 4 January 1864 – AJHR, 1864, D–6, p.1. Ruarangi was sentenced to death and executed. (DSC, 23, 28 and 30 March and 14 April 1864).

82 Halse to Nesbitt, 1 November 1864 – MA 4/59; Rolleston to Mackay, 9 October 1865 – MA 4/60.
accused if he was not made to suffer the penalty demanded by the chiefs. 83 But active and important men were in another category altogether. When, in 1864, a taua at Waimate shot and wounded a man over a puremu dispute, the leader, a chief, though sentenced to gaol in absentia, was not surrendered, and Williams, the R.M. had to settle for a fine. 84

W.B. White's and G. Clarke's Runangas still sat periodically, to sort out disputes and contend with unofficial Maori runanga, rather than to make bye-laws, 85 and W.E. Thomas in the Chatham Islands actually inaugurated a new Runanga among his six small hapu. 86 Appointments of Assessors and Policemen - the term Karere tended now to be dropped - continued to be made both to bind chiefs in submission to the Government and on the principle that 'intelligent and well disposed young men of rank...will in time fill more ably the places of the older chiefs as they die off'. 87

Generally, however, the system staggered on with very little guidance from a pre-occupied Government. Development works, in particular, continued...
were neglected. Repeated requests from W.B. White of Mangonui for funds to build a school met with no success, and White commented that he was becoming ashamed to face Maori children. Requests for the hospitals at Wairarapa and Medical Officers at Waiuku and Chatham Islands were declined, and Nesbitt of Rotorua was told to moderate the amount he was spending on medicines among the Arawa, then fighting for a European victory.

The regime of Whitaker and Fox brought mainly destruction and austerity for the Maoris; but general policy on reconstruction, together with the genuine interest and zeal of individual civil officers in the out-districts, offered some hope and relief.

88 White to Mantell, 20 March 1865 - Mantell MSS, 401.

THE Weld ministry, replaced that of Whitaker and Fox in November 1864, on a programme of full responsibility and 'self-reliance' for the Colony in Maori affairs, and introduced far-reaching changes in policy and administration after two years of comparative sterility. Confiscations of Maori land were quickly agreed upon by Grey and ministers, including Sewell, the Attorney-General, and Mantell, the Native Minister - previously strong opponents of the Settlements Act of 1863 and the confiscations planned by the Fox-Whitaker ministry. The amount taken in the Waikato, about 1.2 million acres, was certainly far less than the more extravagant confiscations planned by the previous ministries, but probably not less than Fox and Whitaker would have settled for at the end of their feuding with Grey on the subject. All, including General


2 Authorities differ on this point. Sinclair (Maori Wars, p.140) claims that Grey authorised the confiscation by the Weld ministry of 'at least as much as the previous Government had wanted to take', thus revealing that his dispute with Fox and Whitaker over the extent of confiscation 'had been a personal quarrel rather than a conflict of principle'. Rutherford notes, however, (Grey, p.520) that Whitaker's declared intention was to take 4.25 million acres in Waikato alone (of which at least two million would have been reserved for sale) and only modified his proposals after he had tendered his resignation, to avoid the imputation that he was prolonging the war for the sake of land. The evidence in AJHR, 1864, E-2 and E-2C, tends to support Rutherford's view.
Cameron, seemed to agree that it was inexpedient, for military and financial reasons, either to retire from the frontier that had been reached in the Waikato, or to advance further into Ngatimaniapoto territory. The main desire was to make some confiscation, restore fairly liberal portions of it to Kupapa Maoris and surrendered rebels, and try to let the Waikato settle.

Confiscation in Taranaki was first intended to include a 10 mile wide coastal strip from Wanganui to White Cliffs, in order to open communications between these places and give the confined settlers some room to expand. Sewell and Mantell seemed to agree readily with this too, and the Taranaki members of the Government were pleased and surprised at their cooperation. However, partly owing to the

3 Weld, Notes on New Zealand Affairs, pp.28 and 32; Rutherford, Grey, p.520.


5 Weld memo., 19 December 1864 - AJHR, 1865, A-1, p.1; Mantell to Premier (Grey), 12 June 1879 and encl. - AJHR, 1879, Sess.1, A-8, p.2.

6 H.R. Atkinson wrote that he found Mantell, 'quite staunch to our views as to the treatment of the natives. I felt very grave doubts as to the wisdom of taking him on at first but now I am getting... quite satisfied'. (H.R. Atkinson, to A.S. Atkinson, 3 January 1865 - Richmond-Atkinson Papers, ed. Scholefield, vol.II, pp.142-3). He later added that Sewell 'is certainly quite sound at present upon all points'. (H.R. Atkinson to A.S. Atkinson, 7 January 1865 - ibid., pp.144).
larger ambitions of the settlers, partly to Cameron's attempt to frustrate those ambitions by insisting on moving his whole army to Taranaki — ponderously and expensively, and partly to Grey's desire to keep as many imperial troops in the field as possible in order to retain his prerogative as Governor in the now self-governing colony, the Taranaki operation became not a minor expedition in support of road parties but a massive campaign which threw the Maoris and peacemakers into greater despair than ever, drove more hapu into active rebellion and made nonsense of Weld's plan to send the imperial troops home. Confiscation, with Grey's ready acquiescence, widened to include another 1.2 million acres from White Cliffs to Wanganui, extending in land up to 30 miles from the coast, and embracing all the best coastal land including the disputed Waitara and Waitotara purchases.

7 Landings on the south Taranaki coast gave great offence to chiefs such as Wi Kingi Matakatea who had submitted after the war of 1860-1. Friendly as well as rebel Maoris were subjected to plundering and bullying by military braggarts such as Col. Warre. (A.S. Atkinson MS. Diary, 30 April and 8 May 1865).


9 The confiscations were made in two separate proclamations: Middle Taranaki, Oakura and Waitara South on 30 January 1865 (see map in Rutherford, Grey, p.525, where these are labelled 'Confiscation Boundary 1864'), and the much larger Ngatiruanui and Ngatiawa blocks on 2 September 1865. Cameron protested bitterly about taking the campaign through Waitotara which he held to be a worse 'job' than the Waitara purchase. McLean had negotiated an agreement with the Waitotara Maoris in 1858-9 but had tried to reduce a reserve of good land that had already been agreed upon. Some of the owners held the original agreement to be broken and refused to complete the purchase. Nevertheless, Featherston concluded the sale with the other owners in 1863-5, whereupon one of their leaders, Rio, was killed by 'Hauhaus'. The King movement, however, had previously concluded that the anti-land sellers (cont.)
AS Hauhauism spread to the East Coast, Weld, who wished to avoid using imperial forces, entrusted even greater responsibilities to the local civil officers. The foremost of these was Donald McLean. In the absence, on leave, of Whitmore, Civil Commissioner for Hawkes Bay, Weld commissioned McLean as General Government Agent with wide powers to control Hauhauism on the East Coast. He was told to by-pass the standing military authorities if necessary and raise and direct the militia and Kupapa Maoris himself; he could forcibly detain or remove Hauhau emissaries 'or actively disloyal persons'; he could offer pay, plunder and pensions to his Maori allies; he was, in short, to combat insurgency by counter-insurgency and defeat rebellion through the resources of the district. He performed his task with vigour and competence, keeping most of the Maoris from rising against the settlers and gaining the active support of numbers of them. The East Coast campaign of 1865 became a by-word in the Colony for efficiency and economy in comparison with the lengthy and expensive proceedings of the

9 (Cont.)
in Waitotara did not have a sufficiently strong case to warrant their support and the issue never became the great one that Waitara did. Featherston's explanations satisfied the Colonial Office (AJHR, 1866, A-1, pp.31-3 and 97-108; AJHR, 1867, A-1, p.1). Extravagant estimates are made of the total extent of confiscation during the wars. E.g., B.J. Dalton writes 'The total area of land confiscated during the wars was not less than 5,000,000 acres -' (Dalton, 'A New Look at the Maori Wars of the Sixties', Historical Studies, vol.12[1966] n.46, p.230, note 1). Confiscation on the East and West Coasts and in the Waikato totalled about 2.8 million acres of which approximately 600,000 acres were returned to the Maoris. (AJHR, 1873, C-4B, p.6).

10 'If you can find a dashing clever young fellow Native or European, make much use of him these are not times for routine. If your commanding military officer is likely to be any obstruction call your cavalry corps "mounted police" & don't let him have anything to do with them'. (Weld to McLean, 15 March 1865 - McLean MSS, 408).

11 A formula which, when stretched, covers the case of Te Kooti. (See below, pp.272ff ).
imperial troops. 12

H.T. Clarke, Civil Commissioner of the Bay of Plenty, gained similar powers in the Bay to those held by McLean on the East Coast. Another intelligent and energetic officer, he both raised, and at times directed in combat, Arawa auxiliaries and European militia. 13

The R.M.s acting under McLean and Clarke also gained increased military responsibilities. Officers such as W.G. Mair, who varied his responsibilities between civil duties as R.M. Opotiki (whence he had been removed from Taupo), and military duties as leader of militia and Arawa troops, became almost legendary in the Colony's history. Even a somewhat unenterprising officer like Wardell, R.M. Wairarapa, was authorised to counter Hauhau movements in his area by calling out local militia. 15

12 Ormond reported that McLean had proved 'his peculiar ability'. When, in mid-1865, he went to Wellington the Hawkes Bay chiefs became restless and disaffected, but returning, 'he has worked them all round again and I believe we now have the great bulk of the resident natives secure'. (Ormond to Mantell, 26 November 1865 - Mantell MSS, 357). When Whitmore returned from leave he found himself dispensed with as Civil Commissioner of Hawkes Bay on the grounds that division of authority would increase the difficulty and danger in a critical district. (FitzGerald to Whitmore, 10 September 1865 - MA 4/60).

13 Rolleston to Clarke, 8 May 1867 - MA 4/62; Clarke to J.C. Richmond, 30 March 1867 - AJHR, 1867, A-20, p.54; Richmond to Clarke, 17 January 1868 - AJHR, 1868, A-8A, p.32.

14 See Andersen and Petersen, The Mair Family.

15 Richmond to Wardell, 12 August 1865 - MA 4/60.
The exercise of military functions by able civil agents, with the regular military officers clearly subordinate to them, usually worked well. Alternatively, military men were appointed as R.M.s. Thus Major Edwards became R.M. Otaki, and Major Noake, R.M. Upper Wanganui — both replacing civilians — and later Major Biggs became R.M. Poverty Bay. In Taranaki, however, largely because of the continued presence of large numbers of imperial troops, civil officers never gained the preponderance of authority over the military that McLean and Clarke enjoyed. Parris's feud with military commanders intensified but Parris gained no advantage in the struggle.

Civil Officers and institutions enjoyed other favours from the Weld government. Mantell did not share the popular hostility to the office of Civil Commissioner. Hunter Brown, R.M. Wairoa, was appointed Civil Commissioner in Canterbury, Otago and Southland to report on boundary questions and unfulfilled promises to the Ngaitahu people left over from the great South Island purchases.\(^1\) John Rogan became Civil Commissioner of Kaipara, a populous district left without a resident judicial officer since Fenton had been R.M. there in the early 1850s.\(^2\)

The transfer of the seat of Government from Auckland to Wellington in


Fox had asked H.T. Clarke to make a similar investigation when he went south to purchase Stewart Island in 1863. Clarke made a sensitive and forthright appraisal of the Maoris' needs but the Fox Government was preoccupied with the war and fell before it could act on Clarke's recommendations. (Fox memo., 5 March 1864 — AJHR, 1866, A-11).

17 It had, in the interim, been served intermittently by magistrates from Auckland and the Bay of Islands, and by Rogan, as Land Purchase Officer at Kaipara.
1865 necessitated the appointment of an able officer in the former capital and James Mackay was appointed Civil Commissioner there. He, with the successive Resident Ministers appointed at Auckland, directed the Native Department officers in Waikato, Thames, and to a lesser extent, in the Auckland province as a whole. 18

A further important appointment by Weld and Mantell was that of W. Rolleston as Under-Secretary of the Native Department (the term 'Native Secretary' now being dropped). A Cambridge graduate, formerly Provincial Secretary in Canterbury, Rolleston served from June 1865 to May 1868 when he resigned to become Superintendent of Canterbury. 19 Rolleston exercised more influence on policy than any subsequent Under-Secretary and had much to do with the shaping of legislation affecting Maori schools, lands, and parliamentary representation. 20

Even the Runanga system enjoyed a brief popularity under Mantell. W.B. White's Runanga at Mangonui was authorised to spend within the district the income from fees and fines raised in White's courts. 21

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18 Given the schismatic tendencies of the New Zealand settlements - separation of one or other of the Provinces into an independent colony being a real possibility in the 1860s - the office of Resident Minister was an important one during the third quarter of the Nineteenth century. Daniel Pollen held the office in Auckland under Weld and again under Fox after 1869. Whitaker was Resident Minister in Auckland for the Stafford ministry. Pollen's importance in Auckland in 1870 was such that even when he had incurred Fox's serious displeasure the Premier dared not dismiss him. (Pollen to Stafford, 31 May 1870 - StaffordMSS, 40).

19 N.Z. Gazette, 1865, p.216; see also warrant of appointment dated 1 July 1865 - Rolleston MSS, 1. For his resignation see J.C. Richmond to Rolleston, 2 May 1868 - MA 4/11, Appendix p.2).

20 See below pp.222ff and, for example, his minutes, 8 January 1866, on MA 24/22, N.O. 65/26.

this stage the far north was being governed effectively as a semi-independent native district. Thomas's Runanga in the Chatham Islands met for a second time and passed regulations providing for the branding of cattle and registration of dogs. These regulations, vitally important in a pastoral society, were to be policed by the Maori Assessors, who could authorise the shooting of stray dogs or cattle. The regulations were gazetted and remained in force for some years. 22

Mantell was prepared to spend quite liberally on the machinery of the Native Department, framing estimates of £40,400, some £9,000 higher than the estimates of the previous year. 23 A certain liberality and respect for the principle of racial equality was shown with regard to Maori losses in the war. When the commissioner appointed to investigate claims for war damage by settlers asked if the claims of friendly Maoris should be entertained, Weld and Mantell minuted that 'of course' they were. 24

BUT a greater and more far-reaching development in the machinery of a government during this period was the implementation of the Native

23 PD, 1864-6, p.577.
24 Minutes of Weld and Mantell, 17 and 24 April 1865 – IA 65/969. A further indication of the Weld Government's tendency to apply a policy of equal rights to both races was the relaxation of restrictions on the sale of arms to Maoris in the South Island. (N.Z. Gazette, 25 April 1865; Halse to Hunter Brown (C.C. Christchurch) 4 May 1865 – MA 4/60).
Land Court system. Some preliminary moves had been made by the Whitaker-Fox ministry. After the 1862 Native Lands Act had been approved in London, the aging George Clarke, Civil Commissioner of Waimate, was asked to suggest regulations for the Court and to name chiefs who could form, under Clarke's chairmanship, a panel of Assessors, as envisaged by the Act. On 29 December 1864, the Weld Government proclaimed the Act to be in operation and appointed Clarke, W.B. White, Civil Commissioner at Mangonui, and J. Rogan, then Land Purchase Officer at Kaipara, as Judges in their specific districts. A number of chiefs were appointed as Assessors.

However, in January 1865, before any Court had sat, the Government selected as Chief Judge the man who was eventually to have an influence on the system greater than that of any Native Minister - F.D. Fenton.

25 Shortland to Clarke, 30 August and 9 September 1864 - MA 4/59.

26 Among the first Maori Assessors named were W. Kukutai, A. Kaihau, H. Tauroa, W. Te Wheoro, H. Matini, H. Nera and T. Tarahau - N.Z. Gazette 1865, inter alia. The offices of Assessor in the R.M.s' Courts and Assessor in the Native Land Court were distinct, though sometimes both were held by the same man. In this thesis, unless otherwise stated, the term 'Assessor' will still refer to Assessors in the R.M.s' Courts.

27 Weld later wrote that the first day he was in office he waited upon Fenton, who was then Assistant Law Officer, and told him that 'Native Land Courts are the last straw to save the drowning [Maori] race'. (Weld, Notes on New Zealand Affairs, p.31). On the other hand Mantell and Sewell clearly had a major share in the choice. (Mantell to Gisbourne, 6 January 1865 - IA 65/46; Rolleston to Fenton, 14 June 1866 - MA 4/8).
Fenton was to head both the Native Land Court, and the Compensation Courts set up under the New Zealand Settlements Act to apportion confiscated land. His work was not expected to be arduous; it was actually expected that Fenton would have so little work that he would be able to continue his private legal practice. He later told Mantell that he only accepted the position because he was greatly interested to prove that a native customary tenure of land could be reduced to an English legal tenure. 28 He was given virtually a free hand in organising the Court and making appointments. Within days he had begun to exert a fateful influence on the whole future of Maori land legislation. The 1862 Act had, in accordance with principles first suggested by Fenton himself in 1858-60, and incorporated in Grey's Runanga system, envisaged the chiefs of a district meeting with the local R.M., and threshing out agreement on boundaries in that district only. Fenton, now that he was Chief Judge, abandoned his earlier ideas and set about creating a tribunal along the lines of the Supreme Court, whereby a roving Judge could sit in any centre, summon witnesses, hear evidence and hand down a judgment with due pomp and formality. On 11 January 1865 all existing districts proclaimed under the 1862 Act were cancelled and the Colony was made one district subject to the jurisdiction

28 As Chief Judge he was paid a salary of £800, a very high figure in those days. But as Law Officer he had received £600 salary in addition to the £1,100 he claimed to have been earning from private practice. He told Mantell that, in accepting the Chief Judgeship, 'I never made a greater mistake in my life (for myself) than when I listened to your sweet voice - the truth was I wanted to show that the land of New Zealand could be judicially dealt with'. (Fenton to Mantell, 1 December 1879 - Mantell MSS, 277).

28a See Below p.571
of one Court. 29 Fenton's view that Land Court Judges should not also hold 'political or diplomatic' functions as R.M.s and Civil Commissioners was accepted. 30 White and Clarke therefore lost their Judgeships. Rogan retained his but did not long retain the position of Civil Commissioner to which he was appointed about the same time, T.H. Smith, who was appointed Judge in December 1865, gave up the office of Civil Commissioner in the Bay of Plenty. Of the other new appointees, Maning and Monro held no other offices. J. Mackay disagreed with Fenton about the manner of apportioning interests among recipients of Court awards, and, placing most value on his work as Civil Commissioner, shortly resigned his Judgeship. 31

The transformation of the Native Land Court and the elevation of the status of the Judges stemmed partly from Fenton's own ambition and vanity. It also stemmed from the belief, now advanced most strongly by Fenton, but also widely held among the settler community, that only a solemn legal tribunal would be respected by contending Maori claimants.

29 Mantell to Rogan, 11 January 1865 - MA 4/7; Halse to Fenton, 13 February 1865 - MA 4/60; Weld to McLean, 22 March 1865 - McLean MSS, 408.

30 Rolleston to Fenton, 18 December 1865 - MA 4/7; Rolleston to J. Mackay, 26 September 1865 - MA 4/60.

31 Evidence of Mackay, AJHR, 1891, Sess.II, G-1, minutes of evidence, pp.40-1. Maning of Ōokianga became a Judge allegedly at the insistence of the Northland politician, Hugh Carleton, who feared the entry into politics of Maning, a popular figure in the North. (H.T. Kemp to McLean, 13 July, 1866 - McLean MSS, 270). G.S. Cooper, R.M. Waipukarau, also hoped to be made a Judge but soon concluded that this was unlikely as he had been at odds with Fenton since the days of McLean's Native Secretaryship. (Cooper to McLean, 20 September 1865 – McLean MSS, 190).
A mere discussion before an R.M. or a predominately Maori tribunal would, it was thought, lead only to wrangling, deadlocked hearings and disputed decisions.

There was some apparent justification for this view. The demarcation of the territorial claims of two or more iwi or hapu was rarely clear-cut, there frequently being an area of territory between them which was disputed ground (kainga tautohe), often left vacant after years of intermittent warfare. There were also small sections of land, or hunting, fishing or gathering spots within the general territory of one iwi or hapu over which another had been accorded rights. It was argued by those who sought to elevate the status of the Land Court, that contending Maori parties could never agree on boundaries, especially if interested Maoris formed the tribunal, and that the only way to gain a quick determination of the issue, was for a European Judge to hand down an authoritative decision, which the defeated parties would be obliged by the peace-keeping forces of the Colony, to accept.

But this line of thinking was fallacious, for in fact it was not impossible for contending Maori parties to come to an agreement on boundaries. The process was not simple. It involved some give-and-take, with regard to long disputed areas. It involved parties meeting with the idea of compromise, not winner-takes-all, fairly much to the fore. It would normally have required the presence of a neutral European official to lift the question from the plane of traditional jealousies to the new principle of compromise and agreement – purely Maori committees which later adjudicated upon land boundaries were often obstructed by contending claimants on the ground that they included
interested and self-seeking parties. A European official's presence would also have set the seal of legal ratification on the agreement that was reached. The official and the panel of local Maori leaders who comprised the 'court', would thus have acted as arbitrators of the discussion, making sure that traditional customs of tenure were respected, deterring and exposing - by their authority and knowledge of the district concerned - false statements by witnesses, but not acting as Judges, asked to rule in favour of one of several conflicting sets of evidence. Above all, this procedure would have involved being unhurried, taking time.

That a tribunal of this nature would not have been fanciful is indicated by several plain facts. A process of arbitration and agreement before a third party - perhaps a neighbouring ariki - was not unknown to Maori custom, although it often resulted in the disputed land being left unoccupied under the suzerainty of the arbitrator. Secondly, in the 1870s and 1880s, Maori leaders, anxious to forestall the sort of adjudication likely to be given by the Land Court, increasingly met in conference with the leaders of the neighbouring tribes and hapu, and came to clear agreement upon boundaries, which they wanted only to be

32 Evidence of W.H. Grace and A.D. Fraser - AJHR, 1891, Sess.II, G-1, minutes of meetings, pp. 56 and 60.

33 T.W. Lewis, Under-Secretary of the Native Department in 1891, observed that before a Runanga of chiefs '...the truth would be more likely to prevail'. [In comparison with the practice which had grown up of fabricating evidence to dupe the European Judges.] (AJHR, 1891, Sess.II, G-1, minutes of evidence, p.151. See also evidence of Wi Katene, minutes of meetings, p.21).
formally ratified by an external authority. Thirdly, that an arbitrating type of court or commission could work was proved in practice by the commissioners who heard the claims of Bay of Plenty tribes to confiscated lands near Tauranga, and by other commissioners who negotiated for the sale of mining rights. In 1867 for instance, James Mackay treated for the cession of mining rights in which four tribes had intermingled claims and at least 50 proposed boundary lines were disputed. By an 18-month long process of open discussion, and negotiation, with all the principal men, on the disputed ground itself, Mackay won agreement on all points. It is a singular fact, that in marked contrast with adjudications on land title, decision of claims to mining rights never gave rise to serious dissatisfaction among Maori parties. During many years of subsequent public debate Mackay rightly advanced this as evidence in favour of remodelling the Native Land Court along the lines of the Wardens' courts of the goldfields.

But, as has been observed, the securing of agreement in this way had to be unhurried, not made under pressure. And would-be purchasers of Maori land were in no mood to wait for a decision. The pontifical decisions of Fenton and his brother Judges were expected to follow quickly from a hearing of evidence, and alienation of land could follow. Settlers were no doubt actuated by this consideration in supporting

34 On the one clear occasion when the Native Land Court did little more than register the boundaries agreed upon between outstanding tribes and hapu - namely, in the King Country in the mid 1880s - the award was highly successful and gave rise to little friction.

35 Mackay, Our Dealings with Maori Lands. For further illustration by Mackay of his successful adjustment of claims by out-of-court arbitration, see AJHR, 1891, Sess.II, G-1, minutes of evidence, pp.40-1, and 78.
Fenton's view of the Court. After all, as an Under-Secretary of the Native Department was eventually to admit: '...the whole object was to enable alienation for settlement. Unless the object is attained the Court serves no good purpose, and the natives would be better without it, as, in my opinion, fairer native occupation would be had under the Maoris' own customs and usages without any intervention whatsoever from outside.' 36

The results of the introduction of the new form of Native Land Court were disastrous. It debared the Maoris from working out their boundaries for themselves, under the guidance of men who had a close interest in the well-being of their districts and set up a body of self-proclaimed experts who had to try, and frequently failed – to interpret Maori custom. One of the Judges subsequently admitted that the Court was not uniform in its practice – that each Judge 'sails along serenely', either trusting to his Assessor for guidance or interpreting native custom according to his own ideas. 37 The system invited not cooperation but contention between parties who – although the Court frequently divided the land – could win all, or lose all, on the Judge's nod. It ushered in an era of bitter contesting, of lying and false evidence. The legalistic nature of the Court also instituted a costly and tedious process of litigation with all the paraphernalia

36 Evidence of T.W. Lewis - ibid., p.145.

37 Evidence of E.W. Puckey, 29 November 1888 - MA 70/2. The evidence was given during an enquiry which arose from the discovery that Judges were taking widely differing courses on the question of whether chiefs were entitled to a greater share of an award than rank-and-file Maoris on account of their greater mana. (See also AJHR, 1887, Sess.II, I-3C, pp.6-7).
of lawyers, agents, legal rules and precedents - a morass in which the Maoris floundered for decades, frittering away their estates in ruinous expenses and still all too often not getting justice.

A corollary of the introduction of the 1862 Native Lands Act was the abolition in May 1865 of the Land Purchase Department. It had done little work since 1862, the biggest purchases, those of Stewart Island and the Rangitikei-Manawatu block, having been made by special commissioners. The remaining Land Purchase Officers were given other positions (Rogan that of Land Court Judge and W. Searancke, that of R.M. Central Waikato) or were dispensed with. Until 1870 the Government tried to keep quite free from land purchase activities. Buller, who had become involved in them in Rangitikei-Manawatu was told that 'it is the desire of the Government that in no cases Resident Magistrates should be employed in the purchase of land'.

AS the 1865 session of Parliament approached, the Weld government shaped its legislative programme. Deficiencies in the 1862 Act, together with Fenton's desire for important changes, made necessary a new Native Lands Bill. The Government also proposed to legislate for Maori representation in parliament. This, said J.C. Richmond, introducing the policy, was 'a corollary to the Native Lands Act. The two were essentially the abandonment of the system of protectorate, or

38 Order in Council, 17 May 1865 - N.Z. Gazette, 7 June 1865.

39 Among those dispensed with were H.T. Kemp and J. White, late R.M. of Central Wanganui.

40 Halse to Buller, 11 May 1865 - Mantell MSS, 237; See also AJHR, 1865, E-2B.
dry-nursing. They were throwing the Maori on the world to take his lot with other subjects, and they must remove all disabilities'.

Richmond's statement was indicative of the strongest tendencies in the shaping of Maori policy for the remainder of the century: a reaction alike against the control of Maori affairs by the Governor, against the provision of special machinery for Maori affairs in the form of an elaborate Native Department, and against such centres of residual Maori authority as the Runangas. Though Richmond, in office, was to modify his views, the main current of settler inclinations was to 'put the Maoris on an equal footing with ourselves', which meant in fact, as the Rev. Montague Hawtrey had predicted in 1837, exposing the weaker party to destruction 'under a show of justice'.

Before the 1865 session was fairly under way, Mantell, who had recently shown some willingness to make special provision for Maori needs, had ceased to be Native Minister. For some time the Otago Provincial Council had been urging the General Government to transfer to it a valuable three-acre reserve, made for the Maoris by Mantell himself in 1853, in Princes Street, Dunedin. General Governments

41 PD, 1864–6, p.206.


43 The reserve was on the waterfront adjacent to the city centre. Visiting Maoris had drawn up their canoes there and a hostelry had been built for them. In 1861 the Otago gold rush had brought squatters who occupied the beach and secured from the Local Commissioner of Crown Lands licences to occupy it. The hostelry has fallen into disuse and was half covered with rubble from street-making near by. (AJHR, 1870, D–16, p.25).
had resisted the pressure until July 1865, but when the Assembly met
Mantell announced his resignation, 'on account of the sudden conversion
of a colleague to a different opinion from what he held with me a short
time previously on the question of the Princes Street Reserve...'.
Mantell spent the next decade in the Legislative Council fighting for
the rights of the South Island Maoris.

After a fortnight's interregnum in which J.C. Richmond, the
Colonial Secretary, acted also as Native Minister and assisted in
shaping Maori policies for the parliamentary session, Mantell was
succeeded on 12 August, by a man who was widely believed to be an
even greater exponent of Maori privilege than his predecessor —
J.E. FitzGerald of Canterbury.

FitzGerald, who had always declared the invasion of the Waikato
to have been unnecessary, intended and expected that peace should
shortly be concluded with the Maoris, except for a number of Hauhaus
involved in the murder of civilians. He was remembered among the

44 AJHR, 1888, I-8, p.92. Who this colleague was is uncertain. Government
members, including Weld, were somewhat equivocal about the Maoris' right to the reserve early in the session (PD, 1864-6, p.382) but voted against the opposition (Otago) move for a select committee on the question and on the recommendation of that committee to hand the reserve over to Otago. (Ibid., p.214; Journals of the House of Representatives, 1865, p.127). Weld later claimed that he lost most of his supporters in opposing the attempt by Otago to secure the reserve. (Notes on New Zealand Affairs, p.32ff).

45 In December 1864 he had urged Mantell to establish constant communication
with Tamehana and Rewi, adding 'I can't understand why the war is not stopped and peace declared'. (FitzGerald to Mantell, 28 December 1864 - Mantell MSS, 278). He wrote to Tamehana privately and to Weld offering to go to Waikato and fetch Tamehana and Rewi to Wellington. (FitzGerald to Mantell, 7 July 1865 - ibid.).
settler community for his advocacy in 1862 of the principle of legal and political equality for Maoris and Europeans. His coming to office was greeted in the House with a 'painful silence'. Within days of his appointment, J.D. Ormond, in a popular speech, attacked him for negotiating with Tamehana (who had formally submitted earlier in 1865 but had since been virtually ignored by the Government) and also took the Native Minister to task over the Government's plans for Maori representation. 46

On 18 July FitzGerald announced his policy which, in addition to measures already planned with regard to Maori land and Maori representation, included a Native Rights Bill to give the Supreme Court cognisance of suits brought by Maoris affecting their customarily-held lands and an Outlying Districts Police Bill to punish by confiscation of land, tribes who sheltered men guilty of crimes such as the Volkner murder. 47 The last part of his programme reassured Ormond who wrote to McLean that 'FitzGerald is a different man as Minister as his policy will show you'. 48 Am indeed FitzGerald now proceeded to sully some very high-minded postulations of Maori rights with a weak-kneed adaptation of them to policy.

The Native Rights Act stated firstly that the Maoris were deemed to be natural born subjects of the Crown, thus re-enacting in statute

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46 Ormond to McLean, 13 August 1865 - McLean MSS, 326. Of FitzGerald's appointment Ormond added: '...there is a general feeling of consternation at this news. To my mind nothing so dangerous to the interests of the Northern Island could possibly have happened'. Ormond was particularly angry about FitzGerald's recent statement 'that Thompson and those brave men who have fought for their liberties are those he wants to meet and talk with.

47 PD, 1864-6, pp.320-1.

48 Ormond to McLean, 26 August 1865 - McLean MSS, 326.
law the provision in the Treaty of Waitangi that Maoris were to have the rights and privileges of British subjects. This pleased pro-Maori groups in the Assembly, especially as it removed one possible objection to the Maoris' right to the franchise.49 It also pleased those who wished to see the Maoris in arms treated more stringently, since it implied that they should definitely be regarded as rebels, not as foreign belligerents. FitzGerald's main intention was however, to remove the long-standing prohibition of Maoris from taking questions affecting customarily-held land before the Supreme Court. He had argued since 1862 that it was futile to demand that Maoris come under English law and at the same time to debar them from the use of the Supreme Court in questions affecting the bulk of their lands.50

However, FitzGerald was compelled by Richmond, Sewell and others to admit that decisions on ownership according to Maori custom should be made by a more specialized body. The Native Rights Act therefore, while establishing the Maoris' right to bring actions affecting their persons and property in the Supreme Court, provided that the Court should refer cases to the Native Land Court when it required a decision on who were the owners of disputed customary lands. FitzGerald at that time intended that the Land Court should only be a Commission of Enquiry, an

49 Richmond had mentioned this objection in introducing Government legislation before FitzGerald took office. (PD, 1864-6, p.206).

50 '[The Native Rights Act] would enable the Government - the Native Department - to go to the Natives and say "You stand in precisely the same position as we do and, when you suffer wrong, you must bring your action for protection as we do". The Natives could not say that at the present time'. (Ibid., p.337. See also FitzGerald to J.C. Richmond, 25 August 1865 - Richmond-Atkinson Papers, ed. Scholefield, vol.II, pp.178-9).
auxiliary of the Supreme Court, rather than a full court. But Fenton's influence and the obvious impracticability of referring customary lands to the Supreme Court before having them immediately referred to the Land Court, meant that adjudication on title to customary lands almost always originated in the latter. The Supreme Court consistently declined to go behind or alter the decision of the Native Land Court and could be resorted to effectively only in connection with disputed dealings between Europeans and Maoris, after a Land Court decision. Access to the Supreme Court in fact proved a privilege of dubious value to the Maoris, who, though they were able at times to win favourable verdicts against Europeans, were subject to ruinous costs. Moreover, it was subsequently ruled in the Supreme Court that the Native Rights Act had not improved the legal standing of Maori customary tenure. It was held to be 'merely a declaratory Act' setting out more clearly the Maoris' existing rights, not creating a right where none had existed before; insofar as the Supreme Court had first to refer all disputes concerning customary title to the Native Land Court, the Act, it was stated, 'excludes the idea that tenure of lands according to Native custom is to be equivalent to, or have the incidents of tenure of land according to English law'.

51 Ibid., p.810.
53 Gillies J. in Mangakahia v N.Z. Timber Coy, 1881, 2 NZLR (S.C.) 345. For a further example of a strained legal decision, adverse to Maori interests, see Regina v Fitzherbert, Court of Appeal, 1873. The Court setting aside a vast mass of oral and written evidence, as to intention, decided that the reserves for Maoris made by the New Zealand Company in 1840-2 in Wellington and Nelson, were invalid because of the absence of an express written declaration of trust designating their purpose. This omission was, however, covered by remedial legislation.
The Native Lands Act, 1865, like that of 1862 was shaped largely by the pressure of speculator interests in the Assembly. Before the session, at the request of Sewell and Mantell, Sir William Martin had given his ideas on the subject but, in the end, little account was taken of his views.\textsuperscript{54} Martin wanted a Court along the lines of the 1862 Act – essentially a panel of local chiefs. But Fenton’s formal Court of European Judges was already established and was ratified by the new Act, although provision was added for the empanelling of a Maori jury at the Judge’s discretion. Martin wanted the land, once awarded, to be sold only under public auction. FitzGerald however, did not adopt this provision nor the proposal of Fenton who, to his credit, had proposed making private dealings with Maori land prior to the Court’s award, not merely void, but illegal.\textsuperscript{55} On the contrary, FitzGerald stated that the Bill was to repeal the Native Land Purchase Ordinance and let speculators risk their money in prior dealings if they wished. To the objections of Mantell (who had supported Fenton’s proposal to make prior dealings illegal) FitzGerald frankly stated that the Bill was a compromise ‘and in bringing it forward he had relinquished some of the views he had held’.\textsuperscript{56} In other words he was surrendering to speculator pressures. A move by John Hall and others in the Legislative Council to include Martin’s proposal for sale by public auction only, was defeated, J.C. Richmond, the Colonial Secretary, voting with the majority.\textsuperscript{57}


\textsuperscript{55} See Bills Not Passed, 1865.

\textsuperscript{56} PD, 1864-6, p.370.

\textsuperscript{57} Ibid., p.729.
The setting up of the Land Court was accompanied by a spate of illegal dealing between Maoris and settlers who sought to secure their claims ready for the Court's first sittings.58 Even before the 1865 Act had been finally passed Rolleston, the observant Under-Secretary, noted that agents were advertising themselves to negotiate for Maori land, including reserves, and urged that the Act be amended to prohibit speculation. FitzGerald, however, wrote: "I think it best not to interfere".59 Fenton, who urged the Stafford Government which took office later in the session to re-enact the Native Land Purchase Ordinance, was told that it was too late in the session.60

The Maoris were then exposed to a thirty-year period during which a predatory horde of store-keepers, grog-sellers, surveyors, lawyers, land agents and money-lenders, made advances to rival groups of Maori claimants to land, pressed the claims of their faction in the Courts and recouped the costs in land. Rightful Maori owners could not avoid litigation and expensive surveys if false claimants were put forward, since Fenton, seeking to inflate the status of the Court, insisted that judgments be based only upon evidence presented before it.

FitzGerald, Richmond and the Stafford administration, which finally passed the Act, all, therefore, bear a share of responsibility for making

58 E.g., Mainwaring (R.M. Waipa) to Nat.Min., 22 May 1865 — Native Affairs, North Island, Section C, p.351. Whitmore, who had the ear of the Government, warned McLean to 'Close all bargains with Natives so as to be as little hurt by [the] new Native Land Act and when it is proclaimed get hold of all you can'. (Whitmore to McLean, n.d., circa early 1865 — McLean MSS, 414, n.3).

59 Rolleston memo., 6 September 1865 and FitzGerald minute, 13 September 1865 — MA 24/21.

60 Rolleston to Fenton, 4 November 1865 — MA 4/7.
it so suitable to speculator interests. Richmond produced some pearls of rhetoric to describe European colonisation. The Maoris' desire to close their land to settlement was a perfectly natural one he agreed:

At the same time, the settler was, most properly, anxious to extend settlement, nor could his desire for land be properly called greed. It was not individual wealth he was grasping; he was indulging in the healthy wish for the spread of civilization.

As for the Maoris, free trade in land would, in Richmond's view, expose them to the healthy play of individual competition:

Deprived of the superficial gloss of which mere independence gives, the ordinary savage Maori would sink below the uncultivated European, whilst others possessed of more real force of character would rise to a higher level, from the great power of wealth which was put into their hands...61

A tooth-and-claw system of ruthless competition was to be thrust upon a people whose social polity was traditionally organised in extended corporate families. The utter disruption of Maori social relations was deliberately initiated, and a system of land purchase began which encouraged cupidity and unscrupulousness rather than thrift and responsible use of land.

One further unfortunate consequence of the 1865 Lands Act must be considered. This is the question of succession. Under Maori custom a man's right to the use of land descended to his children so long as they had retained their basic ties with their parent and with the land. Female children generally did not inherit rights of the same kind as males. Among the male children the senior was usually responsible for

61 PD, 1864-6, p.349.
62 Ibid., p.347.
the inheritance and minors acquired only lesser interests. If a man died without issue the land went to his brothers. In either case a widow, who came essentially from an alien lineage, remained only on sufferance, and was allowed to use the land necessary for her subsistence. Daughters who married into other lineages, and their offspring, lost most rights unless the offspring returned to dwell at the mother's place of origin and were accepted by her kin. The essential points were that the land remained in the main lineage of the deceased and in the hands of those who actually dwelt upon and used it. It did not descend to children in equal shares wherever they might be.

But to the majority of Europeans, and to Fenton in particular, the application of these principles to land which had been awarded by the Court to individual owners suggested a reversion of the land to Maori 'communal' title again, and the frustration of one of the main purposes of the land legislation. It had been held hitherto that Crown granted land should devolve according to the principles of English law. In

63 See R.G. Crocombe, Land Tenure in the Cook Islands. The customary land tenure systems in various Polynesian groups are variants only of a basically similar pattern, and the tenure system of the Cook Island Maoris is very close to that of their New Zealand counterparts. See also Firth, The Economics of the New Zealand Maori, pp.367-392.

64 See, e.g., the instructions of T.H. Smith to J. Mackay (Assistant Native Secretary, Collingwood) 14 April 1859 - MA 4/3. The question of succession of interest had not been seriously considered before 1865, there being few Maoris holding land under Crown Grant; most had apparently been expected, like good Englishmen, to leave wills. Under the Intestate Natives Succession Act, 1861, the Governor was to appoint a commissioner to enquire into each case where a will had not been made and recommend the recipients of the new Crown Grant. This cumbrous procedure was rarely used.
the case of intestate estates — the vast majority — this meant succession to next of kin, that is, to widows or to children (including females and minors) not usually to brothers of the deceased. Moreover it accorded well with prevailing European sentiment that widows and female children should succeed equally with males. However, professedly paying some deference to Maori customs of succession, the Assembly adopted the vague formula that the land should succeed 'according to law as nearly as can be reconciled with Native custom', \(^{65}\) and left the interpretation of this to the discretion of the all-powerful Fenton.

The Court, mixing English rules of descent with so-called Maori custom, which no panel of Maori chiefs would have recognised, proceeded to divide estates of deceased Maoris in equal shares among widows and all children, male or female, resident or absent. \(^{66}\) The result was that though a form of 'individualised' ownership was preserved on paper, titles to land soon became divided into an infinite number of shares — smaller and less economical with each succeeding generation — until they

\(^{65}\) Native Lands Act, 1865, s.30.

\(^{66}\) In an early judgment on the Papakura block Rogan held that:

it would be highly prejudicial to allow the tribal tenure to grow up and effect land that has once been clothed with a lawful title, recognised and understood by the ordinary laws of the Colony...it will be the duty of the Court in administering this Act to cause as rapid an introduction amongst the Maoris, not only of English tenures but of English rules of descent, as can be secured without violently shocking Maori prejudices.

He followed Fenton in amending the English rule of descent to the widow, to allow children to share equally with her. (N.Z. Gazette, 1867, p.189). The shares of widows and children varied somewhat according to the inclinations of the judges, while half-brothers, distant relatives and friends were brought into the succession on the principle of 'Aroha' (Compassion).
were soon so overcrowded and fragmented as to put the actual land almost beyond efficient use. The whole Maori population was encouraged to indulge in the pursuit of inheritances from all branches of their ancestry and in remote parts of the country.\(^{67}\)

In the legalistic nature of the Court which it established - involving claimants in tedious and costly litigation, in the facility it gave for speculation in Maori land, and in the evil effect it had on title to land, the 1865 Act was disastrous for the future of the Maori people.\(^{68}\)

MAORI representation was introduced as part of Weld’s drive for a rapid pacification. Weld and J.C. Richmond did not expect that the\(^{67}\)

\(^{67}\) Some modern texts on Maori land law (e.g., N. Smith, Maori Land Law, p.57) erroneously state that by ancient Maori custom all issue were entitled to inherit equally. (Although Smith also admits (p.99) that the recognition of interests in the female line equally with the male line was a modification which ‘necessarily followed when it became necessary to transmute the Maori customary title to one cognisable according to English law’). Modern Maoris will state that it is ancient custom that all children inherit equally and in both male and female lines regardless of residence, and recent efforts made in the interests of preventing further fragmentation of title, to limit the inheritance to one or two successors, have been strenuously resisted.

\(^{68}\) For a detailed study of the effect of Maori land legislation see M.P.K. Sorensen, 'The Purchase of Maori Lands, 1865–92'. Minor property legislation of the 1865 session of the Assembly included an Intestate Estates Act, a forerunner of Public Trust Legislation, by which Curators of Intestate Estates could be appointed to administer the property of deceased New Zealanders, including Maoris. A Maori Funds Investment Act authorised the Governor to appoint trustees to administer the estates of Maoris under legal disability.
Maoris would, in practice, gain very much from parliamentary representation, but it was intended to remove a disability and to provide an opportunity for Maoris to place their grievances. More generally it fitted into the context of 'amalgamation'. Ideas on the form that Maori representation should take, were, however, very confused. In 1863 a Select Committee chaired by Stafford had recommended that the Maoris elect two European representatives. The Weld Government was divided on the subject. Sewell, and possibly Richmond, had some idea of calling chiefs such as Tamehana and Wi Tako to the Legislative Council. Mantell opposed this and all 'special' representation, in contrast to enfranchisement on the common electoral roll, as inferior, and bound to curtail the Maoris' due influence in the Assembly. Mantell wanted Maoris placed on the common roll on a £50 property qualification based on the Certificates of Title awarded Maori owners by the Land Court; and he further sought a recasting of electoral boundaries to give Maori voters a preponderance in at least three electorates. In addition, there were fears that the Kupapa chiefs would be offended if ex-Kingites were called to the Legislative Council, while to have admitted both sections would have introduced more Maori members than European opinion was


70 Minutes of proceedings of the Representation Committee, 16 November 1863 - Unpublished PP, 1863.

71 A reference to the 'Maori Electoral Act' and Mantell's and Richmond's minutes on the subject, appear in Mantell MSS, 225.
prepared to accept.\textsuperscript{72}

During the 1865 Assembly, George Graham, a non-Government member, moved for Maori representation by five European members, but Richmond and FitzGerald were inclined towards Maori representation by Maoris.\textsuperscript{73} Finally, the matter was complicated by the need to balance Provincial strengths in the House, which Maori representation would upset, especially if the representatives were to be Europeans.

These complications prevented the Government from bringing down concrete proposals but led to the introduction of the Native Commission Bill under which the whole question could be examined by Maori and European commissioners. FitzGerald was ardent to secure Maori representation and showed a remarkable willingness to consult Maori opinion on the form it should take.\textsuperscript{74} The Bill passed despite the

\textsuperscript{72} PD, 1864–6, pp. 261 and 600; PD, 1867, vol.I, part 1, pp.813–4; PD, 1871, vol.XI, p.5; Sewell Journal, 4 June 1865, vol.III, p.158. The possibility of a seat in the Assembly was later mentioned to Tamehana but the Kingmaker saw it as a bribe to placate him for the confiscation of Waikato land and did not respond.

\textsuperscript{73} PD, 1864–6, pp.207 (Richmond) and 600 (FitzGerald).

\textsuperscript{74} Ibid. Twitted by Ormond about his attitude he answered grandiosely: 'I shall lead them to their just Representative rights and I shall glory in it'. (Ormond to McLean, 13 August 1865 – McLean MSS, 326). Believing McLean to be an enthusiast for Maori rights FitzGerald urged him to appoint 'a couple of chiefs' to the Hawkes Bay Provincial Council. (FitzGerald to McLean, 19 May 1863 – McLean MSS, 215). FitzGerald had, however, over-estimated the extent to which McLean was willing to move ahead of general settler opinion.
opposition of paternalists such as Colenso, who wanted the chiefs to 'meet the Great Father [the Governor] as the American Indians meet the President of America'.\(^75\) The fall of the Weld Government later in the year meant that the proposed commission came to nothing.\(^76\) But the passage of the Native Commission Act in fact meant that the Assembly had accepted Maori representation in principle, though the manner of that representation remained a difficulty. The next serious attempt to introduce Maori representation easily succeeded.

The first three of the Weld government's Maori policy Bills had at least the appearance of advancing Maori rights. The fourth, FitzGerald's Outlying Districts Police Bill, had no such character. It was, in essence, an attempt to relieve the southern Provinces of the expense of suppressing the Hauhaus.\(^77\) The Bill threatened confiscation of the land of a tribe which sheltered Hauhau murderers. Ironically, since FitzGerald had opposed the Settlements Act of 1863, the Bill added a new and sweeping ground for confiscation. It drew the opposition of Mantell and Sir William Martin, and the condemnation of the Colonial Office, which only let it pass into law because London had officially surrendered complete responsibility in Maori affairs to

\(^75\) PD, 1864-6, p.259.

\(^76\) Before Weld's resignation it had been mentioned to a few chiefs such as Tamihana te Rauparaha of Otaki. (Whitaker to Tamihana te Rauparaha, 2 September 1865 - MA 4/74).

\(^77\) A.S. Atkinson Diary, 28 August 1865 - Atkinson MSS; Weld, Notes on New Zealand Affairs, p.32.
the Weld government. The Act also included provision for the voluntary surrender by Maoris of tracts of land to maintain police forces in their territory. This idea was founded on FitzGerald's hope that the chiefs, regretting the decline of law and order among their people, would welcome this means of re-establishing it by means of Government police. It was a vain hope and FitzGerald had apparently realised it by the time the Native Department officers were circularised to implement the Act. The R.M.s were told that the Government had no sanguine expectations but to try cautiously in friendly districts for the cession of land - the title to remain with the Maoris - to be leased for the support of police, gaols, hospitals and schools. The Runangas were offered a share in the management and expenditure of the revenue. There was no response.

Late in the session FitzGerald introduced a Native Provinces Bill. This measure, envisaging the creation of semi-autonomous Maori provinces, probably derived from the similar proposal advanced in FitzGerald's great speech of 1862 and may have owed something also to Sir William Martin who was then pressing for the declaration of Native Districts, to be governed - in accordance with Grey's Runanga system - by Maori committees and special courts under the guidance of the Civil Commissioners. 

78 PD, 1864-6, pp.320-1 and 344-5; Martin to Nat.Min., 23 December 1865 - AJHR, 1865, A-1, p.67; Cardwell to Grey, 26 April 1866 - AJHR, 1866, A-1, p.2. Full responsibility in Native Affairs together with the removal of the imperial troops, was the essence of Weld's 'self-reliant' policy.

79 Native Office circular, 11 October 1865 - MA 4/60.

80 Martin to Nat.Min., 30 June and 23 December 1865 - AJHR, 1865, A-1, pp.67-83. Martin regarded White's administration at Mangonui as a promising model.
chiefs, (the Ngatimaniapoto in particular) were to be offered authority and finance to run their districts, under the mana of the Queen as manifested by the presence, not of a magistrate, but of a European adviser or Resident.81 (Here FitzGerald referred to the error of sending a magistrate, Gorst, to Upper Waikato in 1861).

This was among the soundest of FitzGerald's proposals. It recognised that the Government could not impose its rule in the King country without reviving the war in the Waikato, but it sought to establish some lawful authority which the Maoris would accept. Settlement meanwhile was to be kept out of the Maori provinces. The Bill however, once again raised all the objections that had been levelled at earlier proposals to recognise the King movement. True, Sewell, long-standing supporter of the Runanga system, supported the scheme as a worthwhile attempt to 'organise the Natives into a self-governing people', but Stafford voiced a more general sentiment when he protested at FitzGerald's audacity in suggesting that European settlers must wait while the Maoris were first trained to peace and obedience. As usual he threw in the additional moralising argument that recognition of Maori provinces would perpetuate 'that Maori communism...that cursed wharepuni...and the communism of the sexes...' which were allegedly the ruin and destruction of the race.82

The Bill was regarded as a serious issue, especially by the Auckland members who stood to lose most by the making of the King country into a separate province. It was defeated by a combination

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81 FitzGerald to McLean, 28 June 1869 - McLean MSS, 215.
82 PD, 1864-6, pp.621-4.
of Provincial interests, Auckland gaining the support of Wellington and Otago in return for agreeing to a clause in the Native Lands Act reserving to Wellington monopoly rights of purchase in the Rangitikei-Manawatu block, and (for Otago) the transfer of the Princes Street Reserve to that Province. Thus was policy made in the Parliaments of the 1860s.

FitzGerald's record in the legislation of 1865 was a peculiar blend of high-sounding assertions of Maori rights, of concession to pressures in the Assembly and of frank partiality towards settler interests. His administrative record reveals the same mixture.

He sent Mainwaring, R.M. Upper Waikato, to meet the long-neglected Tamehana and ask him to throw his influence fully on the Government's side in exchange for the return of Ngatihaua land not already promised to settlers. Tamehana, however, was not to be bought and demanded an enquiry into the whole origin of the war and the return of all the Waikato confiscated land. With FitzGerald's support he petitioned the Assembly and came to Wellington to support his petition, which was indeed a manifesto rather than a plea. After furious debate, and a division of 27 to 16, Tamehana's petition was received, 'on the broad principle that the rights of petitioners ought not to be circumscribed,'


84 FitzGerald to Mainwaring, 22 August 1865 and Mainwaring to FitzGerald, 28 September 1865 - AJHR, 1865, E-14, pp.1-3. See also J.C. Richmond to McLean, 25 August 1865: 'Orders have been sent to Mackay and Mainwaring to enter into friendly relations with Thompson'. (McLean MSS, 355).
especially in the case of the Native race*. But Tamehana gained nothing from his petitions either then or on a second occasion in 1866 and returned to Waikato a bitterly disappointed man. 86

Meanwhile, FitzGerald ordered commanders on the East and West coasts to leave the Hauhaus alone unless they actually committed crimes, and sought to confine operations to the arrest of the Volkner murderers in the Bay of Plenty and Waiapu districts. 87 On 2 September the Government issued two proclamations. One was a proclamation of peace and amnesty to all but a few of the rebels whose deeds were most reprehensible in European eyes; the other made extensive new confiscations in Taranaki. 88 The Government was 'ending the war by proclamation' according to FitzGerald and the R.M.s were circularised to tell their people that a final settlement of the country was being made. 89 But FitzGerald's hopes were illusory and more hard-headed men

85 PD, 1864-6, p.298; Sewell Journal, 13 August 1865, vol.III, p.211.

86 Learning that the military settlers would not be shifted from the Waikato Tamehana said: 'It was like a great rock fixed deep in the earth which could not be moved'. The Ngatihaua retained about 275,000 of their 400,000 acres centred about Matamata. But this was land they had obtained by conquest; the original Ngatihaua land, on the delta between the Horotiu stream and the Waipa river, south of Ngaruawahia, was lost to the settlers. (See report of the Maori Petitions Committee, Unpublished PP, 1866, and AJHR, 1873, G-3, p.1). In any case Tamehana sought the return of the land of all the Waikato tribes, not just the Ngatihaua.

87 FitzGerald to McLean, 10 September 1865 - MA 4/7.

88 For the Peace Proclamation see AJHR, 1866, A-1, p.4.

89 Native Office circular (FitzGerald's signature), 8 September 1865 - MA 4/60.
knew that the whole performance had the appearance of hypocrisy. 90 Clearly, renewed confiscation, together with the Outlying Districts Police Act and the expedition to Opotiki against Volkner's murderers, meant not an ending but a revival of the war. Even without the confiscations it is doubtful if the Hauhaus would have allowed the Government to make peace. For once settler charges of Maori aggression had a high content of substance. The interpreter Broughton was killed while negotiating under flag of truce with a Hauhau pa near Patea and two Kupapa emissaries carrying FitzGerald's Peace Proclamation to Waikato were killed on the way. FitzGerald, demonstrating the violent reaction of the spurned idealist, wrote to McLean: 'The late conduct of the Weraroa Natives in shooting our messengers of peace has sealed their doom I will have them utterly destroyed'. 91

The handling of the confiscated lands in Taranaki showed settler land-hunger at its strongest, and FitzGerald at his most inconsistent. In a letter appointing Parris as Civil Commissioner in Taranaki 92 the Native Minister set out the Government's intentions:

It is proposed to confiscate the whole of the lands to a distance of 20 miles or thereabouts from the Coast lying between the Waitotara River and the White Cliffs, not with a view of holding or occupying the whole of it, but in order to enable the Government to clear away all disputed


91 FitzGerald to McLean, 8 October 1865 - McLean MSS, 215. This sort of utterance was in line with his instruction to H.T. Clarke, C.C. Bay of Plenty, that Kereopa and others of Volkner's murderers were to 'be tried by Court Martial on the spot and executed after a fair trial'. (FitzGerald to Clarke, 1 September 1865 - MA 4/60).

92 Parris had till then been designated Assistant Native Secretary.
titles and at once to settle down upon sufficient blocks of land the whole of the Native population of that district, who may be willing to come in, accept Crown Grants, and promise to live peaceably under the law.

Parris was to open immediate negotiations with the rebel tribes. He was not to require an oath of allegiance or the surrender of arms.

The Government wants to see a speedy and final settlement made of the whole matter and however it may regard as of importance the acquisition of land for sale so as to reimburse the Treasury for the expenditure upon military operations, it regards the final settlement of the Natives upon the lands under Crown Grants, and their consent to the arrangements you make of so much higher importance, that they do not want to limit your discretion in dealing liberally in the disposition of the land if by doing so you can win their final acquiescence in the settlement of your whole district.93

A few days later Pollen, Resident Minister in Auckland, was given sole authority, and instructions similar to those of Parris, to settle the Waikato confiscation.94

93 FitzGerald to Parris, 30 August 1865 - MA 4/7. The Settlements Act, 1863, was amended to permit the return to loyal Maoris of land that had been confiscated. Under the 1863 Act they were to be compensated with money, though H. Turton had in fact reserved land in Lower Waikato for loyal Maoris in 1864. Turton's award was validated by the Friendly Natives Contracts Confirmation Act, 1866.

94 FitzGerald to Pollen, 3 September 1865 - MA 4/7. The Maoris were to be given no more land than was needed for their wants; on the other hand the Government's main intention was that the Maoris should accept their position as final and irrevocable; 'and if by liberal concessions to them of blocks of land under Crown Grant you can bring about this result the main object of the confiscation will have been obtained'. In cases where the Maoris had returned to their old cultivations instead of to the block set aside for them, FitzGerald told Pollen to grant them the original cultivations.
The wide powers given to Parris alarmed the Taranaki settlers who, aware of his tendency to act protectively towards the Maoris, feared they would not get as much good land in their grasp as they had hoped for. J.C. Richmond therefore went to FitzGerald and persuaded him to alter Parris's instructions. Parris was told that the settlement of the Taranaki confiscation should be 'not only so as to win the acquiescence of the Natives but also the Europeans' and that in all cases where settler interests were affected Parris must 'act in concert with the Superintendent of the Province.' Inevitably this meant confusion, and injustice to Maoris. Within a month the loyal Ngatirahiri hapu was being pushed off its cultivated land near Waitara to make way for a military settlement. Parris, in defence of the Ngatirahiri, went to Wellington to see Weld and Atkinson – the Defence Minister and a Taranaki man – but was told only that the land of loyal Maoris would not be taken 'if it could possibly be avoided'. The Provincial authorities then brought in their own surveyor and the most Parris could do – at the cost of bitter unpopularity – was to secure a reduction in the number of military settlers located on Ngatirahiri land. FitzGerald was reduced to making a plaintive minute on Parris's report: 'I despair of any

95 A.S. Atkinson Diary, 30 August 1865 - Atkinson MSS.
96 FitzGerald to Parris, 8 September 1865 - MA 13/15, N.O. 65/2053.
98 Carrington to H. Atkinson, 18 September 1865 - Atkinson MSS, 7B; H.R. Richmond to H. Atkinson, 9 October 1865 - Atkinson MSS, 8; A.S. Atkinson Diary, 9 December 1865 - Atkinson MSS. See also Parris's evidence to the Select Committee on Confiscated Lands, Unpublished PP, 1866. The Ngatirahiri lost 4,000 of the best acres of their 20,000 acre claim. (Rolleston to J.C. Richmond, 16 July 1867 - MA 13/15, N.O. 67/212).
settlement of our Native difficulties if we persist in taking the lands belonging to Natives who have been friendly to us all through the war.\footnote{99 FitzGerald minute, 14 October 1865 - MA 13/15, N.O. 65/2053.}

In the matter of the confiscations (as with regard to the Native Lands Act) FitzGerald appears to be largely the victim of settler pressures. With the Weld ministry holding power by a slim majority, and Richmond and Atkinson, his Taranaki colleagues, pressing him to give way, the Native Minister was in an unenviable position. Yet, with regard to a variety of smaller questions, FitzGerald himself was obviously open to the charge of hypocrisy. He eloquently and indignantly ordered that a Maori village on the Putiki reserve be laid out as the Maoris wanted it, not as the surveyor did,\footnote{100 'Apart from the matter of taste as to whether anything is gained by making all Towns on one model with parallel streets, on which the Natives seem to hold with the founders of the most beautiful cities in Europe, and the Surveyor with the Chess board so popular in America, the fact that the land belonged to the Natives and that they were the only persons to be consulted, as to how they chose their town to be laid out, ought to have settled the question'. (FitzGerald to R.M. Wanganui, 15 September 1865 - MA 4/60).} and magnanimously ejected settlers who were squatting on the land of a chief who had died in battle, claiming that 'until the conclusion of the present trouble the Government will hold itself bound to protect the interests of those Natives who are unable to protect their own'.\footnote{101 Rolleston to R.M. Wanganui, 21 August 1865 - MA 4/60.} But he refused to recognise the claims of the Canterbury Maoris to the liberal provision of schools, hospitals and similar amenities which Mantell's commissioner, Hunter Brown, had recommended as due by way of payment for the South Island purchases. Instead he endorsed the view of the Rev. James Stack who reported that the Kaiapoi Maoris were not cooperating with his efforts to educate them.
and that they ought to help themselves more instead of waiting upon the Government for the recognition of their long-neglected claims to larger reserves. He was reluctant to pay the claims of friendly chiefs for losses in the war, though he, like Weld and Mantell admitted their entitlement.

In response to a suggestion from G.S. Cooper, R.M. Waipukarau, who was anxious to secure the alliance of Hawkes Bay chiefs, Mantell had long sought the establishment of schools, hostelries, hospitals and churches for the South Island reserves, but in his brief tenure of office had appointed, on Brown's recommendations, only a few European medical officers and Maori Assessors. He did not support the Maoris' claim for more money or enlarged reserves. (Halse to Brown, 4 May and 20 June 1865 - MA 4/60). Now FitzGerald wrote: '...my friends at Kaiapoi say we have got all their land and promised to give them Schools and Hospitals and so on... Explain to them that as to the land, all land is worthless...till man adds his labour to it...and if the Maoris worked as hard as Europeans they would be as rich. Next tell them that when I was Superintendent I went to them with the Bp of N.Z., and we told them that to put a clergyman, a School, a Hospital, in each small village of 10 or 12 inhabitants was utterly impossible but that if they would all come together and live together in one place, all these things should be provided, but they would not. It is entirely their own fault that we have not been able to do more for them. Tell them moreover that when the Government provides schools for the English it expects the English to pay and they do pay so much a week for the chn...If [the Maori people] do not pay the shilling a week for their chn. the School must be removed altogether...If they got the School for nothing they would not value it. If they pay for it they will love it and honour it'. (FitzGerald to Stack, 9 October 1865 - MA 4/7). See also the minutes of Mantell and FitzGerald on Brown's and Stack's reports - MA 67/12, N.O. 65/625, N.O. 65/1725, N.O. 65/2368).

Rolleston to C.C. Tauranga, 3 September 1865 - MA 4/60.
that the Maoris should be relieved by legislation from excessive debts into which traders had inveigled them, FitzGerald replied that he did not see that creditors should be sacrificed for political interests, that the Government might pay the debts in some cases, but that 'the law should remain as it is, equal for all and the country will soon come up to the standard of the law...it would be unwise to take a step backwards in Legislation'.

FitzGerald's objections to paternalistic legislation on behalf of the Maoris – which were to some extent healthy – were carried to a degree that left the Maoris fully exposed to the blasts of free enterprise and showed rather more regard for European convenience than for Maori welfare.

Meanwhile, violent objection had been made in the Assembly to the number of supposedly useless R.M.s and Civil Commissioners remaining from Grey's new institutions of 1861–2 and to the extent to which the officers in Northland had supported the Runanga system, thus allegedly placing European settlers in a condition of dependence similar to that pertaining in the days before 1840. Faced with this

104 Rolleston to Cooper, 22 August 1865 – MA 4/60.

105 Next year he voted in support of the right of Provinces to take Maori as well as European land compulsorily for public works, on the ground that Maoris should have neither special favour not special disability. (PD 1864–6, p.780).

106 'They all know the rottenness of the Native Department in Auckland – three or four Resident Magistrates holding office and residing within a few miles of each other, with a Civil Commissioner and secretaries to look after them'. (Thomas Russell in PD, 1864–6, p.524).

107 Ibid., p.225 (Buckland)
attitude, and with the pressing need for economies owing to the depression into which the Colony had fallen, FitzGerald dismissed some clerks and interpreters, reduced Civil Commissioners salaries, ordered the R.M.s not to fill vacancies in their staffs, and asked for returns showing the degree of usefulness of Maori Assessors and police, pending a reorganisation of the whole Native Service.

On this note FitzGerald's brief and hectic three months charge of the Native Department ended. Vogel of Otago had moved a vote of no-confidence in him early in the session for the 'wild visionary' nature of his Maori policy, for his too flagrant assertions that the Maori rebels were as right from their point of view as the settlers were from theirs, and for his attacks on the 'financial bubbles' - the inflationary speculations - of Auckland and Otago. Vogel's attack was too personal and failed, though Mantell's reason for opposing it was that he wanted FitzGerald to stay in office so that the Maoris and people in England could see that he was not the great stalwart for Maori rights that they thought him to be. A few weeks later Colenso pushed through a motion of censure on the Government for FitzGerald's proclamation of amnesty to various Maori rebels - a subject always likely to raise settler passions particularly at a time of considerable Hauhau activity.

108 As McLean had been made General Government Agent he dispensed with Whitmore as C.C. Hawkes Bay; Hunter Brown having retired he made Alexander Mackay, R.M. of Nelson district, 'Native Commissioner' for the whole of the South Island. (PD, 1864-6, pp.578-9; Native Office circulars, 22 September and 14 October 1865 - MA 4/60; Rolleston to A. Mackay, 7 September 1865 - MA 4/60; Nesbitt to Smith, 3 September 1865 - Smith Letters).

109 PD, 1864-6, pp.491-3.

110 Ibid., pp.610-4; see also Colenso's remarks pp.453-4. The Government defeat was admitted by Stafford to be 'accidental'. Colenso had not been expected to push the matter to a vote and the Government had failed to keep a majority in the Chamber. The motion was rescinded the next day.
ministry finally fell in mid-October on a question of finance and the unpopularity of FitzGerald contributed very greatly towards this result. 111 Weld and FitzGerald were so depressed by their experiences that they left politics, Weld immediately and FitzGerald the following year, to the position of Auditor-General.

THE Weld administration of 1864-5 had produced a very wide-ranging discussion of alternatives in Maori policy. Certain main lines were clearly emerging. Despite the inclinations of Mantell, FitzGerald, Sewell and Sir William Martin, majority settler opinion had clearly ruled out remaining prospects for the creation of separate Native Districts or Maori provinces, while the end of special machinery in Maori administration - the Runangas, Civil Commissioners and R.M.s - was foreshadowed. The exploitation of Maori lands and the Maori consumer market by commercial enterprise was sanctioned and the Maoris were compelled to take their chance in a ruthlessly competitive European society. On the other hand their full rights as British subjects had been given statutory recognition and their right to the elective franchise moved much closer. Idealists talked of 'opening to the Maori people such a prospect of renewed social and political life as shall outbid Pai Marirism'. 112 This was far from likelihood of fulfilment when European revenge-seeking and acquisitiveness had not been satisfied.

111 See the opinion of his contemporary, William Gisborne: 'In 1865 he wrecked the Ministry which he joined'. (Gisborne, New Zealand Rulers and Statesmen, p.82).

112 Extract from the Weekly News, 8 July 1865, collected by Mantell and filed in Mantell MSS, 226.
But statements of principle were not quite worthless. In the end they meant that the Maoris were not to be butchered or pushed aside as ruthlessly as the aborigines of other colonies. A few weeks after FitzGerald's Native Rights Act had been passed and his Peace Proclamation made, a surveyor in Taranaki who allegedly shot at a Maori was arrested by an official who stated: "The Maoris [sic] are not British subjects and we are no longer at war with them. Any person killing another except in self-defence is liable to be hanged." Such beliefs - and they were sincere beliefs for a great many settlers - kept alive the notion that the war was for the enforcement of law against specific rebels not a war against the Maori race, and in the end leavened the loaf of settler dominion and settler acquisition of their land which Maoris were, in the meantime, obliged to swallow.

Attempts to Disband the Native Department, 1866

THE early policies of the Stafford ministry were largely in reaction to what was regarded as the leniency and pro-Maori inclination of FitzGerald's administration. Stafford determined that:

We mean taking the oath of allegiance...to mean something substantial, and all who take it and break it, and all prisoners in future will be, executed, transported, or put to hard labour.

Any further outbreaks of rebellion, he declared, were to be severely punished, and sufficient land would be taken to pay for putting them down.² The Government had a new instrument to hand for a ruthless policy in General Trevor Chute who had replaced the relatively humane Cameron;³ and Grey - whose power increased with the extent to which imperial troops were used in New Zealand - supported Stafford

1 Stafford to McLean, 3 November 1865 - McLean MSS, 384.

2 Stafford to McLean, 3 December 1865 - ibid.

3 As a result of which T. Haultain, the Defence Minister, believed, with satisfaction, that a 'vigorous' policy was now possible. (M. Richmond to Gore Browne, 25 October 1865 - GB 1/3.)
in planning a new campaign. 4 Chute's army marched from Wanganui
to Taranaki, behind Mount Egmont, and back again down the coast,
killing, burning villages, destroying crops, looting; and,
ocasionally, shooting prisoners. 5

One result of the campaign was the serious dislocation of
Parris's negotiations with the rebels, the unsettling of chiefs
such as Te Ua and Hone Pihama, who had submitted and were settling
on reserves, and the alienation of chiefs like Wi Kingi Matakatea

4 Sewell wrote that Grey (metaphorically) threw himself into
Stafford's arms, in order to keep the imperial troops and
consequently to retain his influence. (Sewell Journal, 21 February
1866, vol. III, pp. 304-7). Later, faced with criticism of Chute's
campaign, Stafford denied giving orders for it. These were, he
claimed, already given before he took office on 16 October 1865.
(PD, 1868, vol. II, pp. 341-3). Certainly Weld and FitzGerald had
determined on a further attack after the murder of the peace
messengers in September 1865, but had intended to use only colonial
troops. It was Stafford who agreed with Grey to use imperial troops
in the new campaign and to whom the principal responsibility must be
attached for the way it was managed in early 1866. (See Harrop,
England and the Maori Wars, p. 279).

5 PD, 1867, vol. I, part 1, pp. 180-5. A. S. Atkinson wrote of
Featherston: 'He seems quite satisfied of Chute's fitness for the
work. He says they (which appears to include himself - apparently
as representing Grey) started from Whanganui without any orders
and with the intention of recognising no white flags - they did not
consider there were any but rebels between [Taranaki] and Whanganui
and the notion was to make a clean sweep - and the General was going
back along the Taranaki coast with that ruling idea - I told him I
did not think that could be done because there were many natives
between Warea and Waingongoro whose submission had been accepted.
He said 'the opinion of the people of Taranaki was entitled to
great weight in the matter' - but he evidently thought it a mistake -
and yet this is the same man who expressed so much holy horror at
the conduct of Gov. Browne in 1860.' (A. S. Atkinson Diary, 28 January
1866 - Atkinson, MSS).
who had been loyal since 1861. Parris wrote:

I was instructed, as you know, by Mr. FitzGerald not to require them to sign the 'Oath of Allegiance' or to give up 'their Arms' - a line of policy that was progressing most favourably and I feel morally certain would in a very short time have resulted in the pacification of the whole country, but for the interference with those who have lately tendered their submission by the late action of the forces in the Taranaki district.

If the military were not curbed, Parris urged, the country would drift into that 'war of races' which the colonists considered had not so far occurred. 'Never since the war began have I been so disheartened as I am at the present time.' Parris's efforts to restrain the military served to spur some officers, resenting his 'interference', to greater ruthlessness. Colonel McDonnell opened negotiations with the Pokaikai pa. But when the inhabitants said they had sent a messenger to seek Parris as well, McDonnell, who had for many months resented Parris's proceedings, treated this as

6 For details see AJHR, 1866, A-8, and Parris to Grey, 22 March 1866 - AJHR, 1879, Sess.1, A-8, p.4. 'Even Grey', Atkinson thought, was disturbed at the proceedings of Featherston and Chute. (A.S. Atkinson Diary, 13 February 1866 - Atkinson MSS).

7 Parris to Rolleston, 23 February 1866 - Rolleston MSS, 1.

8 Parris to Rolleston, 7 February 1866 - ibid.
prevarication, and, without warning, attacked the pa in the night.\textsuperscript{9}

Parris's pleas to the Government to check indiscriminate looting and burning of crops met little response.\textsuperscript{10} Colonel A.H. Russell, late Civil Commissioners of Hawkes Bay, had taken office as Native Minister 'to fill the gap' he said, when Stafford had difficulty forming a government in October 1865.\textsuperscript{11} He brought a stiff-necked and doctrinaire attitude to the administration of Maori affairs. He told Parris to assure the Maoris that it was only by misadventure inseparable from civil war, that non-rebels suffered disturbance and loss of property. He was to make gifts in recompense to important

\textsuperscript{9} Parris to Rolleston, 10 August 1866 - Rolleston MSS, 1; AJHR, 1868, A-3. Although the Maoris had only three killed, this act was regarded by them all, including McDonnell's Kupapas, as one of the outstanding examples of treachery committed by Europeans during the war. It was smoothed over by a Commission of Inquiry (ibid.) but the Government admitted that McDonnell might have 'made a mistake'. (PD, 1867, vol.1, part 1, p.831).

\textsuperscript{10} Parris to Rolleston, 7 February 1866 - Rolleston MSS, 1; Parris to Russell, 27 February 1866 - MA 24/21. (Parris here reports the auctioning, by European officers, of 'loot', horses, thirty at a time, and their quarrelling over the division of the spoils. Not all officers were guilty of this sort of conduct, however; in fact many tried to check it. A soldier who tried to tear a greenstone ornament from the ear of a Maori woman in the Pokaikai attack was immediately placed under arrest. (See AJHR, 1868, A-3, p.16).

\textsuperscript{11} PD, 1864-6, p.682.
chiefs but not to raise the question of compensation generally. When Parris persisted Russell replied that rough measures were the work of soldiers 'smarting under the loss of their officers and comrades', that the Maoris had a remedy at law 'and he [Russell] cannot doubt that in an English community it will be fairly and impartially administered.'

Stafford and Russell also dealt vigorously with Hauhau prisoners. The Weld ministry had convicted a number of them, before a military court martial, of complicity in the murders of Fulloon and Volkner; Stafford, arguing that the Maoris were amenable to the civil law, had the prisoners retried in the Supreme Court. Thirty-five were convicted and five hanged. This was much the largest single act of judicial retribution in the war, only two prisoners besides these five being executed on charges arising out of the conflict.

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12 Russell minute, 14 February 1866 and Rolleston draft memo., 15 February 1866 - MA. 24/21.

13 Rolleston to Parris, 6 and 7 March 1866 - MA. 4/61.

14 Stafford memo., 25 February 1868 - AJHR, 1868, A-1, p.43. Twenty-nine of the Maoris were sentenced to death, and six to hard labour. Of the twenty-nine all but five had their sentences commuted. Of those imprisoned four had died and fourteen been pardoned by 1868.

14a Unpublished FP, 1876, n. 58, (return of executions). One other condemned prisoner, a follower of Te Kooti, committed suicide while awaiting execution.
Meanwhile, while he was in Hawkes Bay discussing the problems of Hauhau prisoners with McLean, Russell chanced to meet Thomas, R.M. of the Chatham Islands. The three speedily agreed that in future Hauhau prisoners would be deported to Thomas's charge.  

WHILE the Government was subjecting the Maoris to a policy of repression Russell set about the dismantling of the Native Department which had been heralded in the closing stages of FitzGerald's tenure of office. The Stafford ministry planned a vigorous retrenchment and reorganisation of the civil service generally and, immediately upon taking office, appointed a commission to make enquiries and recommendations for that purpose. But there were special reasons why the Native Department came under attack. Russell himself took office believing that the civil institutions established by Grey in 1862-3 had only been bribes to buy allies and avert war, had failed, and now served no useful purpose, though the Maoris continued to harvest allegedly undeserved salaries. On principle, Russell argued, 'true policy requires that all exceptional law should gradually cease and the Natives be encouraged to conform to that of Europeans.' In accordance with this general policy he proposed to settle quickly the confiscated lands question and set the

15 PD, 1864-6, p.816.
16 Ibid., p.686 (Stafford).
17 Ibid., p.815 (Russell); Fox, The War in New Zealand, pp.11-12.
18 Russell to White (C.C. Mangonui), 8 February 1866 - MA 4/66.
Compensation Courts working to determine which Maoris were rebels and should lose land within the confiscation boundaries; he proposed to spend £2,000 on finally settling outstanding questions in regard to the South Island reserves; he proposed to introduce Maori parliamentary representation - six Maori members in the House of Representatives and three in the Legislative Council, to inaugurate a system of village schools where Maori children would learn English, and to abolish all discriminatory legislation such as the Sale of Spirits Ordinance. In short, he intended to bring the elusive policy of amalgamation to a rapid consummation and thereafter to drop all special consideration of Maori affairs. The Weld ministry's estimates for the Native Department were slashed from £53,000 to £33,000, and Russell began his policy of excision, intending the total abolition of the Native Department by the end of the Parliament then elected.

The remnant of the Runanga system was an early victim. Russell's lack of success with it as Civil Commissioner in Hawkes Bay in 1862

20 PD, 1864-6, p.732 (Sewell).
had convinced him that:

[The Runanga system] was not desired by the Natives and was incapable of being worked...as a rule it has utterly failed and...what the Natives appear to desire and respect is a calm but determined enforcement of English law...they could not understand and did not believe in the decisions of their own Runangas. They established them in the absence of any law, but they constantly appealed to him against their own decisions and gladly seized upon his reversal of their judgements...The object of the Government must be to identify the Natives with ourselves, to become one people and to realise their express desire for one law, one Queen, and one Gospel.22

Russell, sharing the prejudice of most settlers against any form of Maori tribunal, confused the disorderly attempts of the Maoris to establish tribunals unaided, with the more promising efforts of the chiefs and magistrates in Northland and the Chatham Islands to cooperate in local self-government, to the derogation of the latter. W.B. White, Thomas and G. Clarke were instructed to close down their Runangas, and James Mackay, who wanted to start one in the Hauraki district, was declined permission.23 Thus was closed a fruitful avenue for the development of Maori responsibility in the machinery of government.

Some 300 out of 450 Maori recipients of Government stipends - Assessors, Wardens, police and pensioners - had their salaries withdrawn or heavily curtailed on the principle that 'if he is not

22 Russell to Mackay (C.C. Auckland), 19 February 1866 - MA 4/61.

23 Rolleston to C.C.s Mangonui and Waimate, 8 February 1866 - MA 4/60; Rolleston to C.C. Auckland, 19 February 1866 - MA 4/61.
necessary, or will not work neither should he eat at the expense of the Public. *24 Russell only wanted four Assessors and four police in each R.M. district and, if he could not secure the necessary reduction immediately, he ordered that no vacancies should be filled till numbers had fallen to that figure. Most Maori officers' salaries were brought within the range £5–£25 rather than £20–£50. *25

It was clear, however, that Russell did not find it practicable to dispense immediately with the whole of the R.M.s' Maori staffs and with regard to the reduction of European officers, he struck more the difficulty. Certainly, with Runangas gone he was able to reduce the number of Civil Commissioners. W.B. White (Mangonui) reverted to the status of R.M. that he had enjoyed from 1848–62. Since Williams was R.M. at Waimate, the aging George Clarke was dispensed with altogether. *26 Rogan (Civil Commissioner, Kaipara) and T.H. Smith (Civil Commissioner, Eastern Bay of Plenty) became Land Court Judges, *27


25 Rolleston to Rogan, (R.M. Kaipara), 13 April 1866 - MA 4/61; see also similar letters to other R.M.s in the period December 1865 to January 1866 - ibid.

26 G. Clarke to McLean, 24 May 1866 - McLean MSS, 180. The Runanga building at Waimate was bought from the Maoris by the Government and used as a courthouse and office for Williams. The Waimate hostelry for visiting Maoris was taken over as an immigration barracks. (Rolleston to Williams, 13 April 1866 - MA 4/61; Williams to U.S.C., 25 April 1866 - JC- Waimate 1.

27 Though Rogan acted as R.M. at Kaipara when he was not absent on Land Court duties.
and Russell expressed the hope that 'before long the office of Civil Commissioner will cease altogether in the Colony'. But given the slowness of communications and the troubled state of the out-districts, Russell saw some advantage in leaving in office three Civil Commissioners - J. Mackay (Auckland), H.T. Clarke (Tauranga), and Parris (Taranaki) in order that these districts could be administered without the need for frequent reference to the Native Minister in Wellington. Russell, however, hoped that as the war situation eased these men could be dispensed with also, and meanwhile he largely ruined the value of retaining them by requiring the R.M.s to communicate directly with Wellington, not through the Civil Commissioners.  

Reduction in the number of R.M.s eluded him entirely. He claimed that his experience in 1862 proved that a good R.M., by spending half his time in the saddle and half in his office, could easily cover a district the size of the Bay of Plenty. But that was in time of peace, and Russell soon realised that the political work of an R.M. in conditions of war more than made up for the falling off in the number of civil disputes that had to be heard.

28 Russell to Smith, 19 April 1866 - Smith Letters.
29 FD, 1864-6, p.815; Native Office circular, 2 December 1865 - MA 4/60.
30 Russell to Smith, 9 January 1866 - Smith Letters; Deighton to McLean, 5 June 1866 - McLean MSS, 203.
He dispensed only with J.R. Clendon of Hokianga, though he reduced the salaries of the remainder and refused some new appointments.\textsuperscript{31} On the other hand, he was impelled by the persuasion of both the Maoris and McLean to appoint J.H. Campbell as R.M. of Waiapu, which had been neglected since Baker's withdrawal in 1863, and to urge the return of W.G. Mair to Taupo, which had again been abandoned when Hauhauism swept through the North Island in 1865.\textsuperscript{32} Russell had in fact come to the conclusion that the abolition of the R.M.s, the principal agents of the Native Department, was to say the least of it, premature.\textsuperscript{33}

It was easier to make reductions in the number of European medical officers in Maori districts. Russell dismissed some and planned to dismiss more, on the grounds that many were doing no work, and that in any case, the Maoris, who seemed to have plenty of money

\textsuperscript{31} Russell to Clendon, 20 April 1866 - MA 4/62. McLean wanted to appoint Captain Biggs as R.M. of Poverty Bay but was, on that occasion, refused by Stafford and told: '...we have no money for R.M.s or any one else...so for God's sake cut down the expenses in your parts under one head or another.' (Stafford to McLean, 3 December 1865 - McLean MSS, 384). Russell moved Nesbitt from Rotorua to Maketu to take the place of T.H. Smith and left Rotorua to be handled from there. (Russell to Smith, 9 January 1866 - Smith Letters). In a further attempt at economy Russell warned R.M.s who had no knowledge of the Maori language to learn it within 12 months, in order that interpreters could be dispensed with, or face a cut in salary. (Native Office circular, 14 March 1866 - MA 4/61).


to spend on liquor, should be induced to pay their doctors' bills like Europeans. He also tried to cut down the £2,000 or more being spent annually on presents and entertainment for Maoris visiting the towns or by officials in the course of their visits to chiefs. All in all Russell succeeded in cutting expenses in the Native Service from about £60,000 in 1864-5 to £48,000 in 1865-6 and £34,000 in 1866-7.

In many cases the man dismissed in these retrenchments had ceased to do effective work and could well be spared. Several effects of the reductions were, however, unfortunate. The withdrawal of medical care meant, not that the Maoris spent less on liquor and more on medicine, but, as modern social welfare legislation recognises, the men continued to spend their money on liquor and they, and their women and children, died if they did not receive gratuitous assistance. The reductions in R.M.s' salaries bore hard on them since hospitality to chiefs was an integral part of their administration and the basis of meetings where much of importance was discussed freely and frankly.

34 Native Office circular, 21 November 1865 - MA 4/60; Rolleston to Wilford, 11 December 1865 - MA 4/7; Williams (R.M. Waimate) to Russell, 15 December 1865 - JC- Waimate 1. At this time the Secretary of the Vaccination Board - established to control smallpox vaccinations - ceased to be a Native Department officer. (Rolleston to C.C. Auckland, 17 November 1865 - MA 4/60).

35 AJHR, 1872, B-6. Approximately £1,700 was saved in the Bay of Plenty, the same in Northland and about £500 in each of the other districts. (PD, 1864-6, p.815).

Now they had to curtail this hospitality, pay for it out of their own living expenses, or submit food bills for the uncertain approval of the Native Office, as 'contingencies'.

Removal of the Civil Commissioners and the by-passing of those who were left meant that the R.M.s were left largely unsupervised, since the Native Minister himself could not keep up close supervision of the out-districts. Where there was an efficient Civil Commissioner, like James Mackay, this was unfortunate. Mackay described the situation in the Waikato, as he saw it, to Rolleston:

...he [Captain Hamilton, R.M. Raglan] is continually making a fool of himself, hunting up all sorts of paltry cases and making mountains out of them. His temper is anything but good. Stewart [R.M. Port Waikato] is very slow - and not worth much. The fact is none of them are worth much. Old Searancke [R.M. Middle Waikato] is the most straightforward and willing. I never hardly hear anything of Mainwaring [R.M. Upper Waikato]. If Russell had left me alone I would have made something of them before now.37

The Runanga system, as White and Clarke and Thomas had proved, was not by any means valueless, and before many years were out Maoris throughout the country were agitating for representative local councils under European guidance, similar to the Runangas. The R.M.s had also opposed heavy reductions in their Maori staff, especially of Assessors. Rogan wrote that if he did all that Russell asked, 'Why Sir this would leave me no where. The people hold very little

37 Mackay to Rolleston1 12 October 1866 - Rolleston MSS, 1.
communication with me personally. The Chiefs rule them and I rule the Chiefs. 38 Williams of Waimate informed Russell that his Assessors worked hard, travelling at his request without extra pay, and said that he could suggest the names of none he wished to see dispensed with. When ordered, he reduced his staff by about one third, very reluctantly, and reported that he still had to consult, on important cases, some of the chiefs whom he had dismissed. 39 Other R.M.s, especially those in troubled districts, reported their embarrassment at not being able to continue salaries to chiefs whose allegiance they were trying to win or retain for the Government. The Kaipara Maoris held a meeting about the loss or reduction of their salaries and most of the Ngapuhi were reputed to be disgruntled at the loss of what they deemed to be marks of their chieftainship. 41

At the same time as the Ngapuhi were protesting, Russell's parsimony provoked a row with the Arawa. He offered them for their services in the war up to 1866, besides the £3,000 already paid in rations, only £1,500 in cash, which worked out at about £2.5.0 per man for three months service. By contrast, a European expedition to catch Volkner's murderers, considerably less successful, cost about

38 Rogan to McLean, 13 November 1865 - McLean MSS, 360.
40 E.g., Parris to Rolleston, 7 February 1866 - Rolleston Mss, 1.
41 Rolleston to Rogan, 17 November 1866 - MA 4/61; DSC, 18 and 20 October 1866.
£40,000. The Arawa and their European officers were not slow to raise a fuss. They asked Russell that they be kept on a regular military payroll or that Europeans be paid off also; they asked for sections in the towns then being laid out in the confiscated lands, for employment on public works, for schools, for a definition of their land boundaries and for an Arawa in the House of Representatives. Russell approved the requests for roads, schools and public works provided that the Arawa would sell some of their land to pay half the cost of them, and told them they would soon be allowed to vote for a European member of the Assembly.

The possibility of discord with the two great 'loyal' tribes of the North Island, owing to Russell's proceedings, aroused alarm among many of the settlers. A stiffnecked man, ascetic to the point of meanness, the Native Minister had never been a popular figure in


43 Notes of meetings, 23 and 24 May 1866 - MA 24/21. Russell claimed that at the beginning of the war 'we helped them rather than they us', - which was arrogant nonsense. (Russell to Smith, 25 August 1866 - Smith Letters).

the Colony, and now his actions formed one of the grounds on which the Assembly of 1866 passed a vote of no-confidence in Stafford's ministry - though not in Stafford himself.

Russell resigned readily, informing Stafford, 'You are aware that I took office only to keep out the Weld ministry and that object having been accomplished I am quite ready to give place to any one else.' He went unmourned by his staff. In six months he had antagonised them all, not only by pushing through his retrenchments, but by inhibiting their initiative or influence on policy. He had tried to restrict Rolleston, the Under-Secretary, to giving advice on matters of detail not of policy, and Rolleston had gone to Stafford to have him over-ruled. James Mackay commented to Rolleston:

I note what you say about writing less savagely - it is quite true. I fear another six months under Russell would have made me hate the whole service. I know what you have been through, and God forbid that any of us ever go through another such ordeal.

45 Smith wrote to his wife: 'He looks a poor imbecile old man - and the stories one hears of his meannesses are almost incredible.' (Smith Letters, 23 June 1866). Ormond of Hawkes Bay was characteristically more malignant: 'As you say it is miserable to think that such an old booby is really at the head of the Administration of Native Affairs.' (Ormond to McLean, 16 May 1866 - McLean MSS, 327).

46 PD, 1864-6, pp.884-90.

47 Russell to Stafford, 18 August 1866 - Stafford MSS, 50.

48 Rolleston memo., 9 May 1866 - Rolleston MSS, 1.

49 Mackay to Rolleston, 26 October 1866 - ibid.
Russell was replaced by J.C. Richmond, lately Weld's colleague, but now willing, after a decent interval, to serve under the man who had turned Weld out. Mackay commented: 'I am glad we have got a gentleman at the head of the Department in lieu of the ex-sergeant major.'

But Richmond was not designated Native Minister. Despite Russell's realisation that it was premature to wind up the Native Department, the Civil Service Commission appointed by Stafford reiterated the popular prejudice against its authority. Reporting in June 1866, it recommended still heavier reductions, and restriction of R.M.'s to purely judicial duties, rather than the general political duties they then performed. Matters involving Maori lands should, it was urged, be placed under the Crown Lands Department, and the R.M.'s general correspondence handled by a Judicial Branch of the Colonial Secretary's Department. The suppression of the Native Office was justified on

50 It was alleged that Richmond's relations with Stafford were never cordial. (Wellington Independent, 1 February 1871 - clipping in Mantell MSS, 137).

51 Loc.cit. 'The ex-sergeant major' seems to refer to Russell's domineering manner rather than his actual career in the British army, which he had joined as an Ensign. (Dictionary of New Zealand Biography, ed. Scholefield).

52 AJHR, 1866, D-7, p.6 and D-7A, pp.16-7.
the ground that:

...as the Natives had been admitted to the full rights of British subjects by the Native Rights Act, 1865, and as all their privileges in that capacity were recognised by the Assembly, the time had come when there should be no distinction made in their position by the Government - when there should no longer be a Native Minister holding a portfolio as such, and representing their special interests.53

Thus, although he assumed direction of the Native Department as well, Richmond was described only as 'Collector of Customs', his official title as minister in charge of the Customs Department.
The Main Lines of Policy and Administration Determined

The ruthlessness of the West Coast campaign of 1866 produced a reaction similar to that following the invasion of the Waikato. Humanitarians, and South Island representatives in the Assembly, began to urge - for very different reasons - that the Maoris could be brought under English rule more readily and more cheaply by the provision of schools and hospitals than by whole-scale military expeditions which only united them in resistance. Moves by Auckland politicians either to make their Province a separate Colony, or to make Maori affairs a Provincial responsibility - both moves designed to allow them to pursue a militant Maori policy - were defeated. The Government took steps to damp down the war, placing the warlike Arawa Kupapas firmly under the control of the civil officers and shelving plans for the military occupation of the Taupo district. Even Taranaki politicians were willing to pass over the murder of an isolated European for the sake of peace.

Grey made a useful tour of the central and East Coast districts of the North Island in 1866, receiving the submission of tribes who had lapsed

1 PD, 1864-6, pp.832-40; J.C. Firth to Grey, 26 September 1866 - IA 66/2957.

2 PD, 1864-6, p.757; Holt (U-Sec. Defence Department) to Capt.St.John, 15 October 1867 and 28 January 1868 - AJHR, 1868, A-8A, pp.3-5; Richmond to H.T. Clarke, 17 January 1868 - ibid., p.22.

from their Hauhau enthusiasm.\(^4\) The following year he was replaced, after a long controversy with the Colonial Office over his relations with commanders of British regiments in New Zealand, and his delaying the return of these regiments which had been ordered by London.\(^5\) It was something of an indication of the new attitude towards the war in New Zealand that Grey's successor, Sir George Bowen, was a very different type, non-military, fond of ease, good living and race horses.\(^6\)

During this comparative calm the situation in the Waikato evolved into something like a settled form. Tamehana had accepted the adjudication of the Compensation Court on Ngatihaua land and much of it was leased to the runholder J.C. Firth.\(^7\) Small groups of ex-rebels had continued to come in to the Government officers and were settled on reserves. In late 1865 and early 1866 they came in groups of up to two hundred, and assumed a somewhat defiant manner until Tamehana quietened them. Mackay and Searancke tried to settle them and assist them to

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\(^4\) Grey to Cardwell, 23 March 1866 - AJHR, 1866, A-1, p.93.

\(^5\) Grey to Carnarvon, 12 February 1867 - AJHR, 1867, A-1A, pp.32-3;

\(^6\) J.C. Richmond to Stafford, 3 May 1868 - Stafford MSS, 42; Bowen to Stafford, 25 April 1868 - Stafford MSS, 30A. An indication of how easily Maori rights were abused was the fact that Bowen's race horses - several of which he brought with him - were stabled in the outbuildings of the Maori hostelry in Wellington. (PD, 1869, vol.VI, p.60.)

\(^7\) Grey to Cardwell, 23 March 1860 - AJHR, 1866, A-1, p.93; Firth to McLean, 20 January 1870 - AJHR, 1870, A-24, p.4.
commence ploughing and planting. 8

In mid-1866, however, the Kingites beyond the confiscation boundary established an aukati, or frontier, between their 'nation' and that of the Pakeha. They sought to call into the 'King Country' all the Maoris whom they could influence, and to prohibit their return to Pakeha territory. 9 There was at first considerable response both from the ex-rebels - and from some of the Kupapa hapu as well - who left their crops in the confiscated land and flocked in numbers to Hangatiki and Tokangamutu, the principal King Country Villages. 10 Though some ex-rebels had been allowed to return to their old cultivations many were disgruntled at the small extent and poor quality of the land on which they had been located; some Kupapa hapu were resentful at the awards of the Compensation Court or the sale of their land by kinsmen. Many preferred independent exile across the aukati in Ngatimaniapoto territory, to a humiliating dependence on the Government in their original

8 See letters from Searancke to Mackay for late 1865 and early 1866 - JC-HN 3, and Mackay to Rolleston, 12 October 1866 - Rolleston MSS, 1.

9 They told ex-rebels within the confiscation boundary that they were likely to be deported or pressed into the European army. (Searancke to Mackay, 11 and 22 October 1866 - JC-HN 3). The 'King Country' is now an established term in New Zealand geography.

10 The Ngatiwhauroa, a Kupapa hapu, was one day ploughing and planting on Government land near Ngaruawahia; next day they went off in a body to Hangatiki. (Searancke to Col.Sec., Nat.Dept., 12 September 1866 - JC-HN 3). Mainwaring tried to use the threat of loss of their land claims within the confiscation boundary to prevent the retirement of Maoris behind the aukati. Richmond, however, informed him that, 'there would be neither written law nor equity for such a threat as against friendly Natives.' (Rolleston to Mainwaring, R.M. Upper Waikato, 17 October 1866 - MA 4/61).
territory. The death of Tamehana in December 1866 also resulted in former rebels among the Ngatihaua abandoning the policy of cooperation enjoined by their late leader, killing Firth's cattle and menacing his men, and retiring beyond the aukati.\textsuperscript{11}

This mood lasted about a year when many began to drift back again and resume cultivations within the confiscated lands. By 1867 Searancke had two flour mills in operation to grind their wheat. In order to prevent their people from trading with the settlers and possibly exposing the King Country to settler encroachment, the Waikato Kingite chiefs held meetings to harden the aukati. As a result of one of these the neutral Maoris, and a few Europeans who had clung to Kawhia Harbour throughout the war, were expelled and the harbour closed.\textsuperscript{12}

But, the attractions of the Pakeha economy and material goods, which were eventually to undermine Maori separatism, made their influence felt; the aukati was in practice enforced only one way.\textsuperscript{13}

The same Kingite meetings that established the aukati also called on Hauhaus throughout the Island to cease fighting. In response to this the Government at last made formal contact with the Kingite leaders. In October 1867 Searancke took to Hangatiki letters from Grey and Richmond welcoming the King's move to establish peace, explaining recent

\textsuperscript{11} Searancke to Mackay, 2 October 1866 - JC-HN 3; Mackay to Rolleston, 12 October 1866 - Rolleston MSS, 1; Searancke to Col.Sec., Nat.Dept., 12 September 1866 - JC-HN 3; Firth to McLean, 20 January 1870 - AJHR, 1870 - A-24, p.4.

\textsuperscript{12} Searancke to Mackay, 16 May 1868 - ibid.; Rolleston memo., n.d. circa February 1868 - AJHR, 1868, A-1, p.47; DSC, 3 March 1867.

\textsuperscript{13} Searancke to Rolleston, 30 June 1867 - JC-HN 3. See also letters from Searancke to Mackay from late 1867 - ibid.
legislation regarding Maori representation, Maori schools and the
Native Land Court, and urging the old settler argument that the two
peoples should unite under one law. Grey asked Tawhiao if he would
care to confirm the peace with the Duke of Edinburgh, Queen Victoria's
son, who was shortly to visit New Zealand.\textsuperscript{14} The Governor was in effect
still seeking the voluntary self-effacement of the semi-independent King
movement. This was asking too much. The King and Tamati Ngapora — now
called Manuhiri (or Manuwhiri), a reference to his being a Waikato
'visitor' among the Ngatimaniapoto — formally declined to reply.\textsuperscript{15}

However, in November 1867, C.O. Davis met Manuhiri at the home of
Louis Hetet. Soon afterwards, Hetet told Searancke that Tawhiao was going
to send a Tekau-ma-rua through the Waikato. If it was unmolested, Tawhiao

\textsuperscript{14} Richmond to Matutaera, 8 October 1867 and Grey to Matutaera, 17 October
1867 - MA 4/75, pp.7 and 37.

\textsuperscript{15} Searancke to Richmond, 2 November and 11 December 1867 — JC-HN 3. The
\textit{Daily Southern Cross} reported, 22 February 1868: "It is not generally
known but it is true nevertheless, that the late Governor, Sir G. Grey,
offered the Maori King a suitable maintenance — "a very large sum," the
natives say, £1,000 a year, we understand — if he would consent to keep
order in his territory as a stipendiary of the late Government. The
offer was treated with silent contempt. No answer has been vouchsafed
to His Excellency's letters; and the opinion of the natives generally
is, that the Government ought not to have raised a question of pay,
the point at issue between them and the Government being the independent
jurisdiction of the Maori King within defined boundaries." The
official correspondence does not seem to bear out this suggestion that
Grey offered a stipend to Tawhiao; it was certainly not mentioned in
his letter of 17 October.
would make peace. Searancke arranged that the Tekau-ma-rua was given food as it paraded and danced haka, in full war accoutrement, through the Waikato townships. In February 1868 the Kingites wrote to C.O. Davis announcing the new order. Weapons were to be put away; but the King's territory was closed to lease or sale, to roads and gold prospecting, and the King movement would not recognise the confiscation of the Waikato. The European community was disposed to accept this situation and rely on trade and friendly contacts to eventually break down the aukati.

Richmond also sought to bring the confiscated lands question to a final settlement in other districts. The Compensation Courts having proved unwieldy, new legislation gave the Government wide powers to distribute the land as it saw fit, merely using the Courts to ratify its arrangements. In the Bay of Plenty confiscation a settlement of Arawa was planted in Whakatohea territory and a Commissioner was appointed to allocate land to rebel hapu. In Taranaki, Parris and Richmond met

16 Searancke to Richmond, 16 and 20 November 1867 - JC-HN 3. "Tekau-ma-rua" means 12 and derives from the Hauhau practice of associating its bands of picked emissaries with the 12 Apostles of Christianity. Actually the number in a 'Tekau-ma-rua' was often much larger; in this case it meant about 100 men.

17 H.C.M. Norris, Armed Settlers, p.160.

18 DSC, 15 February 1868.

19 The Confiscated Lands Act, the Tauranga District Lands Act and the East Coast Land Titles Investigation Act, 1867, provided for the settlement of the confiscation in those districts.

20 Rolleston to Clarke, 26 June 1867 - MA 4/62; Wilson memo., 6 September 1867 - Native Affairs, North Island, Section D, p.58.
the ex-rebels and allocated reserves of between 9,000 and 10,000 acres - mostly their original settlements - to hapu of the Ngatiruanui and Ngarauru. Individual rebels or small parties who surrendered were allocated fifty acres per male - the same rate as for military settlers. Richmond sought to be generous 'and to prevent its being alleged that the Government waited to be pressed for provision for any of these people.' 21

Richmond's pacification programme met with considerable success, particularly as it was complemented by the pacifism of the Maori nationalist leaders both in the King Country and in Taranaki, where the prophets Te Whiti and Tohu, of Parihaka, had begun to make their influence felt. 22 The Government actually began to feel that the Maori wars were over. 23 In late 1867 it granted amnesty to Maoris imprisoned for the murders of Fulloon and Volkner and extended to numbers of North Island Maoris, approved by the R.M.s, the permission previously granted to South Island Maoris to apply for licences to buy ammunition for sporting purposes. 24

THE Government's effort to bring the war to a conclusion was accompanied by the resolution of several outstanding questions in civil

21 Rolleston to Booth, 5 July 1867 - MA 4/62.

22 Searancke to Richmond, 16 December 1867 - JC-HN 3. The Taranaki prophets also attended the peace meetings of the King movement.

23 See the Governor's speech opening the General Assembly session of 1867. (PD, 1867, vol.I, part 1, p.2).

24 PM 2/5, n.15, p.17; Native Office circular, 31 July 1867 - MA 4/62.
policy and administration. Soon after taking office Richmond sent Rolleston (as Under-Secretary of the Native Department) on a tour of the out-districts to investigate and report on such matters as the efficiency of Native Department officers, the condition of Maori reserves, the efficiency of the Church schools and the practicability of a village school system such as Russell had intended to introduce. Richmond, in fact, showed a greater inclination than most of his predecessors in charge of the Native Department to heed the advice of his staff, and shaped his policies largely on the advice of Rolleston and of other officers in the out-districts.

Considerations of economy and efficiency, mingled with the usual objections to special machinery of administration in Maori affairs, impelled Richmond to undertake further retrenchments. A few more Assessors and numbers of Maori police were dismissed. Urged by the Assembly Richmond made heavy reductions in the number of subsidised Medical Officers with a view to eventually abolishing all subsidised medical care and 'inducing a habit among the Natives of relying upon their own resources in this as in other matters.' Under the same financial axe the hospital at Mangonui - built by the Runanga in


27 Halse to Cooper (R.M. Waipukarau), 21 December 1866 - MA 4/61; Rolleston to Clarke (C.C. Tauranga), 20 October 1867 - MA 4/63; Cooper to Mackay (C.C. Auckland), 23 October 1868 - MA 4/64; PD, 1864-6, p.918 (Peacocke).
1862 - was closed, and the hospitals at New Plymouth and Wanganui - built by Grey in his first governorship and since taken over by the military - were handed to the Provincial authorities, the General Government paying a subsidy for the number of Maori patients admitted. The special medical service for Maoris - such as it was - had not been entirely destroyed but districts such as Mangonui, Waikato, Hawkes Bay and the East Coast were deprived of their regular subsidised doctors and the Maoris had to make do with the efforts of the R.M.s or hope for the attentions of an interested private practitioner or the doctors in the Armed Constabulary.

But Richmond, like Russell before him, had discovered that, however much the settlers might want to dispense with special machinery of Maori administration, much of it was, for the time being, indispensable. The Government did not accept the suggestion of the Civil Service Commission that R.M.s be confined to judicial duties. On the contrary, Richmond requested that they report regularly on all matters of importance in their districts, a duty he considered essential, 'as long as there is a department of political agents'.


29 The Armed Constabulary, a force of full time settler volunteers was established in 1867 and began to replace both imperial troops and irregular corps of settler militia. It was open to Maoris too, though few Kupapas joined the regular companies of the A.C. most still being organised in separate Native Contingents.

however, spoke of eventually placing all Native Department R.M.s under the Justice Department and letting the Native Service wither by not filling vacancies that arose. 31

Subsequent changes in the Native Service reflected these views. Mainwaring of Upper Waikato, who had got into 'pecuniary difficulties with the Treasury' was dropped - Searancke taking over his district as well as Middle Waikato - and Nesbitt of Maketu, who had become indebted and borrowed money from the local runanga (giving the Maoris an order on his salary) was also dismissed. 32 On the other hand Captain Biggs was made R.M. at Poverty Bay. Moreover, Richmond secured a Native Affairs vote of approximately £25,000 to retain existing staff - and even to increase it in such critical districts as the Thames goldfield - and to enable the Government to repay Maori hospitality or make presents to chiefs as courtesy and diplomacy required. 33 A few important ex-rebel chiefs were made Assessors. 34 Most R.M.s still covered their districts with the aid of about six Assessors and six police - rather more or less according to population.

A consolidating Resident Magistrates Bill was passed in 1867. The

31 PD, 1867, vol. I, part 2, pp. 1232 (Stafford) and 1236 (Richmond).

32 Richmond to McLean, 15 August 1867 - McLean MSS, 184; Searancke to McLean, 15 August 1867 - McLean MSS, 373; H.T. Clarke to Rolleston, 28 November 1867 - Rolleston MSS, 1; Halse to Nesbitt, 11 November 1868 - MA 4/64.

33 PD, 1867, vol. I, part 2, pp. 1236 ff. Some South Island members objected, but most North Islanders now recognised the need to maintain the R.M. system.

34 E.g., Hone Pihama, a surrendered Ngatiruanui chief of considerable influence. (Rolleston to Parris, 1 March 1867 and 16 July 1868 - MA 4/62).
debate brought forth settler hostility to the provisions of the Grey's R.M.s Ordinance of 1847 and of the Native Circuit Courts Act 1858, which reserved the administration of justice among Maoris almost exclusively to the R.M.s and gave Maoris exemption from the ordinary operations of the law. A majority in the Assembly sought to have them made subject to exactly the same legal code and legal processes as the settlers, including the petty jurisdiction of the Justices of the Peace. 35 But, because of the continued uncertainty of enforcing law in the out-districts, the Resident Magistrates Act included a number of special sections retaining most of the earlier exemptions, reserving their application, however, to districts proclaimed by the Governor in Council. Section 103 prohibited the apprehension of a Maori, outside the main towns, save by the order of an R.M. or of a Superior Court (i.e., a Maori could not be apprehended, outside the towns, on the order of a J.P., or by a policeman on his own initiative); sections 105-6 (re-enacting Governor FitzRoy's attempt to embrace the principle of utu) stated that thefts should be punished by a fine of four times the value

35 See also newspaper comment: 'It is a scandal of the Courts under the Native Resident Magistrates Ordinance, that a Maori is of infinitely more importance in the eye of the law than a European.' (Wellington Independent, 13 July 1865.) The Daily Southern Cross, 20 October 1866, attacked the principle of imposing fines instead of prison sentences on Maoris guilty of theft.
of goods stolen - instead of imprisonment - and that a proportion of the fine would be paid to the victim of the theft; (FitzRoy's extension of this principle to assault cases was now dropped); sections 107-10 re-enacted the clauses of the 1858 Native Circuit Courts Act 1858 (and its Amendment Act, 1862) providing for the appointment of Assessors and the hearing of all civil disputes between Maoris, save those affecting land title, by an R.M. with the Assessors, whose concurrence would be necessary to the execution of a judgment; section 111 gave the R.M.s in Native Districts a jurisdiction of £100 in cases between Maoris and Europeans - a larger jurisdiction than that generally enjoyed by urban R.M.s; section 112 forbade the serving of a distress warrant for debt, without the approval of an R.M.; and section 113 provided that an R.M. might delay the execution of any judgment; section 114 provided for the payment of Assessors according to the number of warrants executed - rather than by salary; section 115 - rejecting the bid by the settler assembly to break the virtual monopoly of Maori jurisdiction by the R.M.s - gave Chairmen of Petty Sessions the same power as R.M.s in any case affecting Maoris.

Richmond circularised the R.M.s for their views on the necessity of special provisions, noting that:

The feeling of the Legislature appears to have been decidedly opposed to the introduction of any exceptional legislation of the character contained in the above-named Sections and the Government is averse to exercising the power of bringing them into operation unless special circumstances seem to render it necessary.36

36 Native Office circular, 21 November 1867 - MA 4/63.
The response of the R.M.s, however, was decisive. As H.T. Clarke later wrote: 'Officers in Native Districts have to deal more with facts than with policies enunciated in the General Assembly.'

Certainly their opinions as to the relative value of each of the special provisions varied but, all in all, the Government was left in no doubt of the necessity for most of them. In February 1868 Sections 105-13 were proclaimed as applicable in all rural districts of the North Island and sections 107-13 (omitting the fines-instead-of-imprisonment for theft principle) in the urban districts. The R.M.s were given a

37 Clarke to McLean, 26 July 1869 - McLean MSS, 183.

38 Searancke did not value the presence of Assessors at formal hearings, however indispensable they were in informal proceedings. Almost all disputes in his district were referred to him or to Wi Te Wheoro and they commonly settled them together. (Searancke report, 9 March 1868 - AJHR, 1868, A-4, p.4). He also thought that the principle of punishing theft by fines instead of imprisonment would arouse too much jealousy from Europeans. However, he greatly valued the £100 jurisdiction in mixed cases and admitted the continued need for a power to delay the execution of warrants or judgments. (Searancke to Rolleston, 5 December 1867 - JC-HN 3). Williams, R.M. Waimate, on the other hand, considered the presence of Assessors in formal hearings, and the fines-for-theft provision, to be essential. (Williams to Rolleston, 23 December 1867 - JC-Waimate 1).

39 New Zealand Gazette, 1868, p.69. Except in the Nelson-Motueka district, the special provisions were never proclaimed for the South Island, where the Maoris were regarded as sufficiently under European authority to conform to the regular pattern of judicial administration. But in practice Maori Assessors and police were appointed throughout the South Island and on occasion sat with the R.M.s. (Minute of Morpeth to Cadman, 8 August 1892 - MA 1/13, N.O. 92/1346).
discretion to apply them or not as circumstances dictated. Section 104 - payment of Assessors according to the number of warrants executed - was opposed by the R.M.s and Assessors continued to be paid regular salaries. Section 115, giving Chairmen of Petty Sessions equal jurisdiction with R.M.s, was also not applied. Unpopular though it was with the settler community, the R.M. system, a special administration of justice among Maoris, was confirmed in operation and remained in force for another 25 years.

There were, however, significant changes. The clauses in the Native Circuit Courts Act, 1858, giving Maori Assessors a £5 jurisdiction, independent of the R.M.s, were repealed. The Assessors, who had in some cases abused their authority, were now to be confined to the position of assistants to the R.M.s. Secondly, the R.M.s were expressly debarred from hearing cases involving land titles - such as White had heard on the Wanganui River in 1863 - these being now the preserve of the Native Land Court. Thirdly, the provision in the Circuit Courts Act to have civil disputes between Maoris heard before Maori juries was also repealed, no doubt to the regret of James Mackay who had begun successfully to

40 Usually by summoning and fining Maoris who had offended them personally, by action or insult, without having actually broken the law. (See J. White to Col. Sec., 2 and 27 July 1864 - JC-WG 4; E.M. Williams to Nat. Min., 28 October 1865 and 24 November 1866 - JC-Waimate 1).
use Maori juries in the Hauraki district. 

These points, together with Russell's closing down of the Runangas in 1865-6 meant that the comprehensive system of Maori local self-government envisaged in the legislation of 1858 and in Grey's civil institutions of 1861-3, was now abandoned and the opportunity for Maori leaders to exercise a wide range of local legislative and judicial powers virtually closed. Nor could the R.M.s any longer be mediators in the sense of helping the Maoris to evolve and administer a pattern of bye-laws compounded of English elements and local customs, to suit local requirements. Essentially they could now only be mediators of English law to the Maoris - cautiously and flexibly and with the cooperation of the Assessors - but nevertheless, in the end, substantially the same pattern of law as regulated the affairs of the settlers.

The incompatibility of English law with their traditional customs gave the Maoris considerable dissatisfaction. For instance, they found their hunting economy interfered with by settler game conservation laws, but, conversely, complained that certain birds which they had

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41 'I believe that the Native Circuit Court is a very fine institution if it is properly worked and I hope there will be one or two cases when you come up to show you how I work it. I think you would find that some Maori jury men are a great deal sharper than some of the twelve good and lawful men occasionally seen in the box in the Supreme Court.' (Mackay to Rolleston, 26 October 1866 - Rolleston MSS, 1).

traditionally hunted only in specific seasons were not on the Europeans' prohibited list and were shot wantonly by settlers. Another ancient Maori custom prohibited the use, for domestic purposes, of a whare in which a person had died. But when a Nelson Maori, whose daughter died in the whare of another man, burnt down the building in accordance with this principle, he found himself charged for arson in an English court. More seriously, the Maori offence of puremu, not specifically covered by English statutes, was treated with wild inconsistency by English courts. A Supreme Court judge, anxious to teach the Maoris the sanctity of a marriage contract, equated it with adultery, then punishable by gaol sentences, and two or three luckless Maoris were given heavy sentences of hard labour. R.M.s generally treated puremu as a civil offence and awarded damages to husbands whose wives had been seduced - or who had been the seducers. But some magistrates refused to consider the question at all on the ground that Maori customary marriages were not recognised in English law.

The inability of English law to cater for their requirements limited the number of disputes between Maoris that were formally heard in the

43 See evidence of J. Mackay - AJHR, 1869, F-7, pp.7 and 15.
44 J. Mackay to Nat.Sec., 20 May 1861 - MA-Collingwood 2/l.
45 Colenso to Mantell, 6 March 1865 - Mantell MSS, 261.
R.M.'s courts. In most Maori communities unofficial runanga continued to discuss such matters as puremu disputes and many of these were still settled by the ancient practice of muru or compensatory plunder. The chiefs, including the Assessors, continued to exercise a quasi-magisterial authority, in many cases (though now illegally) levying fines.

On the other hand, cohesive tribal relationships, necessary to the satisfactory discussion and adjustment of disputes in the runanga, continued to decline under the corrosive influence of European material attractions, liquor, and the dislocations of war. Chiefs became increasingly careless of their peoples' interests and subordinates increasingly contemptuous of the opinion of their chiefs. In these circumstances appeal to a magistrate was often convenient. For instance, on the Wanganui River an ariki, Wirihana, carelessly sold a horse which had been given to Hori Kingi - himself a chief of rank - by the Taupo Maoris. As ariki Wirihana had certain rights over most of Hori's property, but these did not permit him to sell it without Hori's consent. Wirihana had overstepped his customary privileges and Hori thereupon appealed to the R.M., who provided a quicker means of redress than the ancient pressures and mechanisms, which would in the long run, in an undisturbed society, have curbed Wirihana's excesses.\[47\] A very

\[47\] White to Col. Sec. (Nat. Dept.), 20 January 1864 - JC-WG 4.
high proportion of disputes between Maoris brought before R.M.s were in fact 'horse cases', or cases involving movable goods of European origin. 48

Some chiefs grumbled at the resort to European law. Karaitiana of Hawkes Bay lamented: 'In olden times disputes could be settled by discussion; now in these days of civilization everything is settled in courts of laws.' 49 But others showed a desire to be 'progressive'. The runanga of Ngatiwhakaue, for example, issued a 'Gazette' - probably only one number - announcing the end of tangi and hui, which impoverished the giver, and claiming that 'all the Maori rules have been cast away by us'. 50 And one of McLean's officers reported: 'I find that principal chiefs were anxious to have European laws carried out in every way they want us to give them grog like other people but have police and lockups; they find that the runanga cannot manage to keep the peace...'. 51 These were overstatements, or the products of temporary enthusiasms; in fact Maori society was confused and vacillating, torn between despair of the capability of old institutions to cope with disorder, and reluctance to abandon them for alien ones.

48 E.g., Nesbitt to Smith, 5 January 1866 - Smith Letters.

49 Hawkes Bay Herald, 23 April 1867.

50 DSC, 24 October 1866. This resolution was of course not adhered to; tangi and hui if anything, increased in extravagance.

51 Locke to McLean, 23 January 1865 - McLean MSS, 282.
The retention of the Maori leaders as Assessors and police to some extent eased the transition to English legal processes. Not only was their presence at formal hearings of great value but, because English law was so ill-suited to the determinations of many disputes, R.M.'s continued to spend a great deal of time adjusting these in informal discussions with the Assessors and the disputants. On occasion they encouraged the Assessors alone to settle the matter. Some R.M.'s still fostered an informal Runanga system, using it to regulate innumerable matters which would have appeared frivolous or inappropriate in formal court hearing, but which were of serious importance to Maori communities. In this way the ill-effects of not modifying English law to include Maori custom were at least mitigated, and Maori society was not entirely bereft of some mechanism to preserve order and regularity.

The experience of J.C. Campbell, appointed R.M. Waiapu in 1866, illustrates some of the possibilities in the system at that period. Campbell found petty crime rampant. Maori runanga of a kind were meeting every month, but were dissatisfied with their own efforts, largely owing to drunkenness of important chiefs. Within six months the Ngatiporou had built Campbell a court house, office, and lockup, making the bricks themselves out of local material. Together with his

52 See the Rev. James Stack to U-Sec., 13 October 1880 - MA-CH 1, for an account of Stack's work in organising Runangas in the Canterbury settlements. See also Searancke to Mackay, 17 and 28 October 1865 - JC-HN 3.
Assessors the R.M. settled a great many cases out of court, while his decisions in informal hearings were treated with the greatest respect. After consultation with the chiefs he quelled a rash of horse stealing and house-breaking by shipping several offenders to gaol in Auckland. He extended hospitality to the chiefs when, as was frequent, they visited him from all parts of the district; he took them into his confidence, gave medical care as best he could in the absence of a doctor, and quickly grew to like and respect his people. The relationship between Campbell and the leading Ngatiporou was essentially a team one and not untypical of that achieved by a number of R.M.s throughout the country.

 Whereas in districts such as Waiapu, which had few European settlers, the R.M.s were largely concerned with disputes between Maoris only, in most districts the preponderance of disputes an R.M. considered was between Maoris and Europeans or, increasingly, between Europeans only. Most of the Maoris who appeared before White, R.M. Mangonui, were summoned for petty thefts or for debt. White handled these cases sympathetically, arranging settlements, remitting costs if the defendants were very poor, fining four times the value of property stolen rather than sentencing defendants to gaol. Europeans were charged by Maoris with breach of contract, with causing damage by bush burns, with theft and, very occasionally, with breaking the Sale of Spirits Ordinance.

53 See correspondence of Campbell to McLean, 1 September 1866 to 18 August 1869 - McLean MSS, 174.
As in the case of disputes among Maoris, mixed cases were frequently settled out of court.\textsuperscript{54}

In the late 1860s Maori willingness to accept the rulings of the European courts markedly increased. Largely because the R.M. system included Maori officials, obedience to its decisions, with regard to petty offences at least, was generally automatic. Thus White reported that fines in his district were readily paid and the Maori constables not resisted even if they were obliged to escort a prisoner to gaol outside the district.\textsuperscript{55} This obedience gradually extended to criminal offences likely to involve Maoris in heavy gaol sentences or capital punishment. Previously to 1866 officials had been unable always to secure the surrender of wanted men even among friendly tribes. Since 1863 there had been among the Ngapuhi several serious breaches of the peace for which no arrests had been made, including two offences against Europeans - one of rape and one of assault - which had been officially condoned after the payment of a fine.\textsuperscript{56} But in 1866, on two

\textsuperscript{54} See MA 24/21. This file contains the only bundle of monthly returns of cases, from the R.M. courts, which appears to have survived from this period. W.B. White, R.M. Mangonui, between 20 October 1863 and 31 October 1866, heard 62 mixed cases against only 50 cases affecting Maoris alone; in the mixed cases Maoris were defendants in 48 cases and plaintiffs in 14. In the year 30 June 1864 to 30 June 1865 Williams, R.M. Waimate, formally heard 14 cases between Maoris and 21 mixed cases (Williams to Nat.Min., 28 October 1865 - JC-Waimate 1).

\textsuperscript{55} White report, 5 September 1868 - AJHR, 1868, A-4, p.36. See also similar reports of Nesbitt (ibid., p.12) and Barstow (ibid., p.6), and Deighton to McLean, 24 April and 14 September 1865 and 19 April 1866 - McLean MSS, 203.

\textsuperscript{56} Williams report, 1 June 1868 - AJHR, 1868, A-4, pp.21-22.
separate occasions, Ngapuhi Maoris charged with robbery and released from custody by a tāua were surrendered again after negotiation with the Assessors. 57 Most tribes - outside the theatre of war - generally feared now to withhold men who had murdered Europeans. In 1869 the Ngatiraukawa surrendered one of their number who had murdered a settler, and the accused was subsequently convicted and executed. 58 Maori confidence in their local R.M. sometimes helped produce submission. When a European was murdered in the Mangonui district in 1868, the culprit was surrendered on condition that W.B. White tried the offence. 59

With regard to tribal feuding in which Maoris were killed, the Government and the settler public began to be more insistent that the law be vindicated. 60 In 1866-7 three separate cases of tribal feud in the Waimate district resulted in at least eight killed and seven wounded, the Maoris refusing to surrender any involved in the affrays. 61 The Government declined to take an expedition against the parties involved, for fear of provoking wider resistance. But it also declined officially to admit the claim of Tamati Wake Nene 'that the murder is confined to

57 Rolleston to Barstow (R.M. Russell), 15 and 30 October 1866 - MA 4/61; AJHR, 1868, A-4, p.3. In one of these cases a threat to deny the guilty party a hearing in the Land Court unless they accepted the law in the robbery case, was used to produce submission.

58 Bowen to Granville, 24 March 1869 - AJHR, 1869, A-1, p.65.


60 E.g., DSC, 20 October 1867.

61 Williams report, 1 June 1868 - AJHR, 1868, A-4, pp.21-22.
the Maoris and is a matter for them to arrange. 62

In mid-1868 a formally arranged battle, arising out of a land feud in the north resulting in the shooting of one Nuku, a Ngapuhi, by Te Wake, a Rarawa. The Ngapuhi threatened wider reprisals and the Government, anxious both to avert war and to please their great northern ally at the expense of the smaller Rarawa tribe, pressed the Rarawa to surrender Te Wake. After intensive negotiation by J.C. Richmond, James Mackay (Civil Commissioner, Auckland), and Barstow (R.M. Bay of Islands), Te Wake was handed over to the magistrates. 63 He escaped, was recaptured, and tried in the Supreme Court for murder. Chief Justice Arney held the case to be something of a landmark - the first in which the consequences of tribal feud were brought before English law. But the court recognised the truth of Te Wake's plea that he was only a tribesman acting at the behest of a chief. Mohi Tawhai, a Ngapuhi and a Government Assessor, had in fact appointed the day of Nuku's death as a day of fighting, and strictly speaking he should have been on trial

62 Rolleston to R.M. Waimate, 28 January 1867 - MA 4/62; Williams to Nat. Min., 24 November 1866 and Williams to Rolleston, 5 December 1866 and 12 April 1867 - JC-Waimate 1. Most of this discussion occurred with reference to the shooting of a Kaikohe chief by a taua led by Hare Poti, an Assessor. Poti and his victim quarrelled over a woman. The discussions revealed two other recent killings (one of an old man and his son for makutu, another of a girl killed by a jealous lover) in which the Government had not acted. There must have been scores of similar cases throughout the country which never came to the Government's ears.

as an accessory to the murder. 64 Te Wake was sentenced to death but the sentence was commuted. Shortly afterwards the fleetfooted prisoner again escaped, this time from Mount Eden gaol, and found his way back to his people. 65

One outcome of the Te Wake incident was a petition to Parliament from the Ngapuhi for more gaols and Maori police and schools to inculcate and enforce the European order of things. The petitioners wanted all previous killings forgiven and the next aggressor handed over to European law. 66 This enthusiasm proved not wholehearted - the gaols, for instance, were not established - but it did mark an awareness among the Ngapuhi that tribal warfare was becoming anachronistic. Although taua continued to be in use for some years, and, judging from the occasional rumours that filtered through to the Government, occasional killings for makutu and puremu occurred in remote areas possibly even as late as the twentieth century, the Te Wake case was indeed something of a landmark. From about 1868, except in the Urewera and the King Country, the right of European law to interdict tribal warfare was substantially recognised.

64 DSC, 10 and 11 September 1868.

65 Te Wake's exploits have a considerable aura of glamour about them. See James Cowan, Tales of the Maori Border, p.69. Several years later Te Wake was induced to surrender himself at the gates of Mount Eden gaol to receive full pardon.

FROM the Government's point of view constant and intelligent activity by R.M.s and Civil Commissioners served many purposes other than strictly judicial ones. Political influence remained important. For example, when Rogan was absent from Kaipara on Land Court business the local Maoris raised £200 for the King Movement and Rogan was quickly sent back to his district. While the war continued the civil officers remained the principal eyes and ears of the government. Progress in communications increased their efficiency in this respect. In 1869 Richmond asked officers in areas reached by the telegraph to 'make a constant practice of telegraphing short summaries of passing events to this office.' The Native Office in Wellington in effect functioned as a clearing house for an island-wide intelligence network.

Apart from the major questions of war and Kingism, however, the Native Department officers were the main agents of the Government for checking the worst evil arising from the meeting of the two cultures. The Thames goldfield provided an excellent illustration of this. There James Mackay toiled to negotiate mining rights from the chiefs sufficient to satisfy the diggers' demands. He arranged terms which brought a considerable revenue to the tribes of the district, and, backed by successive Native Ministers, held back the miners from

67 Pollen to Stafford, 3 June 1868 - Stafford MSS, 40.
68 G.S. Cooper (U-Sec.) to Clarke, 29 May 1869 - MA 4/64.
69 Mackay to Nat. Min., 27 July 1869 - AJHR, 1869, A-17. From 1 August 1867 to 13 January 1869, £10,075 was distributed to the Thames Maoris in miners' rights fees. (AJHR, 1869, B-15).
rushing areas not subject to agreement between the chiefs and the
Government. 70 Mackay's authority was sustained by a body of armed
Maori police; diggers who defied his ban and infiltrated Maori land
were rounded up and expelled by these police and special levies of
friendly Maoris. 71

It is in itself noteworthy that in a settlement colony a section of
a native people was armed by the settler Government and used in defence
of its rights against settler encroachment. It is easy to argue
cynically that the Government did this only to avert a costly conflict
with formidable chiefs such as Te Hira of Ohinemuri, who threatened war
if their land was interfered with, and no doubt there is truth in this.
Yet there is much to suggest that the Government was sympathetic towards
the Maoris' claims, and unsympathetic towards brash European
transgressors. The fact that Maori, not European, police were used to
curb the miners is an indication of this. Mackay himself supported the
Maoris' rights to the point of protesting against mining legislation that
would have entailed a reduction in the Maoris' revenue, and securing an
amendment to the relevant act. 72

70 In December 1865 Wiremu Tamahana had received a promise that no
interference with Maori land by miners would be permitted; Mackay was
instructed to uphold that promise. (Rolleston to Mackay,
6 December 1865 - MA 4/60).

71 Mackay to Nat. Min., 27 July 1869 - AJHR, 1869, A-17, pp.6-7 and 10.

72 Ibid., p.11; AJHR, 1869, F-7, p.15; AJHR, 1869, F-2; AJLC, 1869,
pp.35-42; Mackay to Mantell, 23 July 1869 - Mantell MSS, 223.
The situation at the Thames was always tense. Scuffles between Maoris and Europeans in the town frequently threatened to assume dangerous proportions. In such a situation a man like Mackay was invaluable. He was tough-minded, proud, quick to advance his own reputation and wryly cynical about the work he was doing. 'I have been very busy', he wrote to Rolleston, 'working night and day to try to satisfy Messrs. Nigger and Digger, two as troublesome specimens of humanity as ever were brought together.' But the value of his work brought him considerable recognition. Even when, in 1868, he began to show a preference for private work as a land agent in the towns he was laying out on the goldfields, the Government was constrained to keep him on at the very large salary of £800 a year, plus extra Maori police to help him, and the right to transact private business as well.

73 Mackay to Rolleston, 29 November 1867 - Rolleston MSS, see also Unpublished PP, 1869, n.56.

74 'I know no man, in the lower regions of office at least, whose loss would be so much felt'. (Pollen to Rolleston, 4 January 1868 - Rolleston MSS, 1). Mackay's boldness and enterprise was remarkable. On one occasion a Kingite hapu alleged that one of their number had been murdered by European flax-cutters, but they declined to allow Mackay to inspect the body for the wounds they claimed were made. Mackay, having held the flax-cutters on a minor charge, surreptitiously entered the forbidden territory, dug up the body and, finding no wounds, was able to dispel a mounting crisis between Europeans and Maoris. (His description of his exhumation of the body ranks with the best detective fiction). The flax-cutters had, however, committed a theft from the King Maoris for which they were sentenced to three months hard labour. (Mackay to Nat. Min., 1 April 1869 - AJHR, 1869, A-16, pp.9-13).

75 AJHR, 1869, A-17, p.13; Unpublished PP, 1869, n.56.
The sort of work Mackay was engaged upon was extremely important. The R.M. in fact became the pivot upon which communal relations within a district largely turned. Because of the means of redress and adjustment offered there was able to grow up - especially in relatively stable districts such as Mangonui - a comparatively harmonious relationship between Maoris and Europeans. Conversely, the absence of a competent R.M. quickly led to tension, to bullying by Europeans and resort to taua by the Maoris.

Gaining, by close acquaintance, a better understanding of Maori values than most Europeans, Native Department officers usually became vehement critics of officials who shaped policy from a distance and only rarely visited a Maori district. Mackay was scathing about Provincial officials who came to try to browbeat the Thames chiefs into opening more land for gold-digging, Campbell amazed and annoyed at the tactlessness exhibited towards high chiefs by cabinet ministers who visited Waiapu.76

As the military side of their duties waned in 1867-8 the Native Department officers began to be loaded with more responsibilities of a civil nature, arising out of major developments in policy during those years. Many of these duties concerned land. Although J.C. Richmond did not want R.M.s to engage in land purchase operations,77 they were in

76 McLean to Rolleston, 29 November 1867 - Rolleston MSS, 1; Campbell to McLean, 3 January 1866 - McLean MSS, 174.

77 J.C. Richmond minute, 16 June 1868 - MA 13/29, N.O. 68/72; Rolleston minute, 14 January 1868 - loc. cit.
fact asked to assist the progress of the Land Court.

With the aid of the Assessors they were to distribute copies of the Maori version of the official Gazette - the Kahiti - which had been commenced in September 1865 to advertise the hearings of the Land Court; they were to see that surveys were ready and that the Maoris had trustees for reserves selected; they were to collect Crown Grants when they were issued and give them to the Maoris on payment of Court fees; they were frequently asked to act as agent for the Crown to support the Crown's claims to land or the claims of individuals who had bought from the Crown. 78 More Native Department officers - James and Alex Mackay, Searancke, H.T. Clarke and Parris - assumed responsibility for Maori reserves, defining them, evicting squatters, obliging them to pay rent, 79 ascertaining rightful claimants, letting the reserves and distributing the rents or seeing them spent for the welfare of the beneficiaries. 80 Alex Mackay became the first officer to bring the needs of the South Island Maoris within the regular surveillance of the


79 Rolleston to Edward Morgan, 10 December 1868 - MA 4/12 (see several similar letters of this date).

Government. He sought, as far as local settler pressures permitted, to enlarge the reserves and see them properly utilised, to provide schools and to improve housing.

North Island officers too, were expected to tour the villages of their districts regularly to persuade their people to fence and utilise their land and to improve their dwellings and hygiene, so 'leading them to cleanliness and order and gently weaning them from communistic practices.' This sort of activity was generally futile but the R.M.s were effective in more specific tasks such as persuading the Maoris to admit the telegraph through their lands, establishing village schools under the Native Schools Act, 1867, conducting elections under the Maori Representation Act, 1867, erecting and maintaining hostelries for visiting Maoris in a number of the smaller towns. Some R.M.s held extra offices relevant to the European populace such as Registrar of births, deaths and marriages. They were in effect the workhorses of the General Government and represented it to the Maoris in almost every aspect of its activities. They were Resident as much as Magistrate, in

81 He enlarged the West Coast (South Island) reserves by using revenue from existing reserves to purchase more land, and increased the Whakawa reserve in Canterbury by 150 acres, proceeding very quietly lest settlers heard of the proposed enlargement and moved in to buy the land. (Mackay to Rolleston, 22 February 1865 - ME-N 1/1; Rolleston to Mackay, 19 October 1868 and 25 February 1869 - MA 4/64).

82 J.C. Richmond to Booth, 24 January 1867 - MA 4/62.

83 IA 66/1919.
Richmond’s grandiose conception ‘lay missionaries converting the Maoris to civilisation’. An efficient Native Department R.M. was, for Richmond, something almost too precious for money to buy. Not only had the Native Department and its Maori and European officers survived the criticism and retrenchment of 1865-6 but it had become, for some time at least, an established institution of government.

The General Assembly in 1867 passed the Maori Representation Act. This measure has been described as a hastily constructed device to counter a specific demand by the Aborigines Protection Society in England that Maori affairs be placed under a council independent of the New Zealand Assembly. This is incorrect. Although New Zealand politicians were not unaware that the measure would please English opinion, the Act was essentially the outcome of the whole 27-year-long movement towards amalgamating the races under one framework of law and administration. Various schemes for Maori enfranchisement had been advanced in the 1846 and 1852 Constitutions, in the Kohimarama assembly called by Governor Browne in 1860, in Fitzgerald’s oration of 1862, in


resolutions of the Stafford Committee of 1863 and by Mantell, Richmond, FitzGerald and Russell in 1865-6.

In the 1867 Assembly the initiative was taken by Donald McLean. The Governor's speech of 9 July, setting out ministerial policy, made no mention of legislation for Maori representation, though it did mention extra representation of the West Coast mining district. On 28 July, J.E. FitzGerald, probably at McLean's request, sent McLean a draft of a bill on Maori representation and advised him to show it to Bell, Richmond, and others before introducing it, to allay opposition. It was generally expected that enfranchisement of Maoris on the common roll - already provided for by the 1852 Constitution Act - would proceed as the Land Court individualised Maori titles and so provided Maoris with the necessary property qualifications. But, because this would take time, and the Stafford Government wished to capture Maori support for its pacification programme, Stafford accepted as a temporary measure McLean's bill, which provided for special Maori representatives, elected by Maori manhood suffrage. The exact form of the representation - four seats, three in the North Island and one in the South - and its passage through the Assembly was probably directed by


87 FitzGerald to McLean, 28 July 1867 - McLean MSS, 215. FitzGerald wistfully added: 'I wish I could fight the question under your lead; but I always had a difficulty to contend with which you avoid - They looked on me as a dreamer and a theorist. With the great prestige of your practical acquaintance with the subject I have hopes that you may carry the measure.'

the fact that it preserved the distribution of seats between the Islands which would otherwise have been unsettled by the grant of increased representation to the West Coast goldfields. At first it was left undetermined whether the Maori representatives would be Maoris or Europeans, but McLean and the Government accepted an amendment which made it mandatory that they should be Maoris. Despite some grumbling by members who objected to special legislation for Maoris at a time when all special provisions were supposed to be ended, and a strong plea by Mantell for wider Maori enfranchisement on the common roll, the bill passed the Assembly with little difficulty.

Initially Native Department administrators treated Maori representation rather as a matter of public relations and goodwill than a serious attempt at democratic representation. Rolleston proposed arrangements to prevent a general poll, which he feared would excite tribal antagonisms and allow the votes of commoners to swamp the


90 Williamson, Superintendent of Auckland, later claimed that he had helped McLean prepare the bill and that Maori members had always been intended. (PD, 1868, vol.II, p.495). But J.C. Richmond claimed that the bill, which had at first left the question open, was amended at his suggestion to exclude European candidates from the Maori electorates, in order to placate South Island members who were alarmed at the prospect of increased European representation from the North Island. (Ibid., p.494). The South Islander, Moorhouse, who was remembered as the seconder of Fitzgerald's resolutions in favour of Maori representation in 1862, had surprised the House by speaking against McLean's bill.
influence of chiefs. He intended rather that a meeting of chiefs in each electorate should agree on a single candidate. 'I would have a good feast and a good talk and I think there would be little doubt of the thing going off well', he wrote.\textsuperscript{91} The R.M.s were instructed to this effect.\textsuperscript{92} Many Maoris treated the Act with indifference. Most of those in the disturbed districts were in fact unaware of it, while the Northland and Bay of Plenty Maoris were angry and disappointed that there were to be only four representatives. This disappointment arose not so much because they were under-represented in comparison with Europeans but because each tribe could not choose its own representative and none had confidence in a representative from another tribe within the same vast electorate.\textsuperscript{93} Thus, on nomination day, only a few Ngapuhi attended and a half-caste, F.N. Russell, was the only nominee.\textsuperscript{94} On the East Coast there was more interest but ignorance of procedure produced an extraordinary result. Campbell organised the Ngatiporou into nominating Mokena Kohere. But the nomination, signed by several hundreds, arrived at Napier - the designated place for receiving nominations in that electorate - too late. Only the Hawkes Bay chiefs, 

\textsuperscript{91} Rolleston to McLean, 17 December 1867 - McLean MSS, 362.

\textsuperscript{92} Native Office circular, 23 October 1867 - MA 4/63.

\textsuperscript{93} DSC, 20 April 1868; Williams report, 1 June 1868 - AJHR, 1868, E-4, p.31; White report, 5 September 1868 - ibid., p.37; Nesbitt report, 14 March 1868 - ibid., p.12.

\textsuperscript{94} Williams report, 1 June 1868 - AJHR, 1868, E-4, p.31. No nomination was made of Aperahama Taomui the man most spoken of before nomination day. (See also DSC, 20 April 1868).
Tareha and Karaitiana were nominated. Open voting was the procedure at that time (for both European and Maori elections) and, on a show of hands, of those assembled, 34 votes for Tareha and 33 for Karaitiana. Several of the latter's supporters were about the shops nearby, but though G.S. Cooper, the returning officer, asked, as required by regulation, if a poll was requested, no one asked for it, and Tareha was declared elected. East Coast and Bay of Plenty Maoris were bitterly disappointed. In the Western Maori electorate the leading Wanganui Kupapa, Mete Kingi Paetahi, was the only nominee. In the South Island nomination, held at Kaiapoi, three Kaiapoi men were nominated and a poll was called for. Out of about 1,000 believed to be qualified to vote in the South Island (there being no electoral roll) 80 voted and Patterson was elected. Not surprisingly, in view of the procedure, none of the elected members was a particularly notable representative of his people.

In the 1868 session European members discovered somewhat to their surprise, that the Maori representatives wished to speak in debate; an

95 Campbell (R.N. Waiapu) to McLean, 24 November 1867 and 27 May 1868 - McLean MSS, 174; Hawkes Bay Herald, 18 April 1868; H.T. Clarke to McLean, 1 October 1869 - McLean MSS, 183.

96 DSC, 23 April 1868; Wanganui Chronicle, 16 April and 21 May 1868 - MA 24/26.

97 Mackay to Rolleston, 13 December 1867, 2 and 10 June 1868 - MF-N 1/1; DSC, 23 April 1868. The three candidates were Patterson (Paratene Tamanui a Rangi), Wi Waihua (or Nahara) and Thomas Green; Wi Waihua won the show of hands, Green's supporters called for a poll and Patterson was eventually elected.
interpreter was brought belatedly into the chamber. When McLean moved a vote of censure on the Government's Maori and Defence policies, two Maori members voted with him and the Government was saved only by the Speaker's casting vote. This revealed, to European members' annoyance, that the Maori members could not be regarded as unimportant; but it was also believed that they were mere pawns, ignorant and easily manipulated by leaders of the parties in the House. This was in fact true of some of these early Maori representatives, although Mete Kingi showed an intelligence and independence of judgment that made an impression.

Meanwhile a trickle of Maoris secured a place on the common electoral roll after securing Crown Grants for their land. In some electorates

100 The settler press loved to indulge stories of the Maori members' incoherency in the House, of Mete Kingi's cadging for money or of Tareha's drunkenness. (E.g., Wanganui Chronicle, 22 September 1868, Wellington Independent, 28 August and 22 September 1868, DSC, 23 September 1868 - MA 24/26).
102 Mete Kingi's election was ratified by a special Act of the 1868 session - The Mete Kingi Paetahi Election Validation Act - because it was found that as an Assessor - a Government official - he was nominally disqualified from election. The Assembly did not wish to mar the spirit of the new move by enforcing a technical restriction (Ibid., pp.37-8).
more were enrolled at the behest of European candidates and their votes purchased.103

The Maoris had gained Parliamentary representation. But European jealousy and resentment of the four members, and the facility with which the Maori vote could be manipulated threatened to bring Maoris into such disrepute as to considerably diminish the value of their enfranchisement. Nevertheless a self-effacing motion by the servile F.N. Russell that Maori representatives need no longer be Maoris was defeated on the grounds that the experiment had not been fully tried, that it gave an incentive to Maoris to learn English and identify themselves with the general framework of Government, and that the exclusion of European candidates from Maori electorates would prevent the 'carpetbagging' of Maori votes.104

THE 1867 Assembly also passed a Native Schools Act. The launching of a system of village day schools had been under consideration since 1862. Apart from a few South Islanders, resentful of being taxed for expenditure in the North, few members in 1867 hesitated to vote the

103 Referring to the uncertain position of Carleton, member for the Bay of Islands, in 1869, Maning wrote to a friend: '...I believe a few Native votes will set him right I hope you will, as I am absent, see them registered I would do so if I was at home.' (Maning to Webster, 9 February 1869 - Maning Autograph Letters).

104 PD, 1868, vol.II, pp.493-501. During the debate both Fox and Stafford, needing Maori votes, claimed to be in favour of calling Maoris to the Legislative Council and Executive Council.
£4,000 a year for seven years with which the programme was to be commenced. A condition of Government aid was that the Maoris of a school district organise themselves into a committee, offer land for the school and make an annual contribution to the teacher's salary. This was not merely to minimise Government spending but arose largely from concern at the uncertain interest which Maoris at that time showed towards education; it was hoped that the requirement that they contribute would both indicate and capture their genuine interest in the schools. The spirit behind the Act was a compound of genuine altruism - most settler politicians and officials, including the R.M.s, were ashamed that Maori children were not being educated - and of a desire to change young Maoris into an image more acceptable to European taste.

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106 See J.M. Barrington, Maori Education and Society, 1867-1940, unpublished M.A. thesis, Victoria University of Wellington, 1965. Champions of Maori rights have tended to over-emphasise the reluctance of the Government to spend money on Maori village schools and suggested that the Maoris had to plague the Government before it would consent to finance one. (E.g., E. Schwimmer, 'The Maori Village' in The Maori and New Zealand Politics, ed. Pocock, p. 74). Actually the requirement that Maori parents had to contribute was dropped in 1871 and, because the schools were the main instrument of the Europeanisation of the Maori, the Government was only too eager to take advantage of Maori requests for them, provided it was persuaded that the interest of the community was genuine and not just a flash in the pan.

107 In a characteristic passage the Wellington Independent declaimed: '...but scrape a Maori, the most civilised, and the savage shows distinctly underneath. The "Haka" is an expose of the evil which really lies at the root of their present prostrate condition, an exhibition of the substratum of utter immorality, depravity, and obscenity, which forms the ground work of their race; and in spite of the veneering with which we clumsily cover the rough wood, we shall do nothing until we alter their entire character, by taking in hand the education, per force of the young growing saplings.' (Wellington Independent, 20 April 1867 - MA 24/27).
Under-Secretary Rolleston's influence in establishing the new system was considerable. He firmly opposed the pressure from church leaders - especially the Catholic Bishop, Pompallier - for the continuance of subsidies to the church schools, largely because he believed in principle in a secular state system of education not a sectarian one.\[108\] The church boarding schools, moreover, had often proved shoddy, ill-managed institutions, unpopular with the Maoris because they required a long separation of children from parents. That separation had been regarded by Europeans as the basic pre-requisite for 'elevating' a Maori child from the so-called communal squalor of the pa; the highly-trained youth was then supposed to lead his people into European habits of civilisation. This notoriously had not happened; either the educated Maori felt impelled to stay among Europeans, or, more commonly forgot most of his European learning on returning to his community. Now the Government determined to start quietly at the village level with, firstly, instruction in the English language. Upon that foundation the superstructure of education could be erected. Meanwhile many of the boarding schools established before 1863 had foundered during the wars and few responded to attempts to revive them in 1866-7. Many trusts for the education of Maoris had been

108 Rolleston to Richmond, 15 June 1867 - AJHR, 1867, A-3, p.1; Rolleston to Richmond, 18 February 1868 - AJHR, 1868, A-6, pp.6-8.
diverted to general use, and trusts founded for both races monopolised for European scholars. In 1868 Government aid to church boarding schools ceased and although it was later regranted to a few of the better run institutions, the system as a whole did not recover its former importance.

The R.M.'s met an encouraging response to their efforts to establish village schools. Early indifference gave way to rapidly mounting interest. Maori leaders were generous with offers of land but were hard put to find cash for their share of the teachers' salaries.

Nevertheless by 1870 13 village schools had been established, mostly in Northland, the Bay of Plenty and Lower Waikato.

The 1867 Act also provided for payment of fees on behalf of Maori children at Provincial public schools. In fact, Native Ministers of the later 1860s sought strenuously to preserve the principle of non-segregated education. Maori village schools were also open to European children in

109 See Report of Commission on Religious, Charitable and Educational Trusts, AJHR, 1869, A-5 and Report on Native Educational Trusts, AJHR, 1870, A-3, pp.26-35 and 85. The Church of England school properties at Punui (John Morgan's school), Kohanga (Maunsell's), Waerengaahika (Bishop William's), Otawhao (Morgan's and later Gorst's), Te Aute, and Porirua, and the Wesleyan schools at Kai Iwi and Three Kings, were all let. Taupiri (Ashwell's school) was revived in 1867 with a few Maori boarders. Otaki (Hadfield's school) and Motueka (the Bishop of Nelson's) were continued as day schools only. After the original buildings had been burnt down about 1860 and the few remaining Maori scholars sent to Wellington, Wanganui Collegiate School had become a preserve of Europeans. (See AJHR, 1879, Sess. II, 1-4). St Stephen's and Waima (Church of England), Takapuna, Waitemata, Rangiaowhia, and St Joseph's, Wellington, (all Catholic) and Aotea (Wesleyan), still carried on. Kawhia (Wesleyan) was closed only when the Kingites erected their aukati in 1867.

their vicinity. A.H. Russell had approved the request of the Superintendent at Taranaki that educational reserves be made in confiscated lands for education endowments, only '...on the understanding that such reserves were always to be available for both races.' He later added that he was aware of the difficulty involved in educating children of both races together yet considered it necessary 'to preserve the condition stated.'

When Richmond was considering the needs of the scattered South Island Maori communities, Alex Mackay was instructed that 'the Government is more desirous of promoting the attendance of Native children at the ordinary European schools than of establishing Native schools for Maori children exclusively.' In carrying out this instruction Mackay met with difficulty from local education authorities who objected to Maoris in their schools 'consequent on their filthy habits and their being afflicted in most instances with an incurable itch'.

Racial antagonism in New Zealand after 1840 had derived largely from settler repugnance at what was regarded as the filth and squalor of Maori communal life; the schools issue again proved that uneasy race relations derived from personal fastidiousness and prejudice as much as from conflict of economic interests. Mackay established side

112 Rolleston to Mackay, 17 January 1868 - MA 4/63.
113 Mackay to Rolleston, 13 December 1867 and 3 and 10 February 1868 - MT-N 1/1.
or branch schools on several of the Maori reserves, where the local teacher took classes after the European school had closed for the day.114 At Kaiapoi and Ruapuke Island (in Foveaux Strait), two of the principal settlements, schools for the local Maori and half-caste communities were established with General Government finance — the Provincial Council having declined to supply funds.115 under the auspices of the local missionaries, the Revds. J. Stack and J.F. Wohlers respectively.116 The General Government had to wait some years before it had much success in having Maori pupils admitted to Provincial schools but its firm advocacy of the principle of integrated schooling was to bear invaluable fruit when a national system of education replaced the Provincial system in the late 1870s.

A FOURTH great area of Richmond's activity concerned Maori land. Reference has already been made to his attempt to make a final allocation

114 Mackay to Board of Local Education, Waimate, 11 June 1868; Mackay to N. Leggatt (Moeraki Local Education Authority), 7 March 1868; Mackay to U. Sec., 22 January, 3 February, 22 June and 4 November 1868 — ibid. (See also AJHR, 1868, A-6, pp.12-13).

115 Rolleston memo., and Richmond minute, 26 October 1866 — MA 67/12, N.O. 66/1800.

116 A church boarding school had been established at Kaiapoi from both General and Provincial Governments' subsidies from the late 1850s but aid had lapsed in the mid-1860s while policy was being reconsidered. (See AJLC, 1865, n.2, pp.1-2). The Ruapuke and Southland Maoris had a special claim to free education because the Government in 1862 had held back £2,000 (one third) of the purchase money for Stewart Island to be invested for education and health purposes. This fund had been neglected during the frequent changes of Government but in 1868 was used to finance the Ruapuke school and subsidise the Invercargill Hospital to which the Southland Government admitted Maori patients free of charge. (See U-Sec. to Invercargill Hospital, 4 December 1868 — MA 4/12).
of the confiscated lands through the agencies of Native Department officials and the Compensation Court. Of at least equal importance were questions arising out of the operations of the Native Land Court, which had begun adjudicating on land in most districts of the North Island at the rate of three quarters of a million acres a year. Officials (including the R.M.s) regarded the operation of the Court with favour as signalling the end of an era of violence. In Northland the Court's decisions did indeed seem to be leading to a peaceful settlement of disputes and the establishment of sound individual farming enterprises.

The Judges were inordinately proud of their role. Maning proclaimed, '...if I can get two more years work out of my battered carcass [sic] I shall have laid a corner stone on which civilisation may be erected.' Governor Bowen complacently argued that what was being done in New Zealand after 1865 would be as beneficial for the Maoris as he believed the destruction of clanship and chieftainship to have been in the Highlands after the Rebellion of 1745.

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119 Maning to Rolleston, 11 July 1867 - Rolleston MSS, 1.

120 Bowen to Buckingham, 30 June 1868 - AJHR, 1868, A-1, pp.75-6; Bowen to Buckingham, 7 December 1868 - AJHR, 1870, A-1, pp.3 ff.
But the evils arising from the operation of the Land Court and direct purchase were cruelly apparent. Court sittings were the scene of long drawn out deliberations, packed with contending Maoris and their families, to the disruption of all normal life and the propagation of infectious disease. Matters were not helped by Courts being summoned and then adjourned because of technicalities, so that the contestants, assembling from large areas at great expense and inconvenience had to disperse and reassemble later. Except in rare instances the Government declined to supply food for these assemblies, which either bled the local Maoris dry or built up huge accounts with local storekeepers.

Fenton chose to hold sittings at central localities not always very near to the contested lands themselves. Sometimes rightful claimants did not hear of a sitting in time to travel to it, or were too old or feeble to make the journey. Sometimes they did not hear of it at all and the first intimation that some residents had of adjudication of their land was when Europeans appeared to occupy it, having purchased from those the Court had found as owners. The claims of lawyers, agents


122 Whitaker to Col. Sec., 19 February 1866 - IA 66/627; PD, 1885, vol.III p.153. Court sittings were often advertised with very short notice so that even if claimants chanced to read the advertisement in the Gazette (or Kahiti) or the local paper, or hear of it through the R.M., they had little time to assemble evidence, make a survey and arrange to attend the sitting. (See IA 66/629).
and surveyors were secured against the land and Maori claimants usually had to sell more land than they had intended in order to pay for them. Frequently they absorbed almost all the return from a block. The principles upon which Judges opted from one line or another of conflicting evidence were never very clearly elucidated and the Land Court's Maori Assessors - being bound by Fenton's ruling that only evidence presented in court would be taken into account - were not adequate guarantors of a sound decision. The use of a local Maori jury - provided for by the 1865 Act - was requested only in the Wairarapa and, because the necessary regulations had not been issued, was even then not summoned. The Court procedure encouraged Maoris, backed by European purchasers, to prefer false or exaggerated claims and by sharp practice secure a verdict in their favour. The falsification of evidence became a fine art and the temptation to acquire a title to as much land as possible and then sell it led to an abrupt decline in Maori morality and sense of responsibility towards tribal kinsfolk.

Under the 1865 Act the Court was supposed to subdivide blocks with many owners into portions with no more than 10 owners each. But Fenton arbitrarily adopted the practice of awarding whole blocks, unsubdivided, to 10 of the principal owners - as absolute owners, not as trustees.

In order to avoid the expenses of subdivision surveys Maori claimants generally acquiesced in the selection of the 10 chief men, not realising that these formerly responsible leaders of their communities would soon be drawn into alienating the patrimony of their *hapu*, who were without legal means of redress. Fenton later claimed that Hawkes Bay claimants, at the instigation of would-be purchasers, refused to disclose the names of more than 10 owners and 'the Court became helpless', but in fact he deliberately fostered the 10-owner system. He several times publicly expounded his belief that the principal men of each *hapu* should be established in property and allowed to live as gentry, while the remaining Maoris were compelled to labour for a living. At other times he did not even seem to care about reserving land for the principal men, feeling beholden only to reserve subsistence plots, fishing waters and burial grounds. In a judgment of 1880 he resisted the argument that the 10 owners should be regarded as trustees, stating:

The whole theory of the Native Lands Act, when the Court was created in 1862, was the putting to an end to Maori communal ownership. To recognise the kind of agency contended for would be to build up communal ownership, and would tend to perpetuate the evil instead of removing it.

125 Fenton memo., July 1871 - MA 13/2, N.O. 71/637.


127 AJHR, 1866, I-2B, p.41, q.677.

128 Fenton judgment, 3 November 1880, on the application for rehearing of the Owhaoko-Kaimanawa block - Hawkes Bay Herald, 4 November 1880, cit. AJHR, 1886, G-9, p.13. (For similar views see also Fenton memo., 7 April 1868 - MA 13/2, N.O. 71/1153, pp.98-101).
The 10-owner system was of course extremely convenient to would-be purchasers, and, particularly on the Hawkes Bay plain, the nominated owners soon began to divest themselves of the land, living all the while in an extravagant imitation of European gentry.\(^{129}\) Not only did the Hawkes Bay chiefs alienate surplus land, but almost all the reserves for part and future occupancy by Maori owners were also under negotiation.

The major public figures did little about these evils. J.D. Ormond boasted to McLean of the ease with which he could get reserves alienated because of the Maoris' need for ready cash.\(^{130}\) McLean, though predisposed by his previous experience as Chief Land Purchase Officer to distrust direct purchase, did not interfere.\(^{131}\) To their credit it was Rolleston, the Under-Secretary, and some of the junior officials of the Native Department - particularly G.S. Cooper, R.M. Waipukarau - who began to point up the need for reforms in the Native Lands Act.\(^{132}\)

\(^{129}\) The Hawkes Bay chiefs even had their own Club in Napier.

\(^{130}\) Ormond to McLean, 19 July 1866 - McLean MSS, 326.

\(^{131}\) Fenton, making a bid for his friendship, wrote: 'They say you are an enemy of the act. All I can say is that I wish I had a few more such enemies to deal with as Superintendents.' (Fenton to McLean, 12 September 1866 - McLean MSS, 212).

\(^{132}\) Rolleston memo., 25 May 1866 - MA 24/21; Halse to R.M. Chatham Islands, 5 December 1866 - MA 4/61; A. Mackay to Rolleston, 22 February 1868 - MT-N 1/1; J. Mackay to Pollen, 10 April 1869 - Unpublished PP, 1869, n.56; Cooper to Rolleston, 26 August 1867 - AJHR, 1867, A-15; Cooper to Richmond, 14 and 26 August 1867 - AJHR, 1867, A-15A.
Moved by their representations Richmond secured amending legislation in 1866 and 1867. The Native Lands Act Amendment Act, 1866, made it incumbent upon the Judges - it had been optional before - to take note of the needs of Maori claimants of land for their present and future use and, if necessary, to recommend restrictions on the alienation of blocks awarded to them. It further declared that all Maori reserves could only be alienated by lease of up to 21 years except with the consent of the Governor in Council. The Government also took power to suspend the operation of a Land Court in cases where the pressing of a disputed claim threatened to disturb the peace of the district.

But as the Judges still placed under restriction very few of the blocks subject to their award, section 17 of the Native Land Act 1867, went much further. It required the Court to determine all the owners of a block brought before it, whether or not they put in a claim and - while it could still enter only 10 names on the Certificate of Title - to enter all the owners on the Court records. As in the case of reserves, the 10 nominated owners could not alienate the land save by

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133 Of 371 certificates awarded by the Court prior to 30 June 1867 only 49 carried restrictions on alienation. (AJHR, 1867, A-10C). These were apparently ordered mostly by Maning who claimed that half to two-thirds of his orders made land inalienable. (Maning report, 24 June 1867 - AJHR, 1867, A-10, p.7).
lease of 21 years, except with the consent of the Governor in Council.\textsuperscript{134} The Maori Real Estate Management Act, 1867, also provided that the interests of Maori minors should be vested in Trustees - either adult Maoris or Europeans involved in Maori administration - and that the trustees could not alienate other than by 21 year lease, without the consent of the Governor in Council.\textsuperscript{135}

These restrictions were highly unpopular with considerable sections of the settler community. Richmond and his colleagues faced a barrage of criticism: it was reported of Whitaker that "Queen Street" is very angry with him... for the share they suppose he had in the Native Lands Administration Act.\textsuperscript{136} There was a great deal of talk about how the Maoris were being over-protected and the usual argument of 'one law for both races' was produced. Pseudo-humanitarians argued that the

\textsuperscript{134} The Act also provided for the appointment of an Inspector of Surveys (the first appointee was Theophilus Heale) to bring some order into the chaos of uncoordinated and amateurish surveying of Maori Land. Rolleston had observed that surveying was to a great extent 'a business of trust and the particular work under the Native Lands Act especially!' (Rolleston to H. Jackson, Chief Surveyor, Wellington, 17 July 1866 - MA 4/8). Many surveyors under the Native Lands Act were not particularly scrupulous in discharging that trust.

\textsuperscript{135} In this matter too, Richmond revealed that he had been educated by the representations of others more concerned for Maori rights: in 1866 he had had no objection to Maori adults selling the interests of minors. (See Rolleston to the Rev. R. Taylor, 20 September 1866 - AJHR, 1866, A-8, p.9).

\textsuperscript{136} Haultain to Stafford, 24 November 1866 - Stafford MSS, 38A. Whitaker was angered by this criticism and talked of resigning the position he then held of Resident Minister in Auckland. (Haultain to Stafford, 4 March 1867 - ibid). 'Queen Street' alludes to the Auckland business community.
preservation of reserves was perpetuating communism and slothfulness and that the sooner the Maoris dispensed with their land entirely in order to necessitate their working for a living the better.  

Richmond stuck to his policy with some vigour. He successfully opposed a move by Carleton - who deplored the 'Maori sympathy' of the Government - to rescind the 1866 Act. Like most Ministers who took charge of Maori affairs he had discovered that it would be a hardship to apply prematurely the prevailing settler dogma - to which in 1865 he had himself subscribed wholeheartedly - of equal laws for both races. His 1866 and 1867 amendments, he said '...formed a sort of cushion upon which the Native race might be let down more gently into perfect self-reliance.'  

He was supported by John Hall who, in reply to a complaint that difficulties were being placed in the way of 'capitalists' seeking to buy Maori land, that too much was being said about Maoris being British subjects and having the right to sell land as they liked. They had not, in fact, become accustomed to the responsibility of individual property rights, were imprudent, and needed restraint. The Native Office took the unusual step of issuing a press statement regretting the lack of good relations between it and the public and explaining the purpose of the 1866 Amendment.

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138 Ibid., p.272.
139 Ibid., p.279.
Act:

It is not meant to restrict permanently the alienation of any native land, but only to retard the alienation of some small portion of it till the Maori race have taken their ultimate position in the colony, and can be relied on to provide for themselves as the European does.¹⁴⁰

This statement in fact epitomises the spirit of the main line of Maori land legislation for the next two decades. The best that people of Richmond's views were able to do was to fight a sort of holding action on behalf of the Maoris.

Requests for the removal of restrictions imposed against Maori land by the Acts of 1866-7 were normally handled by the Native Office and Rolleston and Richmond normally declined to approve them. A precedent was set by an early decision to decline the alienation of sections in the Pipitea and Te Aro pa in Wellington, despite the hostility of the settlers to the Maori communities in their midst, and Rolleston proved a firm watchdog for the Maori owners.¹⁴¹

Nevertheless the security of reserves and restricted lands was still most uncertain. The Provincial Compulsory Land Taking Act 1866 - relating to the taking of land for public works - was applied to Maori lands which had passed the Land Court, including reserves.¹⁴²

The Stafford Government had come into office dependent upon support from

¹⁴⁰ Halse to J. Burslem - DSC, 27 February 1867

¹⁴¹ Rolleston to A. de Bathe Brandon, 11 October 1866 - MA 4/10. As a result of this incident Fenton was asked to write the restrictions against the alienation of reserves into the Crown Grants. (Rolleston to Fenton, 28 September 1866 - MA 4/10).

¹⁴² Provincial Compulsory Land Taking Act, 1866, s.6. Largely from fear that rapacious Provincial politicians could provoke from the Maoris further rebellion, the Government defeated a proposal to make the Act applicable to Maori customary lands. (PD, 1864-6, p.786).
Otago members, which was secured by the promise to the Otago Provincial Council of a grant for the Princes Street reserve, and Stafford fulfilled that promise. 143 A further illustration was provided by certain Maori reserves, made by the New Zealand Company in Wellington, which had been taken over by Grey in the 1850s to endow schools and hospitals for the general public and to provide for an Army ordnance depot. Mantell had tried and failed, in 1865, to retrieve the reserves for the Maoris or have compensation paid. In 1868 Rolleston drew the attention of Richmond to the reserves, arguing that their alienation was in contravention of engagements, expressed or implied, with the Maoris and a constant source of grievance which poisoned Maori-Pakeha relations well beyond Wellington itself. Richmond adopted Rolleston's minute entirely and enlarged upon it in an impassioned draft memorandum to the Cabinet calling for the payment of compensation "for the sake of justice and our national honour". 144 But no compensation was paid by the Stafford Government.

143 The reserve had been made for the Maoris in 1853 but nor Crown Granted; Stafford claimed to have 'inadvertently' passed up to Grey a Grant making over the land to Otago, and Grey to have 'inadvertently' signed it with others in the bundle - a chapter of highly convenient accidents which strains credulity. (Unpublished PP 1867, report and minutes of evidence of Petitions Committee on the petition of John Topi Patuki; Rusden, A History of New Zealand, vol.II, p.39). In a late act of service to the Maoris J.E. FitzGerald, as Commissioner of Audit, blocked the transfer of accumulated rents for the reserve to the Otago Provincial Council, on the ground that the Government could not cite an Act authorising the transfer. He suggested having Grey prosecuted for misuse of property of which he was trustee. (FitzGerald to Mantell, 15 April 1866 - Mantell MSS, 278).

144 Rolletton minute, 13 February 1868 and Richmond minute, 18 February 1868 - MA 17/1, N.O. 68/441; Richmond draft memo., 25 February 1868 - MA 17/1, N.O. 70/1426 and attached papers.
With the Princes Street case in mind Richmond wrote of Maori reserves that:

At present they are almost absolutely in the hands of the Executive, who are subject to heavy pressure on political grounds from friends and foes...The public morality is not delicate on such points, and a trust property which stands at all in the way of the public improvement or a public desire would be summarily dealt with by the public if they had the chance.^[145]

He contemplated placing all reserves under a trust independent of Government - possibly under the direction of the Supreme Court - but in the end had only a few individual reserves placed under trustees. Most reserves, and a proportion of blocks now adjudicated upon by the Land Court, remained in the position left by Richmond's 1867 Act - inalienable save by a 21 year lease except with the consent of the Governor in Council. Whether the necessary restrictions were maintained depended upon the perception and integrity of the Government of the day.^[146]

A further reason for the frustration of reform in Maori land legislation was the willfulness and self-aggrandisement of the Land

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146 Cooper report, 1 April 1868 - AJHR, 1868, A-4, p.15. Maori owners of Crown Granted land were threatened with prosecution under the Sale for Non-Payment of Rates Act, 1862; but although some Maoris in towns had paid some rates from at least as early as 1863, (see Charles Brown memo., 2 May 1863 - AJHR, 1863, E-18), rates were not levied on rural Maori land at that time.
Court Judges, especially Chief Judge Fenton. The first Court sittings had taken place amidst considerable concern as to whether the Maoris would respect the Judge's decisions. That the early judgments were quietly accepted depended essentially, the Judges claimed, upon the Maoris respecting their prestige and knowing them to be independent of the Government. There was much truth in this, but Fenton soon showed that his anxiety to establish the independence and prestige of the Court was influenced not only by considerations of public interest but by an extraordinary egotism. In fact he not only opposed what he called interference by the Government - for example the power taken in the 1867 Act to postpone Court sittings if they threatened the peace of a district - but set out to influence Government policy. He adopted the practice, already described, of awarding blocks to 10 owners only. In an attack on the Amendment Act of 1866 - which he wanted repealed entirely - he admitted that individualization of title and the location of Maoris on their own farms was not going to take place as expected and that intemperate selling of land was abounding, but:

...it is not part of our job to stop essentially good processes because certain bad and unpredictable results may collateral flows from them, nor can it be averred that it is the duty of the Legislature to make people careful of their property by Act of Parliament as long as their profligacy injures no one but themselves.

147 Fenton to Rolleston, 27 September 1866 - Rolleston MSS, 1; Manning to McLean, 29 January 1867 - McLean MSS, 311.

148 Fenton to Nat. Min., 11 July 1867 - AJHR, 1867, A-10, pp.3-5.
He also attacked the 17th Section of the 1867 Act\textsuperscript{149} and, assuming that he had a 'discretion' whether or not to apply it, continued to issue Certificates of Title to 10 owners as if they were the only claimants.\textsuperscript{150} He made no effort to explain Section 17 to Maori applicants and as late as 1871 Hawkes Bay Maoris did not even know of its existence.\textsuperscript{151}

It later proved that Fenton was not incapable of conceiving measures beneficial to Maori interests, but they had to be seen to proceed clearly from himself or add to his powers as Chief Judge.\textsuperscript{152}

If anyone else advanced them, especially in such a way as to touch on

\textsuperscript{149} See above p.237.

\textsuperscript{150} Fenton, opinion on the 17th Clause of the 1867 Native Lands Act, 7 April 1868 - MA 13/2, N.O. 71/1153, pp.99-101.

\textsuperscript{151} Haultain to McLean, 18 July 1871 - AJHR, 1871, p.4. In the Assembly Richmond noted that the 17th Section was an important attempt to safeguard Maori interests which 'he was sorry to say...the Court had not seen its way to carry out. However the Government, finding themselves foiled by the unwillingness of Mr. Fenton to cooperate with them, had sent hurriedly round to discover cases where the 17th Section had been overleaped by the Court and to obtain declarations of trust on the part of those Natives who had received grants for their tribes.' (PD, 1868, vol.IV, p.231; see also vol.III, p.25). Fenton, however, claimed that 'as soon as I perceived this evil [of the 10 nominated owners alienating the land of their people] I urged upon the Government the urgent necessity of getting trust deeds executed, but little in this way was ever done.' (Fenton memo., n.d., circa July 1871 - MA 13/2, N.O. 71/1637). It might have been difficult to judge which of the two, Richmond or Fenton, was the barefaced liar in this matter except that Richmond had given some real evidence of his desire to protect Maoris from landlessness and Fenton had not only been careless of them but had openly expressed his hostility to Richmond's measures to prevent Maori landlessness.

\textsuperscript{152} See below pp. 362 and 363 for his proposals for the management of Maori reserves in 1870, and pp.436-7 for the equitable scheme of management for Rotorua lands in 1880-1.
his 'discretion' he violently opposed them. A fair assessment of Fenton's complex and contradictory behaviour was given by a colleague: 'That man's life is one constant scheme what might once have been Utopian enthusiasm has turned into scheming for self-advancement & specious toadying.' However a majority of settlers were either unaware of Fenton's highhanded behaviour or found it served their interests. They were inclined to support his view of the Land Court, against the view of J.C. Richmond, J. Mackay and other officials, that its activities were dangerous and irresponsible and that it ought only be a board or commission, its sittings and even its decisions subject to review by the executive, if they threatened to provoke a breach of the peace.

In comparison with that of many of his contemporaries Richmond's record with regard to certain aspects of the Maori land question was a creditable one, but it was by no means uniformly in favour of Maori interests. Richmond had included in the 1867 Land Act, besides the clauses amending the '10-owner' system, greater facility for surveyors and speculators to secure mortgages over Maori lands. In response to the claims of the Canterbury Maoris (the Ngaitahu) to enlarged

153 Drummond Hay to McLean, n.d., circa 1870 - McLean MSS, 257, n.14. Maning wrote: 'I don't think that New Zealand holds any man who really has or can have any liking for him, he will do anything for anyone who can be brought thereby to serve his purpose.' (Maning to Webster, n.d., circa 1870 - Maning Autograph Letters, n.499.)


155 Native Land Act, 1867, s.33.
reserves Richmond approved their being extended from a pitiful 10 acres per head to an equally pitiful 14 acres per head and closed off further consideration of the question by an act of the Assembly. With regard to the securing and holding of as wide an extent of confiscated land as possible, it was clear that Richmond was more extreme and warlike than most of his ministerial colleagues. And with regard to a variety of minor grievances it was apparent that unless a question was constantly and forcefully brought before Richmond by a zealous and determined local official, or by the Maoris themselves, it escaped remedy. In summary, Richmond's approach to land policy revealed the ambivalence characteristic of most settler politicians who had charge of Maori affairs - the determined pursuit of settler advantage being tempered by some paternalistic regard for the needs of the subdued Maoris. Thus he showed considerable determination to preserve the Maoris' last acres for

156 The Ngaitahu Reference Validation Act, 1868 - See also evidence on the petition of Te Oti Mutu, unpublished PP, Native Affairs Committee, 1880, Sess.II, n.1, and McLean to Buller, 19 September 1876 - McLean MSS, 237. In 1870 the South Island reserves were estimated to average 53.5 acres per head, ranging from 16.5 acres in Canterbury to 120.8 acres in Nelson. (AJHR, 1870, D-16, pp.45-6). The land varied from very good to very poor in quality.

157 See below pp. 270-1 and 277

158 The Wairarapa Maoris were entitled to 5 per cent of the profit of the resale of Wairarapa land by the Crown to private settlers. The matter of payments outstanding since 1853 was raised in 1865 and neglected till the Maoris petitioned again in 1869. (MA 24/22, N.O. 65/1782; AJHR, 1869, F-9). The taking over in 1868 of the outbuildings of the Maori hostelry in Molesworth St. Wellington, for Governor Bowen's horses, was held by Richmond's critics to be a further example of his carelessness of Maori rights. (PD, 1869, vol.VI, p.60).
their own use, and to prevent the most glaring frauds and injustices, but an equal determination to acquire and hold the great bulk of their lands.

A degree of paternalism was also apparent in a number of miscellaneous questions to which Richmond gave attention. Administratively, certain useful favours were shown the Maoris, among them the provision of hostelries in towns such as Napier and Tauranga, and the granting of public works contracts to Kupapa tribes.\footnote{The Juries Act of 1868 repeated (in respect of Supreme Court and District Court hearings) the special provisions of 1862 which provided for the calling of all-Maori juries in disputes between Maoris, and mixed juries in civil - but not criminal - disputes between Maoris and Europeans. \footnote{The Sale of Spirits Ordinance gave rise to much controversy. Drunkenness had generally increased and was encouraged by the daily rum ration issued to Kupapa troops; illicit Maori (and European) 160 E.g., the Protection of Animals and Oyster Fisheries Acts of 1867. \footnote{Mixed juries had been called in the District Courts in 1866 and 1867 at the trial of Europeans accused of supply arms to rebel Maoris. (DSC, 15 September 1866 and 19 November 1867). Occasionally mixed Coroner's juries were called in the case of Maoris found dead. (DSC, 12 May 1868).}
grog houses flourished. The Government virtually gave up attempting
to prevent illicit sale of liquor to Maoris, A.H. Russell having
deprecated Alex Mackay's request for more police to control the public
houses at Nelson, because, he considered, 'it would be impossible for
any number of constables to stop this evil by main force.'\textsuperscript{162} However,
legislation was not yet forthcoming to embody his viewpoint, the
Stafford Government believing that the Sale of Spirits Ordinance should
be retained.\textsuperscript{163} Throughout the 1860s legal prohibition remained the
rule, but with the additional factor of increasing numbers of
individual chiefs overcoming their addiction and forbidding the
consumption of liquor in their kainga.\textsuperscript{164} In some rare communities,
such as Hokianga - Maning's district - Europeans assisted them in this endeavouer.

\textsuperscript{162} Reported in Rolleston to A. Mackay (C.C. Nelson), 13 June 1866 -
MA 4/61.

\textsuperscript{163} PD, 1867, vol.I, part 1, p.540.

\textsuperscript{164} E.g., Williams to Nat. Min., 14 October 1867 - JC-Waimate 1.
Native Department officials continually reported both the addiction
of successive districts and the quite remarkable throwing off of
their addiction by Maori leaders and the imposition of restraint
upon their people. See for example, the contrasting reports of
H.T. Clarke, 1863-4, and Alex Mackay, 1868, on the Otago and
Southland Maoris. (Clarke report, 29 September 1864 - unpublished
PP, 1864, n.1; Mackay to U. Sec.\textsuperscript{6} and 18 January 1868 - MT-N 1/1).
The Situation in 1869

The 1860s was a decade of experiment and change out of which emerged the main lines of Maori policy and administration and the main pattern of race relations, which persisted without major alteration until after 1945, and which even now substantially endures. The reasons for the confusion of policies offered in these years were summarised by Governor Bowen in 1868:

...when...the Legislature is divided between...two conflicting parties, but neither of them can be sure of a working majority of more than two or three votes in the House of Representatives - when almost every leading member of both Houses has a Native Policy of his own, and is swayed by various kinds of personal and local feelings and interests....there can be little consistency of policy or unity of action.1

Nevertheless, among the conflicting personalities and interests a small number of men are of outstanding importance. They were, among politicians, Whitaker, Weld, Mantell, McLean, FitzGerald and J.C. Richmond, and, to a lesser extent, Fox and A.H. Russell. Among officials Rolleston and Fenton exerted the most important influence. The most formative years were from 1865-7, when Richmond — as a member of both the Weld and Stafford ministries — Rolleston and McLean had worked in harmony.

1 Bowen to Buckingham, 7 December 1868 — AJHR, 1870, A-1, p.1.
Policies were shaped basically by the fact that New Zealand was suited to white settlement, rather than merely trade or plantation agriculture. Settler politicians and officials, almost without exception, were agreed on certain fundamentals. These were that the Maoris must be brought into submission to the authority of the European colonists and that the bulk of their lands must be opened to colonisation. Apart from substantial areas of resistance in the central North Island and Taranaki, this had been virtually achieved by 1869. Although the rule of European law had not been fully obtained even among Kupapa tribes by 1869, the balance of power was now so decidedly in favour of the settlers that they were willing to approach the complete attainment of European dominion more slowly.

Certain alternatives had been rejected. By the denial of Tamehana's requests for limited recognition of the King movement, and by the defeat of FitzGerald's Native Provinces Bill in 1865, the possibility of a semi-independent Native Protectorate as occurred in Tonga had been virtually ruled out. The winding-up of the Runanga system had ended the possibility of the codification and enforcement of Maori custom, by local Native authorities. There was to be no development of a separate Native administration as occurred in Fiji. Nor was the Native authority to be used for the determination of customary land title as in Tahiti under the French.

On the contrary effect had been given to policies aiming at racial 'amalgamation'. The Maoris had been granted theoretical legal equality with the settlers, by act of the Assembly;² the era of

² The Native Rights Act, 1865.
missionary dominion and education had been ended, and Maori children were being taught English in state schools; there were four Maori representatives in the House of Representatives; the Polynesian system of land holding was supposedly being reduced by English judges to an individual English-style tenure; the Runanga system had been discarded and the Maoris generally made subject to English common law. All these features, though amended, remain substantially part of the Maori situation to this day.

Having achieved the substance of what European opinion agreed was desirable some of the more sensitive policy-makers were willing to make special provision and concession to Maori needs in order to permit of a more gradual - though more certain - adaptation to the new order. Hence the legislation of 1866-7 to curb the total despoliation of Maori land, protect Maori reserves, continue the Assessor system, provide for Maori juries and grant special Maori fishing rights.

These deviations from the main policy of 'one law for both races' roused criticism from the selfish and the doctrinaire. Politicians grumbled at the excessive number of special Maori acts in 1867 and a newspaper editor, criticising expenditure on Maori Assessors, wrote: 'we see £50,000 a year spent in making them like ourselves, then £20,000 spent in keeping them apart'. Assembly debates on Maori affairs invariably brought clashes between those who had some real concern for Maori welfare - such as Charles Heaphy, V.C., the Maori war hero - and those - like Cracroft Wilson - who wanted merely to bring the Maoris to

3 E.g., PD, 1867, vol.1, part 2, p.1153 (Kenny).
4 DSC, 20 May 1868.
heel, expose their lands to settlement and then forget them. A division
was frequently revealed between men who had had close contact with
the Maoris, and others, especially South Islanders, who had had little
to do with them and simply enunciated a doctrinaire point of view.
But the doctrinaire sometimes changed their views on closer contact
with Maori administration. Thus A.H. Russell proved the forerunner of
several who came into office expecting to abolish all special law and
administration for Maoris and, as Native Minister, not only became
convinced of its necessity but began to champion more special provisions.
These men were considerably influenced by officials, such as Rolleston,
who had permanent and detailed contact with Maori affairs and better
appreciated Maori needs.

Because they had, supposedly, provided both the benefits of full
equality with the Pakeha and additional privileges and protective
measures as well, it became axiomatic for New Zealand politicians from
the late 1860s to boast of how magnanimously they had treated the Maoris
and how wonderfully well they had provided for them. 'Even amidst the
turmoil of war', intoned one politician, 'there was through the tenor of
the debate a kind, gentle, tender, and considerate feeling towards the
natives'. European officials claimed with pride that they had freed the
tribes from the bloodshed and tyranny that prevailed in the period of
musket warfare prior to the British assumption of sovereignty, and took

5 PD, 1868, vol.III, p.234. See also the comment of Travers: 'He thought
it would be admitted by impartial observers outside the Colony, that
there had never been any action on the part of the colonists which was
intended to injuriously affect the Native Race. On the contrary, the
whole course of the legislation of the Colony had been devoted from its
very commencement to the preservation of the race, and to inducing them
to embrace the arts and habits of civilization'. (PD, 1869, vol.VI, p.76)
pride in the fact that Maoris increasingly dwelt in wooden cottages instead of raupo whare, sent their children to school and ate a variety of meats instead of fernroot and shellfish. In some districts, such as Hokianga, where Maoris and a limited number of settlers dwelt amicably, they even boasted an increase in the Maori population. This view of their achievement became something of a national legend among New Zealanders. Vogel and Grey were subsequently to base a claim for New Zealand administration of Pacific Island territories on the ground of the colonist's good record in handling the Maori situation. If many Maoris were not benefiting from the settlers' enlightened administration it was believed, they had only their own stubbornness or laziness to blame. It took much pressure from the Maoris themselves, from scholars and from more sensitive administrators to shake the complacency of the settlers in their achievement and show them the flaws in the system they had imposed.

The attitude of the policy makers of the 1860s was generally that of Roman imperialists. Stafford, in 1868, frankly recognised that the Maoris in rebellion resented the extension of British dominion. 'What should we think', he said, 'if we saw the French flag flying at the Horse Guards, however tenderly that nation might treat us'. But this was no ground for halting the conquest: it was simply something that had to be got over with quickly, whereupon the Maoris were expected to

6 See the comments of Heaphy on the changed situation of the Westland Maoris. (Heaphy reports, 11 July 1870 - AJHR, 1870, D-16, p.35).
7 Maning to McLean, 24 February 1870 - McLean MSS, 311.
rapidly appreciate the benefits of their conquerors' institutions. Settlers and officials had no desire to spend money or effort in preserving Maori institutions. They had, moreover, persuaded themselves that the preservation of the Maori race depended upon Maoris adopting an English pattern of life. These attitudes were reflected in the selective way in which legislation was implemented. The village schools, teaching English language and culture, were fostered vigorously; but measures which had a tendency to preserve separate Maori identity were neglected. Thus, the act of 1868 providing for Maori juries was not followed up by the necessary regulations to give it effect; an order of the Legislative Council for Bills affecting Maoris to be translation into Maori was rarely acted upon; and the Cattle Trespass Ordinance of 1846 whereby Maoris could sue for trespass on unfenced cultivations was not implemented because, as Sewell put it, 'Our old world notions revolt at the idea of giving any man protection who does not keep his fences up.'

Roman imperialism and enforced Anglicisation might have been less open to criticism if they had been more thoroughgoing. But not only were the special provisions for Maoris not properly implemented but Maoris were denied assistance and encouragement to enjoy the full range of opportunities open to Europeans. Settler opinion at the end of the wars was marked by a fervid racialism. In a Waikato Land Court, a settler objected to a Maori 'lawyer' (actually an agent) appearing on his behalf, allegedly because 'the spirit of an Englishman could not

10 AJLC, 1868, p.65.
brooke the degradation of being represented in Her Majesty's Court by a Maori'. The newspaper report added, '...the time may yet come when an Englishman will receive legal assistance from a Maori; but thank Goodness, it won't be in this generation'. A similar racial prejudice, as well as more practical questions of personal hygiene, made it difficult for Maoris to find places in European schools, hospitals and lodging houses.

Only resolute assistance from the state could help Maoris overcome this sort of hostility, but officials tended to view the Maori people rather as museum pieces to be preserved for the greater renown of their custodians rather than as intelligent beings capable of constructive contribution to their own and the general community's well-being. The dominant tone was patronising. Governor Bowen wrote complacently of the efforts made in New Zealand to preserve the 'surviving remnant of a most interesting race'. The Maori was viewed as merely a superior kind of 'native' deserving of a certain indulgence.

Thus while the Maoris were given a share in European institutions it was usually at a subordinate level. Where real amalgamation implied common electoral and jury roles, the Maoris were given four special members and special provision for Maori juries in particular cases. Where real amalgamation implied the appointment of Maori local officials capable

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12 DSC, 6 March 1867.

13 The public hospitals at Auckland and Wellington, built by Grey during his first Governorship, for both races, still readily admitted Maoris free of charge (several had in fact virtually lived there, one for seven or eight years) but the Provincial hospitals charged fees and virtually excluded Maoris (see evidence of Dr. Johnston, AJHR, 1870, A-3, p.22).

of independent contributions to policy and administration, they were
restricted to the rank of R.M.'s Assessor. Where real amalgamation
implied giving the Maoris a share in the administration of the
reserves they had vested in the Crown, and the lands they had made
over to the churches as education trusts, these were entirely under
the control of European trustees; where real amalgamation implied that
Maori leaders be given a responsible role in the determination of land
titles, they were reduced to the position of litigants or, at best, Land
Court Assessors. The concept of 'equal rights' was strangely distorted in
practice. Thus when all payments of claims for war damages — which
Kupapa Maoris as well as settlers had been entitled to make — had ceased,
it was found that all but £1,957 of £55,765 awarded to Europeans had
been paid, but not only had many of the Maoris' claims not been heard,
but they had received only £927 of the £2,412 awarded them. 15 When the
Military Pensions Act of 1866 to provide gratuities for soldiers wounded
in the war and the widows or children of those killed was passing the
Assembly it was, at McLean's suggestion made applicable also to Kupapa
Maoris. 16 But the rates of pension for Maori chiefs, although they often
bore officers' rank and did much more effective work than most European
officers, were equal only to those for European N.C.O.s. and privates,

15 AJHR, 1871, G-42, p. 5; MA 61/7. A committee of the House of
Representatives in 1867 reported that except in the case of damage
caused by certain unauthorised activities by defence forces it was
contrary to established convention that damage caused by 'hostile
invasion' be paid for out of public revenue. The committee also
tried to foist onto the English Government the responsibility for
any damage caused by imperial troops after Weld's formal request for
their withdrawal in 1865. (Evidence of T.W. Lewis, petition of Tami

16 Biggs to McLean, 28 August 1866 - McLean MSS, 149.
and the rate for Maoris other than chiefs considerably lower still.\(^\text{17}\)

Thus, despite the proud boasts made in 1839–40 that the Maori people would be placed on a level with the European colonists, it was apparent that officials and settlers in New Zealand, their thinking bounded by prevailing notions of the inferior capacity of native peoples, had reduced the Maoris to subordination and place in tutelage men of great intelligence and adaptability.

The most unfortunate results, however, flowed not from the tendency to offer Maoris only a lesser share of what was available to Europeans, but from the prevailing belief that certain matters were in any case beyond the scope and function of the state. One of these was preventive medicine. By 1868, largely owing to the efforts of a Dr. Cusack, who treated a measles epidemic in the Nelson district and had his conclusions published in the *New Zealand Gazette*, the notion that the Maoris were an inherently weaker species of mankind, doomed inexorably to barrenness and extinction, was officially — though not popularly — discarded. It was recognised that the very high Maori death rate, especially the infant mortality rate, could be checked by good diet and medical care.\(^\text{18}\) But though the Government provided a number of resident Native Medical Officers and almost invariably sent doctors to provide food and 'medical comforts' to areas affected by epidemic,\(^\text{19}\) officials believed that measures necessary to prevent epidemic were beyond them and

\(^{17}\) See schedule to Military Pensions Act, 1866.

\(^{18}\) Cusack memo., *N.Z. Gazette*, 1868, p.72; see also Williams report, 1 June 1868 — AJHR, 1868, A-4, p.23.

\(^{19}\) The sending of a doctor to an afflicted area for the duration of an epidemic, was virtually automatic.
that they could do no more than coax and admonish Maoris with regard to necessary reforms in diet, clothing, hygiene and housing, though without much hope. Barstow, R.M. Bay of Islands, lamented:

> It may be that when but a few, a handful, or survivors remain, our control over them shall be so direct and absolute, that we may be able to enforce sanitary and dietary regulations, and as it were compel them to exist in spite of themselves.\(^{20}\)

A further important question with which the Government was both unable and unwilling to cope was that of the individualisation of Maori land tenure. Maoris were expected to benefit by becoming small farmers, but nineteenth century administrators did not appreciate the need for sustained and detailed guidance, by men sympathetic both to the values of the old society and the economic needs of the new, if the Maoris were to make a successful adaptation from communal to individual land holding. In rare cases where subdivision surveys were made for a Maori community – as at Kaiapoi in the South Island and Putiki near Wanganui – officials were discouraged by the Maoris' tendency to disrupt or ignore the arrangement soon after they had left.\(^{21}\) Generally the Maoris were expected to arrange and pay for surveys, pass the land through the Court and make a most complicated social adjustment, virtually unaided. As a result titles were rarely individualised even on paper. When the owners of the Arowhenua reserve in Canterbury attempted individualisation, they were so discouraged by the heavy bills for surveys and Crown Grants that early enthusiasm gave way to bitterness and the remaining South Island communities were discouraged from following the example of Arowhenua.\(^{22}\)

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22 Reimenschneider to Rolleston, 22 May 1866 - AJLC, 1866, pp.49-51.
New and radical modes of thought had to become more general before the New Zealand state could provide the finance and train personnel to undertake adequate preventive measures for combating ill-health or to establish and direct farming enterprises in respect of either race.

Nevertheless, when all its shortcomings have been admitted European rule in 1869 promised better things, if not immediately, at least in the future. The prevailing Protestant ethic, though often abused and neglected, did introduce a greater respect for individual life than old Maori society had known. Slavery, infanticide and internecine warfare, the casual killing by chiefs of women who displeased them—these things had brought fear and misery and, for the most part, the Maoris were glad to see them go. The rule of law provided no magic talisman for Maori well-being; rather it was under the cover of legal enactments that the Maoris were exposed to a ruthless process of land purchase. But the rule of law did provide generally for the protection of persons. The fact that even before the end of hostilities a local R.M. could gaol a European for assaulting a Maori in Taranaki, or that the Government immediately took out a warrant of arrest against the captain of a vessel from which a shot was allegedly fired at a Maori fishing canoe, indicated a regard for native rights notable in a country passing through the crux of the colonising process. The survival of the Native Department with an extensive staff of European and Maori offers also meant that there was a machinery generally sensitive to Maori attitudes and needs. Furthermore though their vision was limited, officials in control of Maori policy

23 Taranaki Herald, 10 October 1868 - MA 24/26.
24 Halse to Pollen (Resident Minister, Auckland), 28 July 1869 - MA 4/12.
were nevertheless a good distance ahead of the frequently rabid anti-Maorism of rank and file settlers. No Native Department officer was concerned to halt the progress of colonisation at the Maoris' behest, but many were prepared to slow it and help Maoris make some adjustment to it. Thus it was largely on the recommendation of local officers that J.C. Richmond became aware of the need for amendments to the land laws in 1866-7.

The social condition of the Maoris at the end of the 1860s does not admit of easy generalisation since it varied enormously even within a small district. Some Maoris were prospering exceedingly. The Thames Maoris within about five years drew some £10,000 in miners' rights and a similar sum from rents; Taipari, a leading Thames chief drew up to £4,000 a year of this, employed European surveyors to lay out a town on his own land and built himself a large English-style house commanding it; at Kaipara the principal chiefs drew £5,000 a year from rents and timber and kauri gum royalties; the Greymouth Maoris drew a considerable income from the town which was built on their reserved land; the leading Hawkes Bay chiefs travelled in carriages and ran their own club in Napier;\(^\text{25}\) up to 1,000 Maoris were employed in the defense forces of the Colony at the same rate of pay as European militia\(^\text{26}\) and that many more were benefiting from road contracts begun by the Hawkes Bay Provincial

\(^{25}\) Bowen to Granville, 10 January 1870 - AJHR, 1870, A-1, p.66; Bowen to Buckingham, 14 April and 1 July 1868 - AJHR, 1868, A-1, pp.64-5 and 81; Bowen, \textit{Thirty Years of Colonial Government}, vol.I, p.379.

\(^{26}\) AJHR, 1869, D-17; Bowen to Granville, 6 July 1870, AJHR, 1870, A-1B, p.18. The pay was 4/- a day but European Armed Constabulary drew 2/- a day extra while employed on road construction. In 1872 the Native Contingent at Te Teko struck for the extra 2/-. (PD, 1872, vol.XIII, p.830).
Council and the General Government in 1868.  

But these things favoured only some districts and only some Maoris within those districts. In areas most affected by war and confiscation, loyal and rebel Maoris alike cultivated only for subsistence and at times depended upon Government doles. Land sales were beginning to produce, after a flush of wealth, indebtedness and confinement to shrinking reserves, ill-used or partly used owing to multiple ownership, and constantly subject to trespass from settlers' cattle.

The South Island Maoris formed a proto-type of what was to be the fate of many in the North Island. Many dwelt on reserves that were too small for economic farming even if the problem of multiple ownership had been overcome, the soil in some cases already exhausted by repeated subsistence cropping, the forest behind the reserves, where Maoris had hunted, increasingly restricted by European settlement and the swamps which had been sources of eels, increasingly drained. In 1864, at the height of the liquor craze in the South Island H.T. Clarke had found the Canterbury Maoris far from exemplifying the benefits of European rule, that Domett was then vaunting, but 'as a people...squalid, miserable and lifeless' and subject to a very heavy mortality. By 1868 most of the South Island communities had thrown off drink, almost entirely. But, depressed, bewildered and resentful at the immensity of the social dislocation they had experienced, they only toyed with economic enterprises


28 Reports of Searancke and Stewart, Mar 1868 - AJHR, 1868, A-4, pp.4-5.

29 AJLC, 1866, pp.47-9 and 59.

and lived a hand-to-mouth existence, compounded of a little subsistence cropping, a little return from reserves let to Europeans and a little wages from seasonal work such as shearing. They dwelt in wooden cottages, usually said to be an improvement on stuffy raupo whare, but in fact cold and draughty 'coffins above ground'.

Until the war the settlers had still been heavily - at times absolutely - dependent upon the Maoris for food, fuel and the tenure of land; now they bore the stamp of conquerors, were able to acquire what they desired with much less dependence on Maori favour and cooperation, and were thus increasingly inclined to display their contempt of 'the Natives'. Urban settler communities in particular were increasingly inhospitable to Maoris and by the end of the 1860s Maoris who had hitherto dwelt, contentedly enough, on urban reserves, had begun to leave them. The Greymouth Maoris in 1869 asked Alex Mackay to set apart a block of land from them in the Arahura valley and moved in a body from the town that had grown about their old kainga. In 1860 the New Plymouth Maoris had left their pa in the town and did not return. Wellington Maoris increasingly left for the Hutt Valley and Porirua, though Te Aro pa in the city continued to be occupied by a remnant until the 1890s.

31 Mackay to U-Sec., 6 and 18 January and 7 February 1868 - MT-N 1/1. In 1863 Maoris could make from about 10/- to 15/- a day for piecework, (Fox to Mantell, 16 July 1863 - Mantell MSS, 281), but by 1869 these wages had fallen, owing to competition from rapidly increasing numbers of immigrant European labour: (The European population of the Colony had risen from 32,554, in 1854 to 172,158 in 1864 and 218,000 in 1867. The Maori population had declined from about 60,000 to about 40,000 in the same period. See tables in Miller, Race Conflict in New Zealand, pp.220-1).


33 Mackay to U-Sec., 22 October 1872 - MT-N, 1/2; Parris to Nat.Min., 16 April 1862 and Halse to Parris (A.N.S. Taranaki), 9 May 1862 - AJHR (Cont.)
There was considerable resentment at the growth of the restraints of European Government. The first speech by a Maori representative in the General Assembly — that of Tareha of Hawkes Bay — was an objection that the chief's wandering cattle were impounded by European law, but that when he impounded European cattle trespassing on his land he was taken to court.  

The situation in Hawkes Bay was clearly the reverse of that in 1862, when the chiefs had had the game in their hands, and the settlers were ruthless in making their superiority felt. Even the spokesman of a favoured tribe, the Arawa, not yet subject to the pressures of settlement and land purchase operations, expressed the bewilderment and resentment of 'the Maori people' at the progress of European dominion. Not unnaturally the Maoris viewed the now dominant colonists less as worthy recipients of Polynesian generosity and hospitality — though individual Europeans who came among Maoris generally continued to receive it — but rather as deserving to be mulcted of whatever could be prised out of them. Whereas before the 1860s settlers had complained of Maori arrogance and bullying they now complained of their arrogance.  

33 (Cont.)

1863, E-4, p.63; Johnston, evidence — AJHR, 1870, A-3, p.22; Swainson report, 13 August 1867 — Native Affairs, North Island, D, p.65. (For reference to Te Aro pa in 1892 see MA 1/14, N.O. 87/654 and papers following).


35 Address of Wi Maihi Te Rangikaheke to the Duke of Edinburgh, December 1867 — DSC, 24 December 1867. 'The Maori people are like a flock of sandpipers looking out for a high place on the sandbank as the tide flows. When the birds alight — lo, the tide has flowed over the bank and then the only thing the birds can do is to fly hither and thither'. This utterance is very similar to that of Wiremu Kingi, with reference to the remorseless progress of European land purchase operations (cit. Sinclair, A History of New Zealand, p.109). but Te Rangikaheke made it clear in his address that he was referring to the progress of European government as such.
deceit, pauperism and avarice. Complaints of thieving replaced former testimonies to the Maoris' scrupulous honesty; Europeans who had found Maori women to be capable and willing housekeepers before the war, now complained of their slovenliness and surliness; European officials were beset by apparently endless demands for gifts and loans from men they had formerly regarded as proudly independent.  

Generally oblivious to the part they had played in this process, European observers held the Maoris in increasing contempt, railed at them for being lazy, sulky and dishonest. Those who did appreciate the shock produced by colonisation (the Rev. J. Stack of Kaiapoi, for instance, pointed to the bewildering and demoralising effects of the overturning of the old Maori social code through the introduction of Christianity and the legal code of the invaders, of confinement to reserves by encircling settlement, and, of the remorseless progress of disease) did not advocate much more in the way of practical assistance than the provision of elementary education, hoping that some enterprising Maoris would, of their own initiative, make the adjustment to fully confident participation in the

36 Herbert Meade, A Ride Through the Disturbed Districts of New Zealand, ed. R.H. Meade, London, 1870, pp.162-5; Grindell to McLean, n.d.; circa 1870 — McLean MSS, 30, n.5; Campbell to McLean, 16 December 1870 — McLean MSS, 175; W.H. Hooker to his father, 22 November 1869 — NK. MSS, 1743. (In the last reference the writer expresses his disgust at the Ngatiporou, who when they were given a ton of food and seed potatoes by the Government, asked for payment — part of it in liquor — for taking the gift ashore in their own boats).

37 Searancke to McLean, 15 August 1867 — McLean MSS, 373.
new individual order, and that the rest of Maoridom would follow their example.\textsuperscript{38}

It remained to be seen, in the years after 1869, how far Maoris could feel confident enough in their own abilities, and in Pakeha encouragement, to find their feet in the new order of things and make increasing accord with it, or how far conservative instincts and Pakeha mismanagement would impel them to increasing antagonism and separation from the main stream of New Zealand life.

THE HEYDAY OF THE NATIVE DEPARTMENT 1869-76
The Revival of War: McLean Assumes Office

The formative legislation of 1866-7 had been passed in a period of comparative peace with the Government predicting no major revival of the war. These expressions of confidence, however, involved turning a blind eye to the movement of armed Hauhau 'Tekau-ma-rua' in Hawkes Bay and the Bay of Plenty and sporadic fighting in the latter district. Richmond however, hoped that a pacific policy towards these people would allow passions on both sides to cool and the country to move into peace. But his own mishandling of the confiscated lands question in three separate parts of the country gave the disaffected Maoris sufficient provocation to renew hostilities.

In Taranaki, the Bay of Plenty and Poverty Bay confiscation extended to areas claimed by Maoris who were not at all or but little implicated in the rebellion; awards of the Compensation Court to loyal and ex-rebel Maoris were frequently not followed up by survey and location on the ground; and in each area a hard core of rebels refused to accept the

1 Rolleston to H.T. Clarke, 26 January 1867 - MA 4/8; Whitmore to Col.Sec., 31 July 1868 - Unpublished PP, 1868, n.64; AJHR, 1867, A-20, pp.43-4 and 65-6.


3 'I might as well give them an order on the moon for all the benefit it is to them'. (Rogan to McLean, 14 August 1867 - McLean MSS, 360).
confiscations, interrupted surveys and stole stock from the farms of military settlers. A feature of the administration in each of the confiscated areas was the corrupt, overbearing and incompetent behaviour of the occupying military authorities. Militia officers, finding themselves in situations of unaccustomed power, frequently abused their authority, spending more energy in illegal trading in commissariat stores than in seeing to the good order of their districts. In some districts discipline was almost non-existent and drunkenness prevalent.

On the West Coast Parris continued his long drawn out tussle for control of Maori policy with the military, with the Provincial authorities and with Fenton and the Land Court. Despite his protests and Rolleston's belief that the conflict of authority in Taranaki should be ended Parris did not gain the powers he needed. Richmond did give him an R.M.'s commission to enable him to hear complaints by Maoris of molestations of their persons or property, and also made him a Commissioner of Native Reserves. But Richmond could not discard his Taranaki sympathies and connections. He was not averse to agreeing to the confiscation of loyal Ngatirahiri's land - on the ground that it was not simply for resale but

4 Mackay to Rolleston, 26 October 1866 - Rolleston MSS; AJHR, 1867, A-20.

5 For a detailed description of conditions in eastern Bay of Plenty, see MA 68/19; see also J.E. FitzGerald, The Self-Reliant Policy in New Zealand, (unpaged), letter dated 28 December 1869, with reference to south Taranaki.

6 See Parris reports from December 1865 - MA 13/15.

7 Rolleston minute on H. Govett to Rolleston, 28 November 1866 - Rolleston MSS, 1. Govett wrote: 'We are certainly doing our best by acts of gross injustice to drive the whole of the well-disposed into rebellion...Unless someone is sent among us with ample authority to direct and control - justice will not be done.
'to settle men to save the country from confusion'. Moreover H.A. Atkinson, another Taranaki man, was in the Stafford ministry and representatives of both families occupied important positions in Taranaki Provincial politics. Parris, now thoroughly detested in the district, combated them as best he could.

Parris's intercessions between Maoris and settlers had some effect in north Taranaki; it was in south Taranaki that the situation got out of hand. Parris, as Civil Commissioner, was nominally the supreme civil officer, under the ministry all questions relating to Maoris but, since his denunciation of Colonel McDonnell for the Pokaikai affair, was reluctant to operate in an area where McDonnell was military commander.

James Booth, moved from Upper Wanganui in 1867 to be R.M. in the Patea district, lacked discretion with the Maoris and firmness with the Europeans,


9 Parris blocked an attempt by Decimus Atkinson, brother of H.A. Atkinson, to have H.R. Richmond, Superintendent of Taranaki, declare all unbranded cattle wild. Decimus Atkinson had been angered by a decision in favour of some Maori plaintiffs who sued Europeans for shooting their bull. (See Parris to Superintendent of Taranaki, 25 November 1867 [Copy for Rolleston] and Parris to Rolleston, 31 December 1867 – Rolleston MSS, 1). Decimus also had himself made Lieutenant in the Native Contingent to gain entitlement to 250 acres of confiscated land as a militia officer. Another brother, W.S. Atkinson, was made Crown Agent for confiscated lands and was supposed to locate Maoris on awards of the Compensation Court. His high-handed procedure offended them and by December 1867 he had not located a single award. (Ibid). Fenton wrote: 'What a frightful mess somebody has made of Taranaki. I think it was Major Atkinson & Col. Haultain together. I never saw such a mess of frightful injustice:... Noone can tell the wonderful things that were done down there, you could not find out who did them for certain'. (Fenton to Rolleston, 24 July 1866 – Rolleston MSS, 1).

10 Parris to Rolleston, 31 December 1867 – Rolleston MSS, 1. (For reference to the Pokaikai affair see above p.174).
and failed to check drunkenness and looting. In Fox's retrospective opinion, 'The conflicting action of a Commissioner resident at New Plymouth, a military commander resident at Patea, and a Resident Magistrate perambulating the district, rendered it impossible that anything but confusion would exist or any but disastrous results follow'.

In early 1868 Booth and Parris approved the extension of military settlers further into the confiscated territory. Ngatiruanui Maoris responded by stealing settlers' horses, and, in April, by driving off two settlers who cut timber on a Maori reserve. Richmond utterly failed to appreciate the cause of increasing tension and ordered Booth to investigate an alleged Maori liquor still which he believed might be responsible for the Maoris' 'recently altered demeanour'.

Now the division of authority had its worst effect. Booth and McDonnell gained Richmond's approval to recover stolen horses from Maori pa; McDonnell, proceeding quietly, recovered some of the horses and was successfully negotiating with the Ngatiruanui chiefs for the recovery of the remainder. But Booth, apparently anxious to assert himself, did not wait for the result of McDonnell's negotiations. Without consulting

11 Rolleston to Parris, 8 October 1867 - MA 4/63; Parris to Rolleston, 18 February 1868 - Rolleston MSS, 1; AJHR, 1870, F-7, p.3. (Booth's evidence).

12 Fox memo., 1 November 1869 - AJHR, 1870, A-4, pp.3-5.

13 Rolleston to Booth, 21 April 1868 - MA 4/63; Booth to Richmond, 11 April 1868 and Booth to Inspector Hunter, 20 April 1868 - AJHR, 1868, A-8, pp.1 and 7.


15 Rolleston to Booth, 4 April 1868 - MA 4/63.
McDonnell - or Parris who was in ignorance of Booth and McDonnell's proceedings - he took a detachment of troops to a village which he believed to harbour horse thieves and arrested three men, two of whom proved to be innocent parties. Regarding this as extreme provocation the Maoris began killing out-settlers. Despite Richmond's efforts to brush the affair off as one of individual crime, in six months most of the West Coast Maoris, seeking to recover their lands, were in rebellion. Their leader was Titokowaru, a warrior-prophet who revived cannibalism and preached a virile nationalism reminiscent of that of Hone Heke.

On the East Coast, confiscation of land, complicated by the ineptitude of local officers, also lay at the root of the trouble. Locke, McLean's general factatum in Hawkes Bay and Biggs, the R.M. and military commander at Poverty Bay, urged McLean to confiscate in order to subdue the Hauhaus and reward the Kupapas. Stafford and McLean were sceptical of the effect of confiscation but, urged by Richmond, agreed to demand a cession of land from the Wairoa and Poverty Bay Maoris, which amounted to much the same thing. Richmond wanted the land partly in order to plant a

16 AJHR, 1868, A-8, pp.7-9, and 22-4.
17 PD, 1868, vol.II, p.14; AJHR, 1870, F-3, p.2; U-Sec. (Cooper) to J.Mackay 8 July 1868 - MA 4/63. ('Ngatiruanui and Taranaki people have said that if Titokowaru is commencing proceedings to get back the land they will support him, but if the murders are about horse stealing they won't').
18 Titokowaru to Col. Whitmore, 5 December 1868 - AJHR, 1869, A-10, p.36, (For Hone Heke see below, pp.528-32).
19 Campbell to McLean, 28 July 1866 - McLean MSS, 174 (reporting that the Kupapas were complaining of the Government's weakness and want of justice and stating that the Hauhaus were becoming 'bouncable'); Locke to McLean, 16 August 1867 - Rolleston MSS, 1.
settlement of Ngatiporou and Ngatikahungunu among the Hauhaus as he
had recently planted a colony of Arawa among the Whakatohea at Ohiwa
in eastern Bay of Plenty. While Biggs haggled with the Maoris over
the extent of the Poverty Bay cession and the Native Land Court judges
sat to determine who were rebels and who were not, it was deemed
expedient to keep in exile some of the Maoris of Poverty Bay who had
been deported to the Chatham Islands in 1865 and 1866, lest they return
to stiffen resistance to the cession. A request by Auckland citizens
for amnesty of the Chatham Island prisoners was declined in February 1868
at Biggs and McLean's advice. In March Biggs was still holding up

21 Richmond to McLean, 30 April 1867, 10, 16 and 20 December 1868 — McLean
MSS, 355. At Wairoa Richmond met Kupapa leaders to discuss the cession
of land for a military settlement in Hawkes Bay. He lectured the Maoris
about avoiding drink, sending their children to school and farming their
land. Kopu Pitiera, an able though aging Assessor, who had long suppor­
ted the Government in northern Hawkes Bay, replied that they understood
all about that but wanted the Government to stop persecuting the Hauhua
and to cease pressing for land. He also referred to greedy Europeans
who tempted Maoris to lease land before it had passed through the Nativ«
Land Court. 'I have withstood these things, but have received no
assistance in doing so from the Government from whom the prohibition
emanated'. The deacon Tamihana Te Huata supported Kopu, arguing thajfas
Ngatikahungunu Kupapas, who had fought their Hauhau relatives, were
prepared to forgive them, the Government had no cause to interfere
further. An angry Richmond said that the land had to be taken, and
despite a plea from Te Huata to prove him wrong, not just contradict
him, overbore the Kupapa chiefs. At the end of the meeting Kopu died
do of pleurisy. The Europeans gave him military honours and acted as his
pall-bearers, then took 71,000 acres of land including land in which
friendly Maoris had interests. (Wellington Independent, 20 April 1867,
Hawkes Bay Herald, 16 April 1867 — MA 24/27).

22 James Cowan is incorrect in his laudatory biography of McLean, in
asserting that McLean broke with the Stafford Government because he
could not persuade them to release the Chatham Island prisoners
earlier. (Cowan, Sir Donald McLean, p.92).
agreement on the cession in an effort to make the Maoris agree to cede some of the best blocks. 23

Meanwhile, in the Chatham Islands the Maoris had found a leader in Te Kooti Rikirangi, deported in 1866 allegedly for supporting the Hauhaus but actually because he was a turbulent young man prone to drink and suspected of stealing horses. Under the unsuspecting gaze of Thomas, the well-meaning but ineffectual R.M., Te Kooti fostered a new religious cult with himself as prophet, and organized a brilliant mass escape of the prisoners in a Government vessel. 24 They landed south of Poverty Bay and were immediately supported by numbers of local Maoris. Biggs moved against them but eluded him and shortly afterwards attacked Poverty Bay, killing some 34 Europeans and 60 Maoris. Biggs, whose last letter to McLean was a complaint that if the Poverty Bay Maoris had surrendered land earlier the Chatham Island prisoners would have been released and living among their kin, 25 was among those killed.


24 A neglectful doctor and a drunken and bullying guard were dismissed not by Thomas but by commissioners who visited the island on inspections. Thomas later lamented to Rolleston: 'By your visit here, you saw the link that was wanting, viz. another officer with me who should understand Maori. I verily believe if your suggestion had been carried out, the prisoners would be here now, because then I should have received warnings of which I received none'. (Thomas to Rolleston, 17 December 1868 - Rolleston MSS, 1).

25 Biggs to McLean, 28 November 1868 - McLean MSS, 149. Te Kooti later claimed that he had intended to move peacefully to the Waikato until Biggs hounded him. This is almost certainly untrue. Later, the trial of some of the recaptured prisoners revealed that there was a good deal of talk among the prisoners while they were on the Chatham Islands of the future revenge they would exact on the momo kinō - the bad breed - among the Europeans and Kupapa Maoris. Immediately they landed the escapees sent off for guns from a nearby settlement. Maata Te Owai, a woman to whom Te Kooti had been married by Thomas while they were prisoners (cont.)
THE dual onslaught of Titokowaru and Te Kooti threatened to engulf the island in full scale war again. Te Kooti found allies among former Kingites and Hauhaus in the Urewera and Bay of Plenty, such as Te Waru of Upper Wairoa, for whose drift back to rebellion another local official, Deighton, R.M. of Wairoa, was held culpable. The rebels' successes were expected to bring a renewed rising from the King tribes especially if Te Kooti made a junction with them. In February 1869 a section of Ngatimaniapoto did kill the missionary Whitely and other settlers at White Cliffs. European fears reached a new pitch, cries for the extermination of the Maori race were again raised and once again loyal Maoris were menaced in person and through the settler press.

25 (cont.)
(see T.W. Gudgeon, The Defenders of New Zealand, p.269), gave evidence of Te Kooti's intention to make the King movement and all North Island Maoris rally to his leadership, whereupon the Poverty Bay settlement, the scene of his unjust arrest, would have been delivered into his hands. (Wellington Independent, 21, 28 and 30 September 1869). See also Richmond's quotation from a captured journal written by Te Kooti (PD, 1869, vol.V, pp.198-9). Biggs incurred some criticism in the Assembly for moving against the escaped prisoners, but it was hardly to be expected that he would allow 40 or more men, armed and gaining more followers daily, to land in his district without making some move to require their submission.

26 Ormond to McLean, 8 October 1868 - McLean MSS, 327; Deighton to McLean, 22 November 1868 - McLean MSS,203.

27 Native Office circular, 8 July 1868 - MA 4/63.

28 Letters and Journals of T.S. Grace, ed. Britten and Grace, p.205; Wellington Independent, 21 July 1868 - MA 24/26; U-Sec. to R.M. Wanganui 12 May 1869 - MA 4/64. One Cornet Ballance, later to be Native Minister and Premier of the Colony, was dismissed for menacing the loyal chief Ngahina. (U-Sec. to Booth, 29 December 1868 - MA 4/64). This may have been only a pretext, for Ballance had incurred the enmity of his commanding officer, Whitmore. ('Peeps to Politics' by 'Ignotus' - Mantell MSS, 141).
Wanganui, August 18th, 1868.

THE Government are aware that the atrocities which have been committed recently in the Patea District tend to create distrust and suspicion of the Ngatiruanui tribes in general, which if indulged in and shewn unfairly, must certainly produce general hostility. Their efforts to prevent the spread of the disturbances can only be successful by cordial co-operation on the part of the European population at large.

They appeal confidently therefore, not only for that courage in difficulty which is common to our nation, but for forbearance and self-restraint in all dealings with that part of the Maori population which has not declared for rebellion. The position of those natives is one of difficulty and temptation, and any injustice or harshness of act or, language by Europeans, must tend to drive them in that direction to which sympathies of race and circumstances already incline some of them: although they are honorably withheld by horror, at the crimes of the miscreants of Ngutu-o-te-manu.

T. M. HAULTAIN.
Richmond, furious at having his peace policy ruined, succumbed to some extent to this bitterness and ruthlessness, permitting Kupapa troops to kill rebel prisoners after the capture of pa on both East and West Coasts. Nevertheless, the Government, now practically bereft of the aid of imperial troops, was desperately concerned to localise the new risings as far as it could, and the military commanders were ordered to confine their operations strictly to the hapu and territory of the leading rebels.

By early 1869 the Government commanders had won decisive victories on both Coasts and several hapu who had joined the rebels surrendered. On the West Coast the Government was greatly aided by the repugnance of the King movement to associate itself with Titokowaru's ferocity and cannibalism, and by the pacificism of Te Whiti whose authority, emanating from Parihaka pa, cancelled out much of Titokowaru's influence. By

29 Richmond to Stafford, 26 December 1868 − Stafford MSS, 42; Cowan, The Adventures of Kimble Bent, pp.157 and 277.

30 See reproduction of Government poster, p.274. See also Taranaki Herald, 19 August 1868 − MA 24/26, and Richmond to McDonnell, 25 June 1869 − McDonnell, MSS. Encouraged by Rolleston, Richmond also supported Parris − who was seeking to minimise the conflict − against a complaint by McDonnell that he had 'interfered' with his handling of the Maoris. He heeded Parris's argument against Colonel Whitmore's proposal to take an expedition in pursuit of Titokowaru through the territory of Wiremu Kingi, of Waitara fame, and the Atiawa, who had been peaceful since 1864. (AJHR, 1868, A-8, pp.22-41).

31 Richmond to Parris, 25 May 1869 − MA 4/64; Richmond to W. Atkinson (R.M. Poverty Bay), 10 May 1869 − MA 4/64.

32 Hohepa Tamamutu to McLean and Ormond, 16 October 1868 − McLean MSS, 21; U-Sec. to Clarke (C.C. Tauranga), 29 December 1868 − MA 4/64; U-Sec. to Parris, 13 and 28 July 1869 − ibid.; Parris to U-Sec., 2 January 1869 − AJHR, 1869, A-10, pp.45-7. Parris attended Te Whiti's meeting in January 1869.
April 1869 the authorities in Taranaki were willing to leave Titokowaru in his inland refuge and again try to let the situation settle.33

Meanwhile, Richmond had implemented a policy for which McLean later gained much credit - that of increasing contacts with the King movement.34 It was known from the frequent reports of Searancke that the Kingite leaders were anxiously restraining their more turbulent followers and that the White Cliffs murders were committed by a disobedient taua which eluded them.35 Richmond and Governor Bowen thought their mood presented a favourable opportunity to propose to Tawhiao a meeting and a treaty, the basis which was to be: '...the return of the unsold or alienated lands in Waikato, the establishment of regulations as to trade and intercourse similar to those in the Indian Territory in America, and the subsidizing of the Tokangamutu Government. On their side the chiefs to withdraw the aukati and openly and public [ly] disavow and excommunicate the murderous tribes of Hauhau, to allow needful roads and royal rights over the territory etc, etc.'36 In April 1869, through the mediation of Te Wheoro and the Rev. Heta Terawhiti, Searancke took Richmond's and Bowen's letters to Rewi and Manuhiri. Rewi was

33 H.R. Richmond (Superintendent, Taranaki) to U-Sec. - ibid., p.52.
34 After the failure of their approach in 1867 (see above pp193-4), the Government had sent Patara, a surrendered rebel, to Tokangamutu, the Kingite headquarters, to sound Kingite opinion (Richmond to Parris, 29 May 1868 - MA 4/63). In the interests of keeping open communications it also declined to approve the request of Kupapa chiefs to erect a counter-aukati to bar the movement of King Maoris out of their territory. (U-Sec. to the Rev. C. Schnackenburg, 19 February 1869 - MA 4/12).
35 Searancke reports from July 1868 - JC-HN 1.
interested but the Waikato chiefs were suspicious and the plan came to nothing. Nor did Sir William Martin (who proposed that the King Country be declared a Native District with the King and his Council as its recognised Government) or J.C. Firth (who made an independent approach along the same lines as the Government) meet any success.

The real obstacle to agreement with the King movement was the Waikato chiefs' reluctance to accept anything short of full recognition of Tawhiao's Kingship over the interior districts and the return of all Waikato lands as far as the Mangatawhiri creek. These things Richmond would not concede though Stafford was apparently inclined to contemplate the return of the Waikato confiscation, especially as there was some pressure from England, believed to be prompted by Sir William Martin, to do this. In a characteristic memorandum to his Cabinet colleagues Richmond argued against such a concession:

We ought not to be too yielding. I have long been meditating the return of confiscated land question and cannot see my way in it, whilst I do see immense advantages in holding to the land as the one great means of inducing immigration now or shortly hereafter. Of course much must depend on success against [Te Kooti in] the Urewera....Population is our main want...I hope you will take my view on this, and if success attends Whitmore, harden your hearts a little to Sir W. Martin and Tawhiao. It is for their good.


38 Searancke reports, March–April 1869 - AJHR, 1869, A-10, pp.8–11. AJHR, 1869, A-12, p.7; AJHR, 1870, A-1B, p.7; Searancke to Pollen, 19 June 1869 - JC-HN 3.

39 Martin in fact urged only the return of portions of the confiscated lands. (Martin to Tamati Ngapora, 6 March 1869 - AJHR, 1870, A-1B, p.7)

40 Richmond to Stafford, 13 May 1869 - Stafford MSS, 42.
Once again self-interest, dressed with a certain implacable, insensitive paternalism produced the belligerence characteristic of settler-directed Maori policy.

Meanwhile the Stafford Government was enjoying only a precarious tenure of office. It had in fact nearly toppled in mid-1868 when Titokowaru's and Te Kooti's risings broke out. McLean helped it survive one vote of no-confidence but then fled the sinking ship and joined the opposition that Fox organised in August 1868.\textsuperscript{41} Stafford survived a subsequent no-confidence motion only by the casting vote of the Speaker and the partnership of Richmond and McLean, which had produced so much useful legislation in 1866-7 was dismembered.\textsuperscript{42} Although McLean was thought to be indispensable on the East Coast and retained the office of General Government Agent in that district, relations between him and the Government were very strained.\textsuperscript{43} Richmond himself went to the East Coast to superintend measures against Te Kooti. He became alarmed at McLean's influence on the East Coast and at the system of patronage he had built up on the East Coast, whereby many old friends and subordinates from the days of the Land Purchase Department had found public office and formed the habit of communicating with McLean in Napier rather than the Native Office in Wellington. Richmond dismissed two of McLean's protégés, Deighton of Wairoa (who had already proved incompetent in the Te Kooti crisis) and Campbell at the East Cape. Deighton was

\textsuperscript{41} PD, 1868, vol.III, p.55.

\textsuperscript{42} PD, 1868, vol.IV, pp.39-40.

\textsuperscript{43} See Richmond to McLean, 25 November 1868 - McLean MSS, 68 for an example of their frigid correspondence.
replaced by W.S. Atkinson, a relative of Richmond and a Taranaki man. Campbell, however, appealed directly to Stafford and was temporarily reinstated in order that his considerable influence in the East Cape area which Te Kooti was then menacing, might be retained. 44

In early 1869 the final break came. McLean asked for semi-independent authority as Commissioner for three years to direct the defense of the East Coast, with a steamer and some £56,000 to spend on militia, Maori contingents and public works. Such a concentration of power the Stafford Government rightly held to be for the aggrandisement of Donald McLean rather than the good of the East Coast, and a dangerous infringement of responsible government. They offered to give him the money and command if he joined the Cabinet as a fully responsible Minister, but McLean did not respond. In February 1869 the Government sought to move some Ngatiporou troops from the East to the West Coast; McLean, pleading greater danger in the East, held them at Napier in open defiance of the Government; he was therefore dismissed as General Government Agent.

44 Deighton to McLean, 22 November 1868 – McLean MSS, 203; Halse to Atkinson, 11 November 1868 – MA 4/12; Campbell to McLean, 10 January 186 – McLean MSS, 174; Halse to McLean, 30 December 1868 – MA 4/12. Richmond also dismissed the luckless Thomas, R.M. Chatham Islands, but this was only on account of his culpability in the matter of Te Kooti's escape. He was not a particular protégé of McLean. (U-Sec., to Thomas, 18 June 1869 – MA 4/64). Alarmed at the extent to which the whole East Coast population including the Maoris was learning to look to McLean personally rather than to the Government as the fountainhead of authority, Richmond asserted, in reference to the negotiation for the cession of land: 'It is of political [importance] not to our ministry only but to the country that I should carry my point without McLean or any Maori Doctor'. (Richmond to Stafford, 12 December 1868 – Richmond–Atkinson Papers, ed. Scholefield, vol. II, p. 280).
and his place taken by a Stafford supporter. 45

The Assembly met in June 1869 with Te Kooti still active and about to effect his junction with the King movement. Richmond advocated the planting of military forces at Ruatahuna and Taupo to command the centre of the island, 46 and Government estimates included a substantial increase for the 'conquest of a permanent peace'. But the prospect of expensive campaigns alarmed the South Island members in particular, and since few had much confidence in it any longer, Stafford's Government quickly fell. 47 McLean came into office in Fox's cabinet, to assume an almost unbroken seven-year control of Maori affairs.

45 PD, 1868, vol.III, p.378 (Stafford); AJHR, 1869, A-4, pp.1-5; 'Notes of Public meeting, circa February 1869', a MS.account in the Mitchell Library, Sydney, of a public meeting held in Napier to discuss McLean's dismissal.

46 'We shall [thereby] kill a great many Hauhau by those cruel weapons cold and hunger'. (Loc.cit.) This sort of utterance should dispel any belief in Scholefield's characterisation of J.C. Richmond as a 'gentle philosopher'. (See Richmond-Atkinson Papers, ed. Scholefield, vol.II, p.264. See also Pollen to Stafford, 2 December 1869, 3 March and 21 May 1869 - Stafford MSS, 40.)

47 Morrell, The Provincial System in New Zealand, p.207; Ormond to Rolleston, 20 April 1869 - Rolleston MSS, 1.
CIRCUMSTANCES were very favourable in 1869, for the cessation of military activities. Te Kooti's junction with the King movement in August caused a flurry of agitation in the Waikato - upon which the Government enlarged in a vain effort to prevent the departure of the last regiment of British troops but the crisis quickly passed. The Kingite leaders and independent chiefs such as Topine Te Mamuku of Upper Wanganui were very cold towards Te Kooti. In October Te Kooti and some Taupo Maoris who had joined him, were defeated by Government troops and Taupo was occupied by Armed Constabulary.

But partly because Fox could not forgive him for the Poverty Bay massacre of 1868 and partly because he was a brilliant tactician whose continued liberty itself tended to make settlement insecure along the East Coast, the Government declined to allow Te Kooti - and the Urewera who sheltered him - peace or pardon. Despite his own intimations that if left in peace he would attack no more settlers, and despite the urging of Kupapa chiefs and influential Europeans such as J.C. Firth that his offer be taken


2 McLean memo., August 1869 - FM 1/6; AJHR, 1869, A-10, pp. 72-87. Only Rewi - humiliated by Te Kooti's bitter oration on the battle of Orakau, where East Coast Maoris had fought and lost heavily while the Ngatimaniapoto rested in their fastnesses - was inclined to respond to Te Kooti's call to arms.

3 The occupation of Taupo was a feature of the Stafford Government's programme which Fox and McLean had attacked. They now carried it into effect but with comparatively few troops. Overall defence expenditure was heavily reduced by the Fox Government.

4 Locke to Nat.Min., 21 June 1870 - AJHR, 1870, A-16, p. 35.
up, the Government remained adamant. Native Contingents led by European officers, scoured the Urewera.

Many of Te Kooti's and Titokowaru's captured followers were dealt with under the Summary Trials in Disturbed Districts Act, 1869. This measure was based on the principle that the full force of their position as British subjects must be impressed upon the Maoris and that the time has passed when their unfamiliarity with the law and its obligations could be pleaded in their favour. Several batches of prisoners were charged under the Act with high treason - the first occasion since the abortive attempt of 1864 that Maoris were tried not for murder, but for the act of rebellion as such. Newspaper reports welcomed the trials as 'a new era' in the history of the Colony, marking the assertion in fact as well as theory that the absolute sovereignty of the Queen extended to Maoris. About a hundred of the prisoners were sentenced to death - the first batch to hanging, drawing and

5 Firth made a dramatic rendezvous with Te Kooti at Tamehana's monument near Matamata and Pollen, General Government Agent at Auckland, held back the pursuit until the meeting was over. Firth and Pollen were heavily censured by Fox. The Premier commented to Gisborne, his Colonial Secretary 'I had rather the war went on for ten years than we should come to any terms with Te Kooti other than hanging...it would be as weak as unstatesmanlike to think of any compromise with the cold-blooded murderer of Wilson and Biggs and their poor wives and infants.' (Fox to Gisborne, 20 January 1870 - IA 70/156; see also Fox to McLean, 9 December 1869 - McLean MSS, 220 and Ormond to McLean, 30 November 1869 - McLean MSS, 328).

6 Because Te Kooti, on leaving the King Country in 1869, killed a number of Taupo Maoris related in some way to Topia Turoa, the Kingite chief of Upper Wanganui, the King movement sanctioned the pursuit of Te Kooti by Topia Turoa. (Parris to McLean, 19 May 1870 - AJHR, 1870, A-16, p.21).

7 See above p. 110

8 Wellington Independent, 25 September 1869.
quartering, the only penalty applicable according to the then state of the law of treason, before it was hastily amended. In fact all but two of the sentences were commuted and the prisoners shipped off to varying terms of imprisonment in Dunedin. The only other Maori executed for events during the war was Kereopa, Volkner's murderer, who was captured in 1871.

These proceedings considerably hindered peacemaking with other tribes, such as those of Upper Wanganui who, though they had little desire to support Te Kooti and his followers, were resentful of the Government's apparent persecution of them. Even the Kupapas viewed the trials not so much as just retribution but as vindictive anti-Maorism. These murmurings were indicative of a growing realignment of forces in the Colony, as a sense of common resentment among tribes, Maori against European, began again to overlay the traditional tribal rivalries, as the King movement had begun to overlay them before 1863.

In 1872 Te Kooti, eluding capture, again entered the King Country, this time to ask - and receive - sanctuary. Not considering his capture worth a new campaign against the King movement the Government at last gave


10. One of those whose sentence was not commuted committed suicide in gaol. The other, who was executed, was not an escaped prisoner but a Poverty Bay Maori who joined Te Kooti and gained a reputation of particular bloodthirstiness. The prosecution of one old Whakatohea man, a follower of Te Kooti, was not proceeded with; he went off to Te Aro pa but was found years later in 'a hole in the side of a hill above Kaiwarawara', ill and badly clothed, and taken into protective custody. (MA 4/14, p.257).

11. The Arawa resented the execution of Kereopa because the Hauhau leader was of the Ngatirangiwewehi branch of that confederation; the Hawkes Bay Kupupas also commented that because Kereopa had killed a European he was hanged, while a Hauhau who had killed a Hawkes Bay chief escaped scot-free. (H.T. Clarke to U-Sec., 3 February 1871 - AJHR, 1871, F-6A, pp. 8-9, and 14 February 1872 - AJHR, 1872, F-3A, p.5; AJLC, 1872, n.11, p.7; Ormond to McLean, 28 December 1871 - McLean MSS, 329).
up the pursuit. Meanwhile, in other ways, pacification had made considerable progress. The Fox ministry, particularly McLean and the Colonial Treasurer, Julius Vogel, apprehended what the previous ministry had begun to perceive: that continued war increased the Colony's debt and retarded its development to an extent that the confiscation of land could never offset. Appreciating the provocative effect of confiscation McLean in 1869 persuaded the still somewhat reluctant Fox not to take land from Te Hauheu of Taupo, for his recent participation in Te Kooti's rising. McLean also abandoned his scheme of taking a portion of Ngatiporou land in expiation of that tribe's partial involvement with Hauhauism in 1865. This appearance of magnanimity was McLean's greatest asset in the negotiations which were to follow. McLean wooed the rebel chiefs by a variety of tactics. He took care to write personally to numbers of important men, announcing his coming to office as Native Minister, and toured disaffected areas, meeting rebel chiefs, assuring them that they would be allowed to dwell in peace as long as they did not molest settlers, and making them gifts of food, seed potatoes, wheat and agricultural implements, to help them settle to farming.

An important instrument of his diplomacy was a revitalised and extended Native Department. Vacancies were filled in important districts such as Taupo,


14 McLean to Ormond, 27 October 1869 - AJHR, 1870, A-8, p.26; W.L. Williams, East Coast Historical Records, p.72.
Upper Wanganui, the Bay of Plenty and Poverty Bay. The men appointed were instructed that their duties were of a political rather than a judicial nature. They were to confirm the friendly and wavering in allegiance, and to try to wean the Hauhaus and Kingites from their beliefs and assist them in assuming peaceful pursuits. Locke, appointed R.M. Taupo, was to open communications with the King tribes of the interior, and learn their history and traditions. The Government was to be kept constantly informed of details of the political, social and economic position of the tribes. McLean's officers generally worked effectively and diligently, keeping in close correspondence with McLean, who for his part was always willing to be guided by their opinion. The Maoris valued the presence of their 'own' magistrate to whom they could go with endless demands, and inquiries about Government intentions.

McLean also used the Kupapa chiefs such as Major Kemp and Mete Kingi, to negotiate with rebels, and supported the arrangements they made. A number of rebels were located on reserves under the eye of Kupapa tribes and obliged to remain there, some — such as the veteran Te Waru of the upper Wairoa — until the amnesty of 1883. The influence of Te Whiti was assessed and, once it was known that his half-yearly meetings had a pacific effect, the attendance of them of Kingite emissaries, Titokowaru and chiefs from all over New Zealand, was not only tolerated but encouraged by the Government.

15 U-Sec. to S. Locke, 20 September 1869 - MA 4/12.
16 E.g., McLean to Parris, 10 August 1871 - MA 4/65, asking Parris's opinion on the best means of attaching to the Government, Hapurona, Wiremu Kingi's fighting chief in 1860-1.
17 Notes of speeches (Bay of Plenty), 24 and 25 May 1870 - AJHR, 1870, A-11, pp. 8-9.
18 Te Waru in fact did not take advantage of the amnesty and died in exile near Opotiki (U-Sec. to Preece, 2 July 1883 - MA 4/26).
19 U-Sec. to Parris, 15 August 1870 - MA 4/65.
McLean and his officers took time over the work of diplomacy, never pressing the Maoris too hard, but ensuring that every advantage was taken of their disenchantment with war, Hauhauism or the King movement. Over a period of twelve months Locke and McLean secured first the laying aside of arms by a majority of the West Taupo and Ngatiraukawa Maoris, then their acceptance of arbitration in disputes and finally their consent to admit roads and telegraphs. Between 1871 and 1873 Woon, the new R.M. on the Wanganui River, achieved similar successes. The effects of pacification were cumulative, success in one district encouraging Maoris in others to resume friendly relations with Government and settlers. Between 1870-73 most of the leading rebels outside Ngatimaniapoto territory made their peace.

It could not fairly be alleged that McLean bribed the chiefs into submission. The grant of office - as Assessor or policeman - or the gift of a Government pension, was used to secure allegiance to the Crown, but was normally not made until the chiefs had given evidence for some years of their intention to co-operate with the Government. McLean rebuked Woon, the new R.M. of Upper Wanganui, for encouraging rebel chiefs to expect office merely by giving their submission. They were to embrace 'peace and order' for its own sake, and could expect aid with agriculture, but office would come only after 'adequate services' had been rendered. Thus while Te Mamuku, the ariki of Upper Wanganui made peaceful overtures in 1870, he did not receive a pension until 1873, when the award set the seal on the district's submission to the Queen's authority.

20 AJHR, 1871, F-6, pp. 3-11; Muir to McLean, 12 June 1873 - AJHR, 1873, G-1, pp. 21-2.

21 It was regarded as something of a landmark when Wiremu Kingi te Rangitake came into the Native Office at New Plymouth and talked with Parris, the man who had worked his ruin in 1859-60. (AJHR, 1872, A-1, p.63)

22 McLean to Woon, 4 December 1871 - MA-WG 1/2.
While a variety of techniques and resources, including McLean's own personality - he was a well-built, handsome-featured man, with a forthright but engaging manner of speaking - no doubt assisted his negotiations, it was plain that the main element of McLean's success was simply that he was able to tell the Maoris, meaningfully, that the Government intended to leave them alone and take no more land. Nor were such assurances by McLean and his officers likely to be undermined by the action of other ministers and departments, for McLean was granted an aggregation of authority far greater than that of any previous Native Minister. It had been recognised in 1864 that the separate action of Native and Defence Department officers had contributed largely to causing Titokowaru's rising, and J.C. Richmond has stated that it was the intention of the Stafford Government to shut down the Defence Office and place the Armed Constabulary under the Native Department. The amalgamation was never carried that far but McLean, in assuming both Native Defence portfolios, became the first to control both departments. He amalgamated both head office staffs and ran them essentially as one. The remaining settler militia corps were disbanded in 1870 as were the small provincial police forces. The Armed Constabulary took over their

23 E.g., Tamaikowha, a leading Whakatohea rebel of Waimana, in the Bay of Plenty, while agreeing to cease hostilities, and to allow troops through his territory in pursuit of Te Kooti, stated that if his cultivations were interfered with or his land forcibly taken, he would commence fighting again. (Mair to Clarke, 18 October 1870 - AJHR, 1870, F-6A, p.3).

24 PD, 1868, vol. II, pp.185, 204-5, 224, 230.

25 Ibid., p.270.

26 See T.W. Lewis to McLean, 25 November 1872 - McLean MSS, 281. (Lewis, a clerk in the Defence Department, became McLean's private secretary and chief clerk in the combined Native and Defence Office. He later became Under-Secretary in the Native Department).

27 McLean to Inspector Brannigan, 1 March 1870 - MA 30/1.
duties and henceforth assumed as much the character of a police force as an army, curbing crime among the European populace, as well as making roads and doing garrison duty in recently fought-over districts. The final campaigns against Te Kooti were conducted by Native Contingents consisting of Arawa, Ngatiporou and Wanganui Maoris, but with the transformation in 1875 of the remainder of these – about 90 men on garrison duty in the Bay of Plenty – into a branch of the Armed Constabulary, the last standing forces of a purely military nature disappeared. 28

Usually McLean saw to it that in the out-districts the civil authority was supreme. Fox would have preferred to see the military commanders have supremacy in the disturbed districts, 29 and in south Taranaki his views had some effect. Major Noake, who held an R.M.'s commission, assumed civil as well as military command, Booth being dismissed for his part in causing Titokowaru's rising, and Parris being told to confine his attentions to north Taranaki. 30 But in any case McLean kept a close watch on all his officers, civil and military for signs that they were provoking the Maoris to


29 This was a conflict of view between Fox and McLean which Hall and Stafford noticed and pointed out in debate. See PD, 1868, vol. III, pp.380 and 412.

30 He had been R.M. Upper Wanganui in 1865-6, between the dismissal of John White and the appointment of Booth.

31 Fox memo., 1 November 1869 – AJHR, 1870, A-4, pp. 3-5; U-Sec. to Booth, 11 October 1869 – MA 4/64; Fox to McLean, 15 and 27 October 1869 and Fox to Gisborne, 30 October 1869 – McLean MSS, 220. Fox shortly changed his opinion of Booth and began to admire his energy and knowledge of local affairs, though he still considered him lacking in judgment. Booth was shortly commissioned as a Land Purchase Officer. (Fox to McLean, 9 December 1869 – ibid).
renewed belligerence. He ordered his military commanders strictly to prevent the looting of Maori stock and required the civil officers to report and investigate all cases of looting. These injunctions were apparently effective as complaints of looting appeared infrequently after 1869 and were quickly settled.

Finally McLean was able to establish peace because he assumed a supervisory authority not only over native and defence policy but also over land purchase activities, both Government and private, and public works as well. The various means of extending colonisation over the Maoris were, in a sense, co-ordinated; there was to be no more 'patch-work'. Thus from 1870 mining regulations declared that it was necessary for applicants for prospectors licences to produce written evidence of the Maori owners' consent before they were allowed to enter Maori territory. McLean regarded the Crown's power of taking roads compulsorily through Maori customary land, as in abeyance and extended roads into Maori territory only with the owner's consent. (The Public Works Act 1876 ratified this policy in respect of customary though not of Crown-granted land and repealed the 1864 Act.). The duty of negotiating the passage of roads and telegraphs rested with Native Department officers who were strictly ordered not to press them too insistently. Under an arrangement between McLean and the Minister of

32 Native and Defence Office circular, 10 December 1869 - MA 6/1; U-Sec. to Parris, 6 November 1869 - MA 4/65.
33 U-Sec., to R. Ward, 28 February 1870 - MA 4/13.
34 McLean to Preece, 22 November 1872 - McLean MSS, 77, U-Sec. to Booth, 10 March 1871 - AJHR, 1871, D-1D, pp. 26-7.
Public Works, surveyors and engineers, unless especially accredited by McLean to act alone, were to wait upon the Native Department officer of the District for permission to proceed with their work.\textsuperscript{35} Frequently Native and Defence Department officers themselves both negotiated permission to make a road in Maori territory and supervised the making of it. Contracts were let to the hapu through whose land the road passed.\textsuperscript{36} Governor Bowen reported that 'first the friendly, then the wavering and finally the recently hostile' tribes took up roading contracts.\textsuperscript{37} In the vast expansion of the road network throughout the North Island in the 1870s Maoris were almost invariably the pioneers. They did the work more cheaply than European labour, though not always more conveniently. European engineers frequently complained at the difficulty and delay of having to organize new gangs as the road moved through the territory of successive hapu. McLean however insisted on giving the preference to Maori as against European labour.\textsuperscript{38}

The Land Purchase Officers appointed in 1870 were nominally employees of the Public Works Department but most of them - Booth, James Mackay, C.O. Davis and S. Locke for example - were in fact present or past officers of the Native Department and worked under McLean's scrutiny. In 1873 these men were organised into a Land Purchase Branch not\textsuperscript{4} of the Public Works Department.

\textsuperscript{35} McLean to Minister of Public Works, 8 November 1872 - MA 4/66.

\textsuperscript{36} McLean to W.G. Mair, 28 October 1870 - AJHR, 1871, D-1, p.7.

\textsuperscript{37} Bowen to Kimberley, 20 May 1871 - AJHR, 1871, A-1, pp.100-1.

\textsuperscript{38} A.C. Turner to J. Blackett, 3 March 1871 - AJHR, 1871, D-1, p.15, McLean to Parris, 18 October 1870 - ibid., p.51.
Works but of the Native Department, to which they were instructed in future to address all correspondence. McLean also exerted his authority over private purchase operations and those of local government authorities. Few were too powerful to avoid censure if their notions threatened to cause a breach of the peace or complicated his negotiations with important chiefs.

In many respects McLean was particularly well-fitted to promote the work of pacification. In freedom from racial arrogance and appreciation of Maori sensitivities McLean far surpassed most of his fellow settlers. This may have owed much to the fact that he was a Highlander who had come to New Zealand without ever having been educated to the complacency about English values and institutions, which the majority of the Colony's leading politicians in the 1860s brought to the administration of Maori affairs. McLean, moreover, genuinely liked the Maoris. He mixed readily and easily with them and had little sympathy with the rabid anti-Maorism characteristic of some settlers.

In 1869-70 he revived and expanded views regarding the authority of chiefs, which he had expressed when he was Governor Browne's Native Secretary:

If we had fully recognised the chiefs of the country, and reposed confidence in them, I believe they would have reciprocated that confidence and we should have had a power ready to work with us... Our tendency has been too much to break down existing institutions amongst the Natives, instead of aiding and helping those institutions to the benefit of both races.

McLean further held the theory that the Maoris were British subjects, for whom

39 Native Office circular, 3 October 1873 - MA 6/1.

40 McLean to Fox, 1 December 1869 - McLean MSS, Native and Defence Department letterbook 1869-70. See also McLean to E.W. Puckey, 11 August 1870 - MA 4/14 (checking the Auckland Mining Board from granting timber-cutting rights on land over which Maoris had sold only mining rights), and McLean to Ormond 24 November 1870 - MA 4/64.

no exceptional laws should exist, to be a falacious and dangerous one, 'the only effect of which has been to induce Europeans on the one hand to expect the enforcement of the Queen's writ throughout the country and on the other of exasperating a large section of the aborigines who emphatically declare national independence and deny the right of any foreign power to exercise jurisdiction over them.' He noted that European laws and customs were the product of a long and gradual evolution, that the various sections of the British Isles still had different local laws, and that a proud and tradition-minded people like the Maoris could not make the transition to settler institutions in one generation. He contemplated dealing with Maori districts as territories similar to those in the Western United States, where the Maori's own laws and usages would prevail and where colonisation would not be permitted freely to extend, and to establish local councils of chiefs with limited powers of self government. Contracts between Maoris and settlers were to be eased by McLean and his specialist staff, who would pave the way for the extension of settlement. Meanwhile the provision of education for Maoris would bring about their gradual adaptation to European institutions.

The limitations to his liberalism can, however, be seen in his handling of the King movement. In 1869-70 the suggestion that the King movement be 'recognised' was being urged by Granville at Colonial Office, by Sir William Martin and by Rolleston, late Under-Secretary in the Native Department, who proposed the commission of enquiry into Maori-European relations with a view

42 McLean memo. to Cabinet, 16 September 1870 - McLean MSS, 30.
43 Unsigned, undated memo., McLean's handwriting, circa 1866 - McLean MSS, 42.
44 McLean memo. to Cabinet, 16 September 1870 - McLean MSS, 30.
to recognising local Maori authorities and restoring confiscated lands.\(^45\)

Martin sent a memorandum to McLean recommending that the Kingite chiefs be
granted independent authority to make regulations and govern in their own
borders, admitting only such Europeans as they chose to invite amongst them.
He conceived of some form of treaty relationship between the King Country
and the rest of the Island. McLean and Fox, however, regarded this as a 'very
pernicious proposal', going much too far. They still feared that a virtually
independent Maori Kingdom in the heartland, would command the allegiance of
Maoris outside its borders, including the declared Kingites at Wairarapa,
Rangitikei, Otaki, the Upper Thames and elsewhere. McLean wrote:

[The recognition now] of an organisation which would draw the native
race together would be dangerous to madness. Nothing that can be
done now will restrain the European race from overrunning the Island.
With a recognised active Maori government complications would be
seen to arise which would inevitably lead to a war of races. I use
the word active because my objection does not apply to allowing the
King any imaginary state and power. I do not object to his being
called King so long as the allegiance he can claim is only... the
allegiance under another semblance which a chief may claim but this
is very different from recognising and legalising his right to
exercise independent authority.\(^46\)

The possibility of restoring much of the confiscated land was also firmly
ruled out by Fox during his contemptuous handling of Rolleston's suggestion

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\(^45\) PD, 1869, vol. VI, pp. 60-79 and 115-22; AJHR, 1870, A-1B, p.81.

\(^46\) McLean note on Martin memo. on 'Relations With the King Party', encl.
in Martin to McLean, 21 February 1870 - McLean MSS, 30. Dillon Bell,
then acting as Government Agent in London wrote the same month: 'and
though I am one of those who would go to extreme lengths in favour of
letting Waikato have a separate Government, I hope none of you will
ever be seduced into the recognition that the Colonial Office wants.'
Bell told the Colonial Office that what they proposed - recognition
without the reservation of the Government's over-riding right to
see law enforced in the King Country - amounted to a surrender of the
Queen's sovereign rights. (Bell to Fox, 25 February 1870 - McLean MSS,
147). See also Fox to McLean, 1 March 1870 - McLean MSS, 30.
for a commission on Maori-European relations. McLean also opposed any large
concession but noted 'agree' to Martin's proposal that the Kingites should be
given a block of land within the confiscation if they would come and live
there, as well as sections in the Waikato towns and schools and other services.
He was also prepared to allow the King and his councillors powers of local
government and the right to exclude settlement from their territory, but
only so long as they admitted a European Resident (thus acknowledging that
their laws, and powers derived from the Queen) agreed that Maori fugitives
from European law be surrendered for trial, and admitted the over-riding right
of Government to 'maintain order'. Clearly this sort of submission from
the King movement, which would have eliminated its capacity to shelter
militant Maori nationalists or foster their work, was more important to McLean
at that stage than immediately opening the country to roads and settlement.

Security, not land, was his immediate concern. In this respect his policy
approached that of Fitzgerald in 1865 rather than that of Richmond in 1867-9.

47 PD, 1869, vol. VI, pp.60 and 79-80. Fox dismissed Rolleston's proposals as
'a number of meaningless platitudes' delivered in 'the style of a young
member of a debating society endeavouring to "flesh his maiden sword".' But
he did not really answer Rolleston nor the Maori members who supported him.

48 McLean minute on Martin memo. 'Relations with the King Party'.

49 McLean Journal, 20 November 1869, vol. IV, p.106 - McLean MSS; Mclean to
ministers, 26 October 1869 - Native and Defence Department Letterbook,
1869-70, McLean MSS; McLean memo. to Cabinet, 16 September 1870 - McLean
MSS, 50.

50 McLean MSS, 50. See the opinion of a military commander of the time, that
once agreement on the surrender of 'murderers' had been reached, Tawhiao
and his associates would be left in peace. (Lieutenant-Colonel St.John,
Pakeha Rambles Through Maori Lands, p.79.)

51 See above pp159-60 and 276
Failing agreement with the King movement McLean hoped that continued trading and visiting by King Maoris within the settled territory would enable settlers and Kingites to 'glide into a state of peace without any specific terms.'\textsuperscript{52}

McLean put his terms to Rewi and Manuhiri\textsuperscript{53} in November 1869, but they were able to agree on only minor points.\textsuperscript{54} To the Kingites, the fugitives in their territory were patriots rather than murderers and they would not contemplate surrendering them to the alien race. The exiled Waikato chiefs knew that McLean's offer to return unallocated blocks in the confiscation was specious - that not much of value was left.\textsuperscript{55} In any case they viewed the whole confiscation as unjust and wanted it all restored. The Waikato Kingites did not want a subordinate role in government. The Ngatimaniapoto chiefs, on the other hand, did not want Tawhiao confirmed in any Government-sponsored position, while he was in Ngatimaniapoto territory, since that implied giving him permanent authority over them and their lands.

The inconclusiveness of these negotiations left a frontier situation of considerable tension in the Waikato. In 1871 the Kingites expelled some traders who sought to open a store at Kawhia, and a Maori mission teacher who

\begin{itemize}
  \item \textsuperscript{52} McLean memo. to Cabinet, 16 September 1870 - McLean MSS, 30.
  \item \textsuperscript{53} In this and all subsequent negotiations Manuhiri was the principal authority on the Kingite side, Tawhiao never having been a strong personality and lately having taken to heavy drinking. (Searancke to McLean, 26 September 1869 - McLean MSS, 375).
  \item \textsuperscript{54} McLean agreed to release certain Kingite prisoners on Manuhiri's assurance of their good behaviour and ordered certain lands on the confiscation boundary in which Rewi had an interest to be withdrawn from the Land Court. (Reports of meeting, 9 November 1869, and Mair to McLean, 26 November 1869 - MA 24/22, N.O. 69/337).
  \item \textsuperscript{55} McLean had noted as much in October, (Mclean to ministers, 26 October 1869 - Native and Defence Department Letterbook, 1869-70).
\end{itemize}
had been sent to Aotea. On occasion settlers were killed near the aukati, and the King Country gave refuge to Maoris who committed murders in the settled districts and fled beyond the confiscation boundary. Thus in 1870 Lyons, a fencer, was murdered for his coat, and a surveyor Todd, killed on land claimed by Kingites. In April 1873 a labourer, Sullivan was killed on land which had been let by Maoris on the Government side of the aukati but in which the Waikato Kingites had a rightful claim. In 1876 a Maori named Winiata killed his employer at Epsom, Auckland, and fled to sanctuary in the King Country. In 1877, Te Pati, a Kingite gaoled at Ngariawahia, killed a European fellow-prisoner and escaped, but was recaptured before he reached the aukati. There was also at least one case of a Maori, an alleged sorcerer, being put to death, near Tauranga, and his killers retiring to the King Country, besides a number of instances in which men summoned for theft or lesser offences were given

56 Brabant to Nat. Min. 21 February 1871 - AJHR, 1871, F-6A, p.6.
57 IA 70/156. AJHR, 1871, F-6A, pp.10-14 and F-6B, p.16-18. Kiaroa, the alleged murderer of Lyons was later reported to have died, apparently of natural causes, in the King Country. (AJHR, 1871, A-1, p.18). It has been suggested that Todd (or Lyons) may not have been the first killed on the frontier, that 'two who went over it to get some timber were killed.' (Andersen and Petersen, The Haur Family, p.145).
58 AJHR, 1873, G-3.
59 Inspector Brohan to the Commissioner, Armed Constabulary, 13 May 1876 - AJHR, 1876, H-16.
60 AJHR, 1877, G-1, pp.6-7.
sanctuary. Makutu killings within the King Country itself were also reported.

A further cause of settler hostility to the King Country was its alleged connection with 'Fenian' organizations. In the 1860s and early 1870s English settlers, transplanting to the Colony the antagonisms which raged in the British Isles, demonstrated intense distrust of Irish Catholic organisations on the goldfields. It was believed in 1871 that one O'Connell, of the Thames goldfield, was intriguing with Te Kooti and the Kingite chiefs.

Its real or alleged connection with conspiracy and murder caused many of the North Island settlers to take the line advocated by Cracroft Wilson - that the King Country be opened by force of arms ('a little scrimmage which in the Western States of America they would think very little about') and its leaders, along with Te Kooti and other wanted men, hanged. Partly because he viewed such fanatical anti-Maorism with repugnance, and partly because his Government desired neither the trouble nor expense of deviating from its peace policy, McLean firmly withstood such arguments and continued to operate his policy of friendly communication with the Kingites. He kept open a

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62 Harsant (R.M. Raglan) to McLean, 12 September 1876 - McLean MSS, 231; T. Jackson (R.M. Papakura to U. Sec. 13 May 1880 - AJHR, 1880, G-4, p.5. (Reporting the rearrest of an offender convicted for theft in 1875 but carried off by Kingite Maoris).

63 Parati, accused of the makutu of Rangihuaia, one of Tawhiao's wives, was shot by the woman's relatives. (MA, 23/2, N.O. 71/1725).

64 Loc. cit.

65 Cracroft Wilson, address to the electors to Auckland City West, 3 February 1871 - DSC extract, filed McLean MSS, 30; see also PD, 1869, vol. VI, pp. 74-5.


67 Ormond to McLean, 30 May 1873 - McLean MSS, 330.
regular communication with the Kingite chiefs, through Searancke, W.G. Mair, and Wi Te Wheoro, and by a steady stream of letters and telegrams. He met Rewi and Manuhiri on several occasions and Tawhiao in 1875. He made them gifts of seed wheat and agricultural implements and tried to entice Manuhiri to return to his ancestral lands at Mangere which had been preserved for him by Richmond.

His policy was not unsuccessful. Despite the murders, tension on the frontier steadily eased over the decade, and the Ngatimaniapoto in particular showed an increasing willingness to abandon their isolation. Much of the original fire of Kingism faded since the Government was no longer stoking it, and the movement began to lose its function as a 'land league'. Most of the Ngatiraukawa and Ngatituwharetoa defected in 1870-71. In 1875, Te Hira of Ohinemuri, Upper Thames, who since 1862 had been adament in closing his land

68 Mair met Tawhiao in 1871 - the first Government officer to do so since 1863. Manuhiri greeted him, asking if he was 'the Christ whose coming had been foretold'. Mair reported, 'I thought it best to leave this question unanswered.' (Mair to C.C. Auckland, 23 September 1871 – AJHR, 1872, F-3A, p.15).

69 Richmond had instructed that Manuhiri's and Tawhiao's lands at Mangere and Remuera should not be absorbed in the general confiscation but Crown Granted to them. (Richmond memo., 21 September 1868 – MA 13/66, N.O. 68/1552). The Fox Government completed the arrangement and saved the accruing rents for the King and his lieutenant. (MA 13/66, N.O. 69/708). Domett, then Secretary of Crown Lands minuted on the official correspondence: 'It is one of the drivelling absurdities of our mode of governing Natives that we encourage rebels in the way alluded to herein. I would strongly advise the detention of all Crown Grants to notorious rebel chiefs... Matutaera does not acknowledge the Queen's authority yet he is to have the benefit of a title from her.' (Domett minute, 30 August 1869 – loc cit). His advice, however, was rejected as both wrong and beyond his duty to offer. (Minutes of Gisborne and Fox, 1 and 2 September 1869 – loc. cit.) Manuhiri accepted some of the rents from McLean in 1869 but roused so much scorn and suspicion from the King Maoris that he declined further payments. (AJHR, 1870, A-21, pp.14-15 and 20; Louis Hetet to McLean, 29 January 1870 – McLean MSS, 259).

70 See H.T. Clarke's description of an ineffectual gathering in 1873 intended to prevent the Ngatiraukawa from defecting. (AJHR, 1873, G-1B, p.6).
to gold mining, gave way. In 1876 at an important meeting in the Tuhua country, Rewi announced to the Tuhua and Upper Wanganui chiefs, that as far as the King movement was concerned, they were free to deal with their land as they wished - they would not be advised or restrained by the King movement any longer. In 1876 also Rewi and Tawhiao visited frequently across the aukati and a section of the Ngatimaniapoto at Mokau began to lease land. Tawhiao himself would probably have weakened and accepted McLean's proposals for recognition - under the Crown - of his authority over his immediate followers, and for a return of a limited portion of the confiscated lands. But his stern-principled advisers, Manuhiri and Te Ngakau, were not readily inclined to accept Government dominion or compromise their claim for the return of the whole confiscation. McLean's tenure of office ended with Kingite and settler relations greatly eased, but with no conclusive agreement achieved. The Kingites had allowed European police across the aukati in 1873 in pursuit of a European fugitive but there was no entre in 1876 for the pursuers of the Maori, Winiata.

On the West Coast McLean wanted the ex-rebels - about a hundred of whom were in gaol in Dunedin and hundreds more dwelling with other tribes in inland Taranaki and Wanganui - to be allowed to reoccupy defined areas within

71 Woon to Nat. Min., 7 March 1876 - MA-WG 2/2.

72 The result of an agreement between the Ngatimaniapoto chief Wetere Te Rerenga and an enterprising European named Joshua Jones.

73 McLean bought 3,000 to 4,000 acres near Mt. Pirongia on the Waipa for Tawhiao and his family. It was later resold to settlers. (PD, 1875, vol. XIX, p.506).

74 Chief Justice Arney to Kimberley, 10 April 1873 - AJHR, 1873, A-1A, p.18.
their former territory. The South Taranaki settlers, however, after Titokowaru's rising, were bitterly anti-Maori and Fox, supporting them, prohibited the return of ex-rebels south of the Waingongoro River. Ngatiporou and Armed Constabulary patrols ranging the area shot three Maoris who tried to return.

Early in 1871 Parris and the Taranaki Board which had been created to advise on Maori affairs in the district, disturbed at the ugliness and tension in the situation, urged that military patrols be checked and Maoris allowed to return south of the Waingongoro. But when McLean ordered patrols to cease, Fox, furiously angry, countermanded McLean's instructions and warned Parris of the results produced by conflicting authority in 1868. The West Coast thus continued in a state of tension; Titokowaru and his people were 'sullen and discontented and ripe for any mischief' because they were not allowed to resume friendly relations, and the Kupapa tribes were

75 In the Assembly Mantell read an extract from a Wanganui paper, commenting on an interference by some displaced Maoris, with a settler's ploughing: 'This is a pretty state of things! We are assured however, that if there is any further interference, the Maoris will be shot down like dogs, as a number of determined men are armed and ready to act. This is the best argument in such a case with savages, if the Native agents and Native office cannot maintain the indubitable right of the settlers. This argument is a potent one with the Australian blacks.' (PD, 1872, vol. XIII, p.447).

76 Fox observed: 'It is amazing to hear of the different feeling which prevails at Dunedin from what is entertained nearer the field of action. 5,000 people accompanied them up to the gaol, criticising the Govt. for being so hard on them - saying if they had been white men they would have been better treated. Here people abuse us for not hanging the lot.' (Fox to McLean, 26 November 1869 - McLean MSS, 220).

77 Fox memo., 1 February 1870 - AJHR, 1870, A-4, pp. 5-9; Fox to McLean, 9 December 1869 - McLean MSS, 220.

78 Fox memoranda to Cabinet, 14 and 28 April 1871 - McLean MSS, 111; Fox to Parris, 14 April 1871 - MA 4/65.
increasingly irritated by the situation. 79

In September 1872 however, the situation changed. Stafford defeated Fox in the Assembly, and, to gain support of the Maori members, promised to redress the situation on the West Coast. Stafford was overturned a month later but McLean had made similar promises, and since Fox was replaced by Waterhouse as Premier in the new Government he was better placed to carry them out. 80 Settler hostility to Maoris in south Taranaki had meanwhile diminished. McLean thereupon secured the co-operation of his colleagues in overcoming remaining settler objections to the return of the prisoners and exiles. In a series of meetings in 1873 he returned them to defined reserves and appointed officers to supervise their location and iron out any boundary disputes that might arise with settlers. 81

But though McLean congratulated himself on bringing a final settlement of the West Coast difficulties within sight, his concern to acquire land marred his work as a peacemaker. He had sought to make the settlement 'without expending much land' and the reserves totalled only about 50,000 acres including

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80 Parris to McLean, 10 June 1872 - McLean MSS, 335. A variety of rumours abounded as to the extent of promises by Stafford and McLean with regard to the restoration of confiscated lands. Certainly the West Coast Maoris came to expect too much. (See letter by 'Ngatiawa' in New Zealand Times, 28 January 1888, also C. Pharazyn memo., 30 September 1872 and Woon memo., 25 September 1872 - Stafford MSS, 12).

81 McLean to Atkinson, 20 January 1873 - McLean MSS, 35B; misc. newspaper clippings on meeting with West Coast Maoris, January 1873 - McLean MSS, 34; AJHR, 1873, C-4A.
the Compensation Court awards of 1866. McLean also sought immediately to buy up many of the awards - some of which were already occupied by squatters. Among many of the ex-rebels, gratification at their return from gaol and exile gave way to dissatisfaction and increasing support for Te Whiti dwelling north of the Waingongoro.

Te Whiti, Parris soon found, besides standing for principles of non-violence, stood for resistance to roads and land sales and non-recognition of the confiscation. In 1870 Parris had summed up the problem he posed for the Native Department:

What I am afraid of is, that he will dictate action independent of the Government which sooner or later must lead to collision, unless by patience and conciliatory measures they [Te Whiti and his followers] are gradually ... restored to confidence in the Government a process difficult to administer in opposition to popular feeling and the progress necessary for the advancement of the country...

McLean did not define reserves north of the Waingongoro (an omission for which some politicians subsequently held him blameworthy) mainly because Te Whiti would not have recognised them. Instead he instructed the officers on the West Coast to make payments to those both north and south of the Waingongoro who declined to recognise the confiscation, in order to get them to relinquish the

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82 McLean to Hall, 31 January 1873 - McLean MSS, 83; McLean to Fox, February 1873 - ibid. McLean added about 32,000 acres to the 21,000 awarded by the Compensation Court. There were, in addition, about 17,000 acres of 'special awards' of the Compensation Court to Maoris other than the returned rebels. (See AJHR, C-4A, pp. 4-5).

83 He rejected the authority of the Maori King and of all other chiefs and prophets other than himself and his lieutenant, Tohu. He poured scorn on Wi Parata, the member for Western Maori, who accompanied McLean to the West Coast in 1873, as one who was no longer a Maori but of 'the other side'. (Parris to McLean, 23 March 1870 - AJHR, 1870, A-16, pp.18-19, and 22 September 1870 - AJHR, 1871, F-6B; newspaper clippings, Taranaki Herald, 15 February 1873 - McLean MSS, 34).

84 Parris to McLean, 12 August 1870 - McLean MSS, 335.

bulk of their lands. He steadfastly declined to admit that the confiscation was abandoned, stating that the payments were to be regarded as compensation in consideration of the Maoris' former claims. Parris handled the matter somewhat clumsily, paying a price per acre and having the Maoris sign deeds of cession, an implication that they were selling the freehold. Brown, who succeeded Parris as Civil Commissioner of Taranaki in 1875, took no deeds and talked not in terms of price per acre, but made offers of lump sums and insisted on the Crown's claim to lay out reserves and take the rest of the confiscated territory. The 'purchase' operations proceeded slowly, accompanied by surveys and roads between the Waitotara and Waingongoro Rivers. Surveys were resisted several times and Maoris occasionally refused to vacate land but, by the exercise of all the weapons of diplomacy, guile and blandishment, and by buying off the chief men, including Titokowaru, Government officers seduced potential leaders of the resistance.

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87 Notes of meeting at Putiki, 13 January 1873 - MA 13/15; Brown to U-Sec., 23 May 1876 - AJHR, 1876, G-1, p.31; Fox report 1 July 1882, AJHR, 1882, G-5A, p.2.

88 There is a suggestion, not well substantiated, that these tactics, amounting to a misinterpretation of McLean's instructions, were the reason for Parris's being compulsorily retired in mid-1875. (See letter by 'Ngatiawa' in New Zealand Times, 28 January 1888 - Stafford MSS, 12).

89 Brown to McLean, 21 June, 24 July and 21 August 1876 - McLean MSS, 155.

90 Loc. cit; also McLean to Atkinson, 4 March 1875 - McLean MSS, 101. Brown wrote: 'I have promised something extra to a few, to make them swallow the confiscation, which they do very well when the pill is gilded at the expense of the others.' On another occasion, when confronted by an objection to a survey, he 'had to issue about two dozen licences for ammunition to tide over the difficulty.' (Maoris being under the restriction of the Arms Act, ammunition permits were very precious to them.)
But north of the Waingongoro River was Te Whiti's territory. The prophet gave no indication that he was willing to permit roads and surveys and McLean forbore to press him. He held his officers in check and, emphasising to his colleagues the difficulty of the situation— that half to two thirds of the West Coast Maoris would be hostile if the Government proved aggressive— stated that he was prepared to wait many years, until Maori opinion was on the Government side, before he could open up the whole of the West Coast.91

91 McLean to Atkinson, 15 January and 6 March 1875— McLean MSS, 101.
AS events on the West Coast and near the King Country border showed, race relations in the 1870s were unsettled and frequently tense. The rapidity and ease with which Titokowaru and Te Kooti had swept through whole districts, left a persisting apprehension that similar events could occur again. Ultimately it was expected that the influx of settlers and the extension of roads would destroy the Maoris' capacity for even local resistance, but it was also appreciated that this very process would, in the short run, unless handled very circumspectly, provoke hostility. It was expected that there would 'always now and again be little rows'. In fact, interrupted surveys were, for many years, of almost monthly occurrence. And, since even the Ngapuhi had not submitted to European authority in its entirety, the resort to arms in these disputes - and in puremu and makutu disturbances - was always likely to occur and did occur in several instances from Northland to the Manawatu, sometimes involving loss of life. It was the responsibility of McLean and his officers, while promoting the progress of roads and land purchase operations, to prevent

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2 W.S. Grahame to McLean, 6 April 1874 - McLean MSS, 243.
disturbances as far as possible and to resolve or nullify them when they arose.

Thanks to J.C. Richmond's efforts in 1867-9 McLean inherited a Native Department reasonably well staffed and supported by the authority conferred by the Resident Magistrates Act, 1867. But Richmond had accepted an extensive Native Service as a somewhat undesirable necessity and had not worked it with enthusiasm. As Titokowaru's rising had shown, his officers lacked adequate guidance and supervision. McLean, on the other hand, revelled in the command of his little empire and directed its activities with verve and considerable attention to detail.

Cooper, lately R.M. at Waipukarau, had succeeded Rolleston as Under-Secretary in 1868. With the help of extra staff taken over from the Defence Department - including T.W. Lewis, McLean's private

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3 H.T. Clarke complained: "I sometimes wish I knew more of the mind of the Government. The...answers to some of my letters are most unsatisfactory." (Clarke to Rolleston, 29 May 1867 - Rolleston MSS, 1). When a dispute requiring magisterial action arose at Otaki between a Maori and a settler it was found that Buller had locked his courthouse, left it bereft of forms for warrants and summonses, and gone away on some private venture. (J.C. Richmond to Stafford, 'Friday Evening' - Stafford MSS, 42).

4 Cooper, son of the G.A. Cooper who had come over from Sydney on Hobson's staff, had joined the Land Purchase Department in the 1850s. As R.M., Waipukarau, he grumbled at having to languish in a bush district at £300 a year. He had solicited the Under-Secretaryship in 1865, when the place went to Rolleston, and had also hoped for a Judgeship of the Native Land Court. (Cooper to Mantell, 15 February and 15 April 1865 - Mantell MSS, 263; Cooper to McLean, 20 September 1865 - McLean MSS, 190).
Halse became Acting Under-Secretary in the Native Department for the third time and was deeply grieved not to succeed Cooper to the position permanently, the latter having recommended H.T. Clarke. (Cooper to McLean, 24 May 1870 and 14 January 1871 - McLean MSS, 190). Halse, described by one anonymous commentator as 'honest but stupid as a ploughboy' (unsigned and undated memo., headed 'Native Affairs and Defence' - Stafford MSS, 12) had also been baulked of a Resident Magistracy in 1868 and was doomed to end his working days a plodding subordinate at Head Office.
his advice with regard to appointments and policy decisions in the Bay of Plenty and because Clarke's views and methods accorded so closely with his own, left him, as Under-Secretary, most of the routine work and handling of minor disputes, especially during his frequent absences from Wellington. But, partly because of his own lack of perception, and partly because of McLean's masterful direction, even Clarke did not initiate and guide major policy changes as Rolleston had done. Encouraged by the value and importance McLean placed on his Department, McLean's staff worked enthusiastically for him and were rewarded with periodic increases in salary.

Early in his administration McLean filled a number of vacancies in the Resident Magistrates' districts, appointing Richard Woon to Upper Wangamui, Samuel Locke to Taupo, Frederick Hamlin to Maketu, Spencer Von Sturmer to Hokianga, Samuel Deighton to the Chatham Islands and Major E. Willis to Otaki. He confirmed J.H. Campbell as R.M. Waiapu, while W.S. Atkinson, Richmond's appointee in Wairoa and Poverty Bay, was replaced by F. Ormond (Wairoa) and W. Nesbitt, late of Rotorua.

8 Clarke to McLean, 7 September 1871 - McLean MSS, 183.

9 E.g., the making of appointments and defining of district boundaries under the Native Land Act of 1873.

10 In keeping with the system of personal ties which governed Civil Service appointments, Clarke brought with him to Wellington his brother, Marsden (who became interpreter and 'front man' greeting the stream of Maori visitors to the Native Office) and his clerk, Richard Gill (who eventually headed the Land Purchase division of the Department created in 1874). See Halse to McLean, 29 March 1871 - McLean MSS, 234.

11 See above pp. 199 and / for earlier references to Deighton, Campbell, Atkinson and Nesbitt.
McLean retained Civil Commissioners at New Plymouth and Auckland, as well as Alex Mackay in the South Island. Fox wished to dismiss Parris to placate Taranaki settlers who were violently critical of his alleged over-protection of the Maoris. He agreed, however, to McLean's suggestion of surrounding Parris with a 'Taranaki Board' of five local settlers and five Maori chiefs, with Parris as executive officer, but not chairman, of the Board.\textsuperscript{12} The Board, carefully picked by McLean, soon developed views very close to those of Parris, and ceased to meet after about two years. Parris, however, viewed its creation as a betrayal of him by McLean and relations between the two men were never thereafter cordial.\textsuperscript{13} In 1875 Parris retired from the Civil Commissionership in favour of Charles Brown, sometime Superintendent of Taranaki, lately chairman of the Taranaki Board, and an old friend of McLean.\textsuperscript{14}

James Mackay, the energetic Civil Commissioner of Auckland, Waikato and Thames, quarrelled with McLean over the terms of his appointment and resigned.\textsuperscript{15} For some time he intrigued with the Stafford faction, in

\textsuperscript{12} Fox to McLean, 9 and 21 October 1869 - McLean MSS, 220; Parris to McLean, 16 December 1869 - AJHR, 1870, A-16.

\textsuperscript{13} Parris to McLean, 23 August and 28 December 1869 - McLean MSS, 335.

\textsuperscript{14} U-Sec. to Parris, 13 July 1875 - MA 4/64.

\textsuperscript{15} 'With the Thames people Mackay is paramount, Donald nowhere. I urged him once and again to give Mackay employment and secure him to the Government side, but McLean is never able to rise above personal resentment or a taste for having only toadies and slaves about him, and the consequence is that Mackay is the master of the situation and, in spite of flour and sugar, really rules a large section of the Thames people'. (Pollen to J.C. Richmond, 15 May 1871 - Richmond-Atkinson Papers, ed. Scholefield, vol.II, p.317).
the expectation that, in the event of their victory, he would be made Native Minister, but when, in 1872, they did briefly hold power, they feared that he would become a dominating semi-independent figure, as McLean had, and did not encourage him to seek election to the Assembly. 16

In 1873 he wrote to McLean, patching up their quarrel and offering to contest a seat in the Assembly on behalf of McLean's party, or to take the Land Purchase Department off McLean's hands. 17 McLean, however, carefully kept him in more subordinate positions as Land Purchase Officer, as special commissioner in the Waikato at the time of the Sullivan murder, and in difficult negotiations such as adjustments to the King Country border and the opening of the Ohinemuri goldfield. 18

16 Mackay to Stafford, 23 August, 7 and 8 October 1872 - Stafford MSS, 8; Pollen to Stafford, 12 September 1872 - Stafford MSS, 40; C.O. Davis to McLean, 3 December 1872 and 3 February 1873 - McLean MSS, 198.

17 Mackay to McLean, 3 April 1873 - McLean MSS, 294. He added '...the other day I heard something which Gillies and Stafford said of me which has effectually prevented me from going in with them again...I expect you know enough of me by this time to have found out that I am both a firm friend and an obstinate enemy and as we have buried the hatchet between us and returned to our old friendship there is no occurrence for any further mistrust of each other'.

18 Mackay to McLean, 23 July 1875, and 7 February 1875 - McLean MSS, 294. Mackay boldly went to Tokangamutu to demand the surrender of Sullivan's murderers. He was attacked in his tent by a Waikato man and subsequently protected by Rewi and the Ngatimaniapoto. (AJHR, 1873, G-3). He was forced to sever official connection with McLean in 1875 when some discrepancies in his land purchase operations were exposed, but continued to assist McLean privately against the rising threat from the Grey party (Mackay to McLean, 12 October 1875 et seq. - McLean, MSS, 294). Mackay never did attain high office. He was briefly Special Commissioner in 1879, investigating the origin of Te Whiti's agitation on the Waimate plains, and the wheel turning full circle, was appointed by Rolleston as R.M. (of the Justice rather than the Native Department) in Nelson and Westland, where he had been Assistant Native Secretary in 1858-63. But he did earn £10,400 commission as Land Purchase Officer from 1872-8, £1,400 as Special Commissioner in 1873, and various lesser sums for official duties, in addition to a considerable income from private land agency work. (Unpublished PP, 1880, Native Affairs Committee, evidence on petition of J. Mackay, n.326).
Meanwhile Mackay had been replaced as Civil Commissioner at Auckland by H.T. Clarke (to be succeeded by H.T. Kemp when he became Under-Secretary in 1873) and by E.W. Puckey as Native Officer at the Thames Goldfield. The position of Native Officer was identical with that of Civil Commissioner, being non-judicial and concerned rather with the political relations between Maoris and settlers and the settlement of land questions. The latter title was avoided however out of deference to public hostility to the plenipotentiary powers associated with it. Another important Native Officer was W.G. Mair, moved in 1871 from Opotiki — where he had been R.M. — to the frontier post of Alexandra, to handle relations with the King Country.

McLean also restored subsidised Native Department Medical Officers to the districts which had been made vacant during Russell's and Richmond's economies, bringing the number of such appointments up to about 24. Regular circuits and monthly reports were required of these men. Armed Constabulary doctors were also required to treat Maoris.

19 W.G. Mair to Gilbert Mair, 19 May 1871 — Mair MSS.
20 McLean to Mair, 15 April 1871 — MA 4/85. Mair, also commanded A.C. Forces at Alexandra, but Searancke remained as R.M. for Upper Waikato. H. Brabant, an able clerk to the R.M. at Waiuku, became R.M. Opotiki.
21 See letters of appointment and instruction to the Colonial Surgeon, Wellington (requiring him to visit the Maori hostelry) and Dr. Wilford, Upper Hutt (MA 4/13, pp. 451 and 722); to Dr. Hewson, Otaki (MA 4/14, p. 693); to Dr. Rockstrom, Manawatu (MA 4/19, p. 95). For authority to appoint doctors see also U-Sec. to A. Mackay (Nelson), 23 January 1874 — MA 4/17; U-Sec. to Puckey (Thames), 20 March 1874 — MA 4/19; U-Sec. to Stack (Kaiapoi), 17 August 1875 — MA 4/21.

Doctors receiving subsidies from the Native Department were not allowed to charge fees from Maori patients. Hewson was reprimanded for charging a half-caste patient and told, "...you are paid a salary to attend the Natives at Otaki and its neighbourhood". (U-Sec. to Hewson, 17 December 1873, — MA 4/18).
vicinity. (Provincial hospitals which admitted Maori patients on the order of General Government officers were paid a General Government subsidy, though it was pointed out that Provincial hospital endowments were for both races and it was expected that Maoris would normally be treated free of charge.)

Other Native Departments officers included a rapidly increasing staff of teachers in village schools, a number of Land Purchase Officers appointed when the Crown resumed purchase of Maori lands in 1870, and a number of officials appointed to administer the land legislation of 1870-3.

McLean, furthermore, greatly increased the staff of Maori office-holders. Men of rank such as M.P. Kawiti (who had been retrenched under Russell and since hindered administration, growling at 'children of slaves' being allowed to judge in his district) were restored to office. Assessors and police were appointed from each tribe that gave its adherence to the Government and vacancies were filled as they arose.

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21a U-Sec. to Buller, 4 August 1870 - MA 4/65; McLean memo., 1 November 1870 - McLean MSS, 30, n.9.

22 From November 1871 to September 1873 A.H. Russell, the former Native Minister, was Inspector of Maori Schools. He resigned on the ground that McLean refused to act upon - in fact suppressed - his reports, which were highly critical of shortcomings in the school staffs and administration. (McLean to Russell, 17 November 1871 - MA 4/15, and 18 September 1873 - MA 4/17).

23 See below pp. 363-4 and 371


25 See MA 4/66, p.250 for a full list.
In the early 1870s then, there were, of European staff, exclusive of Land Purchase Officers, and school teachers, a head office staff of 12 (handling Defence matters as well until 1872), three Civil Commissioners (with clerical staff), three Native Officers, 11 R.M.s (with clerks), 12 interpreters, two keepers of Maori hostelries, and about 20 subsidised Medical Officers. Maoris drawing pay from the Native Office included about 150 Assessors, 180 police, eight ferrymen, (at important rivers and estuaries) and 73 recipients of pensions for injuries received during the war or services rendered to the Government. Total salary payments amounted to about £16,000, ranging from £10 for a policeman, £200 for an important Assessor like Te Wheoro and £600 for a Civil Commissioner.

Of the European appointees several were the sons of missionaries, some were early settlers or the children of early settlers; others combined military or medical qualifications with their judicial or political roles. Several had gained experience as clerks or interpreters before gaining a Resident Magistracy. But these qualifications were

26 C. Marshall, Port Waikato, was the third in addition to Mair and Puckey.

27 A return of 1875 shows 170 Assessors (AJHR, 1875, H-11).

28 MA 4/66, n.199; MA 4/15, n.549; AJHR, 1873, H-24. This figure includes a portion of the Civil List vote for Native Purposes.

29 E.g., R. Woon, F.E. Hamlin, H.T. Clarke, E. Williams, H.T. Kemp, and E.W. Puckey.

30 E.g., Von Sturmer.

31 W.G. Mair and later G. Preece.

32 Harsant, Nesbitt and F. Ormond.

33 Woon, Brabant and Hamlin.
not the only basis of appointment. At the cost of attracting additional settler distrust of his Department McLean revived and extended the system of patronage he had employed when he was Native Secretary. Officers like Kemp, Deighton, Campbell and Locke, several of whom had been dismissed by earlier governments and were now reinstated by McLean, were old cronies of the Native Minister from the days before 1861. If there was no room for an acquaintance McLean sometimes made room. W.S. Atkinson, Richmond's appointee, was ejected from Wairoa to make way for Dr. F. Ormond brother of McLean's Hawkes Bay colleague, J.D. Ormond. Hanson Turton, another acquaintance from the pre-1861 period, was given a salary and expenses to edit and publish a compilation of important Native Department records. Others of McLean's supporters found places as masters in the Maori schools. Moreover, personal ties were reinforced by financial ones; at least two of McLean's officers - Campbell and Cooper - being heavily in debt to their patron.

34 J.D. Ormond to McLean, 1 January 1868 - McLean MSS, 327.

35 This is the volume cited herein as Native Affairs, North Island.

36 A.H. Russell (Inspector of Maori Schools) to Mantell, 29 September 1873 - Mantell MSS, 369.

37 These were the Under-Secretary, G.S. Cooper, and Campbell, R.M. Waiapu. See Cooper to McLean, 25 April 1871 - McLean MSS, 190; Campbell to McLean, 17 July 1871 - McLean MSS, 175.
staff were encouraged by the importance McLean placed upon his
Department and generally worked enthusiastically for him.

CONSIDERABLE insight into the activities of McLean's principal
officers in the field, the R.M.s, is provided by the correspondence and
files of R.W. Woon. The son of a Wesleyan missionary, Woon became an
interpreter in the Wanganui district in the early 1860s and R.M. for
the Wanganui River from 1870-80, administering the affairs of 2,000
Maoris on the 250 mile long waterway.

After a series of meetings with the ex-rebels Woon had, by 1871,
brought most of the river under the regular purview of his circuit
courts, though he did not hold courts in the high reaches of the Tuhua
country until 1876. 38 The principal men of the district/ Mete Kingi,
Major Kemp and Topia Turoa, were usually made Assessors or policemen,
or, like Topine Te Mamaku in Upper Wanganui, were granted a Government
pension. One of Woon's Assessors had been appointed as early as 1851
during Grey's first governorship, others in 1863 during John White's
Resident Magistracy, and others again during the 1870s. The police had
a similar range of service. There was generally an Assessor and a
policeman in each principal village. 39 Some Assessors accompanied Woon

38 Woon to U-Sec., 7 March 1876 - MA-WG 2/2.

39 Return of establishment, 5 December 1871 - MA-WG 1/1; Woon to
U-Sec., 8 March 1878 - MA-WG 2/2.
on circuit, others awaited him in the village and sat with him on the bench as he held Court - first in the village *runanga* houses and later in the Government schools - or assisted him in unofficial arbitrations. The police paddled and polled him up the long river, served summonses, checked drunkenness at meetings, kept order in court, and carried messages to officers in other districts.

Formal magisterial work filled only a relatively small part of Woon's time for he tried only about six criminal cases and 18 civil cases annually. Criminal cases included not only petty thefts and

40 Decorated war canoes, holding 20 to 50 men, were still used on the Wanganui River in the 1870s. Smaller canoes were an essential form of transport until after the turn of the century. Because moving canoes upstream involved frequent changes of polemen and paddlers, Woon was allowed a larger police establishment than most R.M.s. (Woon to U-Sec., 24 July 1873 - MA-WG 2/1).

41 The team-work involved in Woon's judicial proceedings is illustrated by his report of a hearing at Ranana where one party to a case forcibly tried to prevent a witness from giving evidence. Woon's police however, promptly seized the objecting litigant, while Woon and the Assessors questioned the witness. (Woon to U-Sec., 14 June 1871 - MA-WG 2/1).

42 Maori police were allowed to travel free on public transport if in uniform and carrying a note saying they were on public service. (Featherston to Woon, 11 April 1879 - MA-WG 1/5).

43 This is an average taken over several years. The actual figures were: 1871, 9 criminal cases and 31 civil; 1872, 16 criminal, 24 civil; 1873, 2 criminal, 11 civil; 1874, 3 criminal, 21 civil; 1875, 5 criminal, 10 civil; 1876, 3 criminal and 29 civil; 1877, 11 civil (criminal cases uncertain); 1878, 12 civil; 1879, 13 criminal and 13 civil; 1880, 2 criminal and 7 civil. (See Woon's 'Plaint Book' - MA-WG 3/10).
assaults, but charges arising out of the practice of muru which was slow to die and which Woon sought to extinguish by punishing as theft. On the other hand he sought to compensate for his proscription of muru by awarding damages to the victims of the traditional misdemeanours of puremu and kanga (cursing or execration of an antagonist) as well as for the routine problems of debt, breach of contract and claims for damages to property. As has been stated, the handling of Maori misdemeanours under processes of English civil law was a crude and ill-fitting process and Woon admitted to a neighbouring R.M. who inquired how he handled puremu cases that he was straining the letter of the law in trying to make it appropriate to the needs of the district. But unless the customs of muru and utu were to be allowed, some alternative such as Woon's awards of damages was clearly desirable.

As usual, a great part of Woon's work was unofficial mediation especially over land disputes. Some land disputes he had referred to his court, then adjourned the proceedings sine die pending a decision of the Native Land Court, a proceeding which allowed for passions to

44 Woon to U-Sec., n.d.; circa 1871 - MA-WG 2/1, p.254; Woon to U.Sec., 7 March 1876 - MA-WG 2/2. In a typical civil case Woon awarded Katene £4 damages against Kawana whose pigs had eaten Katene's steeped corn. (Woon to McLean, 23 April 1873 - McLean MSS, 437).

45 See above pp.204-5

46 See Woon's minute on Turner (R.M. Patea) to Woon, 28 March 1874-MA-WG 1/5. Other magistrates took a different view from Woon, condoning muru in puremu cases and dismissing charges of larceny brought by victims of muru parties. (See Hawkes Bay Herald, 22 August 1879).
die and agreement to be reached. Woon urged his people to take their land disputes to the Land Court but he also encouraged their many runanga discussions over land boundaries, and was one of several officials who urged the Government to give formal recognition to these preliminary discussions and merely have the Court ratify them.

Woon's judicial authority was not entirely unchallenged. From 1873 he reported a movement among his people, prompted by the visit of a Hawke's Bay leader named Henare Matua, and encouraged by Woon's action - deemed excessively harsh - in gaoling a first offender for assault, to refer cases to a runanga selected from among themselves. In 1875 there was a confrontation between the authority of Woon and that of the runanga, resulting in Woon exacting a fine from its leaders for plundering a Maori who had offended them. The prestige

47 Woon to U-Sec., 18 March 1872 - MA-WG 2/1.
48 Woon to U-Sec., 21 February 1872 - MA-WG 2/1; 24 November 1873 and 27 September 1875 - MA-WG 2/2.
49 A man named Rupuha quarrelled with a member of the runanga and exchanged kanga with him. He was thereupon 'summoned' by the runanga and having ignored the 'summons', had some of his property seized by Hiroki, a paid 'policeman' of the runanga, armed with a 'warrant'. (This was a muru modified by European forms). Rupuha laid an information with Woon against Hiroki for larceny and Woon sent one of his constables to recover the goods. When they were not surrendered Woon prompted Rupuha to press his action in the Circuit Court and fined Hiroki £5 with the option of 6 months hard labour. After a week of negotiations during which Hiroki remained in custody, the leaders of the runanga paid his fine. (Woon to McLean, 28 January 1874 - McLean MSS, 437; Woon to U-Sec., 15 August 1876- MA-WG 2/2; report of Rupuha v. Hiroki - MA-WG 3/7 and MA-WG 2/1, p.23).
of Woon's court rose considerably after this encounter. Nevertheless, the *runanga* persisted. It enjoyed favour because it embodied Maori, not alien, authority, because its proceedings and decisions in some respects were more appropriate than English law (even as modified by Woon) to traditional Maori offences and Maori notions of justice, and because the fines and fees it levied remained in the district instead of going to Wellington. In fact Woon's court and the *runanga* tended to alternate in popularity according to whether a somewhat fickle local opinion believed one or the other to be giving the most satisfactory judgments. In the long run the trend favoured Woon because, as Rupuha's case had shown, the *runanga* was inclined to be faction-ridden and oppressive.\(^{50}\)

About one third of Woon's time was taken up with non-judicial duties such as the promotion of agriculture and the founding of schools. Three schools were started on the river in the 1870s and experienced fluctuations of fortune. Woon arranged for a supply of hops, mulberry and tobacco seedlings and for some instruction to be given in the culture of these plants. McLean encouraged him in this work, but Government aid did not extend to the provision of the plant nursery and paid instructor which Woon requested. A combination of spasmodic interest, the inherent difficulty of cultivating the crops, unsuitable

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\(^{50}\) Woon to U-Sec., 15 April 1878 - MA-WG 2/2.
climate and uncertain market caused the new ventures on the Wanganui River to dwindle and die by the end of the 1870s. 51 Woon also assisted the local leaders who raised money and repaired their flour mills. 52

Woon's other important duties including intensive diplomacy during times of crisis such as the Todd and Sullivan murders on the Waikato frontier, and the sending of intelligence on the attitude of Kingite Maoris or followers of Te Whiti. Miscellaneous work included arranging mail contracts, distributing pensions awarded to elderly Maoris, wounded Kupapas or their dependents, issuing arms and ammunition permits, recovering arms issued to Kupapas during the Wars, receiving and distributing rents to Maori owners on behalf of the Reserves Commissioners, assisting in the election of members for the Western Maori electorate, witnessing deeds, arranging for the care of destitute and elderly Maoris, collecting subscriptions for the Government newspaper, (the Waka Maori of Napier, which McLean had made the official publication), negotiating the passage of roads and telegraphs, taking censuses and administering the liquor laws in the district. 53


52 Woon to U-Sec., 18 February 1874 - MA-WG 1/5.

53 U-Sec. to Woon, 28 December 1870 - MA-WG 1/1, and 3 November 1871 - MA-WG 1/2; Woon to U-Sec., 10 May 1873, AJHR, G-1, p.16; see also MA-WG 2/1 and 2/2 inter alia.
frequently toured his district with the missionary Richard Taylor, until the latter's death in 1875, and with the Native Department doctor, J. Earle. In Wanganui he frequently played host for visiting Maoris. 54

Although he was instructed not to engage directly in negotiations for land, 55 Woon, like other Resident Magistrates, was asked to lend his influence in support of the work of the Land Purchase Officers. Woon, however, had little sympathy with the guileful and pushing techniques of Booth, principal Land Purchase Officer of the district. As one who had a paramount interest in preserving the peace of the district, Woon frequently had cause to report that Booth, by recklessly advancing surveys with the support of only a fraction of the owners, was endangering the peace. Booth on the other hand charged Woon with obstructing land purchase operations. 56 In fact, Woon was as anxious as any European to see settlement enter the district, provided always that the Maoris were not pressured into selling and that they were able to make ample reserves. Because he was anxious that his official role should not be confused with that of the Land Purchase Officers, he arranged in 1872 to have a separate office in Wanganui from that of George Worgan (another Land Purchase Officer) with whom

54 Woon to U-Sec., 28 January 1873 - MA-WG 2/1.
55 U-Sec. to Woon, 7 March 1872 - MA 4/66.
56 Woon to U-Sec., 6 August and 28 December 1872 - MA-WG 2/1; Booth to U-Sec., 4 May 1877 - MA 1/8, N.O. 77/2014.
he had previously shared.57

Woon was also frequently called upon to report whether land purchases by private individuals conformed with the anti-fraud legislation of 1870 and to recommend on the advisability of removing restrictions on land reserved for 21-year lease. Acting usually on the advice of Kemp and other leading Assessors he did approve certain transactions if he was satisfied that the price was fair and that all owners consented to the sale, but he vehemently declined to approve the sale of such vital reserves as Putiki near Wanganui and expressed concern that the idea should even be contemplated. 58

Woon passed up - and frequently supported - representations by Maoris of his district who were involved in disputes with Europeans over boundaries, or rents or purchase money, although these were not frequent until the late 1870s when extensive sales of up-river land first took place. He represented the Maoris strenuously and with some success in their claim for a canoe landing place and market centre on the Wanganui foreshore when their original landing place was taken for harbour reclamation work.59

57 Woon to U-Sec., 18 March 1872 – MA-WG 2/1.

58 Woon to U-Sec., 19 November 1878 – MA-WG 1/9; MA 13/22, N.O. 78/4147. (Putiki remains an important Maori centre today).

59 Woon to Commissioner of Native Reserves, 1 May 1873 – MA-WG 2/1; Woon to U-Sec., 10 July 1874 – MA-WG 2/2. The landing place and market was granted but as conveniently near to the centre of the town as Woon desired. (U-Sec. to Woon, 19 April 1880 – MA-WG 1/11).
THE pattern of administration developed by Woon was fairly representative of that of R.M.'s in the more remote districts. Only in the King Country, the Urewera and Te Whiti's domains did Maori leaders not, by and large, welcome the presence of magistrates. There was a tendency for young men, sometimes half-educated in the European way of life, or half-caste descendants of Europeans, to lead in this direction. At meetings in the Bay of Islands in 1873, for example, young Maori spokesmen moved that elderly Assessors be struck off pay and replaced by young men competent to sift judicial matters, and called on Williams, the R.M., to be firm in the discharge of his duty, not leaving disputes to be settled by the older chiefs. As a result, young men frequently became the Assessors who sat on the Bench with the Resident Magistrates or assisted them as police, though the older and more conservative chiefs - such as M.P. Kawiti of the Bay of Islands or Topine Te Mamaku of Upper Wanganui - were consulted in all important matters.

The inexpensive and peculiarly flexible jurisdiction of the R.M.'s court made it possible for disputants, at the risk of a few shillings, to gain a speedy decision. An amazing variety of disputes was brought by Maori litigants. Thus Williams, R.M. Waimate, awarded £2 damages against a man who called a meeting, which many Maoris went out of their

60 Speeches of Perene and Kohumuru, Notes of meetings, Russell, 20 March 1873 - MA 13/15.
way to attend, and then failed to arrive to transact the business. 61
The work of mediator was always very important. Brabant, R.M.
Opotiki, reported that contentions between tribes and hapu in his
district flared from time to time almost to the point of violence,
'but on being appealed to, they have always allowed me to mediate,
and are no doubt glad of having any disputes settled without either
side having to give in - saving their dignity by giving in to the
law.' 62 It seems that, as long as they had confidence in their
mediator, contending parties were glad to be freed from the burdensome
and dangerous responsibilities of upholding prestige and levying utu.

The R.M.'s judicial function clearly shaded over into the
quasi-political work of preserving the peace and keeping the Maoris
in as friendly a relationship to the Government as possible. Constant and
energetic activity by the R.M. was essential 63. Within a period of
12 months Brabant had quelled a dangerously tense puremu dispute
involving Tamaikowha, the restless ex-rebel chief of the Waimana valley,

61 Williams to U-Sec., 31 July 1878 - JC-Waimate 2. Hamlin, R.M. Makeut, was even obliged to ask whether his jurisdiction covered the case of a Maori who lost a side-bet on a horse which was 'pulled' at the local races. (Hamlin to Att-Gen., 3 May 1872 - JC-Maketu, 2). Another example of an 'odd' case, was Hamlin's prosecution of the local medical officer, on behalf of the Maoris who claimed he had interfered with the bones of their dead. (Hamlin to Dr. Bestie, 9 January 1872 - ibid.).

62 Brabant to U-Sec., 23 May 1873 - AJHR, 1873, G-1, p.12.

63 Thus Locke reported that Maori leaders at the North end of Lake Taupo advised him respecting ex-rebel tribes in the vicinity: 'They will require constant attention; it is only thus you will keep these people right'. (Locke to McLean, 6 May 1872 - AJHR, 1872, F-3A, p.9).
settled another quarrel with Tamaikowha about alleged underpayment for road works, intervened between Tamaikowha and a faction of Maoris inclined to lease land to settlers (advising the would-be lessors not to take the money and the would-be lessees to leave the district), obliged a Maungapohatu chief who kept back funds given him to pay an 'orderly' or despatch service established in the Urewera, to disgorge the money, and removed a suspected practitioner of makutu from the district lest he be killed. Almost all R.M.s were constantly involved in stopping disputing hapu from clashing over land, making interim decisions, invoking the aid of a third party of Maoris, trying to persuade disputing groups to resort to the Land Court.

Another common source of trouble was the testy or truculent type of settler who commonly made a frontier home in a Maori district and was constantly engaged in a running feud with his neighbours over stock trespass or other grievances, real and imaginary. About half of Hamlin's cases at Maketu for instance, involved charges and counter-charges between T.H. Smith and his neighbours, many of them highly coloured by the participants' imaginations. The R.M.s Court provided a ready outlet for such feuds and prevented them from assuming

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64 Brabant to McLean, 17 June 1873 to 14 August 1874 - McLean MSS, 151.

65 E.g., the reports of J. Hamlin for March 1871 - JC-Maketu 2. On one occasion Hamlin stood between contending parties and threw three men to the ground to stop them from coming to blows.

66 Not the Civil Commissioner and Land Court Judge of the same name.
ugly proportions. There was a dangerous tendency, where Maoris committed petty crime in districts not under an R.M.'s special jurisdiction, for the more aggressive settlers to assemble under a local leader, possibly a J.P., in order to 'discipline' the offenders. When this happened in New Plymouth, after a Maori had stolen a shawl, the Native Department considered extending to the town the sections of the Resident Magistrates Act which reserved Maori cases to the R.M.s. This did not prove necessary, however, it being generally conceded that cases involving Maoris were for the Native Department officers to handle, rather than the local J.P.'s and police.

The quiet attentions of R.M.s such as Brabant and Woon went far to establish confidence between the Government and the more aloof tribes. Brabant began slowly to link the Urewera tribes with his administrators by means of a system of salaried 'native orderlies' or messengers, at Maungapohatu and Ruatahuna. The Urewera took road contracts on the fringe of the district. By 1876 some chiefs were bringing members of their tribe for trial in Brabant's court at Opotiki. All of this depended upon McLean's officers observing his instructions to respect the Urewera Maoris' objections to the encroachment of Land Purchase

Officers or the Land Court. 68

The extension of roads and telegraphs depended considerably on respect for local interest, usually more readily found in a Native Department than a Public Works Department officer. Thus H.T. Clarke spent much time negotiating the passage of road through a range of hills long made tapu on account of its association with battles between the tribes on either side of it. And when the road was negotiated the terms included an assurance that workmen would not be allowed to trespass or hunt pigs away from the line of road during the Maoris' pigeon-spearing season. 69

Given the constant sense of crisis and need for care and tact in their work, it is not surprising that the R.M.s placed a high value on their presence in a district. When it was rumoured that he was to be retired, White, R.M. Mangonui, wrote: 'I venture to say that it would be a very serious blunder ... one misunderstanding would cost the Government much more than the salary of a responsible officer.' 70 White was retained.

68 Brabant to McLean, 24 June 1872 - AJHR, F-3, p.10; 17 June 1873 and 14 August 1874 - McLean MSS, 151 and 20 July 1877 - AJHR 1877, G-1A, p.2. In 1876 the Urewera tribes did accept the decision of the Land Court with respect to a block in Upper Wairoa (Hawkes Bay) disputed between them and the Ngatikahungunu and subsequently sold their share. This was hailed by McLean as the beginning of the opening of the Urewera country. But with respect to the lands which were not disputed with other tribes, the Urewera Maoris did not admit surveys and Land Courts. (AJHR, 1876, G-1A and G-5, p.11; PD, 1876, vol.XXI, p.505).


70 White to McLean, 22 April 1873 - AJHR, G-1, p.2.
The R.M.s constantly paid tribute to their Maori assistants. Jackson, R.M. Papakura, South Auckland, noted that in arbitrating or adjudicating on disputes, 'Assessors, when their own people were not involved, act very fairly, are good reasoners, and some are remarkably clear and shrewd.' 71 Aubrey, R.M. Whangarei, noted that his principal Assessor, Taurau Kukupa, assisted him in every case involving Maoris and was greatly respected by Europeans in the town. 72 Woon so valued his Assessors' ability and influence that he asked the Minister of Justice to consider granting the R.M.s discretionary power to invite an Assessor to assist him on the bench in mixed cases as well as purely Maori cases. This concession, which in the settlers' view would have made them subject to Maori judicial authority, was not granted. 73

The Maori police were also greatly valued. No R.M. in the 1870s was without at least one or two in his district, and many eight or more. 74 Like the Assessors the police were most efficient when they were natural leaders of their community. For instance, Hamlin, R.M. Maketu, appointed the energetic Tapsell brothers, half-caste

71 Jackson to Nat. Min., 22 April 1878 - AJHR, 1878 - G-2, p.4.
72 Aubrey to U-Sec., 17 June 1873 - AJHR, 1873, G-1, p.23.
73 Woon to Min. of Justice, 3 March 1873 - MA-WG 1/3. Woon nevertheless usually had an Assessor on hand when hearing mixed cases.
74 Brown, C.C. Taranaki, for example, observed that the Maori police in South Taranaki were very useful in preventing theft and in recovering stolen property from Te Whiti and Titokowaru's territory. (Brown to U-Sec., 31 January 1877, AJJR, 1877, G-1, p.14).
descendants of a Danish trader who married into the Ngatikwhakaue tribe, as his sergeants of police, and until his death in 1875 old Papahurihia, the founder of the cult of the 1830s designated by his name, served as Warden of Police at Hokianga and was a useful officer. 75

Nevertheless, while in a remote district such as Upper Wanganui the R.M. relied entirely upon Maori police, in the districts penetrated by the settlers, Armed Constabulary began to supplant them. An R.M. on circuit in the villages usually still relied on his Maori staff but in the small townships an A.C. man usually kept order in court and acted as court clerk. And since not all Maori police were capable of securing prompt obedience, the R.M.s, even in predominantly Maori districts such as the Bay of Islands, Waiapu and Maketu, valued the additional assistance of Armed Constabulary. 76 By working with the Maori leaders a discreet constable could, however, secure the confidence of the Maoris just as the R.M. did; there was general regret at Maketu, for instance, when the A.C. man was withdrawn during a retrenchment, Tapsell and the Maori police heading the petition for his retention 77.

75 Von Sturmer, to U-Sec., 11 May 1876 - AJHR, 1876, G-1, p.19.

76 R.M. Waimate to U-Sec., Justice Dept., 16 July 1877 and U-Sec., Native Department, 31 July 1877 - JC-Waimate 2; Searanoke to McLean, 18 June 1875, JC-HN 4; Campbell to U-Sec., 13 June 1874 - AJHR, 1874, G-2A, p.2 and 24 May 1875 - AJHR, 1875, G-1, p.15; Von Sturmer to U-Sec., 13 May 1875 - AJHR, 1875, G-1, p.2. For the duties of armed constabularymen see AJHR, 1871, G-5, pp.5-11.

77 Hamlin to O.C. Armed Constabulary, Tauranga, 9 May 1872 - JC-Maketu 2.
Petty crime among Maoris - horse stealing, drunkenness, assault - was, as could be expected, most frequent where social dislocation was most severe. It could frequently be associated with the drunken sprees that followed the completion of a land sale; it was also more common among tribes suffering from the aftermath of war, such as the ex-Hauhaus of Poverty Bay, who were supposed to be in exile in the Bay of Plenty, but who kept drifting back to their own district to find a considerable proportion of their land ceded. Otherwise the annual reports of the R.M.s almost invariably complimented the local tribes on their law abiding ways. For example, of 2,000 Maoris in the Hokianga district, Von Sturmer noted only one assault and three burglary cases in one year. In cases of disputes between Maoris and settlers, Native Department officials generally laid much of the responsibility upon the Europeans. With regard to minor crime R.M.s in the 1870s usually had little difficulty in serving summonses, making arrests or securing compliance with their decisions. W.B. White, R.M. Mangonui, reported: 'Warrants are issued on the information of Natives, and culprits are apprehended by Native

78 Report of Sub-Inspector Gudgeon, 3 June 1874 - AJHR, 1874, H-12, pp.7-8.

79 Von Sturmer to U-Sec., 11 May 1876 - AJHR, 1876, G-1, p.19; Hamlin to Nat. Min., 13 June 1873 - AJHR, 1873, p.9; Nesbitt (R.M. Poverty Bay) to U-Sec., 23 June 1874 - AJHR, 1874 - G-2A, p.3; Campbell (R.M. Waiapu) to U-Sec., 13 June 1874 - ibid., p.2; Clarke to Nat. Min., 18 May 1877 - AJHR, 1877, G-1, pp.24-7.
constables without difficulty, no one attempting to interfere'.

Von Sturmer, R.M. Hokianga, noted that a single constable could arrest a man from amongst a crowd. And in 1877 Williams, R.M. Waimate, reported that he had imprisoned for larceny two young men, the sons of chiefs, 'whose tribes would, a few years back, have offered strenuous opposition, and tendered any sum of money rather than that they should be sent to gaol.'

With regard to crimes of violence the magistrates' authority was also increasingly respected, though more uncertainly. Having secured the surrender of one Paapu, accused of murder, Williams, R.M. Waimate, remarked that although submission to European law was still not automatic, each case was now easier. The authorities encouraged compliance by punishing more leniently, killings which arose out of a breach of Maori custom and were not therefore kohuru, or unpunished murder, in Maori eyes. By the late 1870s even the Urewera surrendered a Ngatiawa Maori who had killed a kinsman for makutu and fled among them,

80 White to U-Sec., 18 May 1876 - AJHR, 1876, G-1, p.18; Von Sturmer to U-Sec., 11 May 1876 - ibid., p.19; Williams to U-Sec., 12 May 1877 - AJHR, 1877, G-1, p.3.

81 Williams to Nat. Min., 12 May 1874 - AJHR, 1874, G-2, pp.2-3.

82 Paapu's sentence was unduly lenient in the eyes of his victim's relatives. (Williams to McLean, 19 May 1875 - AJHR, 1875, G-1, p.5). Haimona of Te Teko was sentenced to imprisonment, not execution, for the murder of an alleged makutu worker. (H.T. Clarke to Nat. Min., 26 November 1878 - MA 5/5, p.552). The grant of a full pardon - after his formal submission - to Te Wake, the first Maori gaol for killing another in a tribal feud, increased the Northland Maoris' confidence in European justice.
while the independent Turoa family of Upper Wanganui gave up one of their number who had killed a European in a drunken fracas at Wanganui. Unpunished killings for puremu and makutu were however reported from Taranaki, Waikato, Tauranga and Eastern Bay of Plenty, and probably more remained undisclosed.

A similar pattern had emerged in respect of armed conflict over land and other causes. In most cases involving land the parties submitted to arbitration and in only one instance during McLean's administration, was loss of life reported. In this case, a clash between two hapu of Ngatiporou in 1871, resulting in one man shot dead, the killing went unpunished and led to continued retributive raids by the victim's relatives as late as 1882. Taua muru arising from puremu and makutu were still frequently employed, while Maoris in dispute with settlers and unable to get redress from the civil authorities, were still prone to muru their adversaries, seizing stock, for example, in lieu of unpaid rent, and defying arrest. Nevertheless taua muru were reported to be declining in frequency throughout the 1870s and in at least one district the use of them led to requests for circuit courts and the appointment of Assessors. Not only was social
dislocation diminishing the Maoris' capacity to organise redress in the traditional way, but Maori leaders increasingly accepted that the rule of the settler law had to be accepted and was, moreover, in many ways preferable.

Nevertheless runanga persisted in every district, and as Woon had found, formed an alternative tribunal - fluctuating in popularity and efficiency - at which Maoris could adjust differences. The R.M.s usually let them work unless they came under the control of an oppressive faction, and their victims appealed to the European court for redress.® The leading Maoris of a district, including the Assessors, were often leaders of the unofficial runanga, but were normally discreet and worked against judicial excesses or the frequent resort to muru.

Throughout the 1870s there was a persistent demand from Maori leaders that the runanga be given official status and power to make and enforce regulations, such as had been offered under Richmond's

87 T. Jackson, R.M. Papakura (South Auckland), reported that Hori Kingi Te Whatuki of his district had held courts for years, fining people or taking their horses. He was tolerated until Tauhiwhi, a Waikato chief who had allegedly insulted Te Whatuki and had his horse seized, laid a complaint against him for larceny. Jackson summoned them all to his court, extracted Tauhiwhi's horse, and expenses, from Te Whatuki, and let the case rest. (Jackson to U-Sec., 8 May 1878 - AJHR, 1878, G-1, p.5).
1858 legislation or Grey's Runanga system. Because of the encroachment of the Land Court and Land Purchase officers, this demand centred increasingly on requests for authority to determine land boundaries and control land alienation, as well as to regulate community relations and control petty crime. European officials experienced in Maori administration supported the idea of Reviving local Maori councils under the R.M.S. Rolleston raised the idea in the House in 1869, and Sir William Martin put it to McLean in 1870, while several of the R.M.S—encouraged by the success of committees formed in connection with Maori village schools and seeing value in having a recognised runanga, through which to work—also advocated it.

In 1872, therefore, McLean drafted a Native Councils Bill proposing again to allow local councils under a Maori president, to pass and impose appropriate bye-laws regulating the familiar problems of purānu, health, sanitation, drunkenness, noxious weeds, dogs and trespassing stock. He expressed his wish to lead the Maoris out of

88 E.g., 'This is a request from us for you to authorise the Maori Council of Hauraki so that it can have the power to arrange all Native differences...so that people may not be able to despise the works of the Runanga'. (Hotereni Taupari and others to Native Dept. 1 May 1872 — MA 23/2, N.O. 72/612). See also Mohi Tawhai and 71 others to McLean, 16 October 1869 — AJHR, 1871, A-21, p.12; Martin to McLean, 19 April 1870 — McLean MSS, 315.

89 E.g., the motion of Taiaroa, member for Southern Maori, PD, 1871, vol.IX, p.123.

90 PD, 1869, vol.VI, p.60 (Rolleston); Martin memo., 7 April 1870 — McLean MSS, 30; Martin to McLean, 11 April 1870 — McLean MSS, 315; Locke to McLean, 4 August 1872 — AJHR, 1872, F-3A, p.32; H.T. Clarke to U-Sec., 9 June 1873 — AJHR, 1873, G-1, p.8.
social anarchy through their own intelligent leaders. Furthermore, McLean's bill provided that the local councils could investigate and determine disputed land boundaries, their decisions to be ratified by the Land Court. 91

This was a generous measure, reminiscent of the spirit of 1858-63 before the onslaught on semi-independent Maori authority, and again offered the Maoris a larger role in the affairs of the Colony. In 1872 Maoris were more amenable than they had been in 1862 to adopting some system of local government under European auspices, while their community structure was still sufficiently intact to allow local councils to work effectively. The Bill was introduced late in 1872 after the Maoris had heard rumours of it and members of communities had elected committees in preparation for its passage. The Premier, Waterhouse, claimed that 'so firm a hold on the Native mind has this question obtained, that it has now risen to the prominence that the King Movement did some years ago'. He added that McLean intended to accept and utilise this feeling. 92

However, the introduction of the Bill roused the same objections which greeted Grey's institution of 1861-3. Gillies said that the measure gave the Maoris too much authority over important matters which affected settlers and that it destroyed the authority of the Land

91 Draft of Native Council Bill and supplementary notes, c. 1872-3, McLean MSS, 31.

92 PD, 1872, vol. XIII, pp. 587 and 894-5. McLean however, recalled that Fenton's attempt to introduce a Runanga system in 1857 had aroused chiefly jealousy and said he would try to introduce it cautiously in a few districts. (Ibid., pp. 895-9).
Court. Wi Parata, member for Western Maori, said that he knew that settlers feared that, through the councils, Maoris would regain control of their lands. 93

Having withdrawn the bill until the 1873 session, McLean urged Campbell, R.M. Waiapu, to establish an experimental council among the Ngatiporou. The council met twice and showed a tendency to discuss matters of wider than local concern. 94 Meanwhile, McLean tried to make his bill more palatable to European tastes by restricting its application to Maori customary land and by allowing Europeans to opt to come under it and elect members to the council. 95 It was to no avail. The House objected to granting the decision on land title to 'a set of outside Republics presided over by Government officials'. Fenton too had expressed his jealousy and contempt of the measure. McLean again, and finally, withdrew the bill. 96

McLean's failure to secure legal recognition and power for them meant that any runanga subsequently sponsored by government officers at McLean's encouragement soon collapsed, their members preferring a

93 Loc. cit.

94 McLean to Campbell, 5 November 1872 - MA 4/66; U-Sec. to Campbell, 7 February and 22 April 1873 - MA 4/67; Campbell to McLean, 29 January 1873 - McLean MSS, 177.

95 Draft of Native Councils Bill, C.1873 - McLean MSS, 31 and 118.

96 PD, 1873, vols.XIV, p.106 and XV, p.1514; Fenton to Mantell, 6 November 1872 - Mantell MSS, 277.
more fundamentally Maori institution to a powerless government one.

Thus Hamlin, R.M. Maketu, reported:

The Native Assessors’ Court at Ohinemutu which I took much trouble to establish for the purpose of trying cases has been neglected since September last in consequence of which a runanga has since been established, to which the Assessors give their support.97

These unofficial runanga, unable to compel adherence to their decisions, continued to form, break up and reform throughout the 1870s and 1880s.

McLean’s inability to re-establish a system of Maori local councils was to some extent offset by the participation of Maori leaders, as Assessors and police and on School Committees and licencing benches. The School Committees, working under the guidance of the R.M.s, varied widely in ability and interest, but in general they provided a valued outlet for constructive work, an outlet of which the younger chiefs especially took advantage.98 McLean encouraged the system by an amending act of 1871 which authorised the Government to assist schools without the Maoris having had to make a cash contribution as required by the 1867 Native Schools Act. Maori schools grew in number from 13 in 1870 to 33 in 1873-4 and 66 by 1880. The teachers also began to perform a useful service in distributing medicines to ailing Maoris and reporting cases of indigence.

97 Hamlin to U-Sec., 19 June 1874 - AJHR, 1874, G-2C, p.1. Other R.M.s who were encouraged to establish local councils with limited judicial authority included Woon, Lock and Watt (Otago).

98 See, for instance, Schwimmer’s description of the founding of a school by two young Northland men. (Schwimmer ‘The Maori Village’ in The Maori and New Zealand Politics, ed. Pocock pp.73-74.) Further examples are given in the annual reports of R.M.s in Maori districts.
Maori participation on the licencing benches was McLean's solution to the liquor question. In his first year of office he pondered over the vexed question of whether to enforce the hitherto unenforced prohibition of supply of liquor to Maoris, imposed by the Sale of Spirits Ordinance, 1847, or whether to abandon legal prohibition. But it was clear that not only was enforcement well-nigh impossible but also that Maoris resented a prohibition that applied to them and not to Europeans. The only fair alternatives were to legalise drinking for both races or to enforce prohibition on both. McLean therefore adopted the course (possibly at the suggestion of H.T. Kemp, Civil Commissioner at Auckland) of giving this choice to local districts and making liquor licencing in rural districts dependent upon local Maori opinion. The Outlying Districts Sale of Spirits Act, 1870, provided that in districts of at least two-thirds Maori population applicants for liquor licences must obtain the written consent of the Assessors of the District. After legislation in 1873 had established a general system of Licencing Courts, usually under the chairmanship of the local R.M., amendments to the Outlying Districts Sale of Spirits Act (1874 and 1876) provided that a leading Assessor must sit on the Court with power to

99 See Kemp to McLean, 23 July 1870 - McLean MSS, 270.
veto any application for a new licence or renewal of an existing one. The Sale of Spirits Ordinance was not repealed as regards the towns until 1881, but it remained unenforced. 100

The purpose behind McLean's Act was that 'a grog drinking minority (of Maoris) will submit to restriction when imposed or at least asked for by their own chiefs much better than they would do under the present inoperative law of entire prohibition and...information against Europeans selling would be obtained which cannot be done now'. 101

In a number of districts the looked-for results followed. In Mangonui for example, the two principal Assessors allowed the granting of licences to accommodation houses only when strictly necessary, and when the houses were well away from Maori settlements. A licensee who had established himself at Ahipara and abused his privileges, was closed down by the Assessors' veto. From about 1874 local officers reported that the Rarawa leaders were drawing their people into increasing sobriety. 102

But an unexpected result of the 1870 Act was a flood of requests by Maoris, including Assessors, to take out liquor licences themselves.

100 Native Office circular, 14 July 1873 - MA 6/1; U-Sec. to R.M. Waiapu, 16 February 1874 - MA 4/68.

101 Maing to McLean, 2 September 1870 - McLean MSS, 311.

102 White to U-Sec., 8 May 1874 - AJHR, 1874, G-2, p.1; Kelly to U-Sec., 20 August 1879 - JC-Mangonui 8.
The Native Office, succumbing to the Maoris' argument that they were entitled to a share of the profits from the liquor consumed by Maoris, informed the R.M.s that Maoris of good character might take out 'bush licences'. The manner in which this privilege was exercised depended upon the firmness and good sense of the R.M. and Assessors, especially the former, since Assessors were inclined to petition for prohibition one day and apply for a licence the next. Officials such as Woon, at Wanganui, White and Kelly at Mangonui, and Brabant in the Bay of Plenty, gave a clear lead and supported very few applications by Maoris. But on the East Coast, Campbell allowed 14 licenced and an estimated 48 unlicenced Maori grog-houses to flourish so that the district became a by-word for drunkenness and tumult.

All in all, the Outlying Districts Sale of Spirits Act did not prevent drunkenness, especially in the towns and when Maoris were flush with cash after the conclusion of a land sale, nor did it entirely prevent the sordid practice of selling adulterated liquor to Maoris. But with the glaring exception of the East Coast, it did

103 MA 24/4; McLean memo., 14 May 1872 - MA 4/66; Native Office circular, 8 November 1872 - MA-WG 1/3.

104 Campbell to McLean, 30 June 1872 - AJHR, 1872, F-3, p.12 and 13 July 1873 - McLean MSS, 75; Woon to H. Bunn, Provincial Secretary, 23 May 1873 - MA-WG 2/11; Brabant to Nat. Min., 26 May 1874 - AJHR, 1874, G-2, pp.6-7; PD, 1878, vol.XXX, p.947.

105 Wi Te Wheoro claimed that the European police did not adequately test liquor supplied to Maoris and asked fruitlessly that this become a duty of the Maori police. (MA 23/3 N.O. 81/237)
assist control of the liquor trade in rural districts. Local
officers throughout the 1870s and 1880s reported themselves much
impressed by the steadily increasing sobriety in Maori communities. 106
The Maoris own efforts were assisted by the Good Templar temperance
movement. By 1876 the movement was active in the King
Country - virtually the first European organisation to be allowed
there freely - and both Rewi and Tawhiao had become members, although
the latter was an erratic observer of his pledge until the late 1880s. 107

Subsequent legislation did not seriously alter the power of the
Maori Assessors on the Licencing Benches. Unpopular though it was
with many Europeans it was supported by the powerful temperance forces
in the Colony and the system remained in force into the twentieth
century. 107a In response to periodic demands from Maori leaders
other Native Ministers - Sheehan in 1878 and Bryce in 1881 - while
retaining McLean's system, also took power to again declare prohibition
of liquor to Maoris, in specific districts, on petition from a certain
percentage of Maoris resident there. But when R.M.s sought action on
these lines most Maoris pronounced themselves quite satisfied with the

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106 See, inter alia, annual reports, from about 1878 - AJHR, G papers,
usually G-1.

107 Woon to Nat. Min., 7 March 1876 - MA-WG 2/2; Mair to U-Sec.,
20 May 1876 - AJHR, 1876, G-1, p.22.

107a An attempt in 1880 to withdraw the Assessors' veto power was defeated
largely owing to the spirited opposition of Fox, who had become
leader of the temperance forces in the Assembly. (PD, 1880,
vol.XXXV, pp.106, 173, 201-3 and 208).
existing system. In some districts prohibition was proclaimed, and was followed by a brief increase in sobriety, but, largely because the prohibition did not apply to Europeans, it never lasted and was usually withdrawn within a few years. Only in the King Country, when it was eventually opened in the 1880s, was prohibition legally imposed and nominally retained until 1948, though it was, from the beginning, evaded. The closing of the public houses in the vicinity during a Land Court sitting, required by the Native Land Court Act, 1883, was a much more effective reform.

THE individual efforts of officers in the out-districts were supported and co-ordinated by Head Office and by McLean personally. Anxious to avert renewed warfare, McLean hounded his officers, by letter and telegraph, to visit regularly the villages of their district, to talk with the principal men and to report at frequent


109 Upper Wanganui was proclaimed 'dry' to Maoris in 1879 but '...great apathy was shown by the Wanganui natives to the prohibition of the sale of spirits in their midst. In fact they took so little interest in the matter that in March last the Native Licensing Court of Upper Wanganui was abolished by Order in Council'. (Morpeth minute, 12 February 1885 - MA 1/5, N.O. 85/321). Thus when Major Kemp, in 1885, petitioned again to have prohibition enforced the matter was referred back to him and lapsed. (Lewis minute, 21 March 1885 - loc.cit.). See also AJHR, 1879, Sess.I, G-1 and G-1B, 1883, G-1A; and PD, 1883, vol.XLVI, p.130.
intervals on all aspects of Maori life and opinion. The Native Office in Wellington acted as clearing-house for these reports, making great use of the newly-extended telegraph service to relay the essence of them to McLean, who spent more time touring the out-districts or on his farm in Hawkes Bay than he did in Wellington. On the basis of these detailed reports McLean was able, without having to visit the area concerned, to shape a policy with confidence. He reputedly worked very hard - up to 14 hours a day - replying to reports. A stream of letters and telegrams flowed back through the Native Office to the out-districts. Chiefs were chided, placated, warned, reassured or bribed as the occasion demanded, while Native Department officers were instructed whether or not to press or restrain a survey, make an arrest, or, as was most usual, engage in negotiations and report again. In 1873 McLean handled entirely from Napier a serious confrontation between the Ngatiraukawa and Muaupoko in the disputed

110 E.g., McLean to Marsden Clarke, 11 August 1871 - MA 4/14; U-Sec. to Woon, 28 December 1870 - MA 4/65. For examples of reports see Woon to McLean, 14 June 1873 - McLean MSS, 437 (on the opinion of Upper Wanganui tribes towards the Sullivan murder); Marshall (Native Officer, Port Waikato) to McLean, 19 December 1870 - McLean MSS, 314 (on the Todd murder); Campbell to McLean, 30 June 1870, 6 December 1871 and 12 February 1872 - McLean MSS, 175 (on more routine problems).

Rangitikei-Manawatu purchase, sending and receiving streams of telegrams until both parties had been persuaded to retire. 112

At less troubled times the telegraph was used to direct movements of staff, arrange details of Land Court sittings, direct vaccinators and medical officers to an epidemic, or authorise the delivery of food or seed or agricultural implements to needy communities. 113 McLean rarely relied on the use of constabulary either to coerce or make a demonstration of force. He was lenient with people who interrupted

112 Fergusson to Kimberley, 17 December 1873 - AJHR, 1874, A-1, p.21. In this dispute Muaupoko Moris invaded Ngatiraukawa territory with arms they had received as Kupapas during the Wars. McLean then sought to recover the arms, but succeeded only after he had authorised a payment of 10/- for each musket or rifle. (Woon to U-Sec., n.d. - MA-WG 2/1, p.353). The Rangitikei-Manawatu dispute originated in the conquest by Ngatiraukawa coming from Waikato of resident Ngatiapa, Rangitane and Muaupoko. In 1840 the latter tribes were virtually hunted fugitives in the interior. During the 1860s the Wellington Provincial Government began to purchase interests and found the Ngatiapa very willing to sell the territory conquered by the Ngatiraukawa. In 1869 the Land Court, in a highly contentious judgment, awarded the majority of the block to the Ngatiapa on the ground that they were still resisting in 1840. The judgment gave little to the conquering Ngatiraukawa but was, of course, highly convenient to the Wellington provincial authorities. McLean, taking office after the judgment, did not feel it was just but Fox persuaded him that it must be accepted. (Fox to McLean, 22 September 1870 - McLean MSS, 111). McLean therefore negotiated concessions by the Ngatiapa and Wellington authorities to the Ngatiraukawa. In a later judgment the Land Court held that the Ngatiraukawa who had left the Waikato had lost all rights there - in effect they were denied a place both in their homeland and the district they had conquered. (MA 13/16, N.0. 83/2444).

113 See McLean MSS, 72 (telegram duplicates) and MA 5/1, 5/2 etc. (outward telegrams) for instructions on a great variety of routine matters.
surveys when his colleagues would have made arrests. If the 'moral influence' of his officers failed, his favourite weapon was a personal visitation. Thus Halse informed Woon, when the latter struggled to keep the peace on the disputed Waitotara block, that there was nothing to be done 'except management and sliding over matters as well as you can' pending the visit of 'our chief'.

When McLean did use force he used it discreetly. Thus an Arawa party who obstructed a survey in 1871 were quietly disarmed by the Constabulary and the surveyors warned off the ground.

Diplomacy was strongly supplemented by gifts and payments, known generally as 'contingency expenditure'. Much of this was simply repayment of hospitality extended by chiefs, gifts of food or seed to tribes hit by drought or flood or blight, gifts of stud stock, draught animals or agricultural machinery, loans for the purchase of

114 Fox to McLean, 13 January 1873 - McLean MSS, 221.

115 Halse to Woon, 15 August 1871 - MA-WG 1/2.

116 Davis and Mitchell to U-Sec., 24 April 1876 - AJHR, 1876, G-5, p.2.

117 For example, when Topine Te Mamaku in 1874 sent a canoe to fetch Woon, the R.M. gave the canoeman £4 of food and clothing. At Topine's kainga Woon received lavish hospitality and a gift of four pigs. As he was leaving Topine asked for a gift of clothing for himself and his wife, which Woon duly sent. (Woon to Halse, 12 May 1871 - MA-WG 2/1).
whaling gear, subsidies to the old or indigent, medical care and food in times of epidemic,\textsuperscript{117a} and places for chiefs' sons in boarding schools.\textsuperscript{118} These reflected some appreciation of Maori needs. Other gifts and promotions were for services rendered - hence Te Wheoro's promotion to Major for help at the time of Sullivan's murder, and cash payments to a chief who secured the recovery of stolen property.\textsuperscript{119} Other payments were simply to procure compliance; thus McLean's diary records that H.M. Tawhai 'brought some grievance over land, for which I gave him £10'.\textsuperscript{120} As far as they had funds or influence, McLean's officers in the field observed similar practices.\textsuperscript{121} Contingency expenditure formed a large proportion of the annual Native Department vote, which under McLean, rose from about £27,000 in 1869-70 to between £32,000 in 1870-71 and £34,000 in subsequent years, a level not reached since the retrenchments of 1865-6. About £16,000 of the vote was for

\textsuperscript{117a} This was a normal procedure. On one occasion when the Kaiapoi community was afflicted, the people were moved to the sea coast and housed in tents supplied by the militia. (Stack to U-Sec., 30 May 1876 - AJHR, 1876, G-1, p.38). This sort of assistance helped check the death rate at times of epidemic but the incidence of tuberculosis and infant mortality remained disastrously high. (AJHR, 1876, G-2, pp.10 and 17).

\textsuperscript{118} E.g., U-Sec. to R.M. Waipu, 8 October 1872 - MA 4/66; U-Sec. to Commissioner of Native Reserves, Nelson, 27 November 1872 - MA 4/16; U-Sec. to Stack, 15 January 1874 - MA 4/18; U-Sec. to R.M. Opotiki, 3 July 1875 - MA 4/69.

\textsuperscript{119} McLean to Te Wheoro, 21 August 1873 - MA 4/80; Woon to McLean, 25 June 1873 - McLean MSS, 437; U-Sec. to C.C. Taranaki, 13 August 1870 - MA 4/65.

\textsuperscript{120} McLean Journal, 4 January 1870 - McLean MSS.

\textsuperscript{121} Thus J. Mackay gave to a 'well-disposed young fellow' of the Ngatiraukawa travelling through Napier, a letter/introduction to J.D. Ormond, asking Ormond to supply him food for himself and his companions. (Mackay to Ormond, 8 September 1873 - McLean MSS, 294).
salaries and was rarely exceeded; between £8,000 and £13,000 was for contingencies and usually was exceeded.¹²² Expenses of the Land Court (about £10,000) and Native Schools (rising from £4,000 to £11,000 during McLean's tenure of office) were additional to these costs.¹²³ There were heated annual objections to McLean's extensive and allegedly unnecessary staff and to his heavy contingency expenditure, which was given the familiar designation of a 'flour and sugar' policy. It was held that McLean secured Maori acquiescence in Government policies only by liberal gifts, payments or grants of office, that such a policy exhibited weakness and encouraged Maori opposition, or alternatively was demoralising to the Maoris. It was further believed that McLean was using his system of influence, his 'personal government', not so much for the good government of the country, but for his own aggrandisement, that in fact he was using his departmental machinery to damage his political opponents.¹²⁴

¹²² Contingencies were at first stated as 'general'. Later they were broken into food and clothing (£1,500 approx.), medical care (£2,000), travelling expenses etc. but the divisions were never strictly observed.

¹²³ These figures are difficult to determine accurately. Comparative returns in AJHR, 1872, B-6, AJLC, 1879, Sess.II, n.6, p.26, and McLean, MSS, 31 show widely differing totals. Clearly in some returns Native Land Court, schools, and Civil List expenditure are included, but which of these are included (or excluded) is not stated. Precise returns of the Native Dept. vote proper may be found in AJHR, B-2 for each year, but the best comparative statement is AJLC, 1879, Sess.II, n.6.

There was substance to these charges. McLean did use his officials to influence Maori electors especially against the Stafford party in 1872, the faction of H.R. Russell and John Sheehan in Hawkes Bay and, after 1875, against the party formed about Grey. The newspaper *Waka Maori* became a focal point for opposition attack because it too was used by McLean for party purposes. Furthermore, contingency expenditure did have a demoralising tendency. There were inevitable abuses such as the use by several Ngatiporou chiefs of a ton of seed potatoes, not for planting, but to redeem a store debt largely accrued in liquor. But the abuses to which gifts were sometimes put did not invalidate the case for giving aid and McLean's grants of food and salary and office were not by any means all bribes to secure compliance. Moreover McLean kept the peace not through bribery but because, in the last resort, he was prepared not to press the Maoris too hard. Hence the persistence of the aukati and Te Whiti's continued control of South Taranaki. Hence also McLean's withdrawal of land purchase officers from Arawa territory in 1875. His opponents' caricature of this policy as appeasement, encouraging Maori opposition, overlooked the fact that they, not the Maoris, were the intruders.

125 Stafford to Cooper, 10 October 1872; Stafford to Waterhouse, 26 December 1872 - Stafford MSS, 44.

126 Campbell to McLean, 31 August 1872 - McLean MSS, 175.
In any case it was apparent that McLean's tactics were keeping the peace and allowing the development of the Colony to proceed. It was also evident that as chiefs such as Te Hira opened their lands to colonisation, McLean's patient policies eventually gained results. South Island members in particular, well aware that renewed war would cost them more than McLean's department, were content to allow him a liberal purse and to be patient with recalcitrant chiefs. Relying on their support, and that of other reputed experts on Maori affairs such as J.C. Richmond, McLean was able, in supply debates, to brush aside criticism of himself and his officers with a few brief words - which in itself served to further enrage his opponents. Moreover, since he controlled defence and land purchase funds as well McLean had little difficulty sidestepping minor restrictions on his expenditure. When he proposed to lend money for a flour mill and the Commissioners of Audit declined on principle to 'allow public money to pass on loan to Natives' McLean simply issued the money from one of his many funds as a 'final payment' (for land) and credited it again as it was repaid. Native affairs came to be regarded as McLean's speciality, a subject where the uninitiated should not trespass, while McLean himself was accorded a position almost above party and, except during Stafford's

128 U-Sec. to Kemp (C.C. Auckland), 14 September 1874 - MA 4/68.
month-long government in 1872, was included in every ministry between 1869 and 1876.

McLEAN'S officers spent no little effort in restraining the most provocative activities of the settlers. H.T. Clarke for instance intervened when an attempted arrest for debt of some powerful Thames chiefs threatened to disturb the whole district; and he persistently encouraged McLean to ensure that negotiations for the Ohinemuri goldfields did not pass into the hands of Gillies and the Auckland Provincial authorities, who were so careless of Maori non-sellers' claims that they would soon 'get up a little war'.

Most officers were from time to time involved in disputes with local authorities who sought to take roads through Maori reserves or to drain fishing swamps.

These sorts of intervention reaped a rich harvest of unpopularity for the Native Department. Hence Clarke's wry comment when the Public Works authorities solicited the Department's assistance in negotiating a telegraph line: 'They know whom to come to to help them out of their difficulties - and then abuse them soundly afterwards'.

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129 MA 1/17, N.O. 70/1103 and attached papers; Clarke to McLean, 2 and 10 June 1870 and 29 October 1874 - McLean MSS, 183; Clarke to Nat. Min. (Pollen), 15 May 1877 - AJHR, 1877, G-1, p.27. Even Maning was exasperated by the demand of Gillies and his colleagues and wrote '...cannot the idiots understand that the land belongs to the Natives?'. (Maning to McLean, 28 June 1870 - McLean MSS, 311).

130 Clarke to McLean, 27 September 1874 - McLean MSS, 74.
of settler hostility to their intervention was one reason why Native Department officials did not do more to protect Maoris' interests. Discussing the Maoris' legal right to prevent a stretch of fishing water from being drained, Clarke added: 'It is a great pity the Natives have not someone to advise them in this matter. It would never do for a Government officer and especially for one of this wretched Native Department to tender such advice. It would directly be stated that we were opposing the opening up of the country'.

This necessity to serve settler interests inhibited McLean, at the political level, from going far to redress Maori grievances. Spurred by his officers he did adjust some outstanding matters. For example he paid £4,600 compensation for the Wellington reserves taken for public purposes by Grey in 1853, paid cash compensation to Kupapa Maoris aggrieved by the taking of land in Wairoa, Poverty Bay and Taranaki, and located numbers of ex-rebels on their own land in the Bay of Plenty compensation. But more far-reaching questions

131 Clarke to McLean, 27 September 1874 - McLean Mss, 183. G.S. Cooper's remark that the Maoris were 'swindled out of the Princes St. Reserve' by the Court of Appeal's decision against them, on technical grounds, contains a similar sense of regret at injustice but powerlessness to intervene. (Cooper to McLean, 15 November 1869 - McLean MSS, 190).

132 AJLC, 1877, n.22. (See above p. 241)

133 Locke to Ormond, 25 October 1869 - NK 1059; MA 4/79, p.433; McLean to Parris, 17 April 1873 - MA 5/2.

received less consideration. When a Select Committee recommended the enlargement of the Canterbury Maoris' pitiful reserves McLean replied that the Government would not consider the forfeiture of so large a part of the public estate.\textsuperscript{135} Although he secured payment of £5,000 to the Maori owners of Princes St. Reserve this was made not in recognition of their claims but to stop litigation, and it was many years before the Maoris were granted the £6,000 accrued back-rents.\textsuperscript{136} Above all, though he could amend the Native Land Acts and in some cases restrain the encroachments of land purchase officers he could not, in the face of settler demand, seriously restrict land purchase operations. And, as the fate of his Native Council Bills revealed, he could not seriously amend the Land Court system to give Maoris a greater voice in the determination of title.\textsuperscript{137}

These were matters in which McLean was largely a prisoner of public opinion or of the opinion of the cabinet, but there also a great many other matters in which he held direct responsibility. In the course of his diplomacy McLean made a great many promises of redress, usually verbal, which were never followed up and remained to plague his successors after his death. His apparently good staff-work and furious

\textsuperscript{135} He recommended a money compensation but - partly because the chief Tairoa overplayed his hand and demanded £2,000,000 - even this was not paid. (FD, 1873, vol.XV, p.1542; Mackay to Stack, 2 September 1874 - MT-N 1/2).

\textsuperscript{136} Clarke memo., 16 October 1875 - AJHR, 1876, H-6, p.4.

\textsuperscript{137} For a discussion of land law see below, Chapter 12.
concentration at moments of crisis did not extend to supervising the implementation of routine administrative decisions. Reserves were promised - as in the Rangitikei block - and not marked out; interminable delays hung over question after question and unless Maoris or their sponsors made a persistent fuss, McLean was content to let them lie.

He was not above bluster and deceit. A familiar gambit was to urge Maoris to put their lands through the Court, saying that the settlement of title in no way involved alienation, blandly rejecting Maori protestations, which he well knew to be true, that once ownership had been awarded the designated owners were open to pressure from land agents and creditors and beyond the control of the hapu as a whole. He would assure Maoris protesting at a survey that it was only a trial line. He would purchase from a minority and try to brush aside the remainder, though he was quick to draw back if they stood firm. He would hint that Crown-granted land might be taken under the Public Works Act for road or other public purposes - but give the owners a chance to sell freely if they chose. He would respect

138 Notes of meetings - MA 13/15.
139 See, e.g., his attempt to purchase Maori claims to Lake Wairarapa, a water coveted by the Maoris for the supply of eels trapped after freshes, but which the settlers wished to control and render safe from fluctuation. (MA 13/97, N.O. 76/3854).
140 U-Sec. to H. Katene, 23 December 1872 - MA 4/79; U-Sec. to Brown, (C.C. Taranaki), 20 August 1875 - MA 4/69. It was characteristic of Government policy that when the Australian cable was laid in Cook Strait a piece of Maori reserve was taken for the shore cable station. (A. Mackay to U-Sec., 17 May 1876 - AJHR, 1876, G-1, p.37; PD, 1876, vol.XXIII, p.517).
the objections of powerful groups but the complaints of injustice by unimportant individuals were brushed aside. ¹⁴¹ And though his system of rewards and gifts brought considerable advantage to the compliant ¹⁴², he was also able to use it in reverse and threaten with loss of his Assessorship men who opposed the purchase of land. ¹⁴³

These facts all suggest that McLean's 'system' - his gathering of intelligence, his curbing of settler belligerence and his use of personal diplomacy and contingency expenditure - were all merely expedient, designed merely to avoid war because war was expensive and inconvenient, but stemming in no way from genuine respect for Maori wishes and viewpoints. The matter is, however, not so simple as that. McLean personally was not a belligerent man, lightly able to

¹⁴¹ Colenso reported the case of a Hawkes Bay Maori, sued under a rigid principle of English law for debts incurred by his runaway wife and her paramour. He urged that this sort of thing made English law hated and urged modification, but McLean replied with evasive pleasantries. (Colenso to McLean, 14 September 1871, and McLean draft reply, 29 September 1871 - McLean MSS, 186).

¹⁴² For example the South Taranaki chief Hone Pihama, an ex-rebel who surrendered in 1865 and subsequently withdrew all opposition to European progress in his district, obtained the sole right to 2,000 acres of first class land, interests in numerous other land titles, salaries as Assessor and as guard to the West Coast coach, contracts for carrying mail and numerous small cash payments and presents in kind. These benefits amounted to about £5,300 in value during McLean's tenure of office. (See return AJHR, 1881, G-11).

¹⁴³ U-Sec. to Raniera Te Iho, 5 June 1876 - MA 4/82.
contemplate a 'brush with the Natives'. He wanted Maori communities to revive and resume peaceful pursuits and his gift of food and seed and stock were in most cases without ulterior motive other than the desire to create an impression of Government beneficence. He also took genuine pleasure in the company of Maoris, and, as we have seen, was concerned to find a role for their leaders in local administration. But McLean was ambitious and power loving and his settler electors called the tune. He could not but serve, to the best of his ability, their desire to obtain land. Moreover, his view of Maori society was a somewhat sentimental and paternalistic one. From his experience in pre-war years he thought in terms of happy kainga but believed that by marking off sufficient reserves, fishing stations and wahi tapu, and providing some food and seed he was doing all that was necessary to revive them. Given this minimal provision he believed himself quite justified in acquiring the rest of the Maori estate. His personal attentions to chiefs indicate also a somewhat sentimental and condescending view of them; his carelessness in following up promises made to them in the rosy glow of campfire comradeship revealed the fundamental shallowness and deviousness in his character.


145 See, e.g., McLean Journal, 24 December 1858 - McLean MSS.
The ambivalence in McLean's character and policies reached down and affected his whole Department, so that it is difficult to generalise about the attitude of his officers. A liking for Maoris and detestation of the more aggressive settlers tactics did not mean a respect for Maori institutions. All looked for the time when Maori ways of life would be supplanted by more 'civilized' ways. Some, such as Woon, attempted positive measures to introduce Maoris to European skills or farming techniques, but, lacking a clear understanding of the difficulties caused by title problems, communal pressures, sheer unfamiliarity with commercial farming, and the distractions of land purchase operations, they were quickly discouraged by the lack of progress among their charges. They fell back on the idea that the Maoris would be better off when they had no surplus lands and were compelled to work for settlers as labourers or take up trades. This notion conflicted with, and generally overrode, alarm at the possibility of Maori landlessness and concern that larger reserves should be made.  

146 See, e.g., Woon's statement that 'The race is, from increasing contact with the Anglo-Saxon (the greatest colonizers of the earth) advancing every day in the scale of civilization, and soon all Maori customs and habits will become a thing of the past'. (Woon to U-Sec., 24 May 1874 - AJHR, Sess.I, G-1, p.8).

147 E.g., Brabant to U-Sec., 7 June 1873 - AJHR, 1873, G-1, p.16; Woon to Nat. Min., 16 June 1874 - AJHR, 1874, G-2, p.14; Locke to McLean, 4 July 1872 - AJHR, 1872, F-3A, p.33.
The Native Department was also affected by personal rivalry and factionalism. This was not uncommon in a Civil Service which depended heavily upon patronage for promotion but in McLean's department the weaknesses of the system were multiplied by his liking for, and ability to attract, flattery and subservience. Grown men wrote to say that they kept his photograph in their desk or named their children after him. All of McLean's officers reported confidentially to him as well as officially, advancing their own claims to favours and reporting adversely on their colleagues. Jealousy and tale-telling sometimes flared into public scandal (as in the row between James Wilson, Land Purchase Officer, and Rogan, Judge of the Land Court), with accusations and counter-accusations being hurled in the press and in the subsequent enquiry. Victory in such contests could mean advancement for oneself and dismissal for one's opponent. McLean's tendency to give office to sycophantic cronies led to bad appointments, such as those of George Worgan and James Grindell - men

148 E.g., writing to McLean about Parris, Drummond Hay commenced 'Setting aside my dislike for him as a low boor ...' and went on to a tirade of criticism. (Hay to McLean, n.d., - McLean MSS, 257, n.10).

149 AJLC, 1877, n.2. Clarke expressed to McLean his concern at 'the cat and dog' behaviour of the Native Service. (Clarke to McLean, 5 November 1874 - McLean MSS, 183).
already dismissed for dishonesty and drunkenness respectively. It was not long before Worgan was found cheating both the Maoris and the Government and gaol. The power that McLean had accumulated for his Department was easily misused by men in the out-districts. Aggrieved Maoris - and some settlers - usually had to put with this. A Maori complainant recalls being ordered out of his office by H.T. Clarke, then Civil Commissioner of the Bay of Plenty. 'Of course, he added, 'I did as I was told without a murmur; for in those days officers of the Native Department were almost despotic.'

There seemed to be a fateful tendency for land purchase work to corrupt those involved in it. Unfortunately McLean was not so determined as his predecessors to keep R.M.s duties clearly distinct from those of Land Purchase Officers. By the end of the 1870s it was apparent that R.M.s such as Woon, Barstow, Williams and Brabant, who were careful to dissociate themselves from land purchasing, still retained the confidence of their people even in midst of bitter

150 While briefly running the Native Office in McLean's absence, Fox discovered that Worgan was supposed to be buying land for the Government at £1 an acre, but was paying the lesser Maori owners only 10/- and splitting the remaining 10/- between himself and the principal chief. (Fox memo. for Cabinet, 5 July 1872 - McLean MSS, 111).

controversy over land. But one or two, such as Campbell of Waiapu, became involved in dubious land deals, impaired their impartial status and fritted away their authority. The result in Campbell's case was a steady demoralisation to the point where he was suspected of trade in illicit liquor and of defalcation of Assessors' pay, while a spirit of lawlessness and drunkenness spread among the Ngatiporou.  

Yet for all their failings most of McLean's officers were a good distance ahead of the settler community at large in freedom from racial prejudice and respect for the Maoris as individuals. Thus on the occasion of the acquittal, by a white jury, of a settler manifestly guilty of wounding a Maori, Native Department officers in the Waikato expressed concern, saying '...we were under the impression that the d-- nigger theory was thoroughly exploded in our islands'.  

An epitome of the McLean spirit was provided by the conduct of his officers on the West Coast - most of whom he had known from the pre-1860


153 St John to McLean, 6 July 1872 - McLean MSS, 42. See also Puckey to McLean, 17 July 1872 - McLean MSS, 246. Other officers such as W.G. Mair still habitually spoke of Maori's as 'niggers' and Von Sturmer, R.M. Hokianga, wrote, 'I can hardly believe in a country where there are no Maorii [sic] - it must be paradise!' (W.G. Mair to Gilbert Mair, 19 May 1871 - Mair MSS; Von Sturmer to Webster, 4 September 1883 - Von Sturmer Letters.) But these were men appointed because they were the best available in their districts for the specific duties and were not essentially 'McLean' men.
period. Partly because they genuinely liked them, and partly to secure Maori compliance with the survey of the West Coast confiscation, McLean's men, from time to time, took Maori mistresses. The liaison was usually preceded by bargaining with the girls' kin, who valued the alliance with a Government officer. Brown, Civil Commissioner in Taranaki, noted that the relatives of the mistress of Captain Blake, another of McLean's officers, were vexed with Blake for some reason 'and wanted to take her from him and give her to me'. Brown, a widower, was not disinclined, adding 'For if it is necessary for the acquisition of the plains, no woman shall be left out in the cold, only they must catch me before I get another wife'. He delayed taking over the girl because he was contemplating marriage with a European woman, but decided not to propose because 'She told me that she "hated Maoris and everyone who likes them" and other playful remarks that went against the grain'.154 These were the very hall-marks of the administration of McLean and most of his staff - a mixture of genuine liking for the Maoris, combined incongruously with the use of a variety of immoral and amoral tactics to gain their 'surplus' lands. Divided motives, self-interest, even corruption marred their administration but at least it avoided simple subservience to the more ruthless settler attitudes.

LAND legislation in the 1870s was largely the outcome of a resurgence of the long-standing rivalry between Fenton and McLean which had been temporarily buried by McLean's retirement to Hawkes Bay in 1861. The rivalry was a personal matter, as before, but also a consequence of Fenton's efforts, already begun under J.C. Richmond, to gain for himself and his Court, as much influence over Maori policy as possible. This involved collision with McLean's ambitions for himself and the Native Department.

In 1869 the Assembly considered further measures to prevent direct purchase from reducing Maoris to landlessness. J.C. Richmond introduced a Bill to restrict advances of credit to Maoris to £5, in order to curb the now familiar practice of entangling Maoris in debt in order to oblige them to sell land. This, an essential point in control of alienation, was accepted by Fox and McLean, for the Government, as 'necessary', and Richmond and McLean were authorised to prepare the Bill.¹ But a fortnight later McLean succumbed to a powerful lobby by

¹ PD, 1869, vol.VI, p.220.
speculator interests and the Bill was withdrawn.\textsuperscript{2}

Meanwhile Fenton, who had been called to the Legislative Council by Stafford in 1869, introduced a Native Reserves Bill which would have given the Land Court the right of setting aside reserves, administering them as trustee and permitting or restricting their subsequent alienation. He also sought trusteeship of all the interests of Maori minors. There was considerable merit in Fenton's claim that reserves and restricted lands should not be under the control of the government of the day. However, members felt that Fenton was acting not out of altruism but self-aggrandisement. Government speakers opposed the Bill, pointing out that the Court had a bad record hitherto for neglecting to create reserves and, though the Bill passed the Council, it was not proceeded with in the House.\textsuperscript{3}

\textsuperscript{2} Ibid., p.608. On the back of a copy of the Bill (which he described as 'a pretty diabolical invention of Mr. Richmond') Maning listed his objections and added 'I have warned the Government that the parties and interests the Bill may effect are stronger than the Government'. (Maning to Webster, n.d. - Maning Autograph Letters, n.497). An alternative (Government) measure was passed, making any alienation of interests in a block conditional on the consent of a majority, in value, of the other owners. This was aimed at giving the hapu as a whole some control over sales but it was widely evaded.

\textsuperscript{3} PD, 1869, vol.VI, pp.166-7. Fenton's anger at the failure of his move was exacerbated by the passage of the Shortland Beach Act. This provided for the purchase of Maori interests in the Thames foreshore, below high water mark, and seemed to undermine a decision by Fenton in the Land Court, that the lands already belonged to the Crown, by prerogative. McLean took the view that payment was necessary to honour promises made earlier by James Mackay. It was made as compensation and not regarded as a precedent to support subsequent Maori claims to proprietary rights over fisheries in tidal land. (MA 1/17, N.O. 70/1103 and attached papers).
McLean, recognising a threat to his authority, counter-attacked. In October 1869 he appointed Charles Heaphy to be Commissioner of Native Reserves. Heaphy was to supervise all existing legal reserves, reserves within confiscated lands, and lands reserved from sale; he was to recommend what further lands needed to be made inalienable and to oversee the work of the local officers in charge of reserves. Gisborne, the Colonial Secretary, was more sympathetic to Fenton and expected Heaphy to work with the Chief Judge; but McLean omitted any such suggestion from his instructions. Heaphy, and Maori reserves, remained essentially under McLean's control. 4

The following year, probably at McLean's instance, Fenton was excluded from the Legislative Council because of his official position. 5 Gisborne, however, reintroduced Fenton's bill. Mantell said that the vital defect of the bill was that it required 'almost an angel in virtue' to be chief trustee, 6 and a Select Committee of the Assembly concluded that the Land Court should not assume such large powers as Fenton contemplated, independent of Government. But some of the phrases of the Select Committee's report - the suggestion that Fenton's proposals would 're-establish the old protectorate system' and 'interfere with the [Maoris'] free right of disposal of their lands' - show that the self-interest of the landsharks had as much to do with the defeat of Fenton's bid for enlarged powers, as disinterested concern at the possible abuse of those

4 See differing instructions of Gisborne to Heaphy, 13 October 1869 and McLean to Heaphy, 6 November 1869 - AJHR, 1870, D-16, pp.3-4.
5 Fenton to Mantell, 1 December 1879 - Mantell MSS, 277.
6 PD, 1870, vol.VIII, p.75.
powers. 7

The Government's alternative to Fenton's Bill was the Native Lands Frauds Prevention Act, under which were appointed Trust Commissioners (officers of the Native Department, not the Land Court), authorised to disallow any transaction in Maori land if contrary to equity or in contravention of any trusts, or if liquor or arms formed part of the consideration. This measure was only partially effective. It was not retrospective and the five Trust Commissioners appointed — all part-time officials — had neither time nor opportunity to investigate all transactions thoroughly. Heaphy, in 1874, reported that the Frauds Prevention Act was forcing purchasers to see that the right men were paid for the land, that sufficient land was left for cultivation, that the consideration was adequate and actually paid. 9 But while they had some successes and deterred the more blatant frauds, 10 it can also be


8 H.R. Russell who was leader of a rival faction to McLean in Hawkes Bay politics, secured in the Legislative Council, an amendment making the Frauds Prevention Act retrospective, in order to strike at McLean's own dubious dealings, in Hawkes Bay. McLean had it struck out in the House. (PD, 1870, vol.IX, pp.455 and 564).

9 Heaphy to U-Sec., 31 July 1874 - MA 19/1, N.O. 74/3941. (Other Trust Commissioners' reports, equally optimistic, are to be found in the same file).

10 In some cases they checked the practice of deducting from the purchase price store debts and other charges accrued by Maori vendors. (Colenso to McLean, 7 October 1871 - McLean MSS, 186). In 1874 T.M. Haultain, Trust Commissioner for Auckland, reviewed 354 cases. He rejected five as dealing with lands under restriction, one because no terminal period for the lease was stated, one because the consideration was inadequate, one because a reserve agreed upon was not made, five because the leases contained a purchasing clause, and one because the amount of a mortgage was not specified. In many cases the deeds were passed when these defects were remedied. (Haultain to U-Sec., 21 July 1874 - MA 19/1, N.O. 74/3714).
shown that some Trust Commissioners were careless or downright unscrupulous. The stream of petitions to parliament by Maoris left out/transactions or deliberately gull ed belies the Trust Commissioners' claims to effectiveness and by 1886 another Native Minister could assert: 'It is notorious that the Frauds Commissioners in the past have performed their duties in the most perfunctory manner, and passed transactions when the consideration was a mere bagatelle...'

Heaphy and the reserves commissioners in each district continued to do useful work in securing the best possible revenue from such reserves as were in their charge, and outlaying the profits to the best advantage of the beneficiaries. At Greymouth and Nelson-Motueka where reserves

11 Thus Hanson Turton, Jnr, McLean's appointee as Trust Commissioner in Hawkes Bay, passed deeds signed by minors. He also took care to warn his patron, McLean, to cover flaws in his transactions, and used his powers simply to reject a transaction by McLean's rival, H.R. Russell. (Turton to McLean, 16 December 1871, 18 and 22 June and 17 August 1872 - McLean MSS, 399). Both Haultain and Parris (Trust Commissioners in Auckland and Hawkes Bay respectively), whether deliberately or inadvertently it is impossible to tell, passed sales of land the restrictions on alienation, of which had not been removed. (MA 13/22, N.O. 78/4908; MA 13/26, N.O. 80/2030).

12 PD, 1886, vol.54, p.463. Maori members of the Assembly regularly denounced the Frauds Commissioners as inadequate protection of Maori interests.

13 Heaphy also saw to payment of the 'Wairarapa five per cents' and 'Auckland ten per cents' due to the Maori vendors on the resale of land, in those districts, by the Crown; he prompted the grant of compensation to the Wellington Maoris for the loss of certain reserves to public purposes, in Grey's first governorship (See above p351; Heaphy reports, 16 August 1872 - AJHR, 1872, F-1B, and 29 May 1876 - Native Affairs-North Island, D, p.89); and he secured the passage of remedial legislation when a Court of Appeal decision in 1873 (Regina v Fitzherbert) exposed a defect in the legal standing of all N.Z. Company reserves for Maoris. (AJHR, 1873, G-2, p.2; G-2C, p.3).
were reasonably extensive, the beneficiaries gained good quality housing, regular food and medical and educational services.\textsuperscript{14} This was something positive achieved, even if it did little for the Maoris' self-reliance. But elsewhere the reserves were not sufficient to maintain beneficiaries at an even average standard of living. The commissioners, especially Alex Mackay, deserve much credit for saving reserves such as those at Greymouth from the political lobbying of Europeans seeking the freehold.\textsuperscript{15} They were not generally able to add to reserves, however. Soon after his appointment Heaphy was sent to Hawkes Bay to persuade the Maoris to vest considerable areas in trust with the Crown. 31,000 acres were secured

\textsuperscript{14} The Native Reserves Fund provided for windows, doors, iron-mongery and brick chimneys for houses (the owners had to supply the wooden frame and boards); half the cost of agricultural implements were also paid by the fund. In times of crop failure the fund virtually sustained the Maoris since their hunting and fishing hinterland had largely gone. (See AJHR, 1872, F-3, p.16; 1873, G-1, p.19; 1877, G-3A). The Westland reserves yielded some £21,500 from 1869-79, which (less about 20 per cent for administrative charges and payment to local authorities in lieu of rates) was distributed among 90 beneficiaries in the form of educational, medical and housing assistance and in cash. (AJHR, 1879, Sess.II, G-3A, p.4).

\textsuperscript{15} 'The Natives received a very inadequate payment for their lands on the West Coast, in consideration of which they were allowed to retain certain portions for their own use and occupation, and because one of those parcels has now become valuable, the legitimate owners are to be coerced into selling through pressure brought to bear on the Government in whose hands they were confiding enough to place if for better administration...if the land belonged to Europeans...nothing would be heard of all this sophistry, people would...accept the inevitable'. (Mackay to W. Perkins, 28 February 1874 - MT-N, 1/2, p.126). Heaphy was prepared to sell the reserves if the return, when invested, would yield as much as the leasehold. (AJHR, 1872, F-1, p.6); but McLean accepted Mackay's view that the Maoris were more concerned for the land than the revenue from it and Greymouth town sections remain in Maori beneficial ownership still.
the first year before settlers found that by paying deposits to two or three lesser owners they could block the completion of a trust. Bedevilled by the problem of multiple ownership, which rendered use of the land extremely difficult, and subject always to having their reserves taken under the Public Works Act (which Heaphy had no power to prevent), the Maori owners endured uncertain lives.

The proneness of many Maori owners to succumb to offers of purchase led reserves commissioners to adopt a strongly paternalistic attitude to such reserves as were vested in the Crown. They willingly discussed the administration of reserves at meetings of owners but were not inclined to grant them legal powers. Thus on Alex Mackay's urging, the provisions of the Natives Reserves Act, 1871, (drafted by Sir William Martin), whereby Maori representatives were to act with the local commissioners of reserves, were not applied. Against their exclusion


17 He had complete legal authority over only the 4,000 or so acres of land (such as the N.Z. Company and South Island reserves) formally vested in the Crown. With regard to other reserves he could only recommend against alienation, or assist the Maoris to obtain compensation. (Heaphy to McLean, 17 December 1872 - McLean MSS, 258).

18 They were their own worst enemies in this respect. See, for instance, the characteristic case where Wi Tako, the Wellington chief, wanted to sell a section of Te Aro pa in order to defray the debt of the previous occupant and provide a cash sum for his widow, Wi Tako's sister. (MA 1/14, N.O. 71/1254 and 71/1360).

19 U-Sec. to Mackay, 17 January 1874 - MA 4/17. ('...and while Mr McLean admits the force of your argument that under present conditions few of the Native race could be found who would reach in the administration of the trusts the European idea of equity, yet he believes in the advisability of consulting the Natives in matters affecting their own interest. See also Heaphy report, 16 August 1872 - AJHR, 1872, F-1B; PD, 1876, vol. XXIII, p.574-5 and 1877, vol.XXV, p.257 (Pollen).
from a share in the administration of their own reserved land Maori leaders ceaselessly and vehemently inveiged but to little avail. Not only did the authorities distrust Maori ability, but European lessees preferred to deal with a single European official than with a body upon which the beneficial owners were represented. The tendency of administrators to see no answer to Maori inexperience and cupidity, other than a rigid paternalistic control which entirely inhibited the growth of Maori responsibility, remained one of the weaknesses in Maori administration until the twentieth century. The Maori response was to decline to place under the Crown any more reserves than they were obliged to.

In 1870-73 McLean considered further remedial legislation affecting the central problem - the working of the Native Lands Acts. The Maoris' principal grievances were the ruinous cost of surveys, the fact that application by one claimant obliged all to join the scramble if they were to have any hope of appearing on the title and the '10-owner' system worked by Fenton. From his experience as commissioner of confiscated

20 With reference to the Native Reserves Act, 1873, Renata Kawepo of Hawkes Bay wrote: 'This law resembles the law for Pakeha children, drunkards and lunatics. And we are compared by this law to infants, inebriates and idiots'. (Petition of Renata Kawepo, AJLC, 1873, n.7). See also PD, 1873, vol.XIV, p.497 (Takamoana and Taiaroa). The objections of Maoris' members were largely instrumental in causing a Bill of 1876, drafted by Alex Mackay, to be shelved. (PD, 1876, XXIII, pp.576 and 709. Mackay had intended the Bill to give him even more absolute authority over the reserves, in order to reassure Greymouth lessees (Europeans) who grumbled at the insecurity of their tenure, and so forestall their demand for the freehold. (Mackay to Greenwood, 17 September 1876 - MT-N 1/2).

21 See above pp. 234-5
lands in Tauranga, H.T. Clarke urged that the Land Court should meet on the land itself, exclude all parasitic lawyers and agents and have its own surveyors; if land was to be sold, the Court should make inalienable reserves (at a fixed ratio of acres per head) and supervise the distribution of payment. 22 Sir William Martin, submitted a draft at McLean's request 23 which endorsed these principles and added important provisos in favour of sale by public auction only, compulsory investment of purchase moneys, succession strictly according to Maori custom, and a preliminary investigation by the judges (to show that applications came from the hapu likely to be found the rightful owners, not from an isolated individual pressed by a would-be purchaser). 24

Fenton, smarting under his defeats of 1869-70 and resenting interference with 'his' Court, responded with a violent denunciation of Martin's 'ridiculous' principles as likely to destroy the judicial authority of the Court and reduce it to the role of negotiator, land broker and auction room. 25 He also claimed that it would frustrate the purpose of the Land Acts as he saw them - the creation of a leisured class of chiefs with the rest of the Maori race obliged to work for a living. Claiming

22 H.T. Clarke to McLean, 5 August 1871 - McLean MSS, 183.
23 The two had remained on good terms 23 despite McLean's part in the Waitara purchase (see Martin to McLean, 14 December 1860 - McLean MSS, 315). In his 1871 submissions Martin was assisted by Dr. Edward Shortland, sometime Sub-Protector of Aborigines, Civil Commissioner and Native Secretary.
24 AJHR, 1871, A-2. The original MSS is filed MA 13/2, N.O. 71/1145. Martin's covering comments are in Martin to McLean, 15 September 1871 - McLean MSS, 315.
25 This might in fact have been the best thing to have done with the Land Court.
that, apart from the matter of excessive survey charges, Maoris were not dissatisfied with the system, Fenton forwarded his own draft bill which strengthened the rights of European mortgages over Maori land and increased the powers of the judges - for instance making the presence of Maori Assessors dependent on the Judge's discretion.  

Two other men took a view similar to Fenton's. T.M. Haultain, appointed commissioner by McLean to enquire into the subject, indicted survey costs, mortgages and the 10-owner system, but by dint of selectively summarising the evidence, claimed to show that Maori witnesses desired no major transformation of the Court.  

C.W. Richmond, heading an enquiry - secured by McLean's political opponents - into notorious Hawkes Bay land transactions, reached similar conclusions. He recommended the appointment of subordinate officers to make the preliminary enquiries suggested by Martin, and to decide upon reserves;  

26 Fenton to McLean, 28 August 1871, AJHR, 1871, A-2A, pp.10-12; Fenton memo, n.d., circa July 1871 - MA 13/2, N.O. 71/1637. Fenton wrote privately: '...don't let us deceive ourselves; it is beyond the power of man to transfer the entire land of a country from one race to another without suffering to the weaker race. Martin thinks he can do this. He cannot - it is contrary to the truth of history and human nature'. (Fenton to McLean, 12 August 1871 - McLean MSS, 212). Thus Fenton sought to excuse himself from the ruthlessness of his attitude to the proposed transfer. McLean wrote to Martin of Fenton's draft bill: 'The retention of power to the judges appears to have been Fenton's chief view'. (McLean to Martin, 2 January 1872 - McLean MSS, 315).  

27 A reading of the Maori chiefs' evidence recorded by Haultain's clerk shows that most Maori witnesses favoured settling titles among themselves, bringing their findings to the Court only for ratification. (MA 13/2, N.O. 71/1153).
but as the Court had established a judicial authority among the Maoris, Richmond argued that it would be retrogressive to reduce it to the status of a commission. 28 Most settler opinion agreed. Thus, although McLean’s officers urged that Fenton’s Court should become an adjunct of the Native Department, 29 and although McLean basically adopted Martin’s draft, the Native Land Act of 1873 ultimately re-established the Land Court and Fenton’s powers much as before. 30

However, certain definite reforms were made. Surveys became the responsibility of Government surveyors acting under the Native Department, and mortgages could no longer be enforced against undivided interests in Maori land. 31 ‘District Officers’ were to be appointed to make preliminary enquiries into the good faith of a claimant, to arrange for the setting apart of inalienable reserves at a fixed ratio of 50 acres per man, woman and child, and to compile genealogies and maps of tribal boundaries. The Judges were required to take cognisance of the facts the District Officers produced in Court, and numbers of other safeguards were erected to prevent such abuses as forgery of signatures or mistranslation of deeds. 32

Believing he had adequately safeguarded against fraud and total Maori landlessness, McLean placed no real restriction on direct purchase.

30 In fact Fenton’s request for discretion to sit without a Maori assessor was granted, though it was revoked the following year. McLean did secure an alteration of the Judges’ tenure of office from ‘on good behaviour’ to ‘at pleasure’; this was a pinprick which goaded Fenton to fury. (See his remarks, in AJHR, 1886, I-8, p.11).
31 Native Land Act, 1873, ss.84 and 88.
Martin's principle of sale by public auction was not introduced. McLean's own land purchase agents in fact led the way in the system of 'laying ground bait'—advancing payment to some owners to secure a foothold in the title and completing the purchase over a period of years.

One further great change was introduced by the 1873 Act, namely the requirement that every Maori owner be listed in the 'Memorial of Ownership' and the signature of each must be obtained before a purchase could be complete. This made it easy for agents to begin to purchase a title but hard to complete the purchase and in fact slowed the rate of alienation of Maori land. It has been contended—and some contemporary statements support the view—that the provision marked a new stage in the drive towards individualisation of Maori land titles. But though this may have been in the minds of some ministers, it does not seem to have been McLean's intention. It seems rather that he wanted simply to end Fenton's '10-owner' system, and ensure that each owner shared in the title. The 50 acre per head of reserves was in fact expected, in McLean's expressed view, to allow Maoris to preserve a substantial area of residential land where they could continue their communal order relatively undisturbed and free from the demands of the

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34 PD, 1873, vol.XV, pp.1372-4. The Act was said to show the legislature's recognition 'that the chiefs, instead of being the grand old men of former days, were only too prone to seize all the money they possibly could and leave the tribe go without'. PD, 1885, vol.LIII, p.435, (W.R. Russell).
European order. But if the listing of all owners facilitated the purchase of the remainder of their estate, so much the better, since three-quarters of the North Island was said to be still in Maori ownership.

Unfortunately, most of McLean's safeguards broke down. Before the 1873 Act was passed McLean was warned that '[Fenton] may neutralize the best Act that can be passed, if it does not originate in his brain'.

35 PD, 1873, vol.XIV, p.606. See also the evidence of John Curran, the legal officer who drafted the Act at McLean's instructions, that he believed McLean viewed individualisation as only a very long-term goal, his immediate intention being to define interests by hapu, (hence the importance of the District Officers' enquiries) and to list all in the hapu to prevent their being defrauded by the chiefs. (AJHR, 1891, Sess.II, G-l, report, p.ix, and minutes of evidence, pp.170-1). McLean's experiments with individualisation before 1861 did not incline him to expect much in this direction, and he was never such a zealot for individualisation as Fenton, for example. He may even have been inclined to view of the Rev. T.S. Grace, who gave evidence to Haultain's commission in favour of making large reserves, slowing settler contact with the Maoris and allowing them time to adjust, from a communal base, to the new order - a view contrary both to settler self-interest and to the over-hasty pursuit of 'amalgamation' by most humanitarians. (For Grace's view, see MA 13/2, N.O. 71/1153, pp.109-13).

36 Haultain estimated in 1871 that of some 32 million acres of land in the North Island, 11 to 12 million acres were under customary ownership and that of 12.6 million acres which had passed the Court, 600,000 acres were reserves. (Actually, they were only under restriction, which could be lifted by the Governor in Council.) See AJHR, 1871, A-2A, p.8.

37 W.S. Grahame to McLean, 6 July 1873 - McLean MSS, 243. Grahame added: 'Fenton has done more mischief in Native Affairs from the King Movement onwards - than any other man in New Zealand'.

37
This indeed proved to be the case. Fenton produced a long document claiming to show that many of the clauses of the Act were contradictory and unworkable, and he made no effort to make them work. Soon he was back to his high-handed ways with Maori land, playing fast and loose with requirements about succession and reserves. The District Officers also had little success, enjoying the confidence neither of Fenton, who resented their 'interference', nor of the Maoris, who were reluctant to tie their land up inalienably at the request of a Government official. Before long the District Officers' only effective role was to make preliminary enquiries and advise the Court whether it could safely hear a claim without the danger of rival claimants disturbing

38 MA 18/2, N.O. 74/3522.

39 Te Wheoro gave up his position as Land Court Assessor angry and disgusted, claiming: 'It would appear when a block was going through the Native Land Court, as if the land was owned by the Court itself, and not by the litigants'. (AJHR, 1885, G-1, p.29). A Judge who quarrelled with Fenton, asserted that the Court tended to ask 'not what is right or is Constitutional but "what does the Chief Judge say"'. (J.A. Wilson memo., n.d., circa 1880, Unpublished PP, 1882, Public Petitions Committee). Many of Fenton's brother Judges were no better than he; Maning despised Maoris and thought five acres per head was ample reserve for them. (See Maning Autograph letters, n.s. 506 and 508 and Von Sturner to U-Sec., 3 April 1886, AJHR, 1886, G12, p.3).

40 MA 18/2, N.O. 74/5058 and 70/16; AJLC, 1877, n.19. A number of useful reserves were made – some of which remain to this day – but not by any means to the extent envisaged by the 1873 Act. District Officers were usually part-time officials, namely Alex Mackay, Kemp and Parris (Civil Commissioners), Puckey (Native Officer) Locke and Marshall (R.M.s) Gilbert Mair and Booth (Land Purchase Officers) and some, finding little cooperation from the Maoris, gave almost no attention to their new duties.
the peace. Without the strict creation of the 50 acres per head of reserves, the 1873 Act did little but prolong the passing of the land. Since all owners were listed, such chiefs as may still have been good trustees of their people's land, were powerless to stop sales. Those who had long resisted now tended to sell in their old age because the land was passing anyway and they thought to share the proceeds before they died.

One important feature brightened an otherwise sombre picture. About one twelfth of all land passing the Court was placed under restriction.

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41 AJHR, 1886, I-8, pp.41 and 66-7 (evidence of Fenton and Lewis). This work was not unimportant. It was significant that the number of obstructed surveys and armed confrontations between claimants was very high in Ngatiporou territory. There was not a District Officer on the East Coast, with the result that many Maoris learned of a pending claim and transaction only when the surveyors appeared on the ground. (Gudgeon to U-Sec., 23 April 1880 - AJHR, 1880, G-4, p.11).

42 Brown to U-Sec., 28 October 1877 - MA 13/22. N.O. 77/4411. Hundreds of examples could be given of the dubious traffic in Maori lands at this time; one must suffice. The Crown and a private purchaser, Robert Grahame, were contenders for the small but important Wairakei block, containing hot springs and geysers. At the Land Court hearing the Judge spent five days hearing the case of one of four sets of Maori claimants - the group with whom Grahame had been negotiating. Then he announced that he would return to Auckland the next day and the remaining three groups rushed their cases through. One of them employed an agent and interpreter, J.C. Young, but their case seemed a little hopeless in view of the fact that Young had his fee and expenses paid by Grahame. At 4 p.m. on the sixth day the Judge ruled in favour of a list of five names handed in by the first group of claimants - but he did not read the list for fear of disorder. By that evening Grahame he worried the five into signing a deed of sale for 2/6 an acre. (Gilbert Mair to Nat.Min., 6 August 1881 - Rolleston MSS, 4).
requests for removal of restrictions

Head Office referred all requests for removal of restrictions to the local R.M. for advice on whether all owners consented to the sale and had other lands adequate for their support, or whether minors' interests had to be protected. This gave the men most cognisant of Maori needs a chance to resist the encroachment of land agents. Woon's angry reply opposing the sale of Putiki reserve, near Wanganui was typical.\(^{43}\) Outright refusal was normally given in the case of town sections, South Island reserves, fishing stations, or any Maori's last acres.\(^{44}\) The system was far from perfect – Te Aro pa in Wellington was considered a nest of immorality and sale of Wellington sections was from time to time approved;\(^{45}\) much rested on the perception of the local officer; and McLean was not very respectful of the interest of non-sellers until Sullivan was murdered on Pukekura block, from which restrictions had only shortly before been lifted.\(^{46}\) But refusal was more often given than consent and the alienation of many key areas was at least long delayed. This much must be set against the wholesale purchases which characterised the period.

Despite the failings of the 1873 Act McLean was reluctant to depart from its principles\(^{47}\) until pressed in 1876 by Vogel, the Premier, who

\(^{43}\) See above p. 322

\(^{44}\) See U-Sec. to J.M. Clarke, 2 August 1870 – MA 4/13. U-Sec. to Douglas, 9 September 1870 – ibid. At other times the Native Office would withhold consent until the price was raised to the minimum value of unimproved land in the vicinity. (U-Sec. to Borlase, 15 December 1873 – MA 4/17; U-Sec. to Hodge, 12 July 1877 – MA 4/23).

\(^{45}\) Heaphy report, 31 May 1876, Native Affairs – North Island, D. p.99. ('For sanitary and other reasons it was desirable that these pa lands in the town should cease to be Native property').

\(^{46}\) MA 13/67, N.O. 70/1038 and 71/617.

\(^{47}\) PD, 1875, vol.XVIII, p.347.
proposed a new Bill abolishing direct purchase altogether. Vogel envisaged that the Maoris should offer land, stating what reserves and minimum price they wanted, and the Waste Land Boards of the Crown, acting as agents on commission, would usher it through the Court and sell it by public auction. However, the Bill did not get beyond the introductory stage in the 1876 Assembly, no doubt because speculators feared that under it Maoris would offer little or no land at all. The principle of the Bill, was destined to be revived in the 1880s.

By 1876 settler dissatisfaction with McLean's policies and monopoly of power had mounted considerably. This was partly a product of his success. He had kept the peace long enough for the war-weariness of the early 1870s to fade. Settlers had become impatient of his cautious waiting policy towards the King movement and Te Whiti. The finding of sanctuary at Te Kuiti by Winiata, who had killed a settler in Auckland, produced a violent debate in the Assembly, condemning the Kingite *imperium in imperio*. Opposition to McLean was led by Grey, who had entered colonial politics, and Sheehan, an opponent, since 1872, of McLean's control of land purchase operations in Hawkes Bay. They were joined by the Maori members especially Taiaroa (Southern Maori) and Takamoana (Eastern Maori), who had their own good reasons for dissatisfaction.

48 McLean to Vogel, 27 May & 3 June 1876 – McLean MSS, 108; Vogel to McLean, 3 June 1876 – ibid.: "The whole of our colleagues including myself, were delighted at your being willing to have the Bill brought in").

49 Native Land Sales and Leases Bill – Bills Not Passed, 1876.

50 PD, 1876, vol.XX, pp.36ff.
with McLean's policies. In 1876 with McLean absent from the Assembly, Grey and Sheehan succeeded in reducing the Native Department vote, especially contingency expenditure, and the vote for McLean's newspaper, the Waka Maori, was specifically struck out. The first inroads were also made into the structure of McLean's 'empire' by the transfer of confiscated lands and surveys of Maori lands, to the Department of Crown Lands. Exultant opponents forecast the end of McLean's political life. When in fact McLean abruptly retired in December 1876 his opponents rejoiced at the fall of 'the New Zealand Wolsey'. But their victory was hollow; McLean was a very ill man and within a month he was dead.

McLean does indeed invite comparison with Wolsey — or with Grey, under whom had served from 1845-52. Like them he amassed power, resented rivals, was egotistical, could write a plausible despatch, and was not particularly scrupulous. But McLean surpassed Grey in ability to like and understand the Maoris and he was subsequently to be remembered by them, in a time of colder and more ruthless personalities, with some nostalgia and warmth.

How much credit should accrue to McLean personally for the years of peace during his tenure of office? It is certainly true that he was

51 In 1876 too, petitions began to come in from Maoris in the out-districts, that McLean be 'overthrown'. (AJHR, 1876, I-4, pp.19 and 27).

52 This left Te Wananga, the paper of the 'Repudiation' movement in Hawkes Bay — the opposition led by H.R. Russell — holding the field. But it too ceased in 1879. Thereafter attempts by Europeans to run a Maori language newspaper invariably failed. In 1885 Ballance, recalling the acrimony to which the Waka Maori gave rise, declined to renew Government support for a paper. (PD, 1885, vol.LI, p.468).

able to pursue a peace policy mainly because settler opinion had come to appreciate that Maori resistance could not be brushed aside without a considerable cost in blood and treasure — that the Maoris were not people to be meddled with lightly. But McLean personally bore a considerable responsibility during the periodic outbursts of settler demands for the enforced opening of the King Country, or carrying of roads through Te Whiti's territory. Not all of his colleagues (Fox for instance) nor his successors, showed the same patience and forbearance with the Maoris, and the same resolution to withstand settler pressure, as McLean at the height of his career.

Yet there were distinct limits to McLean's willingness and ability to support Maori attitudes and inclinations. Although in 1872-3, he did make a definite effort to recognise the authority and influence of Maori leaders, the powers they were offered were commensurate with neither their demands nor their abilities, and even these were largely shelved out of deference to settler objections. McLean's persistent turning aside of requests from junior officers to implement the sections of the 1868 Juries Act — which had remained in abeyance all this time — providing for Maori juries, also indicated his greater respect for European prejudices than Maori needs and wishes.

McLean believed it inevitable that settlement must spread, and was too much the self-interested politician not to ally himself, in the main, with his fellow-settlers drive to extend colonisation. His protestations of respect for Maori rights and values were not the expressions of a man detached, principles to be defended at all costs. It was Martin, not
McLean, who would have recognised the King movement and restored much of the Waikato lands. But McLean was a practising politician and did not have Martin's freedom. His career was a course steered deftly between settler pressure and Maori resistance. Because the former was the stronger McLean's policy became largely one of 'managing' the Maoris adeptly to permit the extension of settlement at the greatest rate possible short of provoking renewed violence. In this somewhat circumscribed aim, he was highly successful.
Ferment in Maori Society

IT has been a persistent belief among New Zealand historians that in the period following the wars most of the tribes, cowed by war and confiscation, lapsed into a 'dark age', a period of apathy, the Kupapa tribes allowing themselves to be fleeced of their land and the ex-rebels dwelling in sullen defiance and isolation within their boundaries. From this attitude, the traditional account runs, they were rescued in the late nineteenth and early twentieth centuries, the 'renaissance' being led by the Ngatiporou — a tribe which suffered little in the wars — and by several leading figures — Ngata, Buck and Pomare — trained in the Western tradition and able to straddle, in masterly fashion, both Maori and European worlds. Alternatively, the honour of leading the Maori emergence into self-respect and confident grappling with the new order has been given to the prophet Ratana. Despite amendment by more diligent researchers,¹ this 'dark ages' and 'renaissance' thesis is still advanced in its crudest form.²

¹ M.P.K. Sorrenson has shown that demoralisation was caused by land purchase operations, rather than by war and confiscation, and that although the Kingite tribe preserved their lands and a measure of independence behind their aukati, they were far from sullen, apathetic and aloof. (Sorrenson, 'The Politics of Land', in The Maori in New Zealand Politics, ed. Pocock, pp.31ff; 'The Maori King Movement,1858–85' in Studies of a Small Democracy, ed. Chapman and Sinclair, pp.48ff). John A. Williams has suggested that the Kupapa tribes sought to engage in European-style cultural and economic activities though remaining aloof, until the 1890s, from the European political scene. (John A. Williams, Maori Society and Politics, 1891–1909, Unpublished Ph.D. thesis, University of Wisconsin, 1963, pp.iii–v).

In point of fact, as even a cursory reading of published official papers reveals, the cessation of fighting was immediately followed by a veritable ferment of political, economic and cultural activity in every part of the Colony as Maori communities sought to adjust to European dominion. There persisted a variety of organisations drawing predominantly on traditional elements of Maori life and frequently revealing a separatist character, together with a vastly increased interest in enterprises and institutions of Pakeha origin. The 1870s were a highly confused decade with adjacent communities following different experiments and any one community changing its course within a few years. But sullen apathy was not immediately in evidence.

Among many tribes the decade began with an upsurge of determination to come to grips with the now apparently unshakeable Pakeha world, and to succeed in it. Not only were there requests from non-rebels such as the Ngapuhi for European settlers, gaols, medical men, schools and communications, but, as has been stated, McLean's officers also received a warm reception from the Ngatiraukawa, and most of the Maoris in the Taupo, Bay of Plenty and Upper Wanganui districts. Maori leaders asked for magistrates to come amongst them to teach them the law and build schools; they asked for appointment as Assessors and policemen; they asked for roads and townships in order, they said, that they might widen their markets and sources of employment and purchase goods competitively.³

³ Reports of Governor's visit to Hokianga and Mangonui, May 1874 - McLean MSS, 41, numbers 28 and 29; Von Sturmer to McLean, 28 April 1873 - AJHR, 1873, G-1, p.3; S. Locke reports, 1870-1 - AJHR, 1871, F-6; see also address of Taupo chiefs to Locke: 'Welcome, 0 Governor, to Taupo. Come and instruct us in all the laws, works and thoughts of the Europeans. Taupo is yours, to make roads, and other works, and to have schools to teach our children English.' (Cit. Barrington, 'Maori Education and Society, 1867-1940', p.1).

These requests indicated a new orientation of the energies of many of these people, and for others, a return to the attitudes of pre-war days. By 1876 even the Ngatimaniapoto and Urewera were beginning to show signs of accepting the new order.

European officials expected that the cessation of hostilities would see the Maoris revive the cultivation of grain they had developed in the 1850s and encouraged them as before with gifts of seed wheat, ploughs and grants for flour mills. Indeed, from 1870 grain was again cultivated in all districts, including the King country, some Maori-owned schooners began again to trade with Auckland, and flour mills were refurbished and used in several North Island districts for most of the century.

But grain cultivation failed to gain the predominance it had had in the 1850s largely because Maoris, like settlers, had turned more to pastoral farming. Much has been written about the Ngatiporou leading the

5 Which also shared in McLean's gifts of seed and agricultural implements.

6 Although in very wet or very dry seasons the crops dwindled until the Maoris depended upon Government handouts and foraging in the bush even to keep alive, over the decade grain production steadily increased. From the Bay of Plenty Maoris sold 10,000 or 15,000 bushels a year by 1879, from the Waikato 4,000-5,000 bushels annually by 1873 and 8,000 - 9,000 bushels by 1879, and from Hawkes Bay, 18,000 bushels by 1885. However, these figures were, for most districts, considerably short of the totals produced in the 1850s. (From the Bay of Plenty 21,000 bushels were estimated to have been sold in 1862). Oats and maize began to supplant wheat in most North Island districts because the climate favoured them. Several Maori communities purchased their own harvesting machinery; and the Onehunga hostelry and grain store, built in 1853 and extensively used by Maori traders until 1863, was again patronised. (AJHR, 1872, F-3, p.9, F-3A, p.31; 1873, G-1, pp.6-7 and 21, G-18, pp.4-5, G-2, p.2; 1874, G-2, pp.5 and 9; 1875, G-1A, p.3; 1876, G-1, pp.13 and 29; 1878, G-1, p.11; 1887, Sess. II, G-1, p.14; U-Sec. to Brabant, 17 April 1878 - MA 4/24, and 25 January 1878 - MA 4/53. See also Sinclair, 'Maori Nationalism and the European Economy 1850 - 60', Historical Studies, Australia and New Zealand, vol. 5 (1952), n.18; W. Hargreaves, 'Maori Agriculture After the Wars', JPS, vol. 69 (1960) n.4.
way in sheep farming in the 1880s and 1890s. But by 1870 they already had six or seven thousand sheep scattered in small flocks along the East Coast. By the mid-seventies chiefs in Rangitikei district, Hawkes Bay and the Chatham Islands ran large flocks. In the late 'seventies the Wanganui and Bay of Plenty Maoris turned increasingly to sheep-farming. Small herds of cattle were also carried in most Maori districts.

The Ngatiporou are also credited with beginning cooperative enterprises, in the period 1885-95, to market farm produce and to sell stores. However, Campbell, R.M. waiapu, reported in 1875 that 'Several stores, some on the cooperative principle, have been established, and appear to be doing well'; and in 1872-3 the Raglan Maoris had raised money to have a vessel built, and established a cooperative 'Native Store Company' to buy up grain in the Waikato, sell it at Onehunga, and retail in the Waikato, goods purchased in Auckland. These early enterprises failed for want of managerial experience among their organisers but intermittent attempts at founding cooperative ventures continued to be made in several districts until experience, and an alteration of the law affecting trust monies, made greater success possible about the turn of the century.

Work in extractive industries proved more attractive than farming to many Maoris. Northland, Thames and Waikato communities relied heavily on kauri-gum digging and on timber milling and flax dressing for European

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7 These sheep were scabby - a factor which, incidentally, was more effective than geographical isolation and tribal resistance to land sales in deterring European settlement - but after they had been bought and boiled down by the Government in 1875-6 the Ngatiporou quickly rebuilt their flocks. (Locke to McLean, 21 June 1870 - AJHR, 1870, A-16, pp.33-5; Campbell to U-Sec., 24 May 1875 - AJHR, 1875, G-1, p.5; PD, 1876, vol.XXI, p.503).

8 AJHR, 1875, G-1, p.17 and G-1B, p.2; 1876, G-1, p.22; 1877, G-1, p.20, 1879, sess.I, G-1, p.4; Deighton to McLean, 19 October 1873 - McLean MSS 203. Renata Kawepo gave 2,000 of his flock in the Patea district to help Mete Kingi of Wanganui start sheep farming. (Woon to U-Sec., AJHR, 1877, G-1, p.16).

9 Campbell to U-Sec., 24 May 1875 - AJHR, 1875, G-1, p.15.

10 U-Sec. to Bush, 27 November 1872 - MA 4/66; Bush to Nat.Min., 6 July 1875 - AJHR, 1875, G-1B, p.2; Bush to Nat.Min., 25 April 1876 - AJHR, 1876, G-1, p.23.
employers. Several communities in the Bay of Islands, the Bay of Plenty and the East Coast built their own boats, or financed them through Government loans, for the purpose of whaling. Contract labour was also popular as whole communities could camp near the place of work, the women and children foraging and cooking, the men working long hours. Contract work included road making (*mahi rori*), bush-clearing, fencing, harvesting and shearing. A traveller in the 1870s noted that most shearing groups were Maori, a situation which persists to-day.

It is clear from the variety of economic enterprises which Maoris entered into immediately after the wars that they were far from supine. From 1871 the King movement too was trading increasingly across the aukati in wheat, hops, pigs and other commodities and using cultivating machinery obtained through Government officers. A considerable portion of the Kingite population moved close to the confiscation boundary to secure the advantage both of better soil for grain cultivation and easy access to the European towns. Those who had made least attempt at commercial agriculture were

11. E.g., Von Sturmer to U-Sec., 27 June 1872 - AJHR, 1872, F-3, p.4 and successive reports from officers in the northern districts.

12 U-Sec. to Kemp (C.C. Auckland), 27 February 1874 - MA 4/68; Williams to U-Sec., 16 May 1878 - AJHR, 1878, G-1, p.1. In 1887 G.A. Freece, R.M. Napier, noted that the production of the Northern Hawkes Bay Maoris included 4,420 bushels of wheat, 3,575 bushels of oats, 10,882 bushels of maize, 186 bales of wool and a share in 30 whales at the Mahia Peninsula whaling station. (Freece to U-Sec., 6 June 1887 - AJHR, 1887, Sess.II, G-1, p.14). On the East Coast a rivalry between villages to sight and capture cruising whales began in the 1870s and persisted into the 1930s. (See Hoani Waititi, *te Rangitahi*, vol.II, pp.131-5).


14 Mair to U-Sec., 2 July 1872 - AJHR, 1872, F-3, p.8, 25 May 1874 - AJHR, 1874, G-2, p.9, and 29 May 1875 - AJHR, 1875, G-1A, p.1. At some point a Government 'Native Store' was built at Alexandra to assist trade across the aukati. It became the Alexandra Public Library in 1886 when the aukati had disappeared. (Lewis to Aubin, 23 August 1886 - MA 4/44).
not the King Maoris but the Urewera tribes whose mountains and forests were unsuited to it. Not even the plough was used in that remote region. But even the Urewera came out to work at roading contracts and seasonal labour in the coastal districts.

Nevertheless, although the range and total extent of Maori economic enterprise in the 1870s was not less impressive than that of the 1850s it was in many respects precarious. Most of the farming enterprises were communal and depended upon good leadership in a community. It was frequently observed that the fortunes of a *hapu* declined rapidly after the death of certain leading figures who had organised farming or contracting. Many Maoris tired of the restrictions of community and dispersed to seek wage labour or to dig gum. There was far too much dependence on declining extractive industries and on labouring which was unskilled and seasonal. Wages and contract pay were soon spent but wage labouring distracted communities from planting sufficient food or catching and preserving birds and fish in traditional fashion. When potato crops - the staple - were ruined by blight the picture was presented of Maoris, so recently masters of the bush and sea,
starving in the midst of plenty or subsisting on government doles.

But the most serious distraction of all from consistent enterprise was land purchase operations. Jostling for title and hawking of signatures disrupted hitherto coherent hapu and set their members at odds. It was all too easy to gain a ready penny by signing a deed of sale or lease or grant of timber rights to one (or several) of the land agents prowling the outdistricts or lounging in the city hotels. There was little incentive for one of a number of owners on a multitude title to farm the land in which he had only a part interest. It was simpler to sell or lease one's share. But even the possessors of individualised sections, as at Kaiapoi, preferred to lease than to farm them.

Government did little to help Maoris overcome these difficulties; indeed, in view of the limited conception of the role of the state which then prevailed, it would be unhistorical to expect much. McLean's gifts of seed and implements were genuine enough, but state assistance did not then run to items which to-day's planners would deem necessary aids for an 'under-developed' nation learning commercial farming - settlement of titles, instruction and supervision in new techniques, and assured markets.

The possibility was open in the 1870s for individuals to thrive and

19 The Hawkes Bay Maoris were estimated to be drawing £26,000 in rents in 1872. (Bowen to Kimberley, 9 April 1872 - AJHR, 1872, A-1, p.85). Envy of the Tolaga Bay Maoris who drew £300-900 in rents stimulated some Waiapu Maoris to lease land in 1878. (A.H. Russell to McLean, 10 February 1872 - AJHR, 1872, E-3A, p.13). In 1882 Brabant noted that the Tauranga Maoris did not cultivate as much as formerly. Their lands were inalienable except by leave of the Government but 'a native who can show any evidence of title can, it appears always obtain advances, the advances, the purchaser trusting to time or a turn in the political wheel to enable him to perfect his title. (Brabant to U-Sec., 30 May 1882 - AJHR, 1882, G-1, p.4).

in some cases to carry their people with them. Thus a favoured chief like Hone Pihama, of the Ngatiruanui, built a substantial hotel with stables, insured it and let it to a European manager; Hone was also proprietor of Cobb's coach on the Wanganui-Taranaki run and had the mail contract between New Plymouth and Hawera. 21.

On the other hand large numbers of Maoris found themselves on shrinking reserves, unemployed except in manual labour, the income from extractive industries declining, and their habits of industry ruined by demoralising dependence on doles from land purchase agents - which also dwindled with their lands. By the 1880s many a North Island community had followed the path of the South Island hapu and was living a precarious, hand-to-mouth existence. This, not war and confiscation, was to produce apathy and discontent.

THE 1870s also witnessed a revival of interest in education. Many Maori parents, realising that education would enable their children to cope with the new order, badgered for schools, insisted on their children's attendance and demanded that they be instructed in English. 22 From time to time Maoris even established schools and appointed teachers, European or Maori, without any Government aid or prompting. 23 Many schools (partly from the shortcomings of the teachers) 24 failed, but the steady increase in the


22 See AJHR, 1876, J-4, for a petition from Maoris that Maori children be compelled to speak only English in school or in the playground.

23 Preece (R.M. Opotiki) to U-Sec., 9 June 1879 - AJHR, 1879, Sess.I, G-1,p.5

24 Woon wrote of Scott, the teacher at Jerusalem (Hiruharama) on the Wanganui River: 'He affects to despise the race and does not make sufficient allowance for them, considers they have been pampered and spoilt and should be made to feel their inferiority to the Europeans and kept in their place.' (Woon to U-Sec., 18 September 1875 - MA - WG 2/2). Not surprisingly Scott's school failed.
the numbers and interest of Maoris attending pleased and surprised European observers. Although many individual schools compared favourably in competence with European public schools, the native schools as a whole were inadequately supervised. Maoris had little facility for education above the village school level. Various people — Governor Bowen, several local R.M.s and Maori spokesmen — urged McLean to provide more facility for secondary education and trade training, since village school education was too elementary to make Maoris readily employable. Te Matenga of the Bay of Islands was well ahead of his time in his view that:

...we have been taught three things — reading, writing and arithmetic. What we want is, that education should be progressive, and that schools should be established for children of two years up to twenty-one ....We want more than these three things to enable our descendants to cope with the Europeans. 27

McLean, however, did little more than pay the fees of several sons of chiefs who attended church boarding schools. Some of the wealthier Maoris also sent their children to secondary schools and by 1877 there were


26 Local Provincial inspectors were able to give only limited attention to the Native Schools; and R. Gill, who was given charge of the schools branch of the Native Department (after the resignation of A.H. Russell), was preoccupied with his main responsibility as Under-Secretary of the Land Purchase Division. (Gill to McLean, 1 June 1876 - McLean MSS, 227).

27 Notes of meetings, 19 March 1873 - MA 13/15. See also, Bowen to Ministers, 6 June 1874 - McLean MSS, 41; White (R.M. Mangonui) to U-Sec., 8 May 1874 - AJHR, 1874, G-2, p.1; Bush (clerk to R.M. Raglan) to Nat. Min., 5 May 1875, G-1, p.8; Gill to McLean, 27 December 1876 - McLean MSS, 227.

220 Maori pupils in private and public secondary schools. This system helped to integrate the Maori community into the main stream of European life and provided a 'top' of well educated young Maoris, several of whom in later life became leaders of their people. But the vast majority of Maori children did not have the opportunity for education beyond elementary level. This, it should be remembered, was also the situation for a majority of European children, but it bore more hardly on Maoris than on Europeans who could more readily gain apprenticeships or become articled clerks. As one of McLean's officers had pointed out, trade training for Maoris could easily have been provided out of endowments of Crown land or land offered by the Maoris themselves, but such training was in fact neglected between 1863 - after the closure of Gorst's school at Otawhao - and 1960, by which time the state had begun to appreciate its special responsibilities for the education of Maoris.

As regards the other major vehicles of European culture, the organised churches, it has usually been asserted that because of their association with European government and colonisation Maoris turned abruptly away from them at the beginning of the war and followed their own prophets. This is certainly true for most of the ex-rebel tribes.

But the general pattern of falling away must be qualified that there was in several districts in the early 1870s a revival of interest in the churches. For example the Wanganui River Maoris rebuilt several churches

29 AJHR, 1877, G-4A. For example, the sons of the late Thaka Takaanini were being educated at Auckland Grammar School. Most attended Te Aute and St. Stephen's (Anglican schools for boys), Hukarere and St. Joseph's (Anglican and Catholic schools for girls respectively).

30 Bush to Nat. Min., 5 May 1875 - AJHR, 1875, G-1, p.8.
for the Rev. Richard Taylor, and the failure of the C.M.S. to replace Taylor after his death in 1875 was deemed by Woon, the local R.M., to have been a good opportunity neglected. 31 At Otaki, Hadfield's old mission station, Hauhauism rapidly declined, twice-daily church attendance resumed and ordination candidates were presented. 32 Similar revival of interest, building of churches, twice-daily church attendance and demands for resident clergy were reported also from Opotiki, Taupo, Kaipara, Hokianga, Raglan and some of the South Island reserves. 33 In fact, the C.M.S. and other ecclesiastical organizations, depressed by the falling away of congregations during the 1860s, had thrown in the sponge too early and failed to take full advantage of the revival of interest in the early 1870s. Not only did the C.M.S. missionaries withdraw from district after district but the organization of the metropolitan churches found almost no place for Maori representation and leadership - a far cry from the years before 1870 when Anglican synods had been dominated by missionary and Maori clergy and conducted in the Maori language. 34 The religious inclinations of many

31 Woon to McLean, 16 July 1872 - AJHR, 1875, F-3, p.14, 2 May 1875 - AJHR, 1875, G-1, p.12, and 18 September 1875 - MA - WG 2/2. In 1877 Woon observed that two more churches were being built on the Wanganui River pending the arrival of a resident clergyman. The Catholics, meanwhile, had kept their station at Jerusalem staffed. (Woon to U-Sec., 22 May 1877 – AJHR, 1877, G-1, p.17; Woon to Nat. Min., 25 August 1877 – MA-WG 2/2).

32 Booth to U-Sec., 31 May 1876 - AJHR, G-1, p.36.

33 AJHR, 1873, G-1A, pp.1 and 11; AJHR, 1874, G-s, p.7 and G-4, p.10; AJHR, 1875, G-1, pp.4, 6 and 8; Letters and Journals of T.S. Grace, ed. Britten and Grace, pp.244ff.

34 See ibid., p.256 for expression of disappointment by Maori clergy at this situation; see also A.D. Ward, A History of the Parish of Gisborne, Chapter 1.
Maoris were left without any institutional focus, but the churches retained control of the lands the Maoris had vested in them for mission stations in Maori communities. This left a fertile ground of dissatisfaction for the growth of the prophetic movement which began to sweep out of the ex-rebel strongholds at the end of the decade. In 1877 the Rev. T.S. Grace felt that the Maoris would either return to the missionary churches in a body or permanently set up a religion of their own; the tendency, he felt, was to the latter.34a.

Nevertheless, the churches were unlikely, even if they had tried much harder, to have regained the very great control over Maori life that they had enjoyed in many communities before 1860. Their apparent inability to assist the Maoris to overcome the problems resulting from colonisation, and their tendency to guard their privileges as institutions, cost them much of the support their early efforts had attracted. Thus, when Anglican clergy at Waiapu urged Maoris to stop spending heavily on *tangi* and give their money to the church, the Maoris remarked to the R.M. that they had 'had quite enough of that in former years'.35 Maori support for Christianity increasingly assumed a pattern like that of the surrounding settlers. There was a good deal of nominal church adherence and an increasing vogue for church weddings, but the week-day life of Maoris, like that of Europeans, was little regulated by church controls or injunctions.36 Meanwhile, much of the old order persisted in the form of


35 Campbell (R.M. Waiapu) to McLean, 17 May 1873 - McLean MSS, 175.

a prevalent belief in makutu and the continued practice of polygamy by leading men. 37

Maoris generally continued to assimilate the multiferious minor aspects of European culture - fashions of dress, housing, transport and foodstuffs - as economic opportunity allowed. Both peoples shared a passion for horse-racing. Maoris increasingly availed themselves of such medical services as were provided through subsidised medical officers and the Native schools, and complained if Government doctors neglected them. 38 They did not however care to become patients in hospitals and still resorted to tohunga, while strong adherents of the King and major prophets usually declined Pakeha medicine. 39

THE 1870s, probably more than any other decade before or since, was a time in which Maoris were involved in local administration. Their duties, as Assessors and police and members of school committees were, however, almost entirely within the system of administration built by the Native Department - virtually a separate native administration, akin to that

37 Brabant to McLean, 15 October 1874 - McLean MSS, 151; Woon to McLean, 19 October 1874 - McLean MSS, 437.

38 Halse to Dr. Walker, Patea, 12 September 1871 - MA 4/14. Dr Earle of Wanganui was irked by a complaint from the Putiki Maoris that he had altered his visiting from the regulation once a week to an 'on call' basis. He wrote to Woon: 'I am daily troubled at all hours by Maories [sic], men women and children calling at my house, squatting in groups on my verandah much to the annoyance of my family (I have never complained to them of this): I seldom go down the street without being molested once or twice to prescribe for them (I have never refused to do it)'. He said the Maoris would do better by the new arrangement but if they wanted a weekly visit that would be all right; but Woon had better instruct them 'to get ill at the regulation hour'. (Earle to Woon, 13 October 1871 - MA-WG 1/2).

39 Sir William Martin, memo on endowment for hospitals, n.d. circa 1872 - McLean MSS, 38, n.12; Clarke to Dr. Corbett, 18 November 1874 - MA 4/20.
which developed much more completely in Fiji. Maoris had almost nothing
to do with the machinery of settler local administration - the Provincial
Councils, or their successors, the County and Borough Councils, Highways
and Harbour Boards. Their relations with these bodies were in fact
generally antagonistic, partly because of the local authorities'
encroachment on Maori reserves for public works, and partly because the
Maoris were unwilling and generally unable to pay rates. Maori land was
rateable under the Highway Board's Empowering Act, 1871, only if leased
to Europeans and traversed by roads. A few Ngapuhi chiefs, such as Wi
Katene, and resourceful half-castes, such as Retreat Tapsell, paid rates
and participated on local County Councils but these men were exceptional
in the nineteenth century. Generally, Maoris were too heavily indebted
to pay rates. A wider levy of rates would in fact have amounted to a
compulsion to sell land - although settlers, observing heavy spending
by Maoris when cash was at hand, were unsympathetic.

McLean passed a Native Districts Road Board Act in 1871, to enable
Maori communities to form Road Boards and rate themselves, but this they
received coldly. McLean fell back on urging local European Road Boards
to include Maori leaders, but generally he regarded the Maoris'

40 See W. Maltravers to clerk of Council, Bay of Plenty, JC-Maketu 2;
report of Native Affairs Committee on petition of Hare Hongi Hika and

41 See Petition of Renata Kawepo and 790 others - AJHR, 1877, J-1.

42 Brabant to McLean, 24 June 1872 - AJHR, F-3, p.11; see also AJHR,
1872, F-4.

43 McLean to Superintendent, Taranaki, 14 October 1874 - MA 4/20.
contribution of land and labour for road works, as sufficient for the time being.\textsuperscript{44}

Appreciation of the need to tread warily with the Maoris, together with the opposition of the Native Department, meant that prosecution of Maoris by local authorities for non-payment of rates was rare.\textsuperscript{45} A similar picture emerges with regard to fencing, noxious weeds, and impounding laws. In any case, by the Constitution Act, local bodies had no jurisdiction over Maori customary land and attempts in the Assembly to amend the Act failed.\textsuperscript{46} The fact that Maori land grew thistles and rabbits (which, the Maoris said, they had not brought to New Zealand) and carried scabby sheep (though the Maoris were in fact persuaded to surrender these for boiling down) and that Maori owners were beyond the sanctions which could be brought against European farmers, remained a serious source of friction in pastoral New Zealand society. Clearly the Maoris' freedom from compulsion in these matters, and in regard to the payment of rates, could be but short-lived.

In the meantime local authorities, pleading that the Native Department had placed the Maoris in a sheltered position and assumed responsibility for them, were inclined to do very little on their behalf.

\textsuperscript{44} Loc.cit.; McLean to Superintendent, Otago, 16 March 1872 - MA 4/95. In the case of some of the more prosperous reserves vested in the Crown, the Native Department authorised contributions to local public works of ten per cent of revenue in lieu of rates. In this way the Greymouth reserves contributed between £750 - £1,500 annually for harbour protection works, and the Motueka reserves a somewhat lesser amount. (U-Sec. to A. Mackay, 17 February 1870 - MA 4/65; Heaphy memo., 5 June 1872 - AJHR, 1872, F-1, p.5).

\textsuperscript{45} Though Karaitiana of Hawkes Bay was prosecuted at the instigation of a settler clique in order to oblige him to sell land. (Colenso to McLean, 14 September 1871 - McLean MSS, 186).

\textsuperscript{46} See debate on Provincial Councils Powers Bill, PD, 1873, vol.XIV, pp.94 and 514.
The issue was raised in 1870 when the Auckland Provincial Council asked to be relieved of charges they had been paying for 10 Maori and part-Maori children at a private orphanage. McLean argued that the Provinces should provide aid for destitute Maoris as for Europeans but local bodies in fact did not assume the responsibility. Such indigent or destitute Maoris as gained relief received it by General Government payments through the R.M.s.

In contrast to their lack of involvement with local bodies, Maori interest in the General Assembly mounted rapidly. Maori leaders were quick to grasp where the realities of power lay, a Ngapuhi spokesman stating in 1870: 'The only way of accomplishing the object of uniting the two races is, in regulating the Parliament of New Zealand..., The only power in the Island is the meeting of the Assembly at Wellington.' Whereas in 1868 the Maoris were ill-prepared for the elections, the 1871 and subsequent elections were preceded by large meetings, and all four Maori seats were contested at the polls. By 1879 some 6,000 of an eligible population of about 13,000 were voting. Ineffectual members were generally quickly replaced by intelligent and determined spokesmen, such as Wi Katene for Northern Maori and H.K. Taiaroa for Southern Maori. Tribal loyalties still tended to dominate the voting patterns, though inter-tribal alliances began to be formed — such as that between Hauraki and Wanganui Maoris, which returned Hoani Nahe of Thames for the Western Maori electorate in 1876. By 1879 the King Maoris had begun to take part in Western Maori elections, with

47 IA 70/3238; AJLC, 1878, n.20.
48 Wi Katene to the Governor, AJHR, 1870, A-7, p.7.
49 AJHR, 1879, Sess. II, H-17.
the result that the Waikato candidate, Wi Te Wheoro, defeated rivals from Wanganui and Thames. 50

Maori elections were of considerable importance to European parliamentary factions. The taking of office and subsequent defeat of Stafford in 1872 depended upon Maori votes, 51 and in the bargaining for their support Maoris were appointed to the Legislative Council and

50 Woon to U-Sec., 21 May 1876 - AJHR, 1876, G-1, p.32; Bush to Nat.Min., 28 August 1879 - AJHR, 1879, Sess.II, G-5A. (Te Wheoro, in 1879, also gained a large number of Wanganui votes against the Wanganui candidate, Major Kemp; see Woon return, n.d. - MA-WG 1/9). Maori elections are extremely difficult to analyse. Voting figures are far from complete, though some may be gleaned from newspaper reports and scattered comments by officials. Some patterns are fairly clear. For example, Hawkes Bay candidates usually dominated the Eastern Maori electorate, because Ngatiporou and Arawa candidates split the remaining votes. In 1876 the voting was Takamoana, Hawkes Bay, 401; Rangipuawhe, Arawa, 373; Hikairo, also Arawa, 376; Porourangi, Ngatiporou, 145. (See AJHR, 1876, 1-3A, p.2). In Southern Maori, Otago and South Canterbury votes gave Taiaroa a majority over rivals from Kaiapoi and Motueka. Western Maori remained a very open seat with Waikato, Hauraki, Wanganui and Manawatu voters shifting fairly considerably according to the candidate. Northern Maori reflected rivalry between the Rawawa, the Ngatiwhatua and several sections of the Ngapuhi. In 1871 Wi Katene was elected by a combination of Rawawa and Hokianga Ngapuhi. (AJHR, 1871, F-GA, p.11). On the other hand Timoti Puhipi, an extremely able Rarawa leader, was so valued by his own tribe that they were said to have refrained from voting in the order that he should not be elected and leave the district. (White to U-Sec., 18 May 1876 - AJHR, G-1, p.18). Such considerations would render largely invalid, an analysis of Maori elections according to the normal criteria of psephology.

51 PD, 1872, vol.XIII, pp.156 and 579. In both votes Takamoana supported Stafford, and Katene and Taiaroa supported Fox. But Wi Parata, who had turned out Fox, crossed the floor in the second division to leave him in a minority of 35 to 37. The interim had seen an exchange of promises by both parties regarding the confiscated lands. (See Stafford memo., n.d., Stafford MSS, 49; R. Pharazyn to Stafford, 30 September 1872 - AJHR, 1872, C-4A, pp.18-19; H.T. Clarke to U-Sec., 3 December 1872 and 30 January 1873 - AJHR, 1873, G-1B, pp. 2 and 8).
Executive Council, though with very limited powers.\textsuperscript{52} Elections for the Maori seats also saw European parties backing rival candidates. Thus the Hawkes Bay member Takamoana was a protégé of McLean's rivals, H.R. Russell and the 'Repudiation' party, and when Grey formed a party in 1875 he won over Takamoana, Taiaroa and Nahe, victors in the 1876 election.\textsuperscript{53} Maori voters were also put on general electoral rolls, in varying numbers (usually under the householders qualification), largely according to how much money the candidates were prepared to spend and how far they controlled the machinery for registering voters.\textsuperscript{54} Attempts to alter Maori representation also reflected European party interests. In 1875 a move by Reynolds to abolish the special Maori seats and one by Taiaroa to increase them both failed. European members desired neither to increase Maori representation on the common roll, least they swamp it, nor, by adding more Maori seats, give Maori members greater facility to make and break governments than they already possessed. In 1872 and 1875 McLean supported an increase of one seat.

\textsuperscript{52} Wi Tako Ngatata and Mokena Kohere were the first Maori Legislative Councillors, Wi Katene and Wi Parata the first in the Executive Council. Stafford said they were, 'not, of course to take their places as ordinary ministers, for it would be absurd that they should enter into a Cabinet and take part in the administration of the ordinary affairs of the Colony'. They were rather to be Ministerial Assessors'. (PD, 1872, vol. XIII, p.168). The Fox-McLean party made similar offers. In 1873 McLean summoned Wi Parata to Wellington to confer on the Sullivan murder; this was the limited sort of function a Maori member of the Executive Council exercised.

\textsuperscript{53} McLean to Clarke, 13 November 1872 - McLean MSS, 77; Ormond to McLean, 31 March and 28 April 1873, 28 October and 25 November 1875, 24 January 1876 - McLean MSS, 330. McLean and Ormond backed Porourangi, the Waikato candidate in the Eastern Maori election of 1876, and when Takamoana won, sought to unseat him on a technicality. (PD, 1876, vol. XX, pp.134, 260-1 and 623; AJHR, 1876, 1-3A).

\textsuperscript{54} For details see AJHR, 1876, H-28 and 1879, Sess. I, H-8.
but when, by 1876, it was clear that the Maori members were supporting Grey, he spoke rather of eventual abolition of special Maori electorates. In the event the Assembly agreed to continue the four-member system indefinitely and began to cut down the Maoris' entitlement to join the common roll.

The Maoris' own preference, with regard to the manner of their representation, was overwhelmingly for an increase in the number of special seats, most tribes, especially the Arawa and Ngatiporou, pressing persistently for a member of their own. Some of the more confident and far-sighted leaders did seek an enlargement of the Maori franchise on the common roll, but Maoris were generally discouraged from this course by the fact that they had already been used by European candidates in elections and had been virtually ignored by the successful member thereafter.


56 Loc. cit.

57 In 1879 Maoris lost the householders franchise; they retained the right to join the common roll if possessed of the necessary freeholders or ratepayers qualification (See Jackson and Wood, 'The New Zealand Parliament and Maori Representation', Historical Studies, vol. 22, n.43, pp. 390ff. )


59 Notes of interview between the four Maori members and the Governor, 9 December 1879 - G 13/7, n.55.

60 Petition of Te Ara, Katene and others - AJHR, 1878, 1-3, p.5.
Seeing that common roll representation was being quoted to block requests for more special seats, Hoani Nahe, in 1876, asked that it be abolished. Occasionally a venturesome Maori stood for a European seat, but these efforts were quite ineffectual. An increasingly favoured alternative to more Maori members in the European Assembly was a separate Maori assembly, in the tradition of that called by Governor Browne at Kohimarama in 1860 and pressure for this mounted throughout the decade.

Maori members in the Assembly were generally to be found with the opposition and were vehement critics of Government Maori policies. Their efficacy is hard to gauge. In the major questions such as the Native Land Acts they had little immediate effect. But Taiaroa's persistence kept the Ngaitahu claims before public attention and this, in the long run, was to bear fruit. Maori members could also secure redress for small grievances by asking questions of ministers.

Maoris also sought redress by petitioning the Assembly and the Native Affairs Committee, set up after 1872, to handle the flood of petitions, became an important part of New Zealand's constitutional machinery. It included the four Maori members and Opposition representatives although the Government normally kept a majority on it. Here too the

61 PD, 1876, vol. XXI, p.298.
62 Wi Maihi Te Rangipuawhe stood for Tauranga and Gisborne in 1876 and polled about 10 votes (AJHR, 1876, 1-2, p.30) and the capable and progressive Wi Katene polled third out of four candidates in the Bay of Islands electorate in 1879 (Hawkes Bay Herald, 11 September 1879).
63 AJHR, 1870, A-16, p.25 and A-21, p.3.
64 E.g., PD, 1875, vol. XIX, p.459.
65 In 1880 Fox claimed that Government members came into the Committee room after evidence was taken, simply to vote down resolutions proposed by the minority. (PD, 1880, vol.XXV, pp.186ff). Up to 1879 the votes of Maori members were split as often as they were grouped against the Government; after 1879 they usually joined Grey and Sheehan against the Government of Hall and Bryce. (See AJHR, 1874, Sess. II, 1-2A, pp.viii – and minute books of the Native Affairs Committee, 1877-9 – Unpublished PP.)
Maoris were unable to gain redress on the large questions such as return of confiscated lands but in a variety of small questions (especially if Government members were absent) they were able to obtain favourable decisions. The Committee received scores of appeals from the Land Court and although it declined to review judicial decisions, from time to time reported that it considered there were grounds for a rehearing, or urged correction of a faulty survey. It then rested entirely with the Government whether action was taken, but a favourable decision by the Committee (as in the case of back rents for the Princes Street reserve) especially if taken up by Opposition, could embarrass the Government or cause a well-disposed minister to act. The Native Affairs Committee was one institution which contributed just sufficient flexibility to prevent Maoris from quite despairing of the parliamentary system.

The Maoris' own political organization showed great variety and vitality. The local council or runanga was of continuing importance. Hapu and inter-hapu meetings may even have increased in frequency and complexity, if the comments of European observers and the spate of building of runanga

66 In 1882, in a depleted Committee the Maori members passed two resolutions on minor matters, but on the important question of the North Island claims, Government members attended and defeated the Maori members, plus Grey and Sheehan, by 7 to 6. (Minutes of Native Affairs Committee, 14 June, 7 and 24 August 1882 - Unpublished PP, 1882).

67 AJHR, 1876, 1-4, p.9; PD, 1876, vol. XXI, pp.582-3.

68 E.g., AJHR, 1876, 1-4, p.3 (petition of Wi Te Tuhi and others), p.5 (of Meiha Kepa), p.14 (of Hoani Turi) and p.17 (of Te Rangitakaiwaho).

69 See the influence of Native Affairs Committee decisions on disputes regarding land claimed by Harding (MA 13/95) and McCaskill (MA 13/26), N.O. 77/840 and the draining of Lake Wairarapa (MA 13/97) - all contentious issues of the 1870s and 1880s.

70 'The most trivial circumstance is sufficient to bring the older Maoris together and they expect their children to be present'. (Stack to U-Sec., 30 June 1879 - AJHR, 1879, Sess.II, G-2, p.11).
houses in the 1870s is an indication. *Tangi* and *hahunga* feasts increased in size and extravagance and were the subject of much social and political debate.

Semi-permanent committees existed for many *hapu*, sometimes fostered by officials or temperance workers to control liquor consumption. Councils at the tribal level were also founded. Thus in 1873 the Ngatitūwharetoa drew up an agreement — *Te Rohe Potae o Taupo* — and elected a committee of 12 to support it; the Tuhoe organised a *Hokowhitu*, or Council of Seventy; in 1874 the Tuhourangi (an Arawa tribe) formed a *Putaika* or 'backbone', a symbol of strength in unity; the Wairarapa Maoris formed a strong committee; the well-organized Ngatiwhakaue formed the 'Great Committee of Rotorua', in 1878. Among the important *whare runanga* opened in this period were *Tamatekapua* opened by the Ngatiwhakaue (an Arawa tribe) in 1872, *Nataatua* at Whakatane in 1875 and *Te Ao Narama*, by Pehi Turoa and the Wanganui Maoris in 1869-70. There were many others. (See AJHR, 1872, F-3, pp.10 and 15, F-3A, p.5; 1875 - G-1A, p.5; 1879, Sess. I, G-4).

A *tangi* is the ceremonial of death, a *hahunga* or *uhunga* the ceremony of the interment of the bones. A great variety of social and political questions was normally discussed at these gatherings. These often outstripped their original functions.


Brabant to Nat. Min., 1 April 1874 — AJHR, 1874, G-1A, p.3; C.W. Ferris (Inspector, A.C.) to Locke, 21 July 1874 — McLean MSS, 282.

Hamlin to U-Sec., 19 June 1874 — AJHR, 1874, G-26, p.1.

MA 13/97, N.0.76/3149, N.L.P. 81/280 and 86/467.

regulated disputes of many kinds, within the tribe, but were primarily for the purpose of settling land claims and preventing the alienation, by individual members, of tribal land. They agitated intermittently for official recognition and power to settle titles in place of the Land Court and there was general disappointment at the failure of McLean's Native Councils Bill in 1872-3. Without legal power the Councils were unable to restrain land-sellers and themselves tended to break up and re-form. 79

In addition three main centres aimed at something like a Maori national organization. Although other districts voiced it too, the tradition of the Kohimarama 'parliament' was strongest amongst the Ngapuhi, and Ngatiwhatua, who linked it with the Treaty of Waitangi. In 1875 a building called 'Te Tiriti o Waitangi' was opened at the Bay of Islands for a wedding feast and proved the forerunner of a larger building and a widespread demand for a separate Maori parliament. 80 In 1879 the Ngatiwhatua chief, Paora Tuhaere, actually assembled at Orakei (Auckland) the first of what were intended to be annual 'parliaments' - assemblies of delegates from the northern tribes. Though a long-standing ally of the Government, Tuhaere believed that the confiscated lands should be restored and he shared his compatriots' objections to the Land Court, to

79a See above p.13
79. See, e.g. U-Sec. to Hohepa Tamamutu, 2 April 1878 - MA 4/83, on the reconstitution of the Tuwharetoa committee. These organisations generally requested a Union Jack to fly on their marae (meeting ground) or a portrait of Queen Victoria to hang in their new meeting house. The Native Office, pleased at what seemed an exhibition of loyalty, generally complied. (H.T. Clarke, 15 February 1877 - MA 4/70). In fact the Māoris tended to look to the British Crown, to whom they had ceded sovereignty, as a source of redress against the New Zealand Government. This tendency became stronger before the Maori found it was misplaced.

80 Williams to McLean, 19 May 1875 - AJHR, 1875, G-1, p.5.

81 He had been rebuked by McLean in 1872 for voicing that belief (McLean to Tuhaere, 18 February 1872 - MA 4/78).
the Crown's claim to tidal lands, to rates, and to the necessity for
Maoris - but not Europeans - to obtain permits before they could purchase
arms. 82.

In Hawkes Bay great Maori dissatisfaction with land purchase
activities was largely channelled by H.R. Russell, John Sheehan and
leaders of the 'Repudiation' movement, which sought to upset the titles
of McLean and others guilty of dubious dealings. But the Repudiation
leaders were themselves far from being beyond reproach and the Maoris
never gave them full confidence. 83 The principal Hawkes Bay organiser
was Henare Matua, the chiefs Kawepo, Takamoana, and Tomoana largely
following his lead. By personal visitation, by letters and printed
circulars, and by gathering assemblies of delegates, Henare Matua brought
within his influence the Wanganui district, Taupo, and Rotorua-Bay of
Plenty. 84 His efforts assisted the tribes of these districts to withstand
land purchase operations until late in the 1870s. The Hawkes Bay programme

82 See resolutions of the Orakei 'parliament' 1879 - AJHR, 1879, Sess. II,
G-8. At the Assembly Arama Karaka stated that the first 'parliament'
was held two years earlier at Otamatea. (ibid., p.43). I have seen
no other reference to this; but Otamatea, on the Kaipara harbour, is
a mingling point of the Ngapuhi and Ngatiwhatua tribes and an early
council of the two may well have taken place there.

83 Sheehan took back in fees probably as much as he won for his clients
in legal proceedings. Each faction engaged in furious denunciation
of the other's extortionate dealings. (Ormond to McLean, 26 March, 16
June and 13 November 1873 and 6 May 1876 - McLean MSS, 330; Locke to
McLean, 12 May 1876 - McLean, MSS, 282; see also correspondence of
the Trust Commissioner, H. Turton, Jnr. to McLean - McLean MSS, 399).

84 Locke to Nat. Min., 16 July 1872 - AJLC, 1872, n.11, p.4; Woon to
U-Sec., 16 June 1874 - AJHR, 1874, G-2, p.15, 21 May 1875 - AJHR, 1875,
G-1, p.11, and 26 May 1875 - AJHR, 1876, G-1, p.35; Woon to McLean, 10
September and 1 October 1873 and 17 January 1874 - McLean MSS, 437;
G. Mair to U-Sec., 16 October 1877 - AJLC, 1877, n.19, p.4.
included more Maori members of parliament, an end to the Land Court, and full authority over their own land for the Maoris. In 1876 an assembly at Pakowhai proposed that the tribes should unite for their well-being (‘me Kotahi nga iwi i runga i tenei motu), that a separate Maori parliament be established and existing Maori members leave the European assembly, that land-selling and recognition of the Land Court should cease and that the Queen be petitioned to procure redress of the Maoris' grievances. Thus began the 'Kotahitanga' movement, which linked with the Tiriti o Waitangi movement and others to produce an island-wide organization by the 1890s.

The King movement continued to proselytise, sending and receiving delegates from Northland, Canterbury and the Chatham Islands and lending sympathy to a variety of local grievances. Particular attention was centred on capturing the adhesion of Wi Te Wheoro and others on the Government side of the aukati. The aim was a 'whakakotahitanga' of the

85 Petitions of Henare Matua and others, AJLC, 1873, n.9 and AJLC,1874, n.9.

86 A copy of the printed panui (notice or proclamation) signed by Tomaana, Matua, Kawapo, Takamoana and others, is enclosed in Porter (Land Purchase Officer, Waiapu) to McLean, 19 May 1876 - McLean MSS, 32B; see also 1876, G-5, p.8 for a reference to an invitation from Hawkes Bay to Ngatiwhakae for 'he whakakotahitanga o nga iwi Maori o Niu Tiri', (a unification of the Maori peoples of New Zealand). See Hamlin to U-Sec., 18 May 1876 - AJHR, 1876, G-1, p.27. A petition from the Pakowhai assembly also asked for implementation of the 1868 legislation on Maori juries. (Petitions of Kawepo and 790 others and Ropata and 200 others - AJHR, 1877, J-1).

87 John A. Williams, 'Maori Society and Politics 1841-1909', unpublished Ph.D. thesis, University of Wisconsin, 1963, describes the later stages of the organisation and its achievement very thoroughly. His concentration on the later period, however, misses the roots of Kotahitanga in the 1870s. In fact the first major meeting of the 1890s was at Waipatu, Hawkes Bay, not far from Pakowhai, the centre of activity in the 1870s.

88 MA 23/2, n.o. 71.722, 71/1157, 71/1290 and 71/1476; Clarke to McLean, 27 May 1870 - McLean MSS, 183; U-Sec. to Stack, 7 February 1870 - MA 4/3; A. Mackay to U-Sec., 21 August 1873 - MT-N 1/2; Parris to McLean, 10 May 1871 - AJHR, 1871, F-6B, pp.16-17.
Waikato tribes. However, although they found common ground with the King movement, many of the other tribes were offended by the exaggerated claims to Kingship over all the tribes advanced on behalf of Tawhiao, and by the request to cut their ties with their home district, to live at Te Kuiti. In addition the Waikato Kingites were embarrassed by worsening relations with their Ngatimaniapoto hosts who were increasingly disenchanted of semi-isolation behind the aukati and inclined to lease land and participate more fully in the European order. In 1875 the Waikato Kingites moved from Te Kuiti, the Ngatimaniapoto centre, to Hikurangi, Kopua and Kawhia where they were increasingly visited by Hone Te One, the chief expelled from Kawhia in 1868, and Wi Te Wheoro. In 1879 Te Wheoro was elected member for Western Maori, largely on Kingite votes, and thereafter ceased to be a supporter of the Government. The whakakotahitanga of the Waikato tribes was indeed becoming a reality.

In addition to these more political activities the prophetic movements continued to gain in strength. Te Whiti's influence increased with the increasing landlessness of West Coast Maoris; a Ngatimaniapoto hapu south of Te Kuiti, followed him, calling themselves the Tekaumarua, after

89 Brabant to Nat. Min., 21 February 1871 - AJHR, 1871, F-6A, p.16; Searancke to McLean, 24 June 1871 - ibid., p.15; Bush to Nat. Min., 1 April 1875 - AJHR, 1875, G-1, pp.1-2.

90 By comparison with the Ngatihaua and other neighbouring tribes who had sold their land and dissipated the proceeds in drink, the lot of the King tribes was enviable. But Maoris beyond the aukati did not always see it this way. They were tempted by the material goods and the attractions of European towns. Epidemic disease penetrated beyond the aukati and also contributed to dissatisfaction. (AJHR, 1873, G-1, p.21; and G-1B, p.6; 1874, G-2, p.9; 1875, G-1A, p.1).

91 AJHR, 1875, G-1, p.8; 1877, G-1, p.7; 1878, G-1, pp.8-9.
his doctrine that the Maoris should be ruled by a chosen elect of apostles, not by their traditional chiefs;\(^2\) Te Kooti's *karakia* (ritual), fostered by communications with the prophet at Te Kuiti, remained strong in the Urewera, Upper Wairoa, and Poverty Bay districts. From 1876 somewhat alarmed magistrates began to report the rapid spread of Te Kooti's faith through Tauranga, eastern Bay of Plenty, and northern Hawkes Bay.\(^3\) The Government was still very apprehensive of Te Kooti but decided it could not interfere while the new activity took a non-political aspect.\(^4\) In addition to these major prophetic movements minor prophets flourished briefly in numberless small communities in both Islands.\(^5\) Although many of the prophets like Te Whiti, led their people in a repudiation of Government-sponsored institutions, boycotting elections and declining to receive schools, they were not mere reactionaries. Most were concerned to cope with the practical problems of saving the land, curbing drunkenness, and restoring their people's self-respect.


\(^3\) U-Sec. to Brabant, 26 September 1876 – MA 4/69; U-Sec. to Locke, 14 March 1877 – MA 4/70; Brabant to Nat. Min., 10 June 1878 – AJHR, 1878, G-1, p.10. Te Kooti's faith included elements of traditional belief (a remnant of spirit worship and invocation of divine aid for planting, fishing or travelling, respect for tapu, especially in connection with the dead) and Judeo-Christian elements including worship of Jehovah and observance of fast days. (See notes by the late Revd J.G. Laughton, pioneer Presbyterian missionary of the Urewera district, A.P. Godber MSS, n.47).

\(^4\) U-Sec. to Brabant, 26 September 1876 – MA 4/69; U-Sec. to Porter, 24 January 1878 – MA 4/24. But any Government Assessor or pensioner who joined Te Kooti's church lost his stipend.

\(^5\) Te Marhoroa of Arowhenua in Canterbury was a good example. (See Stack, Report for 1869 – AJHR, 1870, A-3, p.68).
THE overall view of the 1870s then shows Maori communities not apathetic but engaging in a wide variety of experiments designed to improve their situation. Except, to some extent, in the strongholds of the King and the prophets, this involved a considerable determination to engage and succeed in economic, cultural and political aspects of the European order. The tragedy of the time was not that the Maoris were supine, but that they did not receive the assistance and encouragement in higher education or political and administrative responsibility that their interest and abilities warranted. The limited conception of the role of the state, settlers' disinclination to vote money for Maori purposes when the Maoris were not ratepayers (notwithstanding their substantial contribution to customs revenue), racial prejudice with regard to employment, and the desire to deny the Maoris real power if that could be used to block settler acquisition of Maori lands - all these combined to keep Maoris in subordina-
tion and frustrate their progressive ambitions. For this reason, and with land purchase operations proceeding, Maori political activity of more separatist type revived, particularly in the late 1870s. By 1876 when some, such as the Ngatimaniapoto, were just beginning to engage the European order, others, Kupapas, such as Wi Te Wheoro, who had engaged it eagerly, had become disgruntled and were withdrawing into quasi-national/activity. The tendency to separation was marked by a continuance of the Maori's retreat from the towns. The traditional market at the foot of Queen Street, Auckland, was closed in 1873 as being dirty and squalid.96 In 1875 the Gisborne Maoris

96 McLean to Kemp (C.C. Auckland), 6 March 1873 - MA 4/17. (McLean was protesting against the closure).
moved inland to Waerengaahika. There was a general movement in the country from the more to the less settled districts. Though the opportunity had been there, settler society had not followed up its military successes with a clearcut capture of the 'hearts and minds' of the Maori people. Certainly, many Maoris were not dissatisfied; some had prospered and others gained experience which was to bear fruit later in the century. But the 1870s had seen a revival of separatist political and religious activity, which competed with the school of opinion that favoured continued efforts to progress within the settler order of society.

97 Gill to U-Sec., 7 May 1875 - AJHR, G-2A, p.11.

98 See Willis to U-Sec., 19 May 1876 - AJHR, 1876, G-1, p.36. In 1874 the remaining Ngatimou at Waikanae moved to the upper Waitara valley.
THE DECLINE AND ABOLITION OF THE NATIVE DEPARTMENT
Sheehan's Mismangement, 1877-9

McLEAN'S immediate successor as Native and Defence Minister, Daniel Pollen, recalled that when he took office it had been felt that administration of Maori affairs should no longer be a speciality:

...the people of both races having become amenable to the law of the land - the function of the Native Department might be confined to that of...interpreter of thought and necessary medium of instruction between the two races not speaking the same language; that its political character should be taken away, and...the idea that the Native race was to be governed by the Native Department might no longer be entertained.²

Pollen continued the reductions in the Native Department's powers begun in 1876. He transferred superintendence of most road contracts to the Public Works Department and began retrenchments of staff. Hamlin, R.M. Maketu, retired and was not replaced, his district being divided between Brabant who was moved from Opotiki to Tauranga, and Preece, late commander of the Native Contingent in the Bay of Plenty, who took Brabant's place at Opotiki.³ A number of Maori staff such as ferrymen at the important

1 Pollen, while Resident Minister in Auckland, had worked closely with successive Civil Commissioners - J. Mackay, H.T. Clarke and H.T. Kemp - in the administration of Maori affairs.


3 See JC-Maketu 2, entries for September 1877 et. seq.; Brabant to Nat.Min., 20 July 1877 - AJHR, 1877, G-1A, p.2. Among other changes, Nesbitt, R.M. Poverty Bay, died and T.W. Porter, Land Purchase Officer in the district became Native Officer also; Major Willis, R.M. Marton, was replaced by R. Ward.
estuaries and mail carriers were dismissed, their places being taken by European County Council and Post Office employees. Some Medical Officers and less important Resident Magistrates had their salaries reduced. Several requests for free medicine, for aid with flour mills, and supplies for meetings or districts devastated by flood, which McLean would have granted, were declined. A further sign of the trend was the cancellation of subscriptions to a variety of provincial newspapers which the Department had taken to supplement its information on Maori-Pakeha relations throughout the Colony.

In land legislation the initiative was taken not by Pollen but by the Attorney-General, Whitaker. Whitaker and J.D. Ormond introduced a Bill which aimed at curtailing Crown land purchase operations and permitting unrestrained free trade by private purchasers. Restrictions on Maori were to be substantially removed and Maori owners allowed to mortgage freely for survey and Land Court expenses. The Bill raised vehement opposition from the Maoris, who recognised its rapacious tendencies, and from small settlers. Both groups were championed by Grey's party in the House and the Bill was withdrawn. Shortly afterwards

4 E.g., U-Sec. to Hoera Rauta, 25 June 1877 - MA 4/82.
5 U-Sec. to Dr Armitage, 19 March 1877, to Stack, 7 May 1877, to Allom, 28 May 1877 and Dr Payne, 31 May 1877 - MA 4/23; U-Sec. to Brown, 8 June 1870 - MA 4/70; U-Sec. to Parakiri, 2 July 1877 - MA 4/82.
6 MA 4/23 (Index p.39).
7 '...and if that did not make land-sharking in its worst form the rule, I don't know what could do so'. (E. Fox to Vogel, n.d., circa. July 1877 - Vogel MSS, 5).
8 Ballance secured an amendment to the effect that any land act should aim at close settlement. (PD, 1877, vol.XXIV,262) 'Then', wrote Ballance, 'confusion reigned and it was evident the most unprincipled combination the colony had yet seen was doomed'. (Ballance to Vogel, 1 March 1878 - Vogel MSS, Miscellaneous Correspondence).
the Atkinson ministry\(^9\) fell and Grey formed a Government, with Sheehan as Native, but not Defence, Minister.

It was to be expected that the principal attackers of the Native Department in McLean's time would continue to reduce its powers. Indeed, in his opening policy speech Sheehan, while maintaining that some sort of intermediary between the two races was necessary (because 'the difference in point of intelligence' was so great) proposed to 'lop off' some of the ramifications of the Native Department and reduce it 'to a useful skeleton department, concentrated here in Wellington'.\(^10\) In land policy Sheehan quickly divesting himself of the role of advocate for the Maoris which he had assumed in the Repudiation movement, announced several proposals, of doubtful equity, to facilitate the completion of purchases, and gave as one of his reasons for pruning the Native Department that it hindered settlement.\(^11\)

This programme was well received but, to the settlers' disgust, instead of withering, the Native Department burst into an unnatural flowering. Sheehan replaced a number of McLean's men — inveterate opponents of Sheehan — with his own appointees,\(^12\) dismissed some Maori

9 Atkinson had replaced Vogel as Premier in 1876.


11 Ibid., pp.234 and 238.

12 Among those dismissed were W.G. and Gilbert Mair, Locke, Searancke, Campbell, and Forte\(\~\)e. Some of those who replaced them/as Scannell (Taupo) and Gudgeon (East Coast) were relatively able and conscientious (Scannell was Armed Constabulary Inspector at Taupo). Others, such as W.G. Grace, had been rival agents for Grey and Sheehan since 1875. (See Cooper to McLean, 6 April 1876 — McLean MSS, 190). John White, lately publisher of Te Wananga, the Repudiation journal, was given a salary to compile Maori traditions and do general translation work in the Native Office. (Native Dept. file, N & D 79/1360 — White MSS, 57). W.B. White (Mangonui) and W. Harsant (Raglan) both veterans of the Native Service, retired at this time and were succeeded by their clerks, G. Kelly and R. Bush respectively.
Assessors only to appoint others, and reappointed some Medical Officers. The only bold measure of reduction was the transference of Native Schools to the newly founded Education Department. But this came late in Sheehan's term of office, and as the Education Department continued to work through the R.M.s in establishing and administering Maori schools, these were still regarded as being in some way part of a special machinery of Maori administration.

Sheehan's 'contingency' expenditure rapidly mounted. It included payments for useful items such as a hostelry at Patea, food and clothing for the indigent and tarpaulin coats for Woon's boatmen; other expenses - for champagne, jewellery and personal photographs, and shares in a coastal vessel for Rewi and Weteré Te Rerenga - were incurred during negotiations with the King movement; but a bust costing £200 of the Hawkes Bay chief Te Hapuku, a personal orderly for Te Wheoro and a much-discussed £578 on cab hire by Sheehan, indicated downright extravagance. A committee of investigation after Sheehan's fall found that he had exceeded the Native Department vote by about 16 per cent.

13 MA 4/84 (see entries for March 1879).
15 T.W. Hislop (Secretary, Education Department) to Woon - 28 August 1879 - MA-WG 1/9).
17 Loc. cit.
This might have been tolerated if Grey and Sheehan's policies had met with greater success. Grey inaugurated a series of meetings with Tawhiao, feted the Kingite leaders and reiterated McLean's terms, notably a salary for Tawhiao and authority for the Kingites to rule their own territory, including the right to debar communications. All began well; Rewi visited Auckland and Manuhiri accepted a pension. But in May 1879, Grey found the Kingite leaders suddenly hostile, apparently angered by Government roadworks near Raglan and on the Waimate plains (Te Whiti's district) and distrustful of Government intentions. Grey responded with a mixture of pained anger and condescension, reminiscent of his attitude in 1861-3. 'I look on Tawhiao as my own child', he said, and deplored the 'evil counsel' which had hardened his attitude. Then he withdrew the proffered terms and said that such favourable ones would not be repeated.

In the Assembly Grey and Sheehan faced biting criticism. They defended themselves saying that their having seized the opportunity to McLean's terms would enable them to get better ones in due course. This was true. Already the Ngatimaniapoto were becoming disgruntled at having missed an opportunity to enjoy the favour of the Government. But the


20 PD, 1878, vol.XXX, p.894; 1879, vol.XXI, pp.73-88, 102-5 and 253-5. There were many jibes at Grey's handing out sweets to the Maori children and dancing polkas to the music of a Jew's harp and concertina.

benefit was to be reaped by a later Government; Grey had only failure
to record. 22

Nor was this all. Throughout the country a series of crises had
arisen, each seemingly more serious than the last. In two separate
cases in Hawkes Bay, Maoris forcibly defied sheriff's officers seeking
to execute Supreme Court orders to eject them from land claimed - unjustly
in fact - by settlers; 23 in Canterbury a large party of Ngaitahu
deliberately trekked inland from a coastal reserve to lay claim to land
in the upper Waitaki valley; 24 at Ohinemuri (upper Thames) an old
Kingite ariki, Tukukino, threatened force to block a road through his
district; 25 at Waitara a disturbance occurred in a local hotel between
a drunken European and a party of visiting Ngatimaniapoto, one of whom
was arrested but released from gaol by his friends; 26 at Maketu an armed
party of Arawa forced the Land Court to adjourn the hearing of a
disputed claim; 27 and two hapu of the Ngatiporou took up arms and some

22 'Nothing but success could justify the personal pestering policy which
has been adopted'. (Bryce to Ballance, 12 May 1879 - Ballance MSS, 31).
23 PD, 1876, vol.XXIII, pp.366-7 (Sutton's dispute); AJLC, 1877, no.10
(Hardings dispute); AJHR, 1878, I-3, p.23.
pp.100-6.
25 Sheehan to Nelson (Road Supervisor), 29 April 1878 - MA 30/2.
26 Unpublished PP, 1878, n.68.
27 Wilson to Sheehan, 4 June 1878 - MA 5/5. '...the Court was full of men
stripped and armed for fight with revolvers, tomahawks, spears and every
kind of Native weapon. Six spearmen held the door, and the sergeant of
police reported his men wounded in trying to enter'. (Wilson to Minister
of Justice, 11 August 1880 - evidence on petition of Wilson, Unpublished
PP, Public Petitions Committee, 1882).
kainga were burnt. 28  Worst of all in 1879 a clash between two Ngapuhi hapu resulted in four dead and three wounded, 29 and at Ohinemuri a Maori ambush fired on a European survey party wounding one man and escaping arrest.

By no means all of these disputes were of Grey and Sheehan's making – several had arisen from problems shelved by McLean. 30 But the fact remains that in McLean's last years of office disputes of this nature were remarkably rare, and nothing as serious as the Ngapuhi affray or the Ohinemuri shooting had occurred since 1873. Moreover, the Government's policies had in fact contributed to the disorder. Far from curtailing the dubious activities of Crown land purchase agents – another point on which he had promised reform – Sheehan found the Crown so heavily committed in many blocks that he felt it necessary to go ahead with the purchases. 31

In March 1879 the land purchase branch of the Native Department was constituted a 'separate sub-department' with R.J. Gill, its de facto head since 1873, as first Under-Secretary. 32 This meant that land purchase

28 U-Sec. to Nat.Min., 10 December 1878 – MA 5/5.

29 Williams to U-Sec., 5 September 1879 – JC- Waimate 2; Von Sturmer to U-Sec., 3 October 1879 – AJHR, 1879, Sess.II, G-9, p. 3. (Neutral chiefs took charge of the ground and the Government did not proceed against those involved 'as each of the parties engaged lost an equal number of men').

30 For instance some of the Ngaitahu had stated in 1876 that if their claims were not recognised, 'as a last resort we intend to take up our residence on the inland of this island, the purchase of which has never been accomplished'. (Arowhenua Maoris to Normanby, 3 May 1876 – AJHR, 1876, G-7, p.3).

31 PD, 1879, XXXII, pp.361 and 366.

operations were not within the regular purview of the Under-Secretary of the Native Department and no longer so closely related to Maori policy as a whole. At the same time private buyers stepped up their activity.\textsuperscript{33} Moreover Sheehan's amendments to the land laws (while tightening the provisions against mortgage of Maori land) empowered trustees, with the consent of the Chief Judge, to sell the interests of minors,\textsuperscript{34} enabled the court to compel the attendance of witnesses — in order to assist the Crown to complete titles — and dispensed with the District Officers and preliminary enquiry required by McLean's act of 1873.\textsuperscript{35} Sheehan boasted that he had first doubled and then trebled the quantity of land passing through the Native Land Court.\textsuperscript{36} The increased pressure on Maori land,\textsuperscript{37} unrestrained by the vigilance and veto of a McLean, had much to do with the clashes in Hawkes Bay, Thames and Northland.

Finally, the Grey ministry found itself involved in a crisis with Te Whiti. Impelled by need for revenue and by heavy settler demand for land the Government carried surveys north of the Waingongoro River, Sheehan relying on the advice of Brown, the Civil Commissioner, that


\textsuperscript{34} Maori Real Estate Act Amendment Act, 1877.

\textsuperscript{35} Native Land Act Amendment Act, November 2, 1878, ss.4, 6.

\textsuperscript{36} PD, 1878, vol.XXIX, p.226. A Court of Appeal, above the Land Court, was considered but came to nothing. Some references suggest that it was to consist of a panel of Maori chiefs (PD, 1877, vol.XXVI, p.237); the Native Lawsuits Bill, 1878, however, proposed a court similar to the Supreme Court, but empowered to decide issues on equity and conscience, rather than technical law. Opposition to a Supreme Court Judge seems to have contributed to its defeat. (C.W. Richmond to Rolleston, 29 October 1878 - Rolleston MSS, 2).

\textsuperscript{37} AJHR, 1885, G-6, p.1 suggests that the purchase of 12 blocks was completed in 1875, 15 in 1876, 45 in 1877, 57 in 1878 and 41 in 1879.
resistance could be bought out. Responsibility for surveys had been transferred from the Native to the Crown Lands Department in 1876, and Sheehan did not closely supervise the progress of the survey, though McLean would certainly have scrutinised progress into much tricky territory very closely, whichever Department was nominally responsible. Above all, Sheehan failed to see that reserves were marked out for the Maoris. After several provocations from the survey party a Maori named Hiroki, shot the surveyors' cook and found refuge at Parihaka. Some months later Sheehan demanded his release, but Te Whiti refused and next day removed the survey parties south of the Waingongoro. Soon afterwards he sent parties of ploughmen to cultivate the land of settlers in various parts of the confiscation. The settlers, especially on the West Coast, interpreted this not simply as the pacific assertion of a right, but as the beginning of a new campaign by a seditious fanatic, likely to produce war. Grey and Sheehan, to their credit, at first resisted demands for military preparations and the arrest of the ploughmen; but when the settlers themselves began to arm and 'arrest' Maoris the Government felt obliged to act, and soon Te Whiti's men began


39 Hiroki had been a brave and daring scout for McDonnell in 1869-70; McDonnell did not regard his killing of McLean, the cook, as murder. (McDonnell MSS, 18). See also Cowan, The Adventures of Kimble Bent, p.311.

40 Brown claimed that Te Whiti would have submitted to the survey but for the Hiroki incident. This is very doubtful. Feeling against the survey had been mounting steadily as it advanced and many West Coast Maoris had come in to Parihaka, placing a considerable onus on the prophet to prove his capacities. See also below, Appendix D.

to be taken and held without trial, under draconian legislation of the 1879 session. ⁴²

In the Assembly the Government was blamed for bringing the Colony to the verge of another 'Native war'. Sheehan was attacked for his broken pledges about reduction of Native Department expenditure. In defence Sheehan claimed that McLean had only left affairs 'quiescent' and that personal government in Maori affairs was inescapable. ⁴³ But, in the settlers' view, McLean's administration had generally kept the peace, whereas despite Sheehan's heavier spending he and Grey appeared only to have been humbled by a defiant and cocksure Maoridom. It has been suggested that Sheehan has been unjustly maligned by his political opponents; ⁴⁴ and certainly it is true that his vehement critics were generally of the speculator and 'land shark' groups, antagonised by competition from Sheehan's drive for more Crown purchases. But though his adversaries may have been disreputable Sheehan seems to have deserved little sympathy. His land purchase activities had been, to say the least of it, unguarded and provocative; for all his activity he was less sensitive to the danger signals than McLean had been, sitting in Hawkes Bay and

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42 Early offenders were tried under the Injuries to Property Act, but it was feared that this would lead to light sentences or even acquittal. (E.C.J. Stevens to Stafford, 25 December 1879 - Stafford MSS, 45).


44 A view argued in W.J. Parker, 'John Sheehan, Native Minister and Colonist', unpublished M.A. thesis, University of Auckland, 1963. Stone, 'The Maori Lands Question', New Zealand Journal of History, p.73, also says that 'The explanation of Sheehan's disrepute is not that his conduct had been indefensible, but that he had no champions. He had aroused such hatred among Fox, Hobbs and Ormond and others of the Maori [land?] interest, that they were determined to hunt him down'.
reading innumerable reports. Some of his actions appeared generous to the Maoris – the appointment of a Commission of Enquiry into the Ngaitahu claims, for instance – but his contingency expenditure was intended largely to buy his way into Maori land. He too declined to implement the provisions of the 1868 Act for Maori juries, and in fact had little genuine respect for the Maoris. Moreover he did not always keep his dislike and contempt of them masked. Nor were the accounts of his philandering with Maori women mere fabrications of his enemies – though recounted through his adversaries, the complaints by Maori chiefs of Sheehan's conduct seem genuine enough.

In the 1879 Assembly the Grey party was embarrassed by the beginning of a financial recession after the boom of the 1870s, and

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45 See his admission in AJLC, 1879, Sess.II, n.6, p.6.

46 U-Sec. to Woon, 8 April 1879 – MA 4/24.

47 E.g., 'You don't know these damned scoundrels...'. (Minutes of evidence, on petition n.72, Native Affairs Committee – Unpublished PP, 1873; see also Ormond to McLean, 16 June 1873 – McLean MSS, 330).

48 See Ormond to McLean, 13 November and 16 June 1873 and 8 May 1875 – McLean MSS, 330 (recounting the irritation of Renata Kawepo at Sheehan's winning away from him of a girl he coveted). Waterhouse wrote of his conduct during the negotiations with the King movement: 'Even Rewi remonstrated with him regarding his conduct with women, while the natives themselves say it is useless to apply to him unless they are accompanied by their women. He has long promoted immorality to be a branch of the science of Government'. (Waterhouse to Hall, 5 March 1879 – Hall MSS, 37). It should be added that many settlers cohabited with Maori women in this period and Polynesian hospitality often involved making female company available to male guests; but Sheehan's conduct was deemed to have compromised his position as Native Minister; and from the Maori point of view he was adjudged to have abused hospitality.

49 Wool and wheat prices were down together for the first time in some years. (Murray to Ballance, Col. Treasurer, 2 April 1879 – Ballance MSS, 11).
by dissension over questions of tariff and electoral franchise. Many of Grey's supporters - the northern landsharks who had originally allied with him - had revolted over the question of Maori land purchases. In addition Sheehan could be shown not to have fulfilled promises of reform and retrenchment in the Native Department, but rather by 'a coddling system', which only earned the beneficiaries distrust, invited a series of Maori 'aggressions'. Fox claimed that the House must regain control of Maori policy as it had after McLean's deposition from the Native Secretaryship in 1861. In the 1879 election candidates promised abolition of the Native Department. In October the Grey Government fell; mismanagement in Maori affairs had contributed substantially to its fall.


51 A rhyme was made up suggesting Maori feelings about the Premier:

   No, no! that's very fine:
   but Grey will never do
   He is not black enough for us
   Nor white enough for you.

   ('Peeps to Politics' by 'Ignatus' - Mantell MSS, 141).

52 See clipping from Timaru Herald, n.d., circa mid-1859 - Mantell MSS, newspaper clipping book, entitled 'Maori'.

53 Fox to Hall, 24 September 1879 - Hall MSS, 37.

54 Hawkes Bay Herald, 9 September 1879.
Bryce Transforms Maori Administration

UNDER John Bryce, Native Minister in the Hall Government, reductions in the Native Department were resumed. Of farming background, self-educated and severely practical, Bryce was peculiarly suited to the task. He was concerned to advance the fortunes of earnest settlers - though not of speculators - and had little sympathy with Maori needs or Maori values, especially - after his experience of Titokowaru's rising - with the activities of prophets. He proposed to end 'the system of personal government with obtains in the Native Department', dispersing its functions to other Departments and reducing staff and contingency expenditure to within the £7,000 of Civil List voted for Maori affairs since 1852. He proposed a vigorous enforcement of the law against resisting Maoris in Taranaki and Thames; he proposed to end the shabby jostling for land between Government and private agents by reviving Vogel's scheme of 1876 for Government boards to act as agents in this business.

1 Bryce was brought to New Zealand as a small boy by his father a Glasgow carpenter. He worked in various rural occupations before managing a family property near Wanganui. A grandson of the Native Minister recalls John Bryce as a somewhat peppery old man, frugal (though by now quite wealthy), kindly in a very paternal way, but not one whose wrath was to be incurred lightly. (I am indebted to Mr. Don Bryce, Wellington, for these recollections.)
for the Maoris, selling land by public auction.2

Over the next three years Bryce achieved much of his programme. The transfer of Maori schools to the Education Department and road works to the Public Works Department was completed.3 In 1881 Charles Heaphy, Commissioner of Native Reserves since 1870, died and, after a brief interregnum when Alex Mackay became C.N.R., the Maori reserves vested in the Crown passed to the control of the Public Trustee.4 The remaining Civil Commissioners, Brown (Taranaki) and Kemp (Auckland) were retired and the New Plymouth office closed. Among others retired were Woon (R.M. Wanganui river), Williams (R.M. Russell), I.N. Watt (Native Agent, Otago) and J. Stack (Native Agent, Canterbury). W.G. Mair was reinstated as Native Officer for Auckland and Waikato (with headquarters at Auckland) but, on becoming a Judge of the Land Court in 1883, was replaced by G.T. Wilkinson. Alex Mackay and E.W. Puckey (Native Officer, Thames) also became Land Court Judges. James Booth


3 Though the R.M.s continued to assist in their organisation, under the Organising Inspector of Native Schools, J.H. Pope. (See Barrington, 'Maori Education and Society', for details of Pope's work.)

4 U-Sec. to Public Trustee, 15 September 1882 - N.O. 4/35; Native Office circular, 27 January 1882 - MA 6/1. The Public Trust Office had been founded in 1872 to administer the estates, personal and real, of persons who died intestate or who were under legal disability. (See AJHR, 1886, 6-7 for a return of Maori reserves administered by the Public Trustee.)
(Woon's old adversary) became R.M. Poverty Bay, Bush became R.M. Opotiki, (Brabant having moved to Tauranga), Preece, R.M. Napier and Wairoa, J.S. Clendon (son of J.R. Clendon, and R.M. Hokianga, since 1874) was moved to Whangarei, R.Ward was moved from Marton to Wanganui and H.W. Bishop, who had commenced a career in the Native Service as custodian of the Maori hostelry in Wellington, became R.M. Mangonui. These shifts and retrenchments left New Plymouth, Thames, Raglan, Marton, Upper Wanganui, Wairarapa and the South Island without a permanent Native Department officer. Medical Officers were again reduced from about 23 to 13. Numbers of clerks and interpreters were also dismissed, especially from Head Office. H.T. Clarke had retired in 1879 and after some speculation that James Mackay might become Under-Secretary, was succeeded by the chief clerk, T.W. Lewis. Lewis was destined to serve no less than six Native Ministers and was a competent and loyal staff officer to each - but nothing more.

Bryce slashed the number of Maori Assessors, police and pensioners by between half and two-thirds, and reduced the stipends of the remainder. Native Department employees such as the Maori mail-

5 Von Sturmer (Hokianga), Scannell (Taupo) and Deighton (Chatham Is) remained as R.M.s. Russell was now served only by a clerk.

6 Their subsidies, which under McLean and Sheehan had crept up from the level A.H. Russell had reduced them to, were again brought down from the range £50-£150 to £25-£50, from which they had to provide drugs. Drugs also continued to be dispensed through the Maori schools.

7 E. Fox to Vogel, 1 March 1879 - Vogel MSS, Miscellaneous Correspondence (Lewis had joined the Defence Department in 1862 as a clerk, became McLean's Private secretary on the amalgamation of the Native and Defence Departments in 1869, and subsequently chief clerk.)
carriers and ferrymen at river crossings had their contracts curtailed. After 1882 the remaining Maori police were transferred to the Defence Department (in 1886 to the newly-established Police Department) and were henceforth subordinate to the local constabulary rather than the R.M.s. The Assessor system was not entirely destroyed, however, for although it was felt that Assessors were no longer needed in the Court, the retention of able men was considered to 'influence the general conduct of the Natives and indirectly assist... in maintaining order and peaceful habits in their localities'. The leading Ngatimaniapoto chiefs, whom Bryce was trying to influence, also received large pensions.

Grants of aid - contingency expenditure - were also heavily reduced, though Bryce still paid relief to some indigent Maoris and subsidies for farming equipment if the Maoris had also raised money themselves. He also curtailed the hostelry system. The Wellington hostelry in Molesworth Street was taken over as offices for the Native Land Court; the Napier hostelry was let; the Onehunga hostelry, which had been damaged by fire, was sold. Even European observers felt that

8 Maori ferry operators were now required to gain a licence from their local county council and tended to go out of business before European competition and the progress of roads and bridges. (Kelly to U-Sec., 10 October 1881 - JC-Mangonui 8).

9 Kelly to U-Sec., 27 September 1880 - ibid. About 150 Maoris still drew a stipend or pension.

this was carrying retrenchment too far. 11

In financial terms Bryce cut Native Department salaries from £21,164 in 1879 to £13,453 in 1880; about £6,000 of remaining charges were for European salaries, Maori salaries and pensions coming within the £7,000 Civil List vote for Maori affairs. Contingency expenditure fell from the £8,000-£12,000 spent by McLean and Sheehan, to a mere £2,500 - about £800 on gifts and entertainment for Maori leaders, £800 for medical care and £800 for travelling expenses. 12

In contrast to the declining Native Department, the Native Land Court steadily grew. Bryce, in accordance with his general policy, transferred it to the Justice Department, with the idea of putting it on the same footing as other courts. 13 But within a year he became so irked with the ill-coordinated and dilatory activities of the Judges 14 that he brought the Court again within the control of the Native Department and supervised its operations more strictly than before. 15

11 PD, 1880, vol.XXXVI, p.279; Bryce minute, 17 January 1881 - MA 1/10, N.O. 81/144; U-Sec. to Preece, 27 April 1882 - MA 4/34.
12 Lewis memo., n.d., circa June 1880 - MA 4/20, p.555. It should be observed that the steadily rising vote for Maori schools, and a small vote for medicine distributed through the schools, came under the Education Department vote.
14 At this time protected hearings at Cambridge, ruinously expensive to Maori clients and damaging to their health, appeared scandalous even to the somewhat unsympathetic gaze of the settler community.
15 U-Sec. to Registrar, Native Land Court, Auckland, 24 August 1881 - MA 5/11; Lewis evidence, AJHR, 1886, 1-8, p.67,q.1462.
More Judges were appointed - ex-Native Service officers like Mair, Puckey and Alex Mackay, and solicitors such as Brookfield, O'Brien and MacDonald. The vote for the Court rose from about £10,000 in 1879 to £13,000 in 1881 and £16,000 in 1883, by which time it had well overtaken that for the Native Department proper. In other words the Court had clearly become the most important special institution in Maori administration.

Bryce's retrenchments were greatly regretted in the out-districts. Apart from the loss of office and salary, at which European magistrates and spoilt Maori favourites like Ropata alike grumbled, the R.M.s reported a serious loss of contact with Maori communities. With fewer magistrates in larger districts circuits were less frequent than in the leisurely circuits of magistrates in the 1870s. More seriously, the loss of Maori staff meant that close association with the chiefs was curtailed, and endless gossip about the life in the villages no longer reached magistrates' ears. Bryce adopted a suggestion by Lewis

16 See annual appropriations, AJHR, 1880-83, B-1, p.30 and B-3, pp.67ff.

17 Kelly to U-Sec., 11 June 1880 - JC-Mangonui 9; Woon to U-Sec., 2 October 1880 - MA 13/4, N.O. 80/3660; Preece to U-Sec., 13 October 1880 - MA 13/95, N.O. 80/3571.

18 A European M.H.R. stated: The present Government in using the pruning-knife, not merely pruned but amputated the outlying districts: they dismissed the Native Assessors and policemen, who were doing good service and had the confidence of the Maoris; and, in place of a Magistrate resident, a peripatetic Magistrate was appointed, whose duty it was to gallop through the country once a month to hear any case which might happen to be set down for hearing, and be off again the same day (PD, 1886, vol.XLVI, p.344 - Henry Williams).
that Justice Department R.M.'s communicate with the Native Office in matters affecting Māoris, but they were mostly town-dwellers and saw little of Māori communities. At this time Māori spokesmen began to complain not only of the want of compassion by the Government in stopping the supply of food, refusing loans and closing hostelries, but at the ending of the system of working through the chiefs. The practice of McLean and his officers of constantly using the chiefs in formal arbitration was recalled with nostalgia, and the Government was charged with keeping authority entirely in European hands.

The tendency to separation of Māori communities from official interest was increased by Bryce's refusal to mediate between Māoris and local bodies or private settlers on land disputes; Māoris were simply told to use the courts - cold comfort indeed! The placing of reserves administration under a remote official like the Public Trustee exacerbated the Māoris' feeling, already strong under Heaphy and Mackay, that their fortunes were being determined by a remote and imperious authority no longer accessible to them.

Whereas in the 1870s there had been a machinery of administration actively linking Māori communities with Government and, in some measure,
serving the interests of the Maoris, in the 1880s Government seemed to come to the Maoris only when it wanted something of them. Thus the R.M. Courts were used infrequently to arbitrate disputes in the villages but almost entirely as agencies for enforcing the payment of debts to European creditors.23 After 1880 too, Maori villages saw frequent visits from dog-tax collectors of the local bodies - empowered by a new act of the Assembly - who, with justification, viewed the hordes of ill-kept Maori dogs as much in need of reduction. But the Maoris had little cash to spare and the collection of the tax became a subject of bitter acrimony and threatened violence.24

In 1882 also, by the Crown and Native Lands Rating Act, Maori lands within five miles of a highway became liable for rates.25 The Crown in fact paid the rates to local bodies and made the debt a first charge on the land. Lewis discovered in 1883 that the Property Tax Department had been valuing Maori land for rating purposes at up to three times its market value and that, like the dog-tax, collection of rates threatened to provoke breaches of the peace. The Native Department thereafter exercised a supervisory control over the rating of Maori land and much

23 In 1887 Preece, R.M. Napier, heard 111 suits by Europeans against Maoris and 3 by Maoris against Europeans. (AJHR, 1887, Sess.II, G-1, p.14). See also Von Sturmer to Rolleston, 11 May 1881 - Rolleston MSS, 3.

24 U-Sec. to Chairman, Manawatu County Council, 21 May 1883 - MA 4/36. Bishop, R.M. Mangonui, felt obliged to cut down on the annual issue of ammunition permits on account of the threats to dog-tax collectors. (Bishop to Bowman, 16 July 1883 - JC-Mangonui 9).

of it that was liable under the 1882 act, continued to be exempt. Nevertheless Maori lands were charged with some £10,000 of rates by 1890.

Other public demands which bore upon the Maoris included a sheep tax (to provide a fund for the eradication of scab) and river and harbour control programmes which damaged Maori eel-fishing weirs.

MEANWHILE Bryce was pursuing his aim of bringing the Maoris more firmly under the rule of settler law. As in 1863 the settler community was impatient - some with specific designs on land in Te Whiti's and Tawhiao's territory, more for ending the quasi-independence of those communities, which were held to be a threat to law and order. At that time, the settler community was still insecure and easily panicked. Bryce, arguing that Te Whiti was a semi-demented fanatic whose demands were insatiable, strongly favoured taking him at once by force. More moderate members of the Hall ministry, however, decided that a liberal demarcation of reserves, combined with a resolute pushing of the road through the confiscation, would overcome Te Whiti's opposition.

Bryce resigned on the issue in January 1881, William Rolleston, former Native Secretary and, more recently, Minister of Justice in the

26 Loc. cit. Also U-Sec. to Commissioner of Property Tax, 7 January 1884 - MA 4/38; Atkinson to Bryce, 5 and 6 November 1883 - FM 3/2, pp.141-5.

27 About this time - February 1881 - a Maori was murdered at Thames by a settler named Procoffy. Though fearful of his acquittal by a white jury the Maori community was content to await Procoffy's trial. But the settler community at Thames for a time lived in fear, quite unwarranted but very real, that the local tribes would exact vengeance on the town. (U-Sec. to Nat.Min., 17 February 1881 - MA 5/11, p.102).
Hall Government, taking over the Native Department. However, by October 1881, Rolleston found that Bryce was to some extent correct. Te Whiti could not be placated by reserves; he was fighting a campaign for the recovery of the whole of the confiscation. This the Government would not concede. Te Whiti's men were continuing a campaign of fencing across the Government road and ploughing on settlers' claims; this was pacific in intention but tempers began to rise among both settlers and Maoris. When it was apparent that Te Whiti was not going to call off the campaign, Rolleston began preparations for the investment of Parihaka pa.

Bryce resumed office to actually superintend the policy he had long advocated, but by this stage the ministry was agreed on the course proposed. A large armed force arrested Te Whiti, his lieutenant, Tohu and the fugitive Hiroki (who was tried and executed for murder); the Parihaka community - which consisted largely of Maoris from distant tribes - was dispersed. Fairly liberal reserves were made for the Maoris in the confiscation but much of them were placed under the Public Trustee and let by him to settlers on terms over which the Maori owners had no control. The whole Parihaka affair added renewed bitterness to Maori-Pakeha relations, but the majority of settlers applauded Bryce for having introduced 'a little backbone into the Native administration - and thereby

28 For details of these events and decisions, see below, Appendix D.
29 '...while the Government professed with one hand to give the lands to the Natives, with the other hand they took them back and placed them beyond the Native's control'. (Hans Tapsell to Nat.Min., 29 September 1892 - MA 1/13, N.O. 92/1724).
taken an important step towards the eventual abolition of the Native Department'.

Other Maori fugitives from settler law were also overtaken by Bryce's stern policy. Winiata, wanted for murder since 1876, was kidnapped from near Te Kuiti, tried and hanged. The Thames Maoris who had wounded a surveyor in 1879 were seized and imprisoned. Road and river-clearing works were pushed through the Thames district with strong forces of Armed Constabulary nearby.

With regard to the King movement the Government passed, in 1880, a Waikato Confiscated Lands Act to provide further for the location of ex-rebels within the confiscation. Few took advantage of it. Nevertheless, in response to overtures by Mair - initiated at Rolleston's request - Tawhiao, in August 1881, rode into Alexandra and laid guns at Mair's feet in token of peace. Soon afterwards he accepted a payment of the accumulated back rents on his lands at Mangere. The Government

30 FD, 1882, vol. XLI, p.557 (Whitmore). Grey and Sheehan, observing the popularity of the Hall Government's actions, did not join the minority in the Assembly who refused to support the Act of Indemnity passed to cover them. Maning derived amusement from the though of 'old Grey being dragged behind Bryce's Gun Carriage and making believe he is pushing. (Maning to Webster, 3 August 1883 - Maning Autograph Letters).

31 Wilkinson to U-Sec., 11 June 1883 - AJHR, 1883, G-1, p.6.

32 The act was extended in 1882 and again in 1884. Allocations were to be at the rate of 50 acres per man and 30 acres per woman 'or less where the quality of the land is good or the position desirable'. (U-Sec. to Wilkinson, 7 March 1883 - MA 4/3).

33 Rolleston to Mair, 8 June 1881 - Rolleston MSS, 4. ("...if question of opening lands and railway comes up you would ascertain how far his mind goes in this direction. Another point is the harbouring of malefactors this is the great obstacle to friendly intercourse and you could perhaps impress him with this...")

34 Mair to U-Sec., 27 May 1881 - AJHR, 1881, G-2, p.4.

35 These were paid to Tawhiao and Manuhiri but at the moment of transfer, (cont.)
replied with an Amnesty Act giving full pardon to those sheltering from European law in the King Country, including Te Kooti. But when Bryce met Tawhiao in November 1882, he offered terms in his usual 'take it or leave it' fashion, antagonised the King and failed to reach agreement.

Bryce now turned his attention to the Ngatimaniapoto. The influential leader Wahanui was offered a pension, a house and a seat in the Legislative Council and Bryce urged the chiefs to lease not sell. They were intrigued by the success of a recent arrangement whereby the Rotorua Maoris had received high rentals for land which the Crown, as agent, had leased at public auction; and since the King Country had been specifically excluded from the Crown and Native Lands Rating Act, there seemed to the chiefs to be no serious disadvantage in opening their lands. In 1883 Wahanui allowed a survey for a railway route to pass through and, with the aid of the lately pardoned Te Kooti, rescued the

35 (cont.)

the King slipped out of the room, 'an indication that he is nearly, but not quite, ready openly to receive the gold of the Pakeha'. (Pollen to Rolleston, 7 November 1881 - Rolleston MSS, 5).

36 There was a good deal of anger among the North Island settlers at the inclusion of Te Kooti. Others pardoned included Wetere Te Rerenga, who was implicated in the murder of the missionary Whitely in 1869, and those involved in the latest killing, that of Moffat, a disreputable gold prospector, in 1880.

37 'Bryce made liberal proposals, but insisted they should at once be either accepted or rejected. With due deference to his better knowledge of Maori matters, I think this was a mistake in tactics. Donald McLean would have allowed the niggers to talk on for days if they so pleased, and then probably would have got what he wanted'. (Hall to Bell, 1 December 1882 - Hall MSS, vol.X, p.354).


40 See below pp. 436-7.
surveyor when he was seized by the prophet Te Mahuki and his 'Tekaumarua', south of Te Kuiti. Legislation in 1863 incorporated Wahamui's conditions for further opening his territory - the exclusion of private purchasers from the King Country and prohibition of the sale of liquor. Bryce also agreed to Wahamui's request for survey and award of title only in respect of tribal and then hamu boundaries - not yet going on to individual awards, which could too easily be alienated. In 1883 also Bryce occupied a location on Kawhia harbour, using Armed Constabulary to overcome resistance from Tawhiao. The Ngatimaniapoto made no objection and it appeared that the King Country would be opened.

But it was not to be so easy. In 1884 McBeth, a settler much concerned about the effect of land alienation on Maori society, and Hirini Taiwhanga, a Ngapuhi leader of nationalist tendencies, visited the King Country. They arranged with Tawhiao and Wi Te Wheoro to visit England and plead that the King Country, before being opened to the railway, be made a self-governing Native District under clause 71 of the 1852 Constitution Act - the clause passed to allow the Governor a needful discretion when representative institutions were first introduced.

41 For details see MA 23/5. Several of the rescuing party received Government pensions. Difficulty was also experienced at the southern end, Upper Wanganui Maoris turning back a survey party until placated through the intervention of Major Kemp and Pehi Turoa. (AJHR, 1884, D-5, pp.3-5).

42 Bryce minute, 20 January 1884 - MA 13/93, N.O. 84/204.

43 Bryce memo., 16 October 1883 - AJHR, 1884, G-1. By 1886 the Ngatimaniapoto were petitioning against the removal of the troops which they saw as a safeguard against Waikato pretensions. (MA 23/4, N.O. 67/1738).
in New Zealand. This was essentially a gambit by the Waikato leaders to save something of the crumbling King movement. Rewi joined them but Wahamui was not interested in a move that would rivet control by Waikato chiefs over Ngatimaniapoto territory. Nevertheless he was alarmed by the spread of trigonometrical stations and at rumours of negotiations for land and cooled to the whole arrangement. Bryce's successor had virtually to renegotiate the survey.

IN land legislation, as in his arrangement with Wahamui, Bryce showed that, while he was anxious to extend settlement rapidly he was willing to support measures to rid land purchase of its worst evils. As Chairman of the Native Affairs Committee he had come to detest the scramble of direct purchase with its attendant confusion and fraud.

The volatile Rewi was characteristically swayed by strong emotions. At McBeth's meeting regret was expressed that, in agreeing to Bryce's survey, Rewi had 'left the canoe'. Rewi thereupon sprang to his feet and announced that he would rejoin it. He wrote to Bryce withdrawing from their agreement and told Wilkinson, rather shamefacedly to call him henceforth 'kopikopiko' - 'backwards and forwards'. (MA 13/93, N.O. 84/304). His letter to Bryce, on the same squared graph paper as one from Tawhiao, asks: 'You grant the Maoris local self-government and control of their own lands and we will grant you a railway, and also throw open the greater portion of our lands under the leasing system'. (MA 13/93, N.O. 84/359).

MA 13/93, N.O. 84/292. The move was possibly prompted by the recent visit to London of the Zulu chief Cetewayo; but Taiwhanga had himself visited London in 1882.

MA 13/43, N.O. 84/3668 et seq.

Bryce minute, 17 December 1880 - MA 1/8, N.L.P. 80/803.
However, he saw disadvantages in Crown pre-emption and believed it politically impossible to introduce it. The alternative, that of the Crown auctioning land as agent for the Maoris, he introduced in the Native Land Sales Bill, 1880. But the Bill was strongly opposed by speculators who feared that to leave it to Maoris voluntarily to offer land for auction would effectively shut up the country. For their part the Maori members, distrustful of Government paternalism and alarmed at the ten to thirty per cent commission and roading expenses proposed to be deducted from profits, also opposed it.

The Government withdrew the Bill and sought instead to apply its principle in local areas. The Thermal Springs Act 1881 ratified an arrangement - administered by Fenton - between the Government and the Ngatiwhakaue tribe, whereby a planned township was to be established in Rotorua thermal region and the land to be alienated on long lease, at public auction. The Native Reserves Bill of 1882 incorporated the same idea in respect of the land wrested from Te Whiti's control, and any other land Maori owners might care to lease through the Public

48 Hall to Bryce, 30 March 1880 - Hall MSS, 5. Hall wrote to Whitaker, the Attorney-General: 'I understand from Bryce that you still think free trade the best principle to go upon, but that it having been tried & rejected [in Whitaker's Native Land Court Bill of 1877] you are willing to help in putting his plan, of Government selling for the Natives, in the way of having a fair trial....I am not very sanguine as to the success of such a plan, but it is about the only thing which has not been tried....' (Hall to Whitaker, 29 February 1880 - Hall MSS, 6).

49 PD, 1880, vol.XXXV, pp.267-74; 363-86; vol.XXXVI, p.383; vol.XXXVII, pp.91-116. Though in fact the Maoris lost far more by working through lawyers and agents, they felt that, under the system of direct dealing, transactions were more under their personal control.
Trustee. In both districts initial auctions of land were wildly successful, rents being offered far in excess of those the Maoris usually received. But within a year the system had begun to fail. The lessees began to default on payment of rents, and organised a lobby for the repeal of the Thermal Springs Act to allow purchase of the freehold. As usual the more feckless and imprudent Maoris, allured by promises of high prices, abetted them. The whole Rotorua scheme began to founder in acrimony. What should have been a thoroughly beneficial system broke down, not only because lessees found they could not pay inflated rentals in the intensifying economic depression, but also because they had a great repugnance to being tenants of Maori landlords at all, and the Government was not prepared to oblige them to fulfil their contracts.

In a number of other respects Bryce's policy on land questions was constructive, aiming to end wastefulness and fraud. His Native Land Laws Act, 1883, made dealings prior to Land Court awards not

50 Bryce hoped that the King Country Maoris might be interested. (Hall to Rolleston, 6 October 1882 - Hall MSS, 10).

51 See return AJLC, 1882, n.7.

52 Brabant to U-Sec., 14 June 1883 - AJHR, 1883, G-1A, p.4; 1883, I-2, p.5.

53 The Supreme Court decided that the Ngatiwhakaue tribe was not a body corporate and could not sue for rents. This, with the eruption of nearby Mt Tarawera in 1887, and the economic depression which caused an abandonment of many leases, ended the scheme. The Crown bought the freehold of most lands, a few Maoris, however, holding out for fulfilment of the original terms. (For details see special file 43985, 'Rotorua Township', Department of Lands and Survey, Wellington; also PD, 1888, vol. LXI, p.183, vol. LXVII, p.547).
only void, but illegal, and punishable by a £500 fine.\(^{53a}\) On the question of removal of restrictions, he was hostile to any proposed transaction that had a hint of deceit about it, several times overruling local officers or the Under-Secretary if he thought some Maori owners' interest had not been considered.\(^{54}\)

The Land Court had come under heavy criticism for some hearings at Cambridge and Marton, as a consequence of which Fenton was at last exposed and denounced as incompetent and an antagonist of the Maori race.\(^{55}\) He retired in 1882 but his successor, J.E. MacDonald, proved equally careless of Maori interests and duller-witted into the bargain. MacDonald even recommended removal of restrictions from land in respect of transactions he knew were illegal.\(^{56}\)

But although he knew of MacDonald's propensities on the matter of removal of restrictions, Bryce's whole policy, tending to the abolition of the Native Department, involved vesting wider powers in the Land Court. Thus the Court not only gained more personnel and a larger budget,\(^{57}\) but

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\(^{53a}\) Native Land Laws Amendment Act, 1883, s.7.

\(^{54}\) For details see MA 13/22, 13/23, 13/24, inter alia.


\(^{56}\) In 1888, MacDonald wrote that since restrictions on alienation were imposed merely to 'prevent natives denuding themselves of all land before they have learned to maintain themselves by work' and that as long as it could be shown that Maori vendors had some other land, prior illegalities in a transaction leading to removal of restrictions should not debar their removal'. On this a minister commented: 'I don't understand this style of argument. It looks to me morally unhealthy'. (Minute of T.W. Hislop on MacDonald memo., 13 March 1888 - MA 11/3, N.O. 88/487).

\(^{57}\) See above, p. 427
was accorded powers which McLean had long declined it. The power to
award rehearings now rested solely with the Land Court; all Judges
were made Trust Commissioners, with authority to make the enquiries
against fraud which had previously been vested in special officers;
and the Native Succession Bill 1881, gave the Court power to award
succession to Maori personal estate, as well as land. Bryce also
sought to give the Court authority to order removal of restrictions
hitherto reserved to the Government, but speculators, who preferred
to lobby a minister/then a Judge, were opposed. From time to time
scandalously unjust decisions by the Court were revealed, but the only
appeal was to parliament. Special legislation was often required, even
to order a rehearing, if the Chief Judge had declined one, and
members were often reluctant to overrule a Court in this way. The
Court remained in a twilight position - without the full autonomy of a
legal tribunal but with sufficient independence to perpetuate gross
errors and injustices unchecked.

In a number of miscellaneous questions Bryce's record was mixed.
He cancelled the commission Sheehan had ordered into Ngaitahu claims
and declined claims to compensation/redress in various disputed lands
Previously the Government had awarded rehearings, on the recommenda-

tion of the Court.


The Chief Judge's decision on application for rehearings was made in
private and no reasons for his decision were published.

See correspondence on application for a rehearing of the Ngarara
block, MA 70/3.
in the North Island - mainly for fear that to admit one would open
the door to myriads of others. On the other he implemented the
long-neglected provisions of the 1868 Juries Act, whereby Maori
defendants could claim trial by a Maori jury, and the provision was
soon in use.

IN 1883, after several years of opposition to persistent lobbying
by the Maori members, and Maori committees throughout the country, Bryce sought to allay the agitation by passing a Native Committees
Empowering Bill. This gave local committees authority to discuss
disputed land claims and advise the Land Court, and to arbitrate
between Maori disputants, in a variety of questions if the contending
parties had given prior agreement to accept such arbitration. But
whereas the Maoris sought local committees at hapu level and, as in
1862 and 1872, eagerly set them up in anticipation, Bryce had in mind
only seven or eight committees for the whole North Island. The Bay of

62 Denied redress for his clients the Ngatiraukawa, in respect of
compensation money for the loss of the Rangitikei - Manowatu block, Buller wrote: 'It seems to me that the present Government in their
rage for retrenchment and economy are forgetting every other
consideration of public honour'. (Buller to Mantell, 21 January 1881
- Mantell MSS, 256).

63 See, e.g., the broadsheet headed Ko te Matakokiri Maori (The Maori
Meteor) of the 'Komiti hi ke ture o Pikiao' (The Committee of
Ngatipikiao - a subdivision of Arawa-who nurse the law) - MA 23/13,
N.O. 80/328. Similar requests came from the East Coast, Poverty Bay,
Hawkes Bay, the Wairarapa, and Northland. (AJHR, 1880, I-2, pp.1
and 9). In 1882 Henare Tomoana, member for Eastern Maori pushed
through as far as a second reading, a bill authorising Maori
committees to adjudicate on land titles. (PD, 1882, vol.XLII, pp.296-
305).
Plenty and Rotorua were, for instance, to be one district. This arrangement had the same weakness which had undermined Grey's scheme for 'District Runangas' in 1862; it was so completely unrelated to existing institutions of Maori society that unless modified it was bound to fail. Committee organisation throughout most of the 1880s consisted of squabbling between tribal groups for control of the committee elections and requests for more committees representative of smaller units. The only committee to serve any useful role seems to have been the Kawhia committee, representing the Ngatimaniapoto and chaired by an extremely able part-Maori, John Ormsby; this committee assisted in negotiating terms for the opening of the King Country under Bryce's successor. But such advice as the Committees gave on land claims was generally ignored by the highly jealous Land Court.

In fact, the powers Bryce had offered the committees fell far short of prevailing Maori demand. The reduction of the R.M. and Assessor system, the pressure of Government in such matters as votes and dog-tax, the Government's seizure of Te Whiti, and the continued passing of the land, generated increasing support for organisations advocating self-rule. The decline of extractive industries, such as

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64 MA 23/13.
65 Wilkinson to U-Sec., 25 May 1886 - AJHR, 1886, G-1, pp.4-6.
66 The Land Court was instructed that 'the Chairman's reports should be taken for what they are worth'. (U-Sec., to Registrar, Auckland, 10 September 1885 - MA 4/42).
timber and Kauri-gum, depriving Maoris of employment, added to the bitterness. About 1880-82 it was reported from several districts that the local Maoris were showing a greatly increased interest in politics. Of the Ngapuhi, it was said that 'A feeling of sullenness and distrust of Europeans appears to be spreading among them'. 67

Renewed committee activity aimed both at regulating local disputes and, at gaining authority over land. The small advisory powers that Bryce's committees were given, were held to be merely a sop. Many chiefs who still held authority among their people continued to exercise it outside the Government-sponsored committees. 69 Even such an amicable tribe as the Rarawa sought to disengage from Pakeha administration and set up committees of twelve in each village to hear all disputes and regulate such perennial problems as worrying of stock by dogs. 70

More seriously, Bryce became embroiled in a quarrel with Major Kemp, the leading chief on the lower Wanganui, over a Government

survey of land claimed by Kemp. Kemp occupied the land with an armed

67 Von Sturmer to U-Sec., 7 May 1880 - AJHR, 1880, G-4, p.2.
68 PD, 1883, vol.XLVI, p.344.
69 Wilkinson to U-Sec., 2 June 1888 - AJHR, 1888, G-5, p.4; Judge Barton to Chief Judge, 9 August 1889 - MA 1/17, N.O. 89/1901.
70 Kelly to U-Sec., 11 June, 23 July and 2 September 1880 - JC-Mangonui 8; Kelly to U-Sec., 16 May 1881 - AJHR, 1881, G-8, p.1. (Kelly, R.M.'s clerk, Mangonui, with the aid of some of the remaining Assessors, quashed the Rarawa attempt at self-government).
force and turned back all travellers in the vicinity. He also established a 'Council' to govern the Wanganui river and, with the aid of the legal firm of Sievwright and Stout, sought to establish a 'trust' to recover and withhold from sale, lands in respect of which Government and private agents had paid advances to some minor owners. Kemp intended to allow settlers to acquire the bulk of them on lease. Despite his own declared criticism of the way in which agents paid advances to land before title had been decided, Bryce refused to countenance Kemp's 'trust'. These incidents led to such acrimony that the Wanganui river was, for some time again virtually closed to Europeans, above a point about 80 miles from Wanganui.

The most persistent political activity, however, arose from the Ngapuhi, whose new meeting house 'the Tiriti of Waitangi' was opened in 1881. The most active leader was Hirini Taiwhanga, a man hitherto little respected even by his own people, but whose passionate demand for redress of grievances - which the older more respectable chiefs seemed unable to redress - now attracted a following. In 1882 he

71 For details see MA 1/8, N.L.P. 80/151 and attached papers; MA-WG 1/11 and 1/12; PD 1880, vol.XXXVI, p.397.
72 See correspondence of Bryce with Sievwright and Stout, 1 September 1880 - MA 13/14, N.O. 80/3418 and attached papers.
73 Hirini Taiwhanga had been educated at Bishop Selwyn's school, St. John's College and had some training in surveying. He had contested unsuccessfully, every election for Northern Maori since 1871; with Government assistance he had founded a boarding school at Kaikohe in 1877 but neglected it for political agitation; henceforth he was involved in every important political activity from Tuhaere's 'parliaments' at Orakei, to negotiations for the opening of the King Country. (For details see the special file on his activities, MA 23/1).
Letter from Kemp’s Council

Portion of a letter from Poari Kuramate, chairman of the Council formed by Major Kemp in 1880, to prevent the alienation of land and govern his people on the Wanganui River.

The seal shows a Maori chief, probably Kemp, standing atop Mt. Ruapehu, sheltering the land under his sword. The Union Jack symbolises loyalty to the British Crown; the star and crescent moon were symbols commonly used in prophetic movements from Pai Marire onwards.

The motto, 'HETOI TE TANGATA HETOI TE WHENUA' may be translated as 'Safeguard the people, safeguard the land'.
reason: in these days of progress, no one can stand still, and if you had stopped the line of Railway and it had been made in another place, then that place would become rich while you would become poor.

I wish also to say that after my work is done, a second survey will have to be made to get all the information the next Parliament will require before they meet again, to enable them to count the cost. The time is very short, so I must ask you to help us to get through as fast as possible. This is all I have to say.

Eka—All that has been said is quite true.

Dorai Neevanada

Chairman of Jaffna Council
Ranana 20 Sept 1883
took to the Colonial Office a petition embodying the demands of the
Tiriti of Waitangi movement, and referring to the case of Te Whiti
and the confiscated lands; in 1883 he sponsored a further petition from
all North Island tribes, to similar effect; and in 1884 he prompted
Tawhiao and Te Wheoro to visit London to seek the establishment of
the King Country as a self-governing Maori district under clause 71
of the 1852 Constitution Act.\(^{74}\) All of these pleas were merely
referred back by the Colonial Office, to Wellington, but Taiwhanga's
activities did much to link diverse and mutually jealous centres of
Maori agitation into some sort of common programme.

THE Hall Government's policy had wrought an irreversible
transformation in Maori-European relations. Its 'strong' policy towards
Te Whiti and others had brought the settler community into an undubitable
position of dominance. Assistance to settlement was still offered in
the King Country and the Urewera but it was felt to be isolated and
likely to be overcome with little difficulty. Bryce was the first
Native Minister both to have assumed office advocating a curtailment
of the powers of the Native Department and to have left it still
holding to that policy. In fact in 1884 he wrote: '...with such
success had that course been pursued that I am prepared to advise the
Cabinet and Parliament that the Portfolio may now with safety be

abolished*. Not all his colleagues agreed; Rolleston, for example, in his brief tenure of office in 1881, had concluded that 'a policy of ignoring the speciality of Native Affairs won't wash'. But Bryce had dealt the death blow to the Native Department in its old form, and although it was retained for a further eight years, its power and influence were but a shadow of what they had been in the 1860s and 1870s.

Bryce himself left a reputation that was not entirely enviable. His own colleagues found him ill-tempered and unapproachable. Hall felt that his success in policing recalcitrant Maoris had 'given him an undue sense of his own importance'. It was in fact an open quarrel with Bryce, coupled with his own illness, that led Hall to resign in favour of Atkinson; this dissension also contributed to the Government's defeat by Vogel's party in 1884.

If Europeans found Bryce unlikeable, the Maoris detested him. For his raid on Parihaka he was deemed a persecutor and a tyrant; for

75 Bryce to Secretary, Aborigines Protection Society, 11 January 1884 - MA 23/1, N.O. 84/166.

76 Rolleston to Whitaker, 23 February 1881 - Rolleston MSS, 1881.

77 Hall to Bell, 19 April 1882 - Hall MSS, n.1 (See also Hall to Bell, 6 October 1882 - ibid.).

78 The quarrel was occasioned by a telegram from Hall to Whitaker and others, then visiting the Waikato, containing some disparaging remarks about Bryce's overbearing behaviour. The telegram was handed to the group at dinner, and Bryce, who happened to have the Government cipher with him, decoded it and read what was not intended for his eyes. (See Hall MSS, 1884).
his retrenchments he was deemed mean and parsimonious; for his inaccessibility - his refusal to tour and meet and talk with Maori leaders - he was considered to be careless of Maori interests. In fact, as his land legislation shows, Bryce was not an unqualified land grabber. His policies in many ways ran counter to those of Whitaker and the free traders and his sense of duty and uprightness impelled him to retain the restrictions against alienation of many Maori reserves against settler pressure. But since he was unable to carry through his major land policies this availed little. For the rest, his arrogance, and fundamental contempt for Maoris - whom he considered lazy and improvident - prevented him from attaining any real sensitivity towards their position. As Chairman of the Native Affairs Committee, he had found Maori plans for increased powers of local government, 'original and amusing'. It was therefore hardly likely that as Native Minister he would give much consideration to the claims of a Te Whiti or a Taiwhanga. But in that he was quite the unnecessarily contemptuous of/moderate proposals of Major Kemp. He, like most of his predecessors, proved incapable of entering into a working relationship with Maori leaders, which could have provided them a constructive and responsible role in the community and promoted the interests of both races.

79 Report of Native Affairs Committee on Petition of Te Rangiwhararua - AJHR, 1876, I-4, p.16.
The Close of an Era

JOHN BALLANCE, Native Minister from 1884 to 1887, offered some respite from the stringency of Bryce's retrenchments. He revived McLean's practice of touring the out-districts to discuss policy and hear grievances. He restored pensions to certain chiefs such as Kemp, M.P. Kawiti, Ropata and Rewi, paid £50 to each of the chairmen of the Native Committees established by Bryce's Act of 1883 and lifted contingency expenditure by £2,000-£3,000. But though these policies made for slightly more amicable relations between Maoris and Government, Ballance did not fundamentally reverse the trend towards

1 John Ballance, born 1839, son of a North Irish farmer; apprenticed ironmonger in the Midlands; widely read; established shop in the Wanganui settlement 1875; founded Wanganui Herald and entered colonial politics. (Scholefield, ed., Dictionary of New Zealand Biography).

2 For example, at the eruption of Mt Tarawera in 1886, which killed 97 Maoris and 7 Europeans, parliament voted £400 for feeding and housing destitute Maoris and £2,000 for settlers. Ballance exceeded the vote for the Maoris by £800. (MA 21/23).

3 Ballance was said to be known as 'Ngawari'- 'soft man', in contrast to Bryce who was designated 'Marō'- 'hard man'. PD. 1886, vol.LIV, p.448 (Beetham).
reducing expenditure and special machinery relating to Maori affairs. Most requests for aid with housing, food, seed, and fencing material continued to be declined - though £67.10.0 was spent on a memorial to Hongi Hika to appease Ngapuhi unrest. Maunsell, Native Officer, Wairarapa, and several Native Department clerks were paid off; Scannell, (R.M. Taupo) and Von Sturmer (R.M. Hokianga) became Land Court Judges; the Auckland office was closed, Wilkinson, the remaining Native Officer, moving to Otorohanga in the newly opened King Country; requests for appointment of Medical Officers were declined, unless the Maori community paid half the doctor's subsidy. In 1887 Ballance was obliged by parliamentary pressure to reduce the list of Assessors and pensioners again and to curtail the payments to Chairman of Native Committees.

As Defence Minister, Ballance also ended the system evolved to establish settler dominion over the Maori frontier. Under his Defence Act and Police Force Act of 1886 the para-military Armed Constabulary were disbanded and their redoubts and block-houses scattered over the North Island closed. A small military garrison was kept at Auckland and a reserve militia enrolled, but civil order was now mainly the responsibility of a new Police Force. The remaining

4 U-Sec. to Bishop, 26 August 1887 - MA 4/47; U-Sec. to Greenway, 15 February 1887 - MA 4/45; U-Sec. to Hori Te Haka, 6 January 1887 - MA 4/92.

Maori police of the old R.M.s establishments, became part of that Force. The effect of these changes was revealed when Te Whiti launched a new 'ploughing' campaign in 1886. His arrest was effected by the local police Inspector, Pardy, with about six men, in a lightning raid on Parihaka which barely ruffled the surface of Taranaki life. Pardy was a diligent, patient and even-tempered officer, whose enforcement of the liquor laws, quiet suppression of petty misdemeanours by local Maoris and determined quashing of alarmist utterances by either race did much to preserve South Taranaki in tranquility.

Rather more serious was an affray at Hokianga where Bishop, R.M. Mangonui, and an armed police party arrested a local prophet named Rapana who had seized - and later released - a local settler. The arrest was resisted with axes and spears, and the police fired a volley in which Rapana was wounded. Subsequently the prophet's

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7 Ballance to Governor, 3 August 1886 - MA 4/44; Pardy to Ballance, 17 July 1886 et.seq. - Ballance MSS, numbers 724-763. Admittedly there was more of a fracas when Titokowaru and other 'ploughmen' were arrested at 'the battle of Hastie's farm' about the same time, but it still involved only civil authorities. Te Whiti was tried and imprisoned for about six months after his second arrest. Meanwhile he had begun to rebuild his community using modern devices such as gas light and sealed roads, and paying close attention to drainage and sanitation.

8 In 1892 the King Country prophet Te Kere turned back a boatload of photographers, travelling on the Wanganui River, for fear they were spying out land for purchase. A flurry of angry demands from the European community for a punitive raid was damped down by Pardy who advised that there were insufficient grounds either for serious alarm or a prosecution. (Pardy to Commissioner of Police, 28 December 1892 - MA 1/21, N.O. 92/2211).
community was dispersed. But despite the severity of the action, this too was essentially a police matter and caused little stir outside the district.

In land policy Ballance offered a number of reforms, hearing Maori grievances and correcting them in annual Special Powers and Contracts Acts. The rankling dispute between Hawkes Bay Maoris and the settler Harding was ended, for instance, by Harding being obliged to surrender claims to the disputed acres and take compensation. Responsibility for advising on the removal of restrictions on land was given to a special commissioner, G. Barton, who made diligent enquiries as to the needs of Maori owners and was supported by Ballance against the pressure and contumely of speculators. With regard to the West Coast reserves, Ballance reduced the commission charged by the Public Trustee and directed that no liens be placed against the land without

9 Bishop to U-Sec., 29 May 1888 - AJHR, 1888, G-5, p.2; NZH, 23 and 27 July 1887. Rapana's cult involved the use of white robes, elaborate ritual and a sacred enclosure. It also seized members of a rival sect led by a prophetess, Ani Koro, made them subject of an ill-defined ritual and released them on payment of a ransom by their kin. The settler who precipitated Bishop's raid, Hearn, stumbled into the sacred enclosure during a fog, wearing dark clothing. He was subject to some ritual and released after paying £1. When Bishop's police party barged into the enclosure, in dark uniforms, the Maoris resistance in understandable.

10 Special Powers and Contracts Act, 1884, s.22; U-Sec. to Preece (R.M. Napier), 26 November 1884 - MA 4/40. Other clauses settled claims to reservespr compensation outstanding since McLean's time, and set aside the mutton-bird islands in Poveaux Strait for Maori use exclusively.

the owners' consent.\textsuperscript{12} In negotiations with the Ngatimaniapoto he offered payments above the usual rate for 'waste land' and agreed that large areas be taken on perpetual lease.\textsuperscript{13} Vogel in fact felt obliged to curb his liberality,\textsuperscript{14} but Ballance was able to overcome the hesitancy the Ngatimaniapoto leaders had shown towards the end of Bryce's administration. A start was made with the railway, prospectors were admitted (under strict licence); and by 1887 schools, stores - even a police station - were established in the King Country. With some prompting Te Heuheu gave the great mountain heartland about Ruapehu to Government as a national park,\textsuperscript{15} Meanwhile, relations between the Ngatimaniapoto and the Waikato Kingites dissolved into acrimony, and Tawhiao moved to Pukekawa in Te Wheoro's territory near Mercer, lower Waikato.\textsuperscript{16}

\textsuperscript{12}PD, 1886, vol.LVI, p.431.

\textsuperscript{13}See memo. headed 'Resolution', n.d. - Vogel MSS, 1.

\textsuperscript{14}'You go much further than the Colony will approve'. \$1,500,000 had been voted for the railway and a substantial return in freehold was expected. 'We should be beaten into a cooked hat if we stood against this'. (Vogel to Ballance, 8 February 1885 - Ballance MSS, n.36-37).

\textsuperscript{15}Not all Maoris approved of this. One spoke irritably of the 'tourists who howl and shout over our once eloquently, silent country, who unsettle things of old, and cause depravity amongst our young people'. (Letter signed 'Nga Puia', 30 September 1887 - McDonnell MSS, 40).

\textsuperscript{16}See Wi Te Wheoro to Sir F. Chesson, Secretary, Aborigines Protection Society, 6 January 1887 - MA 23/4, N.O. 87/2149. A by-product of the rift between Waikato and Ngatimaniapoto, was that, in the 1887 election for Western Maori, although Tawhiao called for support for Te Wheoro, Ngatimaniapoto voted for Hoani Taipua. Taipua polled 1,150 votes to Te Wheoro 516. (Wilkinson to U-Sec., 16 May 1887 - AJHR, 1887, Sess.II, C-1, p.5).
More important than all of this, however, Ballance strove once again to establish the system whereby the Crown sold or leased land as agent for the Maoris. After vain attempts in 1884 and 1885, he succeeded, in his Native Lands Administration Act 1886, in having the principle accepted by the Assembly. The Act also took up an important idea being advanced by two men, then partners in a scheme for land settlement on the East Coast, the lawyer W.L. Rees and the mixed-blood chief Wi Pere. Rees argued that instead of multiplying names of owners, fragmenting title and allowing dealing with individual Maoris as under the 1873 Native Land Act, the principle of tribal title and tribal dealing should be preserved by the incorporation of owners of a block as one legal entity. The 'incorporated' owners would then elect a block committee, with executive powers. (Wi Pere extended the idea, recommending that the 'block committee' be empowered to meet with five chiefs from other districts, and a Land Court Judge, in the determination of title, but this was not acceptable to the Government or Assembly.) Ballance's 1886 Act empowered the block committees to decide on the terms of a sale or lease and place their land with a District Commissioner, a Government official, for auction. Direct purchase by settlers was prohibited. By dint of strenuous tours of the North Island, by incorporating amendments suggested by

19 See Wi Pere's Native Land Administration Bill, 1884 - Bills Not Passed.
Wi Pere and Wahanui, and by allowing minorities of owners to partition out their share of land, Ballance thought he had won Maori acceptance of his act. 20 He was to be disappointed. The Act foundered on the suspicion and distrust engendered by the previous 20 years of land trading. The Maoris' demand for full control of their lands had recently reached new peaks, 21 and they did not care to put it under Government Commissioners, no matter how carefully the terms of alienation were prescribed. Furthermore the propriety of tribal leaders had been seen to crumble so disastrously when they controlled Land Court awards that rank-and-file owners were reluctant to vest power in block committees. 22 Ballance's Commissioners waited in vain for land to be vested in them; the Act was a dead letter. 23

The idea of incorporation of owners and block committees was, however, kept alive by Wi Pere and others. Pere was one of the first Maori leaders - long antedating the better-known Ngata - to urge that

21 See, e.g., AJHR, 1885, J-1.
22 Preece to U-Sec., 6 June 1887 - AJHR, 1887, Sess. II, G-1, p. 14; and 18 May 1888 - AJHR, 1888, G-5, p. 7; Williams to U-Sec., 2 July 1887 - AJHR, 1887, Sess. II, 4-8. See also J. C. Richmond’s remark in the Legislative Council: 'Thirty years ago...the establishment of a system based on tribal committees was a possibility; but...this is no longer possible. ...The race has been sifted with fire. English gold flowing over the country has modified them very materially'. (PD, 1887, vol. LIX, p. 688).
23 The file MA/MLA 5/1, which was opened in respect of the 1886 Act, contains only letters from Maoris saying they did not intend to place land under the Act but would deal with it themselves; see also Commissioners reports, AJLC, n. 16. Only one transaction was recorded: 1,216 acres was sold for £304, £16.5.0 was deducted for fees and £287.15.0 paid to the Maori owners.
were obliged by legislation to accept compulsory arbitration, tending towards reduction of rents on the West Coast reserves. 29 Tawhiao on his mission to London, and others in New Zealand, were still demanding a separate Maori parliament or the right to set up separate self-governing Native Districts under the 1852 Constitution Act. But Ballance replied that the Constitution Act had intended these only to be temporary expedients, and that the time for them had long passed. 30

THE hiatus in land purchase operations caused by Ballance's 1886 Act, invited a redoubled onslaught on Maori lands following the replacement of the Stout-Vogel ministry by that of Atkinson in 1887. Candidates in the election raised new demands for the total abolition of 'that humbug...that mischievous appendage', the Native Department. 31

The Native Land Act, 1888, 32 restored the system of direct purchase, providing simply that the Maoris might dispose of their land as they saw fit. Ministers claimed that this was precisely what

29 West Coast Settlement Reserves Acts Amendment Act, 1887.
30 Ballance minute, 26 January 1885 and Attorney-General's opinion, 27 February 1885 - MA 23/4, N.O. 85/1961; MA 23/4, N.O. 86/1101 and attached papers. See also Ballance's reply to Te Wheoro and Paora Tuhaere - AJHR, 1885, G-1, pp.27-9. Topia Turoa, who accompanied Tawhiao to England, was struck off the roll of Assessors. Tawhiao, on the other hand, was tempted through the offer of a seat in the Legislative Council. (U-Sec. to Turoa, 2 April 1885 - MA 4/89; MA 23/4, N.O. 87/1738).
31 Election address of J.D. Ormond, Hawkes Bay Herald, 18 July 1887; see also address of James Mackay, NZH, 29 July 1887.
32 The Native Land Court Act and Native Land Frauds Prevention Act, were associated with it.
Portions of letters from King Tawhiao to Ballance, c.1885. Both letters were written by a scribe, Tawhiao affixing his mark to the former. They are sealed with the seal given Tawhiao by Te Ua, the Pai Marire prophet, probably in 1864. The feather symbol was also used by Te Whiti and Te Mahuki. The motto may be translated 'King Tawhiao of Canaan'.

In the first letter Tawhiao declines to agree with an interpretation Ballance has placed upon the Treaty of Waitangi, but asks the minister not to think ill of him; the second asserts Tawhiao's claim to authority over the Kawhia-Aotea district.
i te mea Kihai nga maori e rougo
i whara ao atua panei; ia tana tona, pera me te
Pirihi o Waitangi. O tana ahaea pewhea atu
te Kupu Kia Koe e Kore ano Koe e Mahara
ma'i.

Tea Whakairiri

Tea Whakairiri

He a te Kiwiahia
Minita Hauai
de Poneke
the Maoris themselves had sought, since three of the four Maori seats
were won by candidates campaigning specifically for the repeal of
Ballance's act of 1886 and for full control of their lands. But Hirini Taiwhanga in the House and Ropata in the Legislative Council
opposed the 1888 act; and subsequent lobbying from Maori organisations
throughout the country showed that Maori leaders meant more by full-
control over the lands, than liberty for individuals to sell the
tribal patrimony on the open market. The 1888 legislation also
removed safeguards that had been erected in 1867, allowing removal
of restrictions on alienation - by the Land Court, not the Government
or its officials - on the simple application of a majority of owners.
Adequacy of consideration and proof that the vendors had other land
for subsistence were no longer required. Taipua said that 'It seems

33 These included Hirini Taiwhanga (at length victorious) for Northern
Maori, James Carroll, who replaced Wi Pere in Eastern Maori, and
Hoani Taipua of Western Maori. For the views of Carroll and Taipua

34 Referring to the 1888 Act Ropata said: Do not say, or pretend to
say, that these clauses fulfil that [desire of the Maoris] and that they do return to the Maoris the mana of their land'. (PD, 1888,
LXI, pp.187 and 693, and his alternative Bills, the Maori Relief
Bill and The Native Land Court Act Repeal Bill and Native Land
Administration Bill (PD, 1888, and Bills Not Passed, 1888 and 1889). Major Kemp was also conducting a powerful lobby in Wellington.

35 The 'concurrence' of other owners besides those applying for removal
of restrictions, was required - but not proof of their 'consent'.
(PD, 1889, vol.LXVI, p.271). Before amendment the 1888 legislation
even allowed unrestricted mortgage as in the pre-1873 period.
to me that the present Government are sweeping away the whole of the safeguards which have...prevented the Natives from pauperising themselves'.

J.C. Richmond in the Legislative Council said that the Government was abdicating a trust it had assumed for the Maoris.

In the next three years land purchase operations made very heavy inroads into Maori land, and numbers of important areas long under restrictions, such as the Company reserves in Wellington, or the Otago Heads reserves, passed into European hands. Roading and drainage projects continued to erode favoured reserves and fishing grounds, compensation often being evaded.

In the King Country titles had been individualised, although the chiefs sought to prevent individuals from selling their interests and to commence to run sheep. Government officers showed no sympathy with

37. PD, 1888, vol.LXIII, pp.223-4. He added in something of a reversal from his position in 1865: 'I think we ought to take care...that all the old institutions of the Maori - the communal institutions - are protected, at all events, for a very considerable time'.
38. Whereas only 10 or so blocks had been released from restriction annually before 1888, 66 blocks were released in 1889-90, 46 in 1890-91 and 23 in 1891-92.
39. At this time Piripi Te Maari and the able committee of the Wairarapa Maoris lost their long fight to preserve Lake Wairarapa, their valued eel fishery, from being drained so as to prevent the annual rising of levels upon which the fishing largely depended. (MA 13/97). The Maoris had offered very reasonable terms, including the right to drain the lake except for 2-3 months of the eel season. See also MA 1/20, N.O. 92/2163 for an instance of the Government ignoring their own commissioner's recommendation for compensation for/taking of a reserve for road works.
their efforts and in 1890 inveigled two men to sell their interests. Outside the railway reserves alienated in Ballance’s time, this was the first King Country land alienated. Before long the familiar process of jealousy and distrust divided the Ngatimaniapoto, and much more land was sold.

Meanwhile Edwin Mitchelson, who had succeeded Ballance as Native Minister when the Atkinson ministry took office, though he protested that he could not abolish the Native Department in a day, had made a very good start. In contrast to the Native Land Court vote, which rose steadily, Native Department expenditure, including the salaries of European staff as well as Maoris, was reduced to within the £7,000 Civil List vote for Native Affairs. This was a far cry from the

40 "...they have sheep on the brain and this makes them quite unmanageable and until the mania passes away, or until they overdo it, or quarrel amongst themselves over the sheep and where they should run they will not think of selling...". (W.H. Grace to Wilkinson, 22 March 1890 - MA 13/78, N.L.P. 90/60).

41 "...the two who just disposed of their interests...were fully a fortnight after discussing the matter with me, before they could screw up their courage to sell, and, instead of coming to me in the day time they waited upon me at 9 p.m...having ridden 12 miles since sundown (they would not leave their own settlement until dark) and returned that night least any of the local natives should see them and surmise that they had been selling land." (Wilkinson to Nat.Min., n.d. circa March 1890 - MA 13/78, N.L.P. 90/76).


43 PD, 1890, vol.XLVIII, p.26. The principal allocations were £2,000 (approx.) for Head Office, £2,500 for Maori pensioners, £700 for remaining Assessors, £600 for medical care, £152 for grants of food and clothing and £800 for contingencies. (AJHR, 1890, B-1, p.22; see also estimates for 1890 - AJHR, 1890, B-3A).

The total Native Department vote was £12,237 in 1883-4, £13,234 in 1885-6, £11,907 in 1887-8, and £7,102 in 1889-90. The Land Court vote was £17,100 in 1889, £19,938 in 1890, and £20,966 in 1891. (See AJHR, 1884, B-7, p.60; 1890, B-6, p.8, and estimates in AJHR, B-2 for each year).
£16,000 of salaries and £12,000—£13,000 of contingencies spent by McLean. Few Maoris, except those such as Wahanui, whom the Government was trying to influence, continued to receive stipends. Contingency expenditure was now very small; requests from Maoris for aid after crops had failed, or from a local Hospital Board for a separate ward for Maori patients, were alike declined. In 1888 Mitchelson, seeking to reduce contingency spending further, circularised local and charitable aid boards asking them to assume care of sick and indigent Maoris. Few responded, and those who did declined on the ground that few Maoris were paying rates. The Native Department continued to pay a beggerly subsidy to about eight doctors and small pensions to some aged Maoris but, as Lewis wrote, 'To make anything like adequate provision for the medical wants of the Natives or for the destitute amongst them, would mean...a large special vote'. Medical care for the Maoris was at its lowest ebb since Grey spread his new institutions over the Colony in 1861. The Native Department still handled a few outstanding land disputes - usually at the behest of the Native Affairs Committee of the House - but most questions affecting land were referred to the Public Works Department or Department of Crown Lands.

Meanwhile the functions of the remaining R.M.s in the out-districts - Clendon, Bishop, Bush, Booth and Preece - had been largely transformed.

44 MA 1/6, N.O. 92/368; Lewis to Secretary, Wairoa Hospital Board, 3 July 1890 - MA 4/52.

45 MA 1/9, N.O. 87/3082; Lewis evidence, AJHR, 1889, I-10, p.9.

46 Lewis minute, 27 February 1891 - MA 4/53.
They had as much or more to do with Europeans than Maoris and their salaries had been transferred to the Justice Department. They were made 'Recorders' of the Land Court to hear simple succession cases, which were inundating the Judges. A few cases between Maori litigants were still argued before the R.M. ⁴⁷ but there were now so few R.M.s that Maori communities generally sorted out their own disputes. In some cases it began to appear to be a disadvantage, to the Maoris as well as the settlers, that the Resident Magistrates Act 1867, debarred J.P.s and local police from acting in Maori cases, without an R.M.'s consent. ⁴⁸

Sporadic violence still disturbed Maori life. Armed parties still took the field in land and other disputes, though they were generally easily placated. However, in 1888, at Poroti, near Whangarei, two hapu of Ngapuhi fixed a day for fighting, as a result of which four men were killed and four wounded. ⁴⁹ This was the last formal battle between hapu in the long tradition of Maori warfare and

⁴⁷ See Booth's return for 1891 - AJHR, 1892, G-3, p.8.

⁴⁸ A serious case had occurred in 1880, where a Thames Maori woman had sought to lay an information against her brutal husband. The R.M. was absent on business in another part of his district and the J.P. could not issue a warrant for the husband's detention. Two weeks later the man shot his wife and committed suicide. (Puckey to U-Sec. 29 May 1880 - AJHR, 1880, G-4, p.4).

⁴⁹ The battle was conducted with much of the traditional trappings of Maori warfare - the formal agreement to fight, the preparation of arms, the nights sleep in prepared encampments with the sentries of either side keeping guard and singing the ancient chants associated with their duty. (NZH, 30 July 1888).
it was settled in the traditional way, with neutral chiefs mediating. The following year, at Omahu, Hawkes Bay, another feud, similarly aggravated by European offers of purchase, resulted in the shooting of one man, and a conviction for manslaughter against his assailant. The Government still had occasional difficulty with the prophets Te Whiti and Te Mahuki. Te Kooti was also the subject of a considerable stir. Since his pardon in 1883 he had stated his intention of returning to Poverty Bay, the scene of his birth, and his arrest and subsequent revenge at the Matawhero massacre. Successive Native Ministers had dissuaded him, but claimed no authority actually to prevent him. In 1889 he moved to Opotiki, gathering a large cavalcade behind him. But memories were bitter in Poverty Bay among both settlers and Kupapa Maoris and violence threatened if Te Kooti moved through the pass to Poverty Bay. Atkinson visited the district and, while concluding that 'everyone here...seem to have lost their heads', decided to order the arrest of Te Kooti. A force of settler volunteers and Maoris under Ropata was sent to Opotiki but Te Kooti

50 AJHR, 1888, G-6; NZH, 21 to 31 July 1888. A Maori clergyman of the district later claimed that he had personally interceded with Mitchelson to halt the survey of the disputed ground by one of the parties (who intended selling to a European) but his request had been declined. (Evidence of Wi Pomare - AJHR, 1891, Sess.II, G-1, minutes, p.17).


52 With Te Whiti it was a simple matter of default on a debt, for which the prophet served a short gaol sentence. (AJHR, 1890, G-2,p.9). Te Mahuki and some of his followers occupied a store at Te Kuiti whose owner had refused to grant them further credit; they were arrested by a party of about 50 police brought down from Auckland by train. (AJHR, 1891, Sess.II, G-5, p.3; U-Sec. to Premier, 22 October 1890 - MA 23/6).

had already started back to the Waikato. He was captured by Ropata's men, bound over to keep the peace and released on heavy recognisances. He thereafter travelled widely but never to his birthplace.

Nevertheless all these incidents were deemed by European opinion to be well within their power to control. Offenders actually sought by European justice were now almost invariably surrendered— as in several instances of murder on the East Coast in the 1880s. Even feuding chiefs of eminent rank such as Tuta Nihoniho and Te Hati Haukamau of the Ngatiporou allowed themselves to be taken and incarcerated for a few weeks for carrying arms. In 1890 an incident in the Waikato graphically revealed the King movement's powerlessness. Since his move to Pukekawa, Tawhiao had continued to oppose surveys of Maori land. On his orders his 'magistrate' and secretary, Kerei (Grey) Kaihau pulled down a trigonometrical station on the Piako block. Kerei declined to accompany the Maori constable who served a warrant upon him and a party of King Maoris turned back the constable and two others who came to Pukekawa to arrest him. Thereupon, despite pleas by Henare Kaihau, Kerei's brother, that the Government negotiate with Tawhiao, Mitchelson said that the days of negotiation had passed, and a party of police and militia plodded through seven miles of mud and

54 For details see MA 23/9.

55 AJHR, 1883, G-1A, p.7; G-3, p.9; 1890, G-2, p.8.
teeming rain to Pukekawa. They found Kerei and Henare Kaihau and King Tawhiao sitting in the fern with only one other Maori - an old woman who shouted abuse at the police - in evidence. Kerei was taken from the protection of the man who once had thousands fighting for his standard, and Tawhiao's distress was very evident. 56

These events suggested that the once-crucial political role of the Native Department was over; any minister it seemed, using the police, could impose his will on recalcitrant Maoris. The Department had never been intended except at particular times and by particular men - for example Sewell and possibly Grey in 1861 and McLean in 1872 - to provide a separate and lasting machinery of administration tailored to Maori requirements. By most settlers it had been treated as a necessary expedient to draw the Maoris under the rule of Pakeha law. The Department had served its purpose and could now certainly be disbanded. Ballance's party, now called the Liberal Party, returned to power in 1891. Although in some senses this was to be the beginning of a period of great change in New Zealand life, with regard to the Native Department, Alfred Cadman, the Native Minister, merely brought to a logical conclusion the trend of the previous twelve years. R.M.'s courts in historic localities such as Waimate and Ahipara were closed and Bishop, R.M. Mangonui, moved to Auckland.57

56 MA 13/64, N.L.P., 90/347 and 90/2280; NZH 6 and 7 November 1890; AJHR, 1892, G-3, p.6.

of Maori stipendaries were trimmed to about 20 Assessors. These and about 96 aged pensioners, some of them wounded veterans of the Kupapa forces, took only about £2,300 of the Civil List vote and their numbers dwindled rapidly by the end of the century. There were also about 89 R.M. Court Assessors and 113 Land Court Assessors but these were paid only on days of attendance at Court, and few in fact were called upon.

In December 1891 Lewis, Under-Secretary in the Native Department since 1879, died while on leave in Australia. Morpeth, the Chief Clerk, took charge but the following December the Native Department was dismantled. The Land Court was transferred to the Justice Department, Morpeth and the remaining clerks being given positions under the district Registrars of the Court. Recurring questions about lands were taken over by the Departments of Crown Lands and Justice, the latter Department also handling such miscellaneous questions - such as Tawhiao's funeral in 1894 - as required Government notice. The remaining R.M.s became simply Justice Department magistrates and the sole remaining Native Officer, Wilkinson, lingered on at Otorohanga, distributing pensions and reporting cases of indigence, until his death in 1906.

58 There were four in Northland, three in Hawkes Bay, five in the Bay of Plenty, three Rotorua and six in the South Island (MA 1/4, N.O. 91/2327 and 91/2482).
59 MA 1/4, N.O. 91/2207; MA 1/11, N.O. 92/1243.
60 MA 1/5, N.O. 91/2166 and 91/2557.
61 PD, 1892, vol. LXXV, p.2; J 92/1244.
62 Cadman to Haselden, 18 March 1893 - J 93/378.
The dispersal of the Native Department was accompanied by the removal of the legal basis that had underlain it. The Native Districts Regulation Act and Native Circuit Court Act, 1858, on which Grey had built his new institutions were repealed in 1891. In 1893 the Magistrates Court Act repealed the Resident Magistrates Act, 1867, abolishing the office of Resident Magistrate and replacing it with that of Stipendiary Magistrate (the modern S.M.) with strictly judicial functions. As the special provisions of the 1867 Act were not re-enacted Maoris became amenable to the ordinary legal machinery, including the local J.P.s and constables. Maori Assessors, moreover, lost the right to assist the bench in cases affecting Maoris.

When the Magistrates Court Act was passing the Assembly two Maori members - Kapa (Northern Maori) and Parata (Southern Maori) - objected to the measure as it left Maori litigants to the mercy of magistrates who did not understand their language, let alone their customs and point of view and deprived Maori leaders of a share in judicial responsibility. Their protests did not even draw a serious reply and one of the most useful roles ever accorded Maori leaders in the Colony was ended.

63 Repeals Act, 1891.
64 PD, 1893, vol. LXXXII, pp. 911-2. (Kapa, Parata and Taipua voted against the bill, the Europeanised James Carroll for it).
Towards One New Zealand - Myths and Realities

ABOUT 1901 the lawyer Walter Buller wrote a description of race relations in New Zealand which represented what might be called the 'official' view. It was to the effect that the Maoris had accepted their defeat in war without bitterness, that they had full civil rights and that far from being stripped of their land they retained '5,000,000 acres of the cream of it'. New Zealand race relations were in Buller's estimation an example to the whole world.¹ If the Maoris were a dying race, and official opinion was by no means agreed on that question, this was held to be something beyond the control of Government and administration.

Maori writers, and most Pakeha scholars, have denounced this view for what it was - smug, ignorant and hypocritical. On the other hand, several of them have gone to the other extreme and found nothing good in European policy at all. Thus it is said the Government did nothing at all for the health of the Maoris during the nineteenth century² and that Kupapa soldiers in the war were paid nothing.³

Most of this lies in the realm of myth; the truth, as usual, is somewhere awkwardly in between. Certainly race relations about the end of the nineteenth century were far from satisfactory. The advent of the

¹ W.L. Buller, 'The Development of the South Pacific', reprinted from The British Empire Review, January 1901, pp. 9-12.
Liberal Government has been said to have resulted in policies, especially as regards land, rather more beneficial to Maori interests than those of previous years. If this were so, it was not immediately apparent to the Maoris. With the closing down of the Native Department and the R.M. system—which had in some degree catered for Maori needs—and the increasing activity of the Land Court and land purchase agents, European government in fact wore a bleaker aspect than it had for some time. Although the restoration of the Crown's pre-emptive right of purchase removed some of the worst features of the scramble for lands, the Ballance Government specifically undertook to purchase Maori land at an even faster rate than the Atkinson Government had achieved from 1880-90. Their methods were hardly less scrupulous than those of previous years—Cadman, for instance, ruthlessly forced a survey in the Urewera in 1893, on the consent of only a minority of owners. And at the death of Tawhiao in 1894 the ghouls were


5 See Governor's speech, PD, 1893, vol.LXXIX, p.2, and Ballance's financial statements, AJHR, 1891, Sess.II, B-6, p.11, and 1892, B-6, p.8. In fact the Liberals purchased about 3.6 million acres between 1891 and 1911, a rather lower annual average than in the previous 20 years, but including more acres previously under restriction. During this period the estimated number of Maori sheep farms fell from 800-1,000 in 1891-1900 to 495 in 1911. (See R.J. Martin, 'Aspects of Maori Affairs in the Liberal Period', Unpublished MA thesis, Victoria University College, 1956, Appendices 3a and 3c).

6 The surveyors' instruments were taken by resisting Maoris, a number of whom were then arrested. The situation threatened violence until Te Kooti, whose word then ruled in the Urewera, sent word to allow the survey to proceed. The Urewera placed the matter in the hands of the Kotahitangi movement, then assembled in 'parliament' at Hawkes Bay. (Unpublished PP, 1893, 235G). The situation became tense again in 1895-6, and ministers were obliged to visit the Urewera to negotiate. Roads and gold prospectors were eventually allowed through and the Urewera sold some land through a Board on which the owners were represented. Much of the Urewera has become a national park.
gathering: officials noted that 'Land Purchase Officers should be active as many blocks will be offered for tangi expenses'. Moreover, although Seddon curtailed land purchase operations in 1900, in deference to pressure exerted through the Kotahitanga movement, European opinion obliged him to resume it in 1905.

Other Liberal policies which pressed upon the Maoris included a renewed levy of rates on Maori lands, a new land tax on Maori lands under lease, and the requirement that Maori owners pay their share of boundary fences - a provision which even Bryce had omitted from the Fencing Act of 1881.

The Liberal Government also tried to reform the Land Court, locating Judges each in specific districts which they were expected to learn to know well, and creating an Appellate Court. The Court gained added powers - the right to administer Maori wills and Maori adoptions, and the right (previously with the Governor in Council and later with the Supreme Court) of authorising the alienation of minors' interests. It is not apparent that the Court carried out its duties with much more efficiency and responsibility under the Liberals and their early successors than in previous years; about the period 1910-20 it was attracting the same charges of incompetence and wasteful delay as it had in the nineteenth century.

7 C. Dufaur to Cadman, 25 September 1894 - J 94/1439.
8 See Williams, 'Maori Society and Politics, 1891-1909'.
9 AJHR, 1893, E-6, pp.15-16. (The Atkinson minority had suspended the levy of rates, pending a re-examination of the question).
10 See clipping from The Dominion, 16 July 1909 - MA 10/2; also MA 21/53 for reports of 1916 indicative of continued bad relations between the Chief Judge and the Under-Secretary of the (revived) Native Department.
It could hardly be a firm guardian of Maori interests while it included judges like Von Sturmer, who expressed satisfaction at the passing of Maori land into European hands, and added, 'I have determined never to place restrictions on Native Lands where it [sic] is unoccupied'.

Government policy in respect of Maori health was also less adequate in the period 1890-1900 than in the period 1861-1890. It never had been more than rudimentary, but the curtailment of the R.M. system and of the subsidies paid to doctors had meant that there was even less chance of Maoris receiving medical care. Fresh efforts were made from 1900 to improve Maori health but these were largely curtailed in retrenchments after 1911 and it was not until the 1930s that Government undertook the sort of programme which Carroll, the Member of the Executive Council representing the Native Race, had suggested in 1898 - namely that capable officers be permanently stationed in rural districts to assist the Maoris.

11 Von Sturmer to Webster, 2 March 1890 - Webster Papers.

12 See minute of F. Waldegrave, U-Sec., Justice Department, 4 June 1898, on report of Dr. Marsack, November 1897 - J 97/115, regretting that there was little the Government could do to help the Urewera Maoris. Marsack had submitted the first medical report of conditions in the Urewera country. It revealed the familiar picture of decimation by influenza and tuberculosis, with crude tohunga cures adding their toll and the fevered being dipped in creeks to cure them). European administration were also discouraged from doing more to help Maoris, by the fact that they resisted being sent to hospital and, when food was given to indigent Maoris, it was 'pounced on and eaten up by the other Natives'. (A. Mackay to U-Sec., 8 September 1871 - M.T.N. 1/2, p.202).

13 A Health Department was founded in 1900 and paid some attention to problems of Maori ill health, while young Maori Party leaders like Ngata and Pomare and new Maori Councils, also formed in 1900, began to promote reforms in the mode of life of Maori communities.
to learn hygiene, sanitation and dietary care. Fortunately, through growing resistance to disease—and partly from increasing habits of sobriety—the Maori people, from about 1900, had begun to increase, rather than decline in numbers.

By the end of the nineteenth century the separation of the two races had in some senses become more complete. The Maoris had left the towns almost entirely and were living in out-of-the-way rural villages. The Native Department and the Assessor system had been wound up allegedly because they kept up 'a measure of separation between the two races.' Actually they had proved a valuable bridge during much of the nineteenth century. Racial unity, in the official view, consisted in having no special machinery of Maori administration at all and of making the Maoris subject to the same financial impositions and legal penalties as the settlers, in the interests of creating one uniform system. This tendency was illustrative of a point made by a settler in 1861 that 'the Native race has been hitherto treated from a political, religious or judicial point of view, and not, I think sufficiently from an ethnological or social one'.

14 Carroll memo., 6 June 1898 - J 97/115a.

15 Local officials throughout the 1870s and 1880s had reported that Maoris in various scattered communities were taking better care of their clothing and dietary needs and increasing, rather than declining. (E.g. Locke to McLean, 30 May 1874 - AJHR, 1874, G-2, p.21; White to U-Sec., 18 May 1876 - AJHR, 1876, A-1, p.18; Marshall to U-Sec., 16 May 1877 - AJHR, 1877, G-1, p.7; Von Sturmer to Webster, 23 February 1866 - Webster Papers). For a detailed demographic study see D.I. Pool, 'The Maori Population of New Zealand', unpublished Ph.D. thesis, Australian National University, 1964.

16 Morpeth to Cadman, 8 August 1892 - MA 1/13, N.O. 92/1346.

17 Henry Vickers to the Governor, 16 October 1861 - G 3/5.
increased rather than diminished during the nineteenth century. T.W. Lewis also advocated, in 1862, that enquiry should be made into the history, society and religion of the Maoris in order to find the principles upon which a framework of government might be erected; but as Under-Secretary, Lewis's effort was bent towards obliging the Maoris to submit to the same framework of law and administration as governed the settlers.

Settler ministers had been concerned largely with bringing the Maoris under the firm authority of the law and denying them any authority which could interfere with settler interests; this, and the fact that the settler community was reluctant to spend on special assistance for the Maoris, had circumscribed the development of special institutions affecting the Maori people. By 1893 the only important special institutions affecting the Maoris were the Land Court, which substantially served settler rather than Maori interests, the Maori schools service of the Education Department, and the four special Maori electorates. Efforts had been made after 1888 to eliminate these last two, along with the Native Department. The Maoris had virtually been pressed to accept either a reduction in the number of special electorates or the loss of the extra vote they had on the common roll, if possessed of sufficient property. In 1896 - having given every indication of wanting more, not fewer, Maori electorates - they lost their right to membership on the common roll. The four Maori electorates have remained a feature of New Zealand parliamentary life. When attempts were made to

18 Lewis to McLean, 6 September 1862 - McLean MSS, 281.
19 See, e.g., Lewis memo., 29 September 1885 - MA 23/h, N.O. 85/3200.
to place Native Schools under the local Education Boards and extinguish
their special status, it was found that European parents objected to Maori
children being thrown together with their children, and that Maori
communities objected to the loss of a school system which was shaped, to
some extent, to serve their special needs, and which they had come to value.
The Maori schools therefore remained, though rapidly and thoroughly overlain
by Maori participation in the ordinary non-racial schools.

The Maoris then had been reduced, in the main, to the settler
politico-legal system and were being Europeanised in the schools. No attempt
was made to preserve features of the old culture, which was regarded as
barbaric and depraved. The chiefs had been brought low by the land
purchase system. On the other hand, they had been denied positions of
administrative responsibility in the new order, save on School Committees
and, occasionally, on the licensing benches. Moreover, opportunities for
Maori participation in skilled employment were little better than they had
been in the 1870s. Despite further pleas from R.Ms to provide for the

21 One reason given - a commentary on the rather inhibited contemporary
European morality - was that 'Maori children from a very early age not
uncommonly possess an amount and kind of physiological knowledge that
Europeans do not attain to till they reach maturity; and perhaps in
most cases, not even then.' (AJHR, 1889, E-2, p.3).

22 PD, 1888, vol. LXII, p.109, 204-9, 230-31; 1890, vol. LXIX, pp.98ff; 1891,
vol. LXXIV, pp.461 (W.P. Reeves).

23 In 1960 65.35 per cent of Maori pupils attending public primary schools,
and 27.87 per cent, Maori primary schools. The latter also generally took
a good many European pupils. (Report of Northland Regional Maori

24 In 1886 a Maori 'concert party', one of the first of its kind, was told
that the Governor could not acknowledge by his presence a 'Kānākani haka'
(war dance) to be performed in a Wellington theatre because of its
alleged depravity. (Ballance to Wi Mahupuku, 7 October 1886 - MA 4/91).
the training of Maori apprentices, only one Maori boy was having his fees paid by the Government in 1889. Clerical positions were equally difficult for Maoris to attain. Sheehan had attempted to place boys in the Public Service in 1878-9; the Printing Office took four, the Native Office one, but no other Department could be persuaded. Discrimination against Maoris in white-collar occupations in fact became increasingly more marked. Maori efforts at farming were still hindered by the problem of multiple titles, extractive industries had declined and the newly-organized European labour unions had even checked remaining privileges given to Maori labour on contracts, such as the King Country railway construction. While discrimination in favour of Maoris was difficult to maintain, discrimination against Maoris in such places as hotels and railway carriages also grew more pronounced.

As has been shown too, the rule of law was no clear safeguard of Maori rights. It was markedly the rule of the majority, changed to suit

25 E.g., Kelly to Hislop (Secretary of Education). 30 December 1879 - JC-Hangonui 8; Von Sturmer to U-Sec., 12 May 1881 - AJHR, 1881, G-8, p.2 (suggesting the apprenticeship of Maori boys to the boat building, carpentry, and saddling trades); Johnson to U-Sec., 30 April 1888 - AJHR, 1888, G-1, p.15.

26 AJHR, 1889, E-2, p.l.


28 Tentative proposals by Cadman to allow Maoris to select farms under the Liberals small settlement schemes were not supported by the Government or the Assembly. (Cadman memo., 17 June 1882 - MA 1/10, N.O. 92/1024).

settler convenience and set aside altogether, if inconvenient, as during
the imprisonment of Te Whiti and his followers without trial in 1879-82. 30

Even the instruments specifically purporting to give Maoris certain rights
and privileges - notably the Treaty of Waitangi and the Native Rights Act,
1865, were watered down by legal interpretation. The Treaty was held to
have no standing in law, its guarantee of Maori fisheries giving Maoris
no claim to tidal fishing beds, against the Crown's prerogative rights. 31

The Native Rights Act - FitzGerald's attempt to give Maori customary claims
to land a legal standing in the courts - was rendered nugatory by a Supreme
Court decision. 32

30 When the Maoris tried the settler game and sought to use the law to
exploit a settler the outcry was enormous. In 1871 a Maori used his
ownership of the lower reaches of a small stream to debar a settler
from floating down timber from further inland, unless he paid a toll.
The Maori won an action in the Supreme Court but the jury protested
against the law being made 'the instrument of spoliacion and oppression'
and the Assembly responded with a Floatage of Timber Act, to overcome
1007-9, 1172-3, 1263-5.)

31 See the most recent decision in 'The Ninety-Mile Beach Case', NZLR [1963]
CA, p. 468. It was also held in 1914 that even if the Treaty of Waitangi
should have the force of statute 'it would be very difficult to spell
out of its several clauses the creation or recognition of territorial or
extra-territorial fishing rights in tidal waters... ' (Stout C.J. in

In 1901-4 the Privy Council cast doubts on the interpretation given to
the Act by the New Zealand Judges, even alleging their subservience to
the Executive; (See the opinions of Lord Davey and his colleagues in
respect of Nireaha Tamaki V Baker [1901] AC, 561 and Wallis V Solicitor-
General [1903] AC 173, New Zealand Privy Council Cases, p. 371.) The
Native Rights Act was shortly afterwards repealed (see Schedule to
Consolidation of Statutes Act, 1908) and it was specifically enacted
(Native Land Act 1909, s. 84) that Maori customary title was not to
prevail against the Crown. See also 'The Treaty of Waitangi and its
Consideration by the Courts', New Zealand Law Journal, vol. x, (1934),
p.12.
Thus the pursuit of 'amalgamation' which effectively meant 'assimilation' or Europeanisation of the Maori people — seemed to have resulted, by the 1890s, in the Maoris' having little more than a nominal legal equality. 'Amalgamation' had been dictated too much by settler interests for the larger view of it - the humanitarians' view - to be achieved. The Maoris had been made subject to the demands and responsibilities of the European order but not sufficiently assisted to positions of responsibility and opportunity in it.

In view of this situation the question arises as to whether it would have been better for the Maoris had 'amalgamation' never been attempted, but rather that the King movement had been recognised and a semi-independent Maori 'nation' allowed to exist within the settler community. Had such a situation emerged (which it could not, given the settlers' sense of insecurity and desire for Maori lands) New Zealand would have been a very different and richer society. Certainly in the 1890s many Maori leaders still considered a measure of political separation to be a highly desirable goal.

About 1891-2, precisely when the Government was winding up its special machinery of Maori administration, the activities of Kotahitanga and other quasi-separatist movements reached a new peak. A principal goal of the Kotahitanga movement was a separate council or parliament to handle Maori affairs, with committees of owners, under the council, to administer their lands (to the total exclusion of the Native Land Court), to enforce their own game conservation laws, and to try their own people for crimes arising from breaches of Maori custom. The programme was pursued through bills presented by Taiwhanga and his successors in the Assembly, Taiwhanga
also asking for the word 'Maori' to be substituted for 'Native' in official terminology. The Kotahitanga movement also drew in numbers of disgruntled leaders, formerly staunch supporters of the Government, such as Major Kemp, Wi Te Wheoro, Topia Turoa, H.M. Tawahai, Wi Parata and Mokena Kohere (who had resigned his seat in the Legislative Council in 1886). Large Kotahitanga meetings were held in every important district of the North Island, and by 1893 a fairly effective boycott of the Land Court had been organised.

After its withdrawal from Ngatimaniapoto territory the King movement also showed a remarkable resilience. 'King Committees' were organised throughout the Waikato to try cases and raise revenue. Kingite leaders interested themselves in grievances throughout the country, and sought to


34 Ballance to Kohere, 7 October 1886 - MA 4/91.

35 In the late 1880s they were held at Waiomatatini (East Coast), Waipatu and Omaahu (Hawkes Bay) and Putiki (Wanganui). The most effective were at Waitangi in April 1892, and Waipatu, Hawkes Bay (June 1892). See MA 1/5, N.O. 91/2592; MA 1/12, N.O. 92/1108, 92/1160; NZH, 23 and 28 April 1892. For a clear statement of the aims of 'the Federated Assembly of New Zealand at Waipatu' see Unpublished PP, 1893, 134G; see also Williams, 'Maori Society and Politics, 1891-1909'.

36 See Von Sturmer to Webster, 21 August and 9 September 1892 - Webster Papers (reporting the withdrawal of many cases from the Court) and Bush to Nat. Min., 3 February 1892 - MA 1/3, N.O. 92/238 (reporting Kotahitanga 'pickets' at a Bay of Plenty hearing).

37 Wilkinson to U-Sec., 25 May 1886 - AJHR, 1886, G-1, p.4; Von Sturmer to Webster, 4 October 1894 - Webster Papers (Taxes were levied on stock owned by the movements' supporters).

38 E.g., Te Wheoro intervened on behalf of the Wairarapa Maoris who were struggling to keep their lake closed to drainage (MA 13/97, N.L.P. 85/134).
be recognised as leaders of the governing council which they joined the Kotahitanga in demanding. From 1882 efforts had been made to raise funds for a new printing press\(^\text{39}\), and in 1892 the first numbers of Te Paki o te Matariki began to appear, from Maungakawa, near Hamilton.\(^\text{40}\) One of the leaders of the movement was Wi Tana Taingakawa Te Waharoa, son of Tamehana, the Kingmaker. When Tawhiao died in 1894, the coronation celebrations of his successor, Mahuta, gave the movement further impetus.

Prophetic traditions also remained very strong. By the time of his death in 1893, Te Kooti had established his 'Ringatu' faith firmly in the Bay of Plenty, Urewera and East Coast districts and had helped the Urewera to hold their land.\(^\text{41}\) There were numbers of other minor prophets, though none outshone Te Kooti until Ratana in the 1920s organised the most successful of all Maori politico-religious movements.\(^\text{42}\)

\(^\text{39}\) Replacing the one which had been used to print Te Hokioi 1862-3 but which had been lost while being transhipped across a stream, away from the advancing British troops.

\(^\text{40}\) Number one, dated 20 January 1892 is filed MA 1/13, N.O. 92/238; others are filed J 93/1740, 94/1502 and MA 1/21, N.O. 92/2168. The papers bear the imprimatur of 'Wi Tana Taingakawa, Tumuaki o te Kingitanga'. Te Paki o te Matariki is still being printed.

\(^\text{41}\) See reports of Bush for 1891-2, MA 23/9. In the elections for the Eastern Maori seat, Te Kooti threw his support behind Wi Pere, a more determined opponent of land selling than Carroll (Report of J.F. Large, Deputy Returning Officer for the Maungapohatu district, 10 December 1890 - MA 23/15, N.O. 2624. Large's account of an incredibly arduous journey to collect the votes from a people still distrustful of a polling booth, is in itself a minor epic.).

\(^\text{42}\) The reasons for Ratana's outstanding success where many earlier prophets had flourished briefly and died unknown outside their own community, is a subject worthy of closer enquiry. (But see J. Henderson, Ratana).
If 'amalgamation' had resulted only in subordination and inferior status for the Maoris, the separatist tendencies of the Kotahitanga and King movements would have gained greater strength and impetus than they did. However, when all the necessary qualifications been made, in denial of the rosy picture painted by official apologists such as Buller, there remain features of the New Zealand racial situation which promised the eventual emergence of one people which was intended at the foundation of the Colony. Working from the official premise, that racial amalgamation of some kind was intended, men of both races developed attitudes and policies which, in the long run, were conducive to a richer and more just variant of that concept than pertained about the 1890s. Thus, despite the tendency of both Maori and settler communities to incline to a segregated school system, successive ministers and officials held to the principle of multi-racial education, insisting that Maori village schools take European pupils and Education Board schools admit Maori pupils.43 They were assisted by the reluctance of the settler community to finance special institutions for the Maoris, which prevented the proliferation of separate schools, hospital wards, or public facilities for Maoris. Certainly unofficial segregation of accommodation, employment and real estate trading rapidly developed - it persists to some extent still - and officialdom was somewhat inactive about the matter. But it was never quite dormant. In 1892 when an Urewera Maori was refused service in a Whakatane hotel, the incident was the subject of comment in the Assembly and the publican was threatened with prosecution by

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43 See, e.g., Stack to Nat.Min., 30 June 1879 - AJHR, 1879, Sess.II, G-2, p.15: 'Mr Morgan [Master at Taeri Ferry public school] has always taken a special interest in the Native children and has successfully resisted the efforts of those European parents and members of the Committee who wished to oust them from his school.'
the local police. Racial segregation in New Zealand could never be too blatant, and in recent years it has been heavily cut back and made the subject of legal penalties.

Such political power as the Maoris possessed provided just sufficient of a safety-valve to avert complete despair of constitutional processes. The four Maori members of parliament, allied with a sufficiently interested European party, could occasionally score a victory. Thus, after Te Kooti's threatened visit to Gisborne in 1889, a Government Bill to prohibit 'Maori assemblies' was hotly debated in the Assembly and neatly killed in the Native Affairs Committee when the four Maori members secured the deletion of the word 'Maori'.

In the economic sphere many Maoris were not dissatisfied with the Pakeha order. Some were fortunate enough to retain land and even to gain a sufficiently secure title to work it; by 1888 the Ngatiporou had begun the first successful farming incorporation; many could still get contract work and seasonal labour which enabled them to live, though a poor existence, one in some ways not so far removed from the old Polynesian order as the eight-to-five suburban routine of European townsmen. The newly emergent trades union movement was formed on a non-racial basis, Maori shearers forming a large section of the New Zealand Workers' Union and Maori union organisers

44 MA 1/14, N.O. 92/1515.


46 Robert Stout, The Maori as Land Reformer (Pamphlet) September 1908.
emerging at an early date. It was possible for individuals to rise to considerable heights - witness Ngata, Buck and other university graduates of the 1890s and the part-Maori, Carroll, who briefly became Acting-Premier; it was also easy for a great many to be satisfied - too easily satisfied for their own well-being in fact - with a life in rural villages, compounded of a little subsistence cropping and a little wage-labouring. For both these reasons, the separatist movements of the late nineteenth century never developed much fire. The Government was able to take them relatively lightly. In 1900 they turned the Kotahitanga - by the creation of new Native Village Councils and Native Land Boards with Maori representation - from its drive for a separate parliament towards co-operation with, and striving for reform through, the existing framework of government. In this it was assisted not only by confident and successful individuals like Ngata but by numbers of nameless young men who had begun to find their feet in the Pakeha world - partly through the village schools system and experience as assistants to the R.Ms - and were content to seek improvements within it. And although the Village Councils and Land Boards proved largely inoperative and William Herries, Native Minister in the Reform Government from 1912 introduced another gloomy period when the philosophy of 'no special institutions for the Maoris' was again the key-note, Ratana too turned his movement, not into political separatism, but into a vehicle

47 I am indebted to Messrs C. Hare and E. Keating of the Engineers and General Workers Unions, Wellington, for their information on this point. Also to Mr. H. Roth, Deputy Librarian of the Auckland University Library for showing me a copy of the rules of the New Zealand Workers Union printed in Maori (circa 1892).

for the social and economic advancement of his people within the main political order. 49

Perhaps most important of all, the official philosophy of amalgamation sanctioned racial intermarriage. Casual liaisons were, of course, common, as in most frontier societies, and numbers of settlers formally took Maori wives. 50 Marriage of white women with Maori men was more rare but in 1879 an important wedding occurred between Leopold Puhipi, eldest son of Timoti Puhipi, a principal chief of the Rawawa, and a Miss Hardiman, daughter of an early settler. It was celebrated in the old mission church at Kaitaia, the local Maori and European communities joining in a wedding breakfast that lasted two days. 51 It is a matter for speculation how the young couple fared amidst the prejudice that no doubt existed about them, but the fact that this marriage could be fully sanctioned by the settler community indicated that the Maoris were not going to be held immediately and permanently inferior by virtue of race; 52 providing certain social prerequisites were met, they would be welcomed into European society.

Whether the product of informal or formal marriages between settlers and Maoris, the growth of a mixed blood group, usually more strongly identified with the Maori side of its parentage but possessing links with the settler community, formed an important bridge between the two peoples. Many of the

49 For further details of these crucially important developments, see The Maori and New Zealand Politics, ed. Pocock; also Williams, 'Maori Society and Politics, 1891-1909'.

50 In the 1891 census only 219 European men declared themselves married to Maori women but many more had de facto Maori wives. (AJHR, 1891, Sess.II, H-17).

51 AJHR, 1880, G-4, p.1.

52 An attitude which was held by early Dutch settlers at Cape Colony towards the Bantu - to the ultimate tragedy of race relations in South Africa. (See Patrick van Rensburg, Guilty Land, p.83.)
present leaders of the Maori people, drawing them into fuller participation in the new order, are in fact of mixed blood origin.

In many respects therefore, the trend of policy about the end of the nineteenth century was not altogether unhopeful for the Maori people. A policy of separate political development and separate institutions for the Maoris had a number of dangers. Firstly, as James Stephen had predicted in 1839-40, the likelihood of exciting jealousy and antagonism from the European community would have been very great. Secondly, there was a danger that Maori society would have remained, in a sense, backward and ill-adapted to the demands of the modern order, as has Fijian society. The 'amalgamation' process as pursued from 1861-93 crucified the generations of Maoris subject to it before being officially modified, from about the late 1920s, in favour of a policy which has come to be called 'integration' - a policy which involves respect for at least some of the elements of Maori culture that remain.53

But for the Maoris who have survived and adapted the rewards have been considerable. Fortunately, in the twentieth century, more sensitive and more informed Europeans have realised that 'amalgamation' meant more than nominal legal equality and have offered the educational, social and economic assistance which has enabled many Maoris to reach the levels of attainment in the new order that many of their ancestors aspired to. The Native Department (since 1947 the Maori Affairs Department) which was revived in 1906, by 1929 - under a Maori Native Minister - commenced lending assistance to Maori farming enterprises; by 1945 it was concerned with fostering Maori leadership and co-ordinating health, educational and housing schemes promoted by other Departments since the advent of Labour Governments in 1935. It is only

53 See *Integration of Maori and Pakeha*, Department of Maori Affairs special study, 1962.
regrettable that settler self-interest and the limited conception of the role of the state which prevailed in the nineteenth century prevented such assistance from being given immediately after the wars, when many Maori people had been frustrated in their efforts to participate fully in the new order.

But given that the racial situation in New Zealand is now relatively very happy, this much may be said: New Zealand Maoris escaped the fate of the North American and Australian aborigines, and attained a position involving the possibility of full participation in every aspect of New Zealand life, not only because they were warriors, whose control of tangled bushland made total subjugation and extermination expensive, or because they were a superior kind of 'native' both in comeliness, intelligence and adaptability. These factors were extremely important of course, but it was from the basis of the policy of racial amalgamation, established and pursued - albeit insensitively and inadequately - by nineteenth century humanitarians, politicians and administrators, that present policies and the present racial situation in New Zealand have developed.
APPENDIX A - NEW ZEALAND 1840-61

(i) The Fundamentals of Policy

THE frankly assimilationist policy developed with regard to the Maori people of New Zealand was the product not only of unconscious and unthinking attitudes of racial superiority on the part of Europeans, and not only a product of the arrogant pursuit of self-interest by the settler community: it was also the result of a deliberate and conscious choice made at official levels, sparked by a humanitarian impulse to avoid in New Zealand the evil effects of colonisation on indigenous peoples that had patently occurred in every earlier European colony.

After Cook's voyages of exploration British official intervention in New Zealand was undertaken on only a few specific occasions largely at the desire of the missionary and humanitarian parties, to protect the Maoris from the worst brutalities of British seamen and traders, and to shelter the work of the Church Missionary Society.¹ Successive British governments wished to assume no more responsibility and expense in New Zealand than was necessary. The C.M.S. and its supporters, justifiably fearful of the impact upon the Maoris of extensive settlement, steadily upheld the policy of recognising Maori sovereignty in New Zealand, and averting colonisation.

It became apparent, however, during the 1830s, that neither the influence of the missionaries, the nominal extra-territorial jurisdiction of Sydney magistrates, the occasional visit of a British warship, nor the presence of a British Resident at the Bay of Islands could control the tendency to violence and lawlessness among European seamen and traders on the New Zealand coast, or permanently suppress tribal warfare and

¹ Hereafter referred to as the C.M.S.
other sanguinary practices of the Maoris. Moreover, the question of European squatters and land speculators became increasingly important. Dandeson Coates, the influential secretary of the C.M.S., prevailed upon his friends in the Colonial Office and the English parliament to hinder E.G. Wakefield's project for colonising New Zealand; but neither the C.M.S. nor the British government could prevent the influx into New Zealand of unorganised and unregulated settlement, largely from New South Wales.

By late 1837 the Colonial Secretary, Lord Glenelg, had come to the conclusion that the humanitarians' preference for Britain's strengthening her authority over her wayward subjects in New Zealand, without either assuming sovereignty, or conducting organised colonisation, was not going to suffice. He maintained that the recommendation in the recent report of the Commons Committee on Aborigines in British Settlements that a consular officer be appointed was not going to meet the case and expressed a preference for organised colonisation. By 'colonisation' Glenelg meant, however, not the plantation of settlement, but the assertion of the authority of law over such settlement as had occurred and was likely to continue, primarily for the protection of the Maoris. A solution proposed at this time by Captain William Hobson, R.N., rapidly gained favour in the Colonial Office: Hobson suggested the annexation to New South Wales of parts of the New Zealand islands - the existing British settlements - on the model of the East India Company's trading factories.

For some time the humanitarians held to the course of advocating the appointment only of a consular officer and for some time Glenelg

2 Glenelg to Durham, 29 December 1837 - GBPP, 1840[582], p.348.
deferred to their opinion. But by 1838 the C.M.S. missionaries in New Zealand had begun to favour the introduction of British sovereignty and sufficient magisterial authority both to control lawless colonists and to restrain feuding and other sanguinary practices of the Maoris. From December 1838 events developed swiftly. In that month Hobson was offered the post of Consul in New Zealand; in January 1839 it was proposed that sovereignty should be obtained over certain parts of New Zealand, which Hobson would administer as Lieutenant-Governor.

The despatch of the New Zealand Company's first ship in May 1839, together with rapidly increasing settlement from New South Wales throughout that year, made it apparent, however, that further irregular settlements could take place outside the limits of such districts as were ceded to the Crown. With a view to curbing this, James Stephen, Permanent Under-Secretary at the Colonial Office, proposed that 'the connection with Great Britain and British influence or authority should in some measure be made co-extensive with the limits of the Islands. He advocated a treaty relationship with the chiefs of the unceded territory whereby they would submit for the approval of the British Governor in the ceded districts any proposal to alienate further land for settlement.

But Stephen's view of the purpose of establishing British authority went beyond the mere protection of the Maoris from threatened calamities. He held that by it they might also 'be gradually introduced to the blessing of civilized society, and to the enjoyment of the advantages inseparable from it'. Stephen's statement reflected the undoubted conviction of most nineteenth century Europeans in the superiority of their own

civilisation and the disparagement of what was commonly characterised as 'savage' or 'barbarian'. He shared with other humanitarians a not unjust belief that such practices as incessant tribal warfare, cannibalism, slavery, witchcraft, abortion, killing, at birth of unwanted children, and the abandonment of the sick and aged, were productive of fear and misery among the Maoris, and ought to be abolished. Moreover, Stephen's ideas must have owed something to the particular thinking of humanitarian organisations with which he was associated. Even though they had opposed European settlement as damaging to the Maoris, the C.M.S. missionaries in New Zealand were not interested in preserving Maori institutions. From a theological standpoint they held that not only were Maori religious beliefs heathenish, but that the Maoris personally, and all their social institutions, were in the sway of Satan and fundamentally depraved. Consequently Maori institutions should, as part of the process of Christian regeneration, be uprooted and replaced. Not only had brutality and cruelty to go, but, most important of all, the lynch-pins of the Maori social order, the sanctions of tapu.

Civilisation was held to be an essential aid to the process of conversion and regeneration. On the mission stations English food and clothing, English trades and crafts, English language and learning, English table manners and English entertainments replaced the Polynesian institutions of the Maori kainga. The missions stood in the vanguard of the movement to assimilate the Maoris to a European way of life.

7 In their regret at the effect of too rapid culture change forced upon the Maoris, anthropologists have tended to idealise the pre-European condition of Maori society and gloss over some of these practices. (I have not listed two other institutions of Maori life against which humanitarians inveigled, namely polygamy and tauau or child betrothal, because these were objected to largely from the standpoint of Christian morality and did not of themselves necessarily imply fear or destruction).

The Commons Committee on Aborigines, reporting in 1837, and the Aborigines Protection Society, founded that year, both preferred that no settlement should be intruded on native peoples if possible. But where it had been intruded the proper course was for the metropolitan government to regulate it carefully, and bring the native people concerned into full participation in its benefits, under the safeguards of law and the guidance of the missionary societies, rather than to attempt to shelter the natives in their traditional condition, in reserves that tended to shrink before advancing settlement. This was the germ of the policy which came to be called 'amalgamation' or 'assimilation'. Even before it was apparent that the whole of New Zealand was to be acquired Stephen was impelled to contemplate in his proposed treaty arrangements with the districts outside the British settlements, not only the right of regulating settlement but also provisions for the abandonment by the chiefs of tribal warfare and other destructive customs, the right of access for British missionaries and for British commerce, and the 'encouragement of industry'. But although this in itself would have involved a heavy intrusion into the affairs of nominally independent chiefs it may have fallen short of achieving the objects intended, both in respect to the advancement of Maori society and to the prevention of unauthorised settlement which, meanwhile, continued apace. It is not surprising, therefore, that the final draft of Hobson's instructions, written in August, went further and authorised him to treat for the full exercise of sovereignty over 'the whole or any part' of New Zealand.

9 Hereafter referred to as the A.P.S.
11 Normanby to Hobson, 14 August 1839 - GBPP, 1840[238], p.38.
Thus, as early as 1839 the Colonial Office had accepted both the idea of settlement spreading over the whole of New Zealand and the need for a policy aiming at bringing the Maoris under the rule of law and involving them fully in the occupations and institutions of the advancing settler society. It has usually been suggested that official and missionary policy at the time of acquisition of sovereignty was still aiming at 'protection' of Maoris and Maori institutions in areas separate from settlement, and that this was set against a policy of 'amalgamation', based on the extension of settlement over the whole Colony, which officials were obliged to adopt as a result of settler pressure. Such is not the case. From 1839 the main line of official policy and of missionary policy was already one of amalgamation; only the pace at which it was believed necessary to pursue it increased as a result of settler pressure after 1840. This explains why Hobson did not receive strong injunctions from the Colonial Office to concentrate settlement - an omission which has puzzled those who believed that 'protection' was then the main line of policy.

During late 1839 the content of the amalgamation policy was steadily strengthened. The A.P.S. programme, as expounded between 1837 and 1840, included the recognition of native sovereignty in the countries they inhabited - necessitating a treaty of cession if Britain was to colonise any of them, the recognition of the natives' rights to the whole of their

12 Wake, 'George Clarke and the Maoris', p.344; W.L. Renwick, 'Self-Government and Protection', unpublished M.A. thesis, Victoria University of Wellington, 1961, pp.6, 11, and 61; John Miller, Early Victorian New Zealand, p.129. What did receive more attention after 1843, consequent upon the settlers' demand for self-government, was the idea of 'political amalgamation' of races in common governmental institutions, a derivative of the main line of an already established policy. The appointment of Grey also signalled an attempt to increase the pace of amalgamation.

lands, not merely the areas they cultivated, the appointment of Protectors of Aborigines to regulate relations between colonists and natives, the granting of limited powers of local self-government to native communities, the enrolment of natives in a constabulary force to guarantee their continued strength against oppression, mixed juries in lawsuits between natives and Europeans, a system of arbitration in native disputes, the acceptance of native evidence in lawsuits without Christian oath, the right of natives to appeal to the Privy Council, a full programme of religious, literary and technical education to prepare natives for entry into all walks of European life, medical care, extension over the natives of the laws of real property and commerce, and the assumption by them of both the responsibilities of British subjects, such as taxation, and the corresponding privileges. This approach aimed not at buttressing old native institutions, in a dynamic situation which was rapidly rendering them obsolete, but at giving the natives a full place in the institutions of the new order. Its weakness, however, was that it did not sufficiently allow for the conservatism of native society.

The provision for a treaty of cession, the recognition of the Maoris' right to their lands and the crown's pre-emptive right to purchase land, the grant of the rights and privileges of British subjects, the appointment of a Protector of Aborigines and the injunction to promote Maori education and welfare, were points included in the instructions given to Hobson in August 1839. The most important of them were subsequently embraced in the Treaty of Waitangi by which chiefs ceded their sovereignty to the British Crown.

14 Report of Commons Committee on Aborigines in British settlements, GBPP, 1837/425, pp.44-76; Standish Motte, A System of Legislation for Securing Protection to the Aboriginal Inhabitants of all Countries Colonised by Great Britain, (for the A.P.S.), - CO 209/8, pp.426-437.

15 Normanby to Hobson, 14 August 1839 - GBPP, 1840[238], p.38.
The instructions of 1839 were very general for, when he drafted them, Stephen believed there was still time for the Governor to work out a detailed native policy with the aid of the Protector and the missionaries, and for the Maoris to make their adaptations ahead of the main stream of settler pressure. But by December 1840, when he was writing fresh instructions consequent on New Zealand's being made a colony separate from New South Wales, he became much more specific and much more urgent that the Maoris adopt European skills and modes of life:

It is only in proportion as either respect for the strength of the aborigines, or a clear sense of the utility of their services and co-operation, shall possess the public mind, that they will be placed beyond the reach of those oppressions of which other races of uncivilised men have been made the victims.16

Failing this neither penalties, nor regulations, nor the teachings of Christianity itself, would restrain the settlers from oppressing the Maoris. In another minute, written later that month, he again expressed his belief in the futility of a policy of mere protection:

The first great good which could be done to these people would be to make them the objects of goodwill, or to prevent them becoming the objects of ill-will, to their white neighbours. Whatever unpopular boon we will confer on them will be expiated by persecutions, which no human power will be able to arrest or punish.17

By way of encouragement and example, Stephen included with his draft a copy of a report from Captain George Grey describing alleged progress in racial amalgamation in South and Western Australia, achieved largely by training aboriginals in European skills through employment in public works, and advocating the prompt enforcement of the requirements of English law on native peoples.18

16 Stephen, draft instructions to Hobson, 9 December 1840 - CO 209/8, pp.490-1.

17 Stephen minute, 28 December 1840 - CO 209/8, p.450.

18 Encl. in Russell to Hobson, 9 December 1840 - GBPP, 1841/311, p.43.
Stephen's comments showed an appreciation of the fact that the power of a governor or legislature to engineer good race relations is limited; conversely they showed an appreciation of one way in which a government might operate to make the conditions where good race relations could grow. But they also revealed the profoundly pessimistic impulse behind the adoption of the amalgamation policy. It stemmed from the twofold belief that a policy of merely sheltering the Maoris from civilised commerce would not only deprive them of benefits and advancement to which they were entitled, but also, since settlement was intruding anyway, invite the jealous persecution, by the settlers, of the protected group. Stephen in fact saw the rapid adoption by the Maoris of European skills as a forlorn hope to avert catastrophe. As settlement increased, respect for the strength of the Maoris would dwindle. Before that could happen Hobson was to try to ensure that the Maoris could impress 'the public mind' with 'a sense of the utility of their services and co-operation'. Time was pressing: by Stephen's analysis the Maoris had to conform quickly to what the incoming Europeans expected of them or suffer oppression and extermination. This was a defeatist attitude. Stephen's suggestion that no policy should be pursued towards the Maoris that would excite the antagonism of the settlers was implying in advance that the settlers would be able to dictate Maori policy to the Colonial Office.

It will be clear that the 'amalgamation' philosophy was strong on the question of drawing Maoris into participation in settler institutions and weak on the question of recognising Maori custom. Lord John Russell, the Colonial Secretary in 1840, went even further in this respect than Stephen. Whereas Stephen proposed in Hobson's 1840 instructions, that temporarily, some Maori customs might be tolerated 'and even sanctioned', Russell struck out the latter phrase and changed Stephen's suggestion
of a declaratory law 'recognizing' such customs to one 'authorising the Executive to tolerate' them. He then added his one major interpolation in Stephen's draft:

At the same time you will look rather to the permanent welfare of the tribes now to be connected with us, than to their supposed claim to the maintenance of their own laws and customs, the Queen's sovereignty must be vindicated, and the benefits of a rule extending its protection to the whole community must be made known by the practical exercise of its authority.¹⁹

These were then the fundamentals of New Zealand native policy developed by the Colonial Office. The 'permanent welfare' of the Maoris included the abandonment by them as soon as possible of their own customs, in favour of English law, and the adoption by them of such European skills as would command the respect of, and outweigh the prejudices of, the incoming settlers. Probably no better summary of the problem that had been posed in New Zealand, and its solution, can be found than the preamble to the first colonial ordinance, that was specifically aimed at promoting Maori welfare:

And whereas great disasters have fallen upon uncivilized nations on being brought into contact with Colonists from the nations of Europe; and in undertaking the colonization of New Zealand Her Majesty's Government have recognized the duty of endeavouring by all practicable means to avert the like disasters from the

¹⁹ Russell to Hobson, 9 December 1840 (amendments to Stephen's draft) - CO 209/8, pp.480 and 487. These changes carried serious implications. There is a vast difference between an instruction authorising only general toleration of native customs, and one sanctioning or recognising them. The latter, in the hands of a Governor so disposed could have led to a veritable codification of Maori customs; the former virtually precluded it. Wake is quite wrong in asserting that Hobson's instructions required that some native customs were to be 'explicitly recognized' by ordinances of the Legislative Council. (Wake, 'George Clarke and the Maoris', p.347).
native people of these Islands, which object may best be obtained by assimilating as speedily as possible the habits and usages of the Native to those of the European population.

Here the more usual contemporary term 'amalgamation' is replaced by the idea of 'assimilation', an epithet much more commonly applied to Maori policy in the twentieth century. In fact there is a continuity; the policy has not substantially changed in 125 years. Although the concept of 'assimilation' is today distrusted by many scholars and officially discarded by the Department of Maori Affairs, as implying the destruction of the culture and identity of the Maori people, it must be recognised that in the 1840s it was not only the product of bigotry and selfishness, but was conceived by the humanitarians of the day, as the best means of saving the Maori people from extinction. Though underlain by undoubted convictions of the superiority of English institutions, and conversely, by a disastrously limited appreciation of Maori values, it reflected also the earnest desire on the part of idealists to exercise a spirit of trusteeship towards the Maoris by seeking their entry as fully as possible into all levels of European life.

There is still in New Zealand, much concern that too great a proportion of Maoris are in unskilled occupations. The consequent drive to secure the entry of greater numbers into skilled trades and professions and avert the danger of the Maoris becoming a socially depressed and economically vulnerable labouring class, susceptible to all manner of impositions, is not dissimilar in spirit to the highest aims of the men who, in the 1840s, evolved the goal of amalgamation.

20 The Native Trust Ordinance, 1844 - Ordinances of New Zealand, Sess.III, n.IX. My italics.

CONFLICT between official aims and Maori inclinations was revealed at the Treaty of Waitangi which Hobson negotiated with numbers of chiefs in 1840. Although Hobson's instructions altruistically disclaimed any intention of imposing British sovereignty on the Maoris without their free consent, there could be little doubt that having decided to interpose their protecting and civilising authority, and having made certain prior arrangements, the Colonial Office officials would not have looked kindly on any churlish rejection of their solicitude. Although these means were only to supplement, not replace, a frank explanation of the purpose of his mission, Hobson was authorised to propitiate the chiefs' consent 'with presents or other pecuniary arrangements if necessary' and to enlist the aid of the missionaries in persuading the Maoris to sign away their sovereignty in exchange for the benefits of British rule. Hobson's instructions to officers who hawked the Treaty about the country also suggest that he saw the business as an exercise in public relations rather than a weighty mission, the issue of which was in serious doubt. The evidence plainly shows that many chiefs signed simply for the gifts that

22 Normanby to Hobson, 14 August 1839 - GBPP, 1840[238], p.38.

23 He wrote to his principal military officer, Major T. Bunbury, 80th Regiment: 'In this state of society, formed of a vast number of petty democracies without any union of purpose, or any acknowledged leader, it will be impossible to observe the usual formality of negotiating a treaty'. Having described proceedings at Waitangi he added: 'The Kororois [scil: Korero], as they are called, will be a great tax on your patience, for probably everyone present will address you in a long speech full of angry opposition, but very little to the purpose; but to secure a favourable termination to the debate you have only to obtain the friendship of one or two of the most influential chiefs, who will probably give a favourable turn to the meeting, and all present will very soon yield to your proposal'. (Hobson to Bunbury, 29 April 1840 - cit. Bunbury Reminiscences of a Veteran, vol. 3, pp.63-64).
were given for their signatures or in expectation of 'an elisium [sic] of blankets, muskets and tobacco'; 24 others signed only on a blind faith in missionary assurances of the benefits of British rule; 25 some feared conquest by France; some signed because they wanted to draw in British support against a rival tribe or because they were weary of fighting and wanted protection against retaliatory raids from neighbours who were not. 26 There was not much intelligent submission to European authority in all this.

A constant theme of the negotiations was the concern of the chiefs for their status under British rule. At Waitangi, Te Kemara was reported as saying 'Were we to be all on an equality then perhaps Te Kemara would say "Yes". But for the Governor to be up, and Te Kemara down no, no, no.' 27 For this reason several important ariki - Te Wherowhero of the Waikato confederation, Te Waharoa of the Ngatihaua, Te Heuheu of Taupo for instance - refused to sign at all, and Te Heuheu carried with him the Arawa tribes and Tupaea, ariki of the Ngatiangangi. 28 Te Hapuku of Hawkes

26 Bunbury to Hobson, 15 October 1840 - GBPP, 1841/311, p.103.
28 To his brother who had the temerity to sign, Te Heuheu is reported as saying; 'Is it for you to place the mana of Te Heuheu beneath the feet of a woman?...I will consent neither to your acts nor your goods. As for these blankets, burn them'. (Ibid., p.176). At Coromandel, 'The principal orator, an old chief named Piko, refused to sign, alleging as a reason...that he could for himself, see no necessity in placing himself under the domination of any prince or queen, who might govern the white man if she pleased, as he was desirous of continuing to govern his own tribe'. (Bunbury to Hobson, 6 May 1840 - GBPP, 1841/311, p.100).
Bay also held out for some time, objecting to the Queen's being placed over the chiefs. Equally significant were the stipulations some chiefs made before they signed. Taraia of Tauranga said: 'I must be allowed to exercise some influence over my people; if they steal, I must punish them'. The Cook Strait and Wanganui chiefs hesitated for 10 days and signed because they hoped a check might be put to the importunities of Europeans to buy land. At Waitangi itself Waka Nene had contributed very greatly to turning the decision in favour of signing the treaty. He had declaimed that it was too late to turn back European settlement and had urged the Governor to stay - to preserve their lands and their customs and to prevent them from being made slaves.

It is clear that even those who gave intelligent consent to the introduction of British authority did so in the expectation that certain important conditions would be fulfilled, namely the safeguarding of their status as chiefs, and of the land which was the basis of their authority and their people's well-being.

The Maori version of the Treaty, however, seemed to offer them considerable reassurance. They ceded to the Queen the 'whole Governorship' (te Kawanatanga katoa) of their lands, but were in return confirmed in

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29 Bunbury to Hobson, 28 June 1840 - ibid., p.110.
30 G. Clarke, Sr, report, encl. in Gipps to Russell, 7 March 1841 - GBPP, 1842/293, p.96.
31 H. Williams to Hobson, 11 June 1840 - GBPP, 1841/311, p.105.
32 Hobson to Gipps, 5 February 1840 - GBPP, 1840[238], p.7.
33 Buick tells of the chief Rewa lamenting that he no longer visited a European friend because he had sold all his land and could no longer afford to bring suitable gifts. (Buick, Treaty of Waitangi, p.105).
the 'entire chieftainship of their lands, their villages, and all their property' (te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa)\textsuperscript{34} The chiefs probably read more into the preservation of their rangatiratanga than the cession of Kawanatanga, which remained shadowy. It was certainly believed that Hobson would use his authority to restrain Europeans rather than Maoris. Although, in the English version of the Treaty, the chiefs ceded not 'Kawanatanga' but 'sovereignty' the full implications of this were not explained to them. On the contrary they were passed of with bland assurances that the Governor did not wish to displace the influence of the chiefs over their tribes.\textsuperscript{35}

It is difficult to characterise the officials' loose translation and explanation of the treaty as deliberate deceit but it was certainly irresponsible. It is probable that, since he did not regard it as an international treaty in the normal sense of the term, Hobson did not think very precisely at all about its exact

\textsuperscript{34} The text of the official version of the Treaty, its Maori version and an English translation of that, are printed in McLintock, Crown Colony Government in New Zealand, Appendix C. See also E.J. Wakefield, Adventuring in New Zealand, vol. II, pp.459-60.

\textsuperscript{35} Bunbury to Hobson, 28 June 1840 - GBPP, 1841/311, p.111.
form of words. Moreover, since at that date Hobson’s instructions required him to suppress only the most bloody of Maori customs, the Governor might have hoped, if he thought seriously about the matter, that the chiefs could be persuaded to give up the use of force in inter-tribal disputes and the power they held, in certain situations, of life and death over their own people, without necessarily impairing their authority and status. But in fact, as W. Swainson, New Zealand’s first Attorney-General, remarked, ‘if they had been aware that in ceding the sovereignty they gave us the power to abrogate their own usages and customs, to destroy the power of their own chiefs and to impose our laws upon them – it may well be doubted whether a single chief of influence would have become a party to the Treaty of Waitangi’.  

36 Hobson declared British sovereignty over the North Island on the basis of cession (the South Island being claimed by right of discovery) and the Colonial Office treated the Maoris’ signing of the Treaty of Waitangi as of importance. (Russell to Hobson, 9 December 1840 - GBPP, 1841/311, p.27). But constitutional lawyers have not given it great weight. The Treaty, not having been made with a recognisable government, has been regarded as having no standing in international law. Sovereignty has usually been held to derive from discovery and settlement, some authorities placing the effective date at the foundation of the Colony of New South Wales (including its offshore islands!) and others at the issue to Governor Gipps, in June 1839, of a new commission making such New Zealand territory as Hobson might acquire, part of New South Wales. Nevertheless Hobson’s proclamation of May 1840, made in anticipation of a French attempt to plant a colony, must carry some weight as completing, if not commencing, the acquisition of sovereignty by Britain. (For legal opinions see Foden, Constitutional Development of New Zealand in the First Decade, 1839-1849, MA 23/21, p.132; Wild (Crown solicitor) NZLR[1963] CA 461; Wi Parata V Bishop of Wellington, 3 JR NS SC 7.  

37 Swainson, New Zealand and its Colonisation, p.158.
Certainly there was an increasing realisation by some Europeans that, if difficulties were to be avoided, the aim of 'equal law for both races' must be modified to preserve certain Maori institutions, particularly chiefly authority, and integrate them in the new order. In 1837 the Reverend Montagu Hawtrey had pointed out that, where two parties are unequal in power or experience, 'the only consequence of establishing the same rights and obligations for both, will be to destroy the weaker under a show of justice'. Hawtrey had consequently recommended the award to chiefs of sufficiently large land grants to compensate them for the loss of freed slaves, the certification of chiefly pedigrees (on the lines of Burke's Peerage) to establish a native aristocracy, and the withholding of the full penalties of the English criminal code. With respect to New Zealand in particular he recommended utilisation of customs such as tapu and utu and the placing of chiefs in the Upper House of a legislative assembly, along with landed settlers. 38 In New Zealand, from a realisation of the Maoris' strength, not of their weakness, Major Bunbury, Hobson's chief military officer, was urging similar ideas. 39

But, as has already been indicated, officialdom was already moving in a contrary direction. The instructions to Hobson of December 1840, wherein Russell expressly altered Stephen's provision for recognising

useful Maori custom to permit of temporary toleration only, signalled the end of the old Maori social order. The memorandum of George Grey enclosed with the instructions as a useful model for Hobson, was positively disruptive: it urged the principle that natives aggrieved by the operation of customary sanctions should appeal to British law. The chances of Taraia being given the power to punish his slaves for their misdemeanours was very slight indeed. The basic judicial machinery of Justices of the Peace, Police Magistrates and a Supreme Court, established by Hobson, emphasised this trend, for it began a system of justice which made no distinction between Maori and European, chief and commoner. Nor were any compensating provisions offered to the chiefs, such as substantial stipends for service in the Government, nor any substantial economic connections forged between chiefs and Government which might have made the former loath to repudiate the new authority. 40

MAORI reactions to the early machinery of government were ambivalent. On the one hand there were remarkable displays of the spirit that had moved Waka Nene to place his trust in British justice. Chiefs submitted disputes with settlers over land, which could otherwise have ended in bloodshed, to the arbitration of the Protectors of Aborigines and the European magistrates. 41 They accepted the adjudication of the

40 Wake, 'George Clarke and the Maoris' pp.346-7, suggests that failure to forge these economic ties was an important opportunity lost. The Government could certainly have been more positive in this, as in most aspects of its Maori policy. Yet, as developments in the 1850s tend to suggest, it is doubtful if economic ties could have prevailed against the heady influences of Maori quasi-nationalism.

41 Shortland to Hobson, 29 August 1840 - GBPP, 1841/311, p.83.
commissioners appointed to investigate pre-1840 land purchases, and tyrants like the proud Te Rauparaha humbled themselves day by day to attend the commissioners' courts. When Europeans desecrated Maori graves in Cloudy Bay for their greenstone Te Rauparaha, surprisingly, left the matter with the Protectors to settle. When the drunken provocations of some Europeans at the pa of Pomare at Kawakawa threatened to bring Maori retribution round the ears of the whole European community, Pomare accepted the mediation of Hobson's officers. When Maoris in the towns committed theft the ruling of the Police Magistrates was usually accepted. Any person in authority who cared for Maori interests was soon beleaguered by them bringing streams of problems, real and imaginary, and relating to disputes not only with Europeans but even amongst themselves.

But while these responses indicated Maori appreciation of the manifest earnestness of the administration to regulate dealings between Maoris and settlers, they did not by any means denote full acceptance of European authority. In March 1840 the military were called out for the first time, when a Maori taua forcibly held up the trial of a Maori accused of stealing a blanket. In April 1840 Kihi, a Tauranga Maori, murdered a settler at the Bay of Islands and was imprisoned. His tribe threatened reprisals on the small European community at Tauranga and

43 Clarke, Jnr, to Clarke, Snr, 30 June 1843 - ibid., p.344.
44 Hobson to Gipps, 15 June 1840 - GBPP, 1841/311, p.22.
45 E.g., E. Halswell to Secretary, N.Z. Company - GBPP, 1844/556, Appendix, p.678.
Hobson had to send down a man-of-war. In 1842, again at the Bay of Islands, a young chief called Maketu, killed a European family and their half-caste employee. He was arrested but had to be released because of the menaces of his people. Eventually he was surrendered, not out of respect for the claims of British justice, or for atonement of the death of the Europeans, but because the Maori relatives of his half-caste victim threatened retribution on Maketu's kin. This was, in fact, to be the basis of the few surrenders of culprits for capital crimes that were made over the next decade. At the execution of Maketu, Maori excitement was such that Hobson wished he had more troops on hand. The shock of the execution spread through the island and as far away as the East Coast produced a mixture of amazed respect for the judge who dared to pass such a sentence on a chief and resentment at the preponderant power over life and death exercised by the

47 Hobson to Bunbury, 25 April 1840 - GBPP, 1841/311, p.18. The Tauranga Maoris eventually accepted Kihi's fate but the incident caused the Tauranga chief Piko not to sign the Treaty. (Bunbury to Hobson, 6 May 1840 - ibid., p.100).

48 Clarke to Hobson, 18 June 1842 - GBPP, 1844/556, Appendix, p.10. In this, as in many crucial issues, Waka Nene was in favour of support for British justice. For such acts as these he 'had to endure many taunts from other Chiefs of the North, because he allied himself with strangers that is, with a foreign nation; and in their harangues they often called him an adulterer, and repeated it half-a-dozen times to make it impressive'. (Evidence of J. Hobbs, 8 October 1860 - AJHR, 1860, F-3, p.30).

49 See, for instance, E. Shortland to Clarke, Snr, 18 March 1844 - GBPP, 1846/337, p.153. In 1855 the Ngatiwhakaue surrendered one of their number who had killed a member of another tribe, in order to avert the expected exaction of utu. (CO 209/122, p.33 ff).
Government. 50

Hobson's real embarrassment however came with the outbreak in 1842 of heavy fighting over land in the Bay of Plenty, involving a revival of cannibalism. The authorities posted proclamations warning the Maoris of Government intervention and made agonised decisions in favour of the use of force to arrest the aggressors, but had to accept that they were powerless to intervene, except as arbitrators. 51

The Attorney-General, William Swainson, and the Chief Justice, William Martin, tried to solve the dilemma by accepting the argument of some of the feuding Maoris that English law could not be considered to run where the chiefs had not signed the Treaty of Waitangi, or signed it with understanding. Swainson suggested the establishment of Native Districts in those areas, where Maori customs should be allowed to prevail, subject to the moral influence of the missionaries and Protectors.

This view was rebutted by the Chief Protector of Aborigines, George Clarke, Snr, an ex-C.M.S. lay teacher with some 20 years experience in New Zealand. He argued that Swainson's policy would be 'destructive to the interests of the natives and...would be made use of by designing men to embarrass the Government, and to embroil the natives with each other and with the Government'. 52

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50 Evidence of Bishop Selwyn – AJHR, 1860, F-3, p.66; PD, 1867, vol.I, part I, p.458. In 1838 James Busby, the British Resident at the Bay of Islands, had arranged the 'trial' and execution of a Maori who had killed a European. But the Maori was a slave and the Ngapuhi leaders thought very lightly of gratifying Busby's wishes on that occasion. (Gipps to Secretary of State, 5 October 1838 – CO 201/276).

51 GBPP, 1844/556, Appendix, pp.189-90 and 458 ff.

52 Ibid., pp.457 and 463.
Stephen, believed that even at this early stage of settlement it was hopeless to think of shutting off areas of the country and expecting the Maoris to be left in peace to run their own affairs under the guidance of such good influences as they might accept. The dynamic factor in the situation was still the 'designing' European - the trader or squatter who came to remote coasts, and penetrated remote districts, involving himself in disputes with Maoris and embroiling the tribes with one another.

The Colonial Office supported Clarke's view. Stephen wrote of Swainson's idea of Native Districts, 'that such privileged spots in the midst of British territory would be injurious to everyone'. It was felt that even if it were impossible to check Maori feuds and cannibalism in every case, the obligation to do so should not be abandoned. Willoughby Shortland, the Acting-Governor after Hobson's death, was instructed accordingly. Yet mainly for financial reasons, no adequate force had been provided for the Governor to carry out his obligations, nor was it increased after the Bay of Plenty fighting. Stephen and the humanitarians in London were possessed of a great deal of woolly optimism on this point. Hobson had been told that he would be unlikely to need much force as even 'the most ignorant and barbarous of men' would feel repugnance at war and cannibalism, and the chiefs therefore would 'probably give a willing assent to your admonitions when taught to perceive with what abhorrence such usages were regarded by civilized men'. Stephen was reluctant to see force

53 Stephen minute, 19 May 1843 - CO 209/16, p.455.

54 G.W. Hope minute, date obscure, on W. Shortland to Secretary of State, 24 September 1842 - ibid., p.108; Stanley to Shortland, 21 June 1843 - GBFP, 1844/556, Appendix, 475.

55 Normanby to Hobson, 15 August 1839 - GBFP, 1840[238], pp.44-5. Shortland was given similar verbal encouragement.
used against the Maoris even in the cause of civilisation and fearful that soldiers would be used against the Maoris oppressively. On the contrary, he advanced the idea that Maoris should be enrolled in a militia, not merely to police other Maoris but because 'I am convinced that the only way to protect aborigines, or indeed any other race of men, is to make them formidable'. 56 He advocated this theme strongly in his draft of Hobson's 1840 instructions, but Russell cut out the phrases suggesting that the Maori militia was to be raised essentially in antagonism to the settlers and left the idea of a settler militia for Hobson's consideration. 57 Hobson (and Shortland) never took it up, largely owing to the hostility that existed between settlers and the Maoris, which Governor feared to aggravate. In any case, it would have taken no small militia to overawe a tribe under arms.

The missionaries and a handful of Protectors of Aborigines were therefore left to restrain Maori turbulence as best they could. Men like Edward Shortland in the Bay of Plenty, George Clarke, Junior, in Wellington, and later McLean in Taranaki and Forsaith in the Hutt Valley and Wairarapa, did heroic and effective work in checking

56 Stephen minute, 28 October 1840 - CO 209/8, p. 192.

57 Draft of Russell to Hobson, 9 December 1840 - CO 209/8, pp. 483 and 489.
both tribal warfare and clashes between Maoris and settlers.\textsuperscript{58} But progress was slow. Slavery endured, killing for \textit{makutu} and \textit{puremu} occurred regularly, and sporadic warfare continued.\textsuperscript{59}

In a mood of pessimism, Clarke wrote:

...friends and foes have alike deprecated the interference of Government in their quarrels, expressing their determination to seek satisfaction in their own way; never was there a people more uneasy under the yoke of authority than the New Zealanders, and they only await a bold and enterprising leader to throw off even the name of subject.\textsuperscript{60}

\textsuperscript{58} Sinclair asserts (\textit{Maori Wars}, p.29) that 'Most of the activities of the Department and its Sub-Protectors...were essentially petty'. But he also states (p.32) that 'The Protectorate Department was not as useless as it had been called', pays tribute to its work in the investigation of European land claims, and says that its influence on FitzRoy's decisions to lay responsibility for the Wairau massacre upon the settlers and to reverse Commissioner Spain's award of Taranaki land to the N.Z. Company, prevented widespread bloodshed. A glance as their reports in fact shows the value of their day to day work. (E.g., Shortland to Clarke, Snr, 14 August 1843 – GBPP, 1844/556, Appendix, p.352 and Clarke, Jnr, to Clarke, Snr, 30 June 1843 – ibid., p.353). A recent thesis by P.D. Gibbons, The Protectorate of Aborigines, Victoria University of Wellington, 1963, also gives a more favourable assessment of the Protectorate's work, but admits (p.185) that it was essentially mediatory and did little to train Maoris for participation in the new order.

\textsuperscript{59} In May 1843 the Whakatane were fighting the Whakatane tribes; in June the Rarawa and Ngapuhi were at war over land at Mangonui, the Rarawa chief, Nopera Panakiriao, having asserted that they 'would exercise all their ancient rights and authority, of every description, as heretofore'. (GBPP, 1844/556, Appendix, p.242).

\textsuperscript{60} Clarke to Col. Sec., 4 January 1843 – GBPP, 1844/556, Appendix, p.122.
He urged that 'Her Majesty's Government must be in a position to dictate and awe them into peace'.

This was a sound conclusion, given the premises that the Maoris' intestine quarrels, aggravated by European intrusion, could not in all humanity be allowed to continue, and that its assumption of sovereignty over New Zealand required the British Government to carry out the work of pacification quickly. Nevertheless the desire to avoid heavy military expenditure, together with a reluctance to take serious and dangerous steps to suppress what were regarded as time-honoured Maori customs, until more pacific methods had been given a full trial, would have long delayed the use of force to compel warring Maoris to submit to British law. What gave the question a real urgency were the rapidly deteriorating relations of Maoris and settlers.

LARGELY to placate humanitarian objections Edward Gibbon Wakefield had adopted for the New Zealand Company a theory of racial amalgamation, drawn primarily from the writing of the Rev. Montagu Hawtrey. The system of reserving large areas for natives outside the white settlements, as in North America, was now held merely 'to preserve them in a state of barbarism'. Instead the Company planned to reserve one tenth of its town and rural sections for Maoris, scattered, by lot, amongst the European sections. The Maori chiefs, perforce inter-mingled with

61 Clarke to Col. Sec., 4 June 1843 - GBPP, 1844/337, p.113.

A.H. McLintock has accepted contemporary settler calumnies of the Protectorate Department to the extent of asserting, erroneously, that it is believed force should not be used to back up magisterial authority. (McLintock, Crown Colony Government in New Zealand, p.146). Other specific statements, by Clarke, to the contrary may be found in GBPP, 1845/369, pp.36 and 86. See also Gibbons, 'Protectorate of Aborigines', p.123 and Wake, 'George Clarke and the Government of the Maoris', p.242.
Europeans, were expected to readily appreciate the advantages their civilised neighbours held over their own savage condition, and adopt a European mode of life. Snob Wakefield might be, but, it would appear, no racist. He envisaged a Maori and European aristocracy mingling on terms of equality even to the point of inter-marriage, equally lording it over the yeomanry of the settlements. 62

However, the clumsiness of the Company's land purchase operations put Maoris and Europeans at loggerheads from the beginning. From ignorance of the intricacies of Maori customary land tenure, as well as carelessness and greed, the Company's agents purchased either from the wrong Maori claimants or from insufficient Maori claimants. Disputes over land began as soon as surveyors began to mark the boundaries of alleged purchases. The Maoris interrupted the surveys and refused to vacate sections in Wellington, Nelson, New Plymouth and Wanganui. Company officials and settlers offered force to expel them, and the Maoris quickly replied in kind. 63

Company officials and settlers rapidly generated the myth that Maori resistance had commenced only when the Government proclaimed that all alleged purchases must be investigated prior to the grant of a Crown title. This was quite false: the disputes arose immediately from the nature of the purchases themselves. Yet there was truth in

62 For a long statement by Wakefield expounding these views, see R.L. Jellicoe, The New Zealand Company's Native Reserves, p.8. For Hawtrey's view see his appendix to Wakefield and Ward, The British Colonization of New Zealand.

63 Shortland to Hobson, 29 August 1840 - GBPP, 1841/311, p.82; GBPP, 1844/556, Appendix, pp.287-9.
the settler charge that the Maoris exaggerated their claims, more or
less as a point of tactics. New claims arose and dormant claims were
revived when the Maoris discovered that land was a marketable commodity.
When the Government paid off Te Wherowhero of Waikato for his rights
as the conqueror of Taranaki - the Company having paid only a few
remaining Atiawa - some chiefs saw the advantages to be gained by
elaborating claims, backing them with threats of force, and constantly
haggling about the price of their satisfaction. Hobson expressed the
opinion that it was extremely difficult, 'unsupported by power, to
conclude any real bargain with the natives'. He also regretted
his inability to suppress Maori taua muru which tended to take
retribution against any convenient settler for bullying or offences
against tapu, possibly inadvertent and possibly by another settler
altogether.

More fundamentally, the official recognition (in practice, though
not yet in law) of the Maoris' claim, not merely to their settlement and
cultivations, but to the uncultivated wilderness of the heartlands, was
bitterly resented by the settlers, who held it to be a product of the
tendency of the Protectorate and the missionaries to pander to the
Maoris. Even some officials, obliged by the Maoris' power to respect
their claims, felt that they were greater than natural justice entitled

64 Atiawa or Te Atiawa: a modern usage to distinguish this Taranaki
tribe from the Ngatiawa of the Bay of Plenty. Most nineteenth
century writers use Ngatiawa for both tribes.

65 Hobson to Sec. of State, 18 December 1841 - GBPP, 1842/293, p.188.

66 Hobson to Stanley, 2 March 1842 - GBPP, 1842/293, p.191.
them to make. Meanwhile, settlers, frustrated with waiting for the Crown's tardy land purchase operations, began to push out as squatters, taking up runs under the auspices of friendly chiefs.

The Wakefield programme of amalgamation through the intermingling of Maori and European landowners, had begun to collapse. In Wellington the notion of reserving the 'tenths' at random among European settlers foundered on the Maoris' preference for the old communal order. Their refusal to vacate their pa and cultivations left settlers fuming about the fire and health hazard in the centre of the European community. They exhibited great repugnance for the filth and disease and vermin of the pa, the skin sores and smelliness of their inhabitants. Attempts by European officials to alter Maori habits of life did not achieve the results hoped for. Halswell, the New Zealand Company's officer in charge of Maori reserves wrote:

I do not think it possible that the present adult race will become, to any great extent, steady in civilized pursuits. There is a constant inclination to fall back and indulge in old associations, and nothing short of breaking up the pahs, and locating their inhabitants in decent huts, in small villages on their own reserves, and by degrees associating them with the white population, would render them fit companions for any, even the lowest of settlers.

67 The threat was real enough. Half of Te Aro pa was destroyed by fire while the inhabitants were away cultivating. Europeans saved the other half and removed five casks of gunpower from endangered whare. A sixth blew up. (Halswell report, 10 February 1842 and W. Wakefield to Clarke, Jnr, 1 March 1843, 1850[1136], p.241).

68 Halswell to Secretary, N.Z. Company, 11 November 1841 - GBPP, 1844/556. Appendix, p.677. Many missionaries too, could not conceal their distaste. James Stack, returning the copy of the Treaty he had been having signed, apologised for its soiled condition and added: 'the native habits are so filthy it could hardly be avoided'. (Stack to W. Shortland, 23 May 1840 - GBPP, 1841/311, p.104).
Fastidiousness and narrow morality went far to wreck the theorists' hopes for amalgamation through intermarriage. Writing on the question in 1862 a settler correspondent asked:

Does [amalgamation] mean that we should give our daughters to their sons and take wives of their daughters for our sons? If so what is there to prevent it, except that moral purity cannot descend to the level of animal instincts...there can be no companionship...between the domestic purity of our wives and daughters and the communism of the native kainga where the females were never taught that chastity was a virtue...there can be no such social amalgamation until the inferior race shall stand upon the same level in regard to morality and knowledge as ourselves.69

Although individual settlers in the out-districts were coming to respect Maoris and to take de facto Maori wives, the conflict between English and Polynesian values engendered antagonism and tension. Public-houses and clubs excluded Maoris.70 In New Plymouth the programme of amalgamation was frankly abandoned, and something akin to modern apartheid showed signs of taking its place. No selection of rural tenths was made for the Maoris, prospective settlers having stipulated against it. Instead, the equivalent of the tenths was to be aggregated into one block, near, but not too near, the settlers' lands. Hobson reported that Maori habits 'are so inevitably opposed to those of civilized life and their practices so repugnant to the customs of Englishmen, that we can scarcely hope to preserve harmony when the

69 The Aucklander, 22nd August 1862.

70 Bishop Selwyn was subsequently to complain that his Maori deacons - educated and well-groomed men - were not allowed to go into public rooms 'where a drunken carter with a white face would have been perfectly good society'. (Cit. H. Miller, New Zealand, p.44).
settlers become more numerous.\textsuperscript{71}

The whole concept of peaceful amalgamation was further menaced by a falling away in the 1840s of Maori enthusiasm for missionary teaching, both of Christianity and literacy. This was partly because the restraints of Christianity and the loneliness and irksome discipline of life in mission schools had begun to make themselves felt.\textsuperscript{72} It was also part of a wider and deeper Maori resentment at the influx of settlement. The chiefs had not signed the Treaty to permit a flow of immigrants, but rather to have the Governor check settlement. Now many of them felt that they had been deceived.\textsuperscript{73} The gross rudeness, the careless contempt, the deceit, bullying or aggressiveness of settlers -- including the pre-1840 circumspect -- settlers, hitherto dependent on the chiefs and very/made it quite clear to

\textsuperscript{71} Hobson to Russell, 15 October 1840 -- GBPP, 1841/311, p.113.

\textsuperscript{72} Maori adoption of Christianity and literacy, and later loss of interest in it, are described in Wright, New Zealand 1789-1840: Early Years of Western Contact and C.J. Parr, 'Maori Literacy 1843-1867' -- JPS, vol.72 (1963), n.3, pp.211-28. The increasing adoption of European clothing, foodstuffs and building methods, which impressed some enthusiasts for amalgamation, was misleading. Essentially these things had been grafted by the Maoris into their old pattern of life. (See R.P. Hargreaves, 'Changing Maori Agriculture in Pre-Waitangi New Zealand', JPS, vol.72 (1963), n.2, pp.101-15). The behaviour of Nopera, the Rarawa ariki, who lived in a weatherboard cottage, assembled his people for morning and evening prayer, lived with one wife and entertained the Governor and his suite to tea, yet who abruptly repudiated European restraints and resorted to warfare in defence of his land, (Buick, The Treaty of Waitangi, p.149), was a phenomenon that occurred regularly throughout the nineteenth century, to the puzzled disappointment of humanitarians.

\textsuperscript{73} In the Waikato George Clarke, Snr, was met by furious denunciations of the missionaries who had beguiled the chiefs into selling their country. Despite Clarke's assurances of the benefits of a settled rule of law and government Maoris said they would have preferred an outright aggression from the French, when they would have died heroically defending their land. (Clarke report, GBPP, 1842/293, pp.98-99).
the Maoris that a reversal of the balance of power was taking place. There grew among many of them a desire to return to the pre-1840 days when, they believed, all power had been in Maori hands, a state of affairs which they fondly but erroneously imagined they would have been able to preserve indefinitely, but for the intrusion of British authority.

The principal elements of the intensifying crisis in race relations had thus revealed themselves within three years of the signing of the Treaty of Waitangi. The origin of the situation was the influx of settlement which official opinion believed was susceptible of little control. Hence the only hopeful course for the Maoris was deemed to be amalgamation and as quick and total an exchange of traditional custom for English skills, English institutions and English law, as could be achieved - otherwise they would be trampled underfoot by the immigrants. But, to the irritation and disappointment of officials, the Maoris reacted not only against settlement, but against the rule of law and the institutions of civilisation that threatened to enmesh them.

Meanwhile the pace was being forced by the thrusting drive of the settlers, who were showing all the impatience and intolerance officials such as Stephen had feared. They felt cooped up in their coastal settlements, an insecure fringe on a Polynesian heartland, denied land by people they regarded as barbaric and inferior. Among the Company settlers on Cook's Strait, a dangerous illusion gained currency that it needed only a show of strength on their part - since the Government seemed reluctant to provide one - to collapse Maori resistance to land sales. On the next occasion that they believed they had sufficient right

74 See Sinclair, A History of New Zealand, p.72, for this image.
on their side the settlers made their move. The attempt to arrest and manacle Te Rauparaha, for burning surveyors' huts on land claimed by the Company in the Wairau valley, led to the death of 22 Europeans at the hands of the enraged Maoris.  

The success of some magistrates who took a boatload of armed men to Cloudy Bay and exacted a fine from a chief who had obstructed coal workings on disputed ground, seems to have encouraged Captain Arthur Wakefield to try the similar experiment against Te Rauparaha and Rangihaeata in the Wairau valley. (GBPP, 1844/556, Evidence, p.213). Strange as it may seem, in view of the poverty of the Company's claim to the Wairau, the European leaders of the foray seem actually to have convinced themselves that they were striking a great blow for civilisation and the rule of law. Thompson, the magistrate in the case, seemed to think he ought, when an information was laid, to issue a summons against Te Rauparaha for the crime of arson and should not be deterred any longer from enforcing the law by the Maoris' strength. Thompson argued till his death that he had come about the charge of arson and not about the land. (Ibid., p.145 and Appendix, pp.136-45 and 166ff). Arthur Wakefield wrote before he left on the expedition:

'I think we shall overcome these travelling bullies. I never felt more convinced of being about to act right for the benefit of all, and not less especially so for the native race'. (Wakefield to William Wakefield, 13 June 1843 - Ibid., Appendix, p.695).

Wakefield's statement contains the suggestion that deep down he was uncertain as to the rightness of his cause and felt the need to spell out for himself as well as for his brother a justification for the proposed measures against Te Rauparaha, but mostly there is exultation that they had found good grounds and strong resolution to challenge the supposed tyranny of the Maori chiefs. It was a preview of the perverted idealism that was later to cause much great bloodshed in New Zealand.
(iii) FitzRoy's Policy

At Wairau the law had been invoked in a wrong cause and humiliated. To the chiefs, who had already indicated that they would respect British authority so long as it did not arbitrarily deprive them of their lands or their status, the attempted arrest of Te Rauparaha was a threat and a betrayal. Violence and turbulence towards settlers and defiance of officials and magistrates markedly increased. For their intrusions onto settlers farms increased; squatters long tolerated on Maori land were plundered; in Nelson Maoris defied the magistrates' summonses; in Motueka they 'proceeded to enforce their own custom of payment or compensation for injury sustained, and have openly declared they would have nothing to do with the white man's law'; in Wellington itself a chief of Pipitea pa, arrested for theft, was twice liberated by his people, and secured each time only when the magistrate called out the military detachment in the settlement. (GBPP, 1844/556, Appendix, pp.264-267). One settler wrote:

After the Wairau affair, they seemed to be another race of people. They say they have no occasion to sell their land if they do not like; agree with Rauparaha in almost everything he says; very suspicious, obtrusive, boisterous, thieving, plundering, taking advantage of the white man in dealing; impudent, asking for anything, thinking you will give it them through fear, trying to frighten you, firing off muskets, practicing their war dances and songs, eating more pork to make them strong, buying a deal of gunpowder and lead, making tomahawks, laugh at the white people, say they are cowards, the Queen is but a girl; they are ready to fight the people in Port Nicholson.

(Mitchelson to Hutt, 22 February 1844 - ibid., Appendix, p.715). This statement reflects a popular myth that the Maoris near the settlements had been entirely compliant and obedient to law before the Wairau affair. This was not the case, though it was certainly true that the Maoris were generally more friendly and amenable before the affray.
part, the settlers, anxious for security for the future and vengeance for the Europeans killed at Wairau, urged that the Maoris must be made to give up their former modes of redress, even if they were in the right in a dispute, and take their cases to the courts. If they did not, New Zealand would become a battleground and the Maoris ultimately the losers. They argued that it was 'vain and visionary' to believe that the Maoris could be led to a peaceful acceptance of English law. A trial of strength would be necessary, though a sufficiently large British force could over-awe Maori resistance with a minimum of bloodshed. 77

The Colonial Office was not, however, inclined to sanction a full-scale military occupation of New Zealand. On the contrary, having been made aware of the strength of Maori resistance to the rule of European law, it reiterated the desirability not only of giving temporary recognition to Maori custom with respect to the Maoris' internal relations, but also of modifying the requirements of law, where necessary, with respect to relations between Maoris and settlers. FitzRoy, the incoming Governor, was instructed that, in their enforcement of law, magistrates were to be guided 'by considerations of equity and prudence'. It was pointed out that in other British colonies laws enshrining native customs

77 Somes to Stanley, 2 November 1842 - ibid., Appendix, p.107; Monro and Domett to W. Shortland, 10 August 1843 - ibid., Appendix, p.709.

78 Stephen wrote that he knew of no reason, 'why in all matters purely inter se - their marriages, inheritances, contracts and so on, and even in the definition and punishments of crimes - they should not live under their own laws and customs...gradually superceding them by our law, as the natives may learn to understand and to appreciate it'. (Stephen to Hope, 28 December 1843 - CO 209/22, pp.247 and 253).
were respected by local legislatures and enforced by British courts. Similarly, the Colonial Office looked to the New Zealand legislature 'for the enactment of laws adapted to so singular a condition of society'.

Whereas Russell's unfortunate alteration of Stephen's draft instructions to Hobson, so as to permit only a mere 'toleration' of Maori custom had effectively inhibited any chance there was of that governor making positive use of it, FitzRoy had a clear injunction to include it in a constructive programme of legislation. Amalgamation was still the main goal but the temporary recognition of Maori custom was regarded as the quickest means of winning the chiefs' acceptance of the rule of law and thence, eventually, of one code of law.

In New Zealand, Clarke, the Chief Protector, had gained a keen appreciation of the shortcomings of the English legal system from the Maori point of view. There were obvious objections such as unfamiliarity with alien procedures, the tardiness of the law, the remoteness of the courts from the bulk of the Maori population, and the expense and uncertainty of securing a conviction against a defendant wily in pleading or skilful in sheltering his crimes behind a cloak of legality. Equally serious was a fundamental difference between the European and Maori forms of redress. The Maori institution of muru or formal retributive plundering, secured for the victim of a crime and his kin,


80 See above p.455; Hobson had failed to carry out the recommendation to enact a law authorising the executive to tolerate Maori custom in the internal affairs of the tribes. 'I know not what hinders the enactment of [such] a law - ' wrote Stephen irritably. (Stephen minute, 19 May 1843 - CO 209/16, p.455).
compensation or utu for injury; European criminal law merely punished the criminal - a vindictive and pointless proceeding from the Maori point of view. European civil law did include provision for damages claims but did not cover many offences important in Maori eyes, such as certain breaches of sexual mores, infringement of chiefs' prerogatives and the offence of kanga - cursing or execration of ones antagonist.

To meet the situation Clarke proposed to legalise useful Maori customs and apply them in Native Courts consisting of the Protector of the district associated with the principal chiefs and a jury - all Maori in cases between Maoris, half European and half Maori in mixed cases. The courts were to sit in the villages, not in towns remote from the majority of Maoris, and the records of their proceedings were to be the guide to further legalisation of useful customs. By the adjudication of the same courts on tribal land disputes a Domesday Book of land claims was to be built up. It was an essential feature of the scheme that the important chiefs of the district concerned were to participate both in the hearing of a case and the execution of the judgment. Thus they were to be involved in the responsibility for the administration of justice in Maori districts and the Government correspondingly relieved. Since the Native Courts were to administer

81 Clarke to Col.Sec., 31 July 1843 - GBPP, 1844/556, Appendix, pp.346-8.
82 A Bay of Plenty chief, Kahukoti, had earlier suggested to W. Shortland and Clarke that the Governor should record all Maori land claims in a book to prevent Europeans from unjustly claiming Maori land. (Shortland to Stanley, 30 October 1843 - ibid., p.340).
83 Clarke to Col.Sec., 31 July 1843 - GBPP, 1844/556, Appendix, pp.346-8.
modified Maori customs, not common law, the scheme approached a form of indirect rule. Though it was objected that there was a lack of money and men to provide for such a system, Clarke held that while that was a serious difficulty it was not so insurmountable 'as the attempt to govern and preserve this people without such assistance'. The only alternative was that being urged by many settlers – conquest of the country by force of arms with its attendant cost in money and men, 'and perhaps the utter extinction of the native tribes'.

85 Clarke to Col.Sec., 1 July 1845 – GHBPP, 1846/337, pp.135-6. Clarke's whole argument ran:

A country like this, divided into numerous independencies, each more or less embittered against others by the accumulating feuds of centuries, could scarcely be reduced to the order and decorum of a regular Government without the employment of peculiar and extraordinary efforts, implying an intimate knowledge of the customs and language of the people.

To govern the New Zealanders, without destroying them, an expensive machinery must be employed; the necessary moral influence indispensible to the success of the undertaking could only be acquired by the distribution of officers of high character throughout the country, with powers to deal summarily, agreeably to the principles of native usage, with cases submitted to their jurisdiction; but then, it may be asked, where are such men to be found; how are they to be trained for the work; and how is their authority to be maintained? This difficulty is unquestionably great, but not so utterly insurmountable as the attempt to govern and preserve this people without such assistance. Until we have a moral agency of this kind adequate to the end in view, how are we to prevent native wars, or to prevent the native chiefs enforcing their authority by the only means with which they are acquainted? ...In fact there is no alternative – we must either accomplish these objects by convincing them that we are in a position to protect them as well as rule them, and we must provide the necessary remedies to meet their cases of disagreements and discords among themselves, or we must conquer the country by force of arms, which could not be done without converting the whole island into a military station, involving a great sacrifice of life, and perhaps the utter extinction of the native tribes.
FitzRoy took up the problem soon after his arrival. On meeting the Nelson settlers he said he would without delay lay before the Legislative Council 'declaratory or exceptional laws in favour of the Aborigines' that would prevent a reckless application of English legal processes such as had produced the Wairau massacre. Just at that time the issue was high-lighted by an incident in Auckland. A Ngatiwhatua Maori, sentenced to three months imprisonment for a petty theft, was snatched bodily from the clutch of court officials by his chief, Te Kawau, and other Maoris.

FitzRoy thereupon summoned the Auckland chiefs to a meeting at Government House and rebuked them for being turbulent at a time when 'I and those who understand the law have been engaged in preparing special laws for your good; and particularly to prevent you being dealt with harshly or hastily in cases where you are not sufficiently acquainted with the law'. The chiefs acclaimed this and asked that felons be made to pay compensation to the victims of their offences, according to Maori custom, instead of being subjected to the apparently pointless and degrading European penalty of imprisonment.


87 It was another case of over-zealous enforcement of the law. The offender had offered compensation for his theft, and according to Maori custom, this in itself was a heavy atonement. Te Kawau and his followers therefore expected a light sentence such as a fine. Their exasperation at the heavy sentence provoked their spontaneous release of their kinsman followed in due course by uncertainty as to the rightness of their conduct and the surrender of the prisoner. (Sunbury to Stanley, 26 February 1844 - GBPP, 1845/131, p.37; Clarke, Snr, to Col.Sec., 31 July 1844 - GBPP, 1845/369, p.79).

88 Notes of meetings, 9 March 1844 - GBPP, 1845/131, p.42.
When FitzRoy met the Legislative Council in March 1844 he spoke of 'guardedly authorising some of the native chiefs to act in a qualified manner as magistrates in their own tribes, and for granting them small salaries'.\(^89\) This was how he phrased it for European ears. To the Waikato Maoris, assembling in thousands at Remuera for a hui he said: 'We are preparing a law, by which it will be settled that chiefs of this country shall not be imprisoned, provided that compensation be made according to your own customs, and that two or three chiefs will answer for such compensation being made'.\(^90\)

The measure that finally emerged, the Native Exemption Ordinance, provided that in disputes involving Maoris alone no magistrate could serve a summons until two chiefs of the injured party's tribe laid an information, and then the summons or warrant would be delivered to two chiefs of the offender's tribe for execution. In cases where a Maori, living outside the limits of a town offended against a European, the warrant was likewise to proceed to two principal chiefs, through the Protector of the district. Chiefs who executed a warrant and caused the apprehension of an offender were to receive a small payment. In criminal cases other than rape or murder a Maori offender was allowed to go free on payment of a £20 deposit, which could be paid to the victim if the offender did not appear for trial. Similarly a Maori convicted of theft could avoid sentence on paying four times the value of the goods stolen, and this could be used to compensate the victim of

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89 FitzRoy to Stanley, 20 August 1844, GBPP, 1845/247, p.30.
90 FitzRoy to Stanley, 25 May 1844 - ibid., p.13.
the theft. Finally it was provided that no Maori would be imprisoned for a civil offence such as debt or breach of contract. Three further ordinances of 1844 also modified European law to accommodate Maori needs. One allowed the unsworn testimony of non-Christian Maoris to be received in a court of law; a second authorised the Governor to exempt suitable Maoris from the property qualification for jurors and place them on the jury list; a third allowed Maoris to claim damages for trespass of cattle on their unfenced cultivations as well as fenced ones; a measure which, not unreasonably, obliged settler stock-owners to fence their cattle in and relieved Maoris from burdensome responsibility of fencing cattle out of their traditionally unfenced and shifting cultivations. These last measures were highly popular with the settler community but none was assailed as heavily as the Native Exemption Ordinance, which was regarded as setting the seal on a policy of appeasement. But FitzRoy (like later governors) had no real alternative to restricting the issue of warrants against Maoris, even when the settlers were in the right in a dispute, until he had considered whether he could

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91 Ordinances of New Zealand, Sess.III, n.XVIII.
92 Ibid., Sess.III, ns.II, XIV, and XVI.
93 McLintock has endorsed this view. (McLintock, Crown Colony Government in New Zealand, pp.181-2). But he erroneously regards the ordinance as an attempt to pacify restless Maoris in the Bay of Islands. This is a speculation based merely on the fact that it was passed in July 1844 when disorder in the Bay was mounting. As has been explained, the origins of the ordinance lay in Stephen's instructions to FitzRoy, in Clarke's ideas, and in FitzRoy's remarks to the Nelson settlers and the Auckland Maoris much earlier in the year.
proceed without embroiling the whole Colony. Unless the Government could concentrate sufficient police power, or win the cooperation of sufficient chiefs, this was only sensible. And although the ordinance appeared to invite Maoris to cheat in commercial transactions knowing that they could not be gaol, or plunder out-settlers knowing that they could go scot-free unless their chiefs handed them over, from awareness of their strength, they knew they had this freedom anyway.

Moreover, FitzRoy has not been given due credit for the positive aspect of his measure, the incorporation in it of the Maori principle of utu - or compensation for injured parties, instead of merely punishment for the offenders. In 1845 he extended the principle from theft to assault cases, authorising the payment of half the fine for such offences to the victim of the assault.94 This was a genuine attempt to make English law more acceptable to the Maoris by incorporating a useful point of custom. In fact the compensation principle immediately won support from the more intelligent chiefs who generally paid compensation for an offence by one of their followers. If the offender was of no account in a chief's eyes - as was the case of an increasing number of Maoris who detached themselves from their hapu to live on the outskirts of the towns - he went to gaol anyway.95

Yet FitzRoy's offer to pay chiefs for the apprehension of an offender in their tribe was a tawdry proposal amounting to a cheap enticement to sell one of their own race to an alien justice. It

94 Fines for Assault Ordinance, 1845 - Ordinances of New Zealand, Sess.V, n.VII. See also FitzRoy to Stanley, 18 July 1845 - GBPP, 1846/337, p.66.

95 Ibid., pp.11, 114 and 134.
made a travesty of Clarke's proposals for salaried Maori magistrates and of FitzRoy's own description of the measure when he introduced it to the Legislative Council. The provision for placing a few Maori jurors on the jury roll was also a poor substitute for Clarke's scheme of mixed and all-Maori juries. As Wake explains, the Native Exemption Ordinance was substantially a victory for Swainson's policy of virtually abandoning control of the out-districts or proceeding only when Maori offenders had been 'extradited' by approaches to their chiefs. Wake suggests that Swainson's view prevailed largely because Clarke's scheme for recognising Maori custom in the Native Court 'implied a compromise with the uses of barbarism' that was repugnant to settlers and objectionable even to humanitarians who sought to supplant Maori usages with 'civilised' ones. This is undoubtedly true, but there was more to it than that. The juries scheme was said to have been abandoned because it was felt that with regard to internecine disputes, no Maori juror could be impartial. More importantly, Clarke's scheme touched upon the question of where power in the Colony was to lie. In 1840 the ariki had asked for the substantial preservation of their powers and humanitarians had advocated, if not the preservation of old powers, at least compensating new ones. But settlers - and officials - were jealous and fearful of bolstering Maori authority, especially if they were likely in any way to be subject to it. This seems to have been the principal reason for the frustration of Clarke's plans to give the chiefs magisterial authority, and empanel mixed juries in disputes

96 Wake, 'George Clarke and the Maoris', pp.354-5.

97 AJHR, 1860, E-9, p.19.
between Maoris and settlers. Referring to his scheme Clarke wrote: 'Instead of this we have been so apprehensive lest any portion of the executive power should pass into their hands, that our firmest [Maori] friends have been shaken in their confidence in our ultimate intentions'.

The vacuum in administration outside the main centres continued.

IN consequence of the Native Exemption Ordinance and other activities of FitzRoy which were considered appeasement, a stream of angry invective against the Governor was sent to London from the New Zealand settler community. However, FitzRoy may have retained the confidence of the Clarke to Col.Sec., 1 July 1845 - GBPP, 1846/337, p.133. A similar distrust and jealousy inhibited attempts to use Maoris as police or soldiers. In the whaling community of Port Levy, Maori 'constables' were appointed to assist in the return of deserting sailors. However they preferred to plunder the sailors before returning them instead of waiting on the payment offered for the return of each man, and this tended to confirm European preconceptions that Maoris were incapable of exercising authority with wisdom and impartiality. Edward Shortland, the Sub-Protector, wrote from Port Levy that, for the sake of good race relations, it was not safe to use Maori police. (Shortland to Clarke, Snr, 18 March 1844 - ibid., p.154).

FitzRoy had placed the blame for the Wairau affray squarely on the settlers and refused to move against Te Rauparaha and Rangihaeata. This restored an uneasy peace to the Wellington district, and, contrary to settler calumnies, did more to reduce than encourage Maori turbulence. FitzRoy's reversal of a large award of Taranaki land to the Company forestalled the violence that certainly would have overtaken that district had the settlers tried to act on Spain's decision. Sub-Protector McLean reported from Taranaki that after the reversal of Spain's award, the Maoris began to assist Europeans settling onto their remaining sections instead of molesting them, and again began to bring disputes with Europeans to him for settlement, instead of taking redress into their own hands. (McLean to Clarke, Snr, 17 December 1844 - GBPP, 1846/203, p.143). FitzRoy's tinkering with the customs duties and relaxation of the Crown's pre-emptive right to purchase Maori land - measures designed to placate Maori restlessness in the North - were, however, somewhat in the nature of hasty concessions, and failed of their purpose.
Colonial Office but for the misfortune of Hone Heke's rising. Heke was in fact that bold and enterprising quasi-nationalist leader whose appearance Clarke had half-expected. The substance of Heke's complaint was that the Government, by its customs dues, its pre-emptive right to land purchase and its efforts - weak though they were - at policing the Maoris, constituted an intolerable interference in his way of life and threatened a great diminution in the Maoris' status. Heke and his followers were also concerned at the increasing numbers and self-confidence of the settlers after the British acquisition of sovereignty. In July 1844 they sought to restore the pre-1840 position of the Maoris by cutting down the British flagstaff at Russell.

100 See above p.509. Heke had already, during the fighting between the Ngapuhi and the Rarawa in 1843, taken time off to plunder every European house in the vicinity of the fighting. (Clarke, Snr, to Col.Sec., 1 June 1843 - GBPP, 1846/337, p.109).

101 Buick, New Zealand's First War, pp.43-7. The nature of Heke's nationalism is revealed in some of his utterances. To Grey he wrote: '...do you return to your own country, to England, which was made by God, for you. God has made this land for us, and not for any stranger or foreign nation to touch'. (Heke to Grey, 2 December 1845 - GBPP, 1846/690, p.15). And to Queen Victoria: 'It rests with you to restore the flag of my island of New Zealand, and the authority of the hand of the people. Should you do this, I will for the first time perceive that you have some love for New Zealand'. He wrote that the Queen's duty was to keep away from New Zealand 'the Governors, the soldiers, the French, and the Americans, but to let the missionaries stay'. (Heke to Queen Victoria, 10 July 1849, GBPP, 1850[1280], p.7). He is also reported to have advised his supporters not to give women to the Europeans lest, 'Before any lengthened period this island will be taken by these half-Pakehas [their offspring]'. (Letter quoted by C.O.Davis, DSC, 17 October 1868).
At this, the first serious outbreak he had to face, FitzRoy showed little of the reaction of an appeaser. He sent immediately to Gipps in New South Wales for troops and moved against Heke. Before he could land his reinforcements, however, he was prevailed upon by the other Bay of Islands chiefs to accept their guarantee of Heke's future good behaviour. They laid guns at FitzRoy's feet and entreated him to continue patiently his policy of resting British authority on the support of the chiefs. Mohi Tawhai said: 'Don't imagine that evil will entirely cease; it will not; you must expect troubles from us; but when they come, settle them in this way, and not with guns and soldiers'. Anaru said: 'Don't be discouraged Governor'.

This frank pleading was certainly disarming and FitzRoy can hardly be blamed for placing confidence in the good offices of men like Wake Nene and Mohi Tawhai. But he had been led by them to over-estimate their authority over younger chiefs like Heke. Even in pre-contact times this authority was by no means absolute and rested ultimately on the use of force, which the ariki were now reluctant to apply against their own kin in the service of the Pakeha. Moreover there was widespread sympathy with Heke's point of view. Even the stalwart Waka Nene, smouldering about a government regulation which prohibited the random cutting of Kauri timber, was saying in January 1845 that he had been over-hasty in signing the Treaty of Waitangi. Te Heuheu and other

102 The Southern Cross, 7 September 1844, cit. GBPP, 1845/247, p.150.
103 There was a tendency for Europeans to believe that the heads of major lineages had near absolute power over their junior kin, and when they did not find it so, regarded it as evidence that the chiefs' power had decayed.

104 Buick, New Zealand's First War, pp.52-3.
strongly independent ariki in the centre of the island, also registered their support. Not surprisingly, sporadic deprivations on settlers continued and full-scale assaults on the flagstaff revived in 1845.

The renewed rising coincided with a display of force by Te Rauparaha - much less justifiable than his stand in the Wairau valley - and

105 Te Heuheu considered that the chiefs of the Wellington district had lost their land, liberty and the privileges of their station as a result of British encroachment and ultimately feared the same fate for himself and his people. See McLean to Clarke, Snr, 11 July 1845 - Native Affairs, North Island, A-2, p.126.

106 E.g., during the arrest by European police of her European paramour, a Maori woman received a skin cut on one finger. The woman's relatives asked the local magistrate for two horses as compensation for the blood shed, were refused, and promptly took eight horses from the nearest available settler. (FitzRoy to Stanley, 19 October 1844 - GBPP, 1845/369, p.32).

107 Rangihaeata and Te Rauparaha had alienated all sympathy by refusing to evacuate the Upper Hutt valley after formally accepting payment for the land. Men who for years had taken the Maori side against settler pressure - Matthew Richmond the Superintendent of the Southern Settlements, Forsaith the Sub-Protector, and even Hadfield, the redoubtable Anglican missionary at Otaki, and staunch advocate of the Maori rights - all urged that the time had come to check Maori excesses. (Richmond to FitzRoy, 6 January 1845 - GBPP, 1846/337, p.12; Forsaith report, 21 April 1844 - GBPP, 1846/203, pp.31-33. Richmond to FitzRoy, 24 December 1844 - GBPP, 1846/337, p.10). Another alarm was caused by a large taua of Ngatituwharetoa and Ngatimaniapoto warriors under Te Heuheu Ivikau who had come down the Wanganui river to avenge a defeat by the Ngatiruanui in 1839. They settled for some days among Wanganui Europeans, pilfering from houses, plundering gardens, making advances on European women and molesting a 12 year old girl. Te Heuheu, who had once been irked by a European who took produce from him and had not paid for it, did little to restrain them. Officials and missionaries eventually persuaded the taua to go home. (Forsaith to Clarke, Snr, 30 January 1845 - ibid., pp.13-18).
caught FitzRoy with insufficient strength. Largely because he had been
told on appointment not to expect to be given any, he had been slow to
request more troops from England, and, like Hobson, he had feared the
provocative affect of enrolling a settler militia. He now sent to
Sydney again and massed the slender resources he had in defence of
Russell, which Heke was threatening. He was unlucky. Gipps did not
realise the urgency of the situation and was slow in despatching
reinforcements. Before they arrived the Maoris attacked Russell, the
defence was bungled, and the town sacked. 108

The sack of Russell ruined FitzRoy and he was made the scapegoat of
settler fury and Colonial Office embarrassment. The tragedy was not
just FitzRoy's but that of the future of New Zealand race relations as
well. The climax of Heke's depredations was held by the settler
community to stem from FitzRoy's pandering to Maori 'bounce'.
Consequently the spirit of cooperation and conciliation by which he had
sought to win Maori acquiescence in British rule was utterly discredited,
along with its protagonists - FitzRoy and the Protectorate Department.

The truth of the matter was that Maori turbulence had occurred in
spite of, not because of, FitzRoy's main line of policy. Heke, like-
many of his fellow-chiefs, was reacting against the pressure of European
government. The answer seemed to be contained in the principles applied
- albeit ineptly - in the legislation of 1844: firstly, not to press
English law too hard upon the Maoris; secondly, to modify the provisions

of the laws that were applied, to suit Maori requirements; thirdly, to give the chiefs an effective role in the application of law and administration. Of course this policy needed to be backed - as it was not under FitzRoy - by an adequate police power and magisterial staff, also incorporating Maoris as far as possible, and used with skill and discretion.

Details of the Native Exemption Ordinance reached London about the same time as news of Heke's rising. Stephen's reaction on first reading the ordinance was: 'this is a wise Law...But it seems well calculated to provoke objection'. When the expected objections from the settlers in New Zealand duly reached London, Hope suggested that the ordinance was too favourable to the Maoris. Stephen replied that objections were easy to find but that even weightier objections could be found to leaving the law as it was without the ordinance, but 'Perhaps it might be well in writing to Captain Grey [who had by then been selected to succeed FitzRoy] to point out the prima facie difficulties... that it may appear hereafter that the Law was not unsifted, nor swallowed whole, from any undue bias in favour of the Natives'.

Stephen seemed to wish to retain the substance of FitzRoy's measure but to anticipate and placate hostile criticism. However the letter that went out to Grey was very different. It was a clear statement that FitzRoy's zeal had outrun his discretion and that 'laws weighted too

109 Stephen minute, 1 August 1845 - CO 209/29, p.201. (This is a portion of a long minute by Stephen on the New Zealand ordinances of 1844).

110 Stephen minute, c.10 August 1845 - ibid., p.199. Hope wrote his comments on Stephen's assessment of the 1844 ordinances and Stephen added further comments beside those of Hope.
much in favour of the weaker party will by the sure operation of familiar causes defeat their own ends'. Grey was instructed to lose no time in having the ordinance amended so as to confine its application as far as possible to relations between Maoris only.\textsuperscript{111}

It is possible that Stanley himself stiffened the tone of this despatch for he was noticeably more hostile than Stephen to measures appearing to favour the Maoris.\textsuperscript{112} But the reference to the liberality of the Native Exemption Ordinance defeating its own ends is entirely in keeping with Stephen's over-riding pessimism about the New Zealand situation, an attitude that had caused him to favour an amalgamative rather than a protective policy in the beginning and one that now caused him to refrain from advocating promising policies if they looked like aggravating settler prejudices. The requirement that the Maoris submit to the European pattern law and society was in fact largely a product of defeatism and a divergence from the genuine pursuit of racial amalgamation. Just as officials in New Zealand tended to be discouraged by hostile criticism from the schemes for Maori constables or Maori magistrates, so also did the Colonial Office shrink from giving Maoris privileges under the law and incorporating Maori custom in the legal code of the Colony - both tending to amalgamation since both calculated to win increased Maori support for the rule of law - if this was not immediately acceptable to the settlers. The Native Exemption Ordinance

\textsuperscript{111} Stanley to Grey, 13 August 1845 - ibid., pp.214-216.

\textsuperscript{112} See their respective comments on FitzRoy's instructions to M. Richmond, his Superintendent in the Cook's Strait settlements, not to proceed against Maoris occupying European sections unless he could do so without provoking a major disturbance. (CO 209/28, p.60).
was damned by the settlers as appeasement. This judgment is arguable. What is certain is that the virtual abandonment by the Colonial Office of a measure Stepehen described as 'wise' was appeasement of the settlers. FitzRoy had been encouraged along a certain line of policy and then abandoned there. The replacement of FitzRoy by George Grey (whose memorandum arguing against exceptional laws for native peoples had been singled out for praise by the Commons Committee on New Zealand in 1844) marked the interest, in London, in attempting to press amalgamation at a more rapid pace. Gladstone, Stanley's successor, hammered home the principle which underlay the policy of amalgamation. Grey, he wrote, was to stand between the settler and the Maoris, but not, as FitzRoy had done, in such a way as to cause a separation which aroused jealousy and discouraged association between the Maoris and settlers.113

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113 Gladstone to Grey, 31 January 1846 - GBPP, 1846/337, p.160. Gladstone's instruction on the Governor's responsibility to stand between settlers and Maoris had often been noted by historians, but not the extremely important limitation on it.
(iv) Grey Fails to Satisfy Maori Aspirations

IF Government and the rule of law were to be extended over the Maoris without large scale war, it appeared to be imperative that the fears and sensitivities of the chiefs, amply demonstrated in 1840-5, had to be allayed. Yet on the face of it there could hardly have been found a Governor less sympathetic to their aspirations than George Grey. His memorandum of 1848 had argued that natives afflicted by customary sanctions should be able to appeal to British law. 114 Grey reiterated this theme early in his governorship of New Zealand, objecting to the power of the chiefs both for their tendency 'to draw back the mass of the native population to their old barbarous customs' and for the insipient threat they held over the settlers. 115 This statement was an important illustration of the tendency for humanitarian concern for Maori advancement and settlers self-interest to find common ground in desiring a diminution of the authority of the chiefs.

Nevertheless Grey's first actions showed considerable respect for Maori viewpoints - and Maori strength. News had spread among the Maoris

114 Grey to Russell, 4 June 1840 - GBPP, 1841/311, p.43.
115 'These old customs of the natives are probably the most murderous and horrible which have ever existed in the world, and I cannot but dread, that if any steps are taken which should unite a large proportion of the native population against us...' (Grey to Earl Grey, 13 May 1847 - cit. McLintock, Crown Colony Government in New Zealand, p.393).
that the 1844 Commons Committee on New Zealand had decided against
The Treaty of Waitangi and the Maori claim to uncultivated lands.
Grey's early assurance that he meant to uphold both won him/considerable
legacy of relief and goodwill. His handling of Hone Heke's rising
was marked by energy, astuteness and a concern for the wishes of the
'Native allies' upon whom his success largely depended. His acceding
to their requests not to confiscate rebel land removed the worst
obstacle to the growth of reconciliation between the Government and
the northern tribes. Much of his success in quelling rebellion about
Wellington and Wanganui was due to his defining, and in some cases
increasing, Maori reserves. The only aspects of his handling of the
rebellion that did not redound to the Governor's high reputation were
the seizure and holding of Te Rauparaha without trial and the hanging
of one Martin Luther, more by way of example than because Luther had
been personally guilty of capital crimes. Though immediately effective
these actions were remembered afterwards by important chiefs more as
examples of oppression than of justice.

116 Grey to Stanley, 24 May 1845 - GBPP, 1846/7127, p.10. Clarke, Snr,
report, 20 March 1847 - GBPP, 1847/8327, p.73. The sections of the
1846 Constitution Act relating to land also held that the so-called
'waste lands' were Crown lands; these too Grey declined to implement.

117 The Wanganui rising stemmed from the accidental shooting of a chief,
followed by the massacre of a settler family in utu. When Grey
landed troops to apprehend the killers the ariki of the middle and
upper Wanganui, Pehi Turoa and Topine Te Mamaku, viewed it as a
threat and attacked the settlement.

118 J. Rutherford, Sir George Grey, pp.83ff.
In the field of civil administration Grey soon found himself at loggerheads with the Protectorate Department. Clarke disagreed with the whole tenor of Grey's approach - his proclaimed desire to destroy the authority of the chiefs, supplant Maori custom with common law and force the pace of amalgamation. He also criticised some of Grey's early actions such as his appearance with the troops in the war against Heke. Grey was too autocratic in temperament to bear easily with anyone who was not wholeheartedly in accord with him. Moreover, the Protectorate Department carried an embarrassing legacy of unpopularity for its supposed appeasement of the Maoris in the FitzRoy period. Grey therefore made a scapegoat of it, blaming it for past mistakes, indulging in vindictive attacks on some of its personnel, and finally disbANDING IT. 119

119 GBPP, 1850 [1136], pp.155-9.

120 A good illustration of the partiality of biographers is revealed by Gibbons, biographer of the Protectors, and Rutherford, biographer of Grey. Rutherford maintains that Grey was very patient with Clarke until the Chief Protector began to criticize Grey's policies and defend FitzRoy's. (Rutherford, Grey, pp.96-8). Gibbons claims that it was Grey who began criticizing, and when Clarke defended himself, publicly and ably, the Governor became vicious and made a scapegoat of the Protectorate (Gibbons, The Protectorate of Aborigines, p.20). The writer considers both men fairly intolerant of one another and of each other's policies.
In so doing Grey destroyed an organisation which, despite its much-publicized failures, had quietly achieved considerable success in minimising Maori-European conflict. The Protectorate had also begun to amass detailed knowledge, upon which policy could be based, in such matters as Maori land tenure, and the cessation of this development was unfortunate. 121 There was not again to be a department of government so sensitive to Maori viewpoints and the absence of it was to be extremely serious in the next decade.

The office of Native Secretary with which Grey replaced the Protectorate was merely that of a clerk working under the Governor. The first Native Secretaries were, successively, Lieut. J. Symonds and C.A. Dillon. After the division of New Zealand into two provinces under the 1846 constitution, Major Nugent became Native Secretary in New Ulster while H.T. Kemp, a former Sub-Protector, became Native Secretary to Lieutenant-Governor Eyre in New Munster. The Native Secretaries arranged hospitality for visiting Maoris, negotiated land purchases and adjusted such disputes over land claims or the boundaries of reserves as came to their notice. Kemp also employed himself with trivial activities such as translating Robinson Crusoe and Pilgrim's Progress into Maori. 122 During their land purchase operations the

122 GBPP, 1851 \(\sqrt{420}\), pp.232-42, and 1854 \(\sqrt{1779}\), p.110. Earlier in his career Grey himself had been a Resident Magistrate at King George's Sound in Western Australia.
Native Secretaries and other land purchase commissioners - notably Donald McLean who had also found good employment under the new regime - frequently made long journeys into remote regions gathering information and settling disputes. But they were not in a position to foster regular machinery of local administration and justice among the Maoris. For this work Grey had conceived of another new institution, the Resident Magistrate.

The Resident Magistrate's Court and its associated machinery, was to become the most important single institution to mediate European law and administration to the Maoris. Grey's Resident Magistrate's Ordinance of 1847 gave the R.M. a summary jurisdiction in disputes between Maoris and Europeans. For disputes involving only Maoris, the R.M. was to constitute, with two Maori chiefs appointed as Assessors, a court of arbitration. No judgment was to be carried into effect unless all three members of the court were agreed. Although Grey condemned FitzRoy's Native Exemption Ordinance, reporting that the Maoris had 'not the slightest regard or value for it', and it has been generally assumed that Grey repealed it entirely, his

123 Ordinances of New Zealand, Sess.VII, n.XVI.
125 E.g., Rutherford, Grey, pp.211-3; Wake, George Clarke and the Maoris, p.356.
Resident Magistrates Ordinance in fact drew upon it to a very considerable extent. The provision against executing a judgment in Maori cases unless the two Assessors concurred with the R.M. was an improved version of FitzRoy's requirements that a summons or warrant should proceed only through two chiefs; Grey's provision to pay the Assessors £5 for each successful execution of judgment was synonymous with FitzRoy's method of payment by results; Grey's ordinance adopted FitzRoy's important principle of allowing Maoris convicted of theft to escape sentence by paying into court four times the value of the property stolen, which payment could be used to compensate the victim of the theft; and Maoris accused of crimes could not, except within the limits of towns, be apprehended except on the warrant, not now of a Protector, but of an R.M. Obviously, although Grey trumpeted loudly about extending English law over the Maoris he did not intend to apply it if he was uncertain whether they would submit. In fact the Maoris could still commit crimes outside the towns and go unpunished. It was not long before the settlers began to condemn Grey's policy as 'identical with that which in the days of his predecessor was so much reprobated - nonenforcement of the law because it may be in opposition to the native prejudice'.

126 Fox to Sec., N.Z. Company, 15 September 1849 - GBPP, 1851 [T395], p.356
In two important respects, however, Grey's measure was a considerable advance on FitzRoy's. The placing of Maori Assessors on the bench with the R.M. in Maori cases, and the facility for quick and inexpensive summary justice in civil disputes, harked back to George Clarke's scheme of Native Courts. Both provisions were to become extremely valuable and much used by the Maoris when the R.M. system was properly implemented.

On the other hand Grey's Assessors were still not salaried officers. Moreover, although he retained or reenacted most of the modifications to English law made by FitzRoy in 1844, he did not further develop his predecessor's trends towards modifying English law to respect Maori custom. On the contrary he adhered to his main view that Maori custom must be supplanted by English law and that this was to be the responsibility of the R.M. Courts.\(^{127}\)

In keeping with this policy, moreover, Grey rejected the provision offered in the 1846 Constitution Acts of declaring Native Districts wherein custom could be given the force of the law and be upheld by formally appointed chiefs backed by the European superior courts. Instead he declared 'the barbarous customs of the Native Race' to be obsolete and useless and expressed anxiety about the ineradicable development of 'a mixed class of laws'.\(^{128}\) He had sought an alteration to his instructions to permit the enforcement of

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127 Grey to Earl Grey, 15 December 1847 - GBPP, 1847-8 [1002], p.55.  
128 Loc.cit.
English law - by which he meant the R.M. Ordinance - in Maori districts. Grey's enthusiasm and confidence in the policy of extending English law was popular in London - as he knew it would be. The humanitarian societies, wedded to the policy of rapid amalgamation, had already expressed objections to the provision in the 1846 Constitution, for declaring Native Districts, as perpetuating the Maoris in backwardness. The Colonial Office succumbed to Grey's persuasiveness and granted him the desired alteration.129

This was an important decision, the results of which were unfortunate for the course of race relations in New Zealand. The form of Native Districts that had been contemplated did not mean mere abandonment of the Maoris to their own devices, but a return to Clarke's policy of building a machinery of administration and justice which incorporated Maori leaders as much as possible and Maori custom as much as necessary. Such an approach would certainly have matched the prevailing aspirations of the chiefs. Since 1840 the need had been apparent for giving them a defined position under the government with substantial powers and functions over their own people. They were increasingly concerned about the disruption of tribal cohesion caused by the influence of Christian teaching, of the money economy and the lure of the European towns. In a famous letter to the

129 Earl Grey to Grey, 23 December 1846 - ibid., p.175.
Governor, Tamati Ngapora, a high ranking Waikato chief, bemoaned the disobedience of his slaves and complained that they sullied his name by drunkenness and thieving whenever they went to Auckland. He pleaded, 'do you strengthen our hands, so that the many slaves of this land may be kept in awe, and the chiefs be enrolled to love and protect you'.

Here was a real test of the sensitivities towards Maori aspirations for which Grey was, at least till recently, much vaunted. It was not, as has been suggested, too late in the day to attempt a conservation of chiefly authority, nor, in view of the interest that the Colonial Office took in Tamati Ngapora's request, could inability to command sufficient finance be pleaded as an excuse.

130 Tamati Ngapora to Grey, c.April 1848 - GBPP, 1849 11207, p.12.
132 While most historians indict Grey for his failure to recognise chiefly aspirations, (e.g. G.C. Henderson, Sir George Grey, pp.117-20; McLintock, Crown Colony Government in New Zealand, pp.393-5). Rutherford, Grey, pp.117-20, attempts a defence on these grounds. But despite Bishop Selwyn's oft-quoted remark, '...the Natives are a rope of sand, you cannot hold them', it is not true that the Government could not at that time, have enabled the chiefs to retain a measure of authority over their own people. And while it is true that the settlers were too jealous and resentful of chiefly authority to supply funds to help Grey restore it, Grey, at a later time, by playing on the threat of war, raised funds from the Colonial Office. Given his interest in Tamati Ngapora's letter, Earl Grey might well have assisted with finance in 1848-9. The simple fact is that Grey did not want to raise the money for the purpose of bolstering chiefly authority.
But Ngapora's plea required Grey to free himself from his own predisposition to break the power of the chiefs and this he was unable to do. His experiences in quelling the rising of 1845-7 had given him considerable apprehension at the unsubdued power of the interior chiefs in the tangled hinterland of the North Island and he was much concerned to overcome them. Moreover, the knowledge that to do so would please both settlers clamorous to acquire more land - for the rank and file of a tribe were more readily tempted to sell than the chiefs - and humanitarians anxious that Maoris should quickly abandon their own institutions in favour of participating in the settler institutions, must have powerfully influenced the Governor. For these reasons he was still disposed, not to buttress, but to undermine chiefly authority. The Colonial Office - again briefly sensitive to the need to respect Maori conservatism - was much more concerned than Grey about Ngapora's plea and sent a lengthy dispatch suggesting several courses by which the chiefs' authority over their own people could be maintained and at the same time turned to the service of a central administration. Grey ignored this entirely.

133 Grey memo., 19 April 1846. GBPP, 1847 /763/, p.10. During the fighting at Wanganui in 1847 the rebels had, though their command of the interior, obtained supplies of arms from the tribes at Poverty Bay, on the opposite coast. (Colonel McLeverty to Grey, 14 August 1847 - GBPP, 1847-8/899, p.13).

134 F.D. Bell to W. Wakefiled, 23 March 1847 - GBPP, 1852/570, p.56; W. Spain to FitzRoy, 2 July 1844 - Native Affairs, North Island, A-3, p.168.

It was a fateful decision. By the end of Grey's governorship the chiefs, convinced that the Government was not going to take steps to restore their authority and the integrity of tribal society, took steps themselves to do so. The formation of the principle organisation to this end, the King movement, put them on a collision course with the Government.

The failure to assist the chiefs in their conservative aspirations may not have been so serious if Grey had wholeheartedly carried out the policy which the Aborigines Protection Society was urging, namely, to grant the Maori leaders office and reward in the new order sufficient to compensate them for the destruction of the old. But the offices Grey granted were quite inadequate for the purpose. About a hundred Maoris\textsuperscript{136} were designated Assessor, but drew no regular salary and rarely had the opportunity to sit with an R.M. Some dozens more\textsuperscript{137} were appointed as policemen in the main settlements, others enrolled as foremen of road construction gangs, and others again as 'visitors' to the hospitals Grey founded in the main centres.\textsuperscript{138}

\textsuperscript{136} The figure is an estimate only, derived from Kemp's census of the Wellington district, which disclosed 21 Assessors among 4,711 Maoris. (GBPP, 1851, p.245).

\textsuperscript{137} 34 in Wellington district in 1850 - ibid., Appendix, p.245.

\textsuperscript{138} GBPP, 1848-8, pp.70-2.
These comparatively trivial offices, which could not possibly satisfy
the desires of ariki like Te Wherowhero, Waka Nene and Tamati Ngapora
himself, Grey supplemented by shrewd personal diplomacy. He gave them
pensions, provided hospitality in Auckland, exchanged gifts,\textsuperscript{139}
flattered them with his charm and courtesy and had them travel with
him in his entourage. Like Louis XIV he sought to detach these men
from the provincial sources of their power and seduce them in to
seeking honour in his service.\textsuperscript{140} He achieved some personal success
during his governorship but for the future the result was entirely
negative. On the one hand the ariki were without real power and
function under the Government: on the other hand no machinery of
administration had been built among the tribes.

Nor were the economic and social institutions fostered by Grey
sufficient to bridge the gap between Maori and settler communities.
To be sure, the institutions he founded were excellent in their way
and long overdue. Four hospitals, considerably increased aid to
mission schools, model villages at Mangere and Otaki, employment of
\textsuperscript{139} About £100 to £300 annually was spent in each main centre on
gifts and hospitality to visiting Maoris. (GBPP, 1850 /1289/, p.56,
1851 /1420/, p.7.
\textsuperscript{140} He induced Te Wherowhero and Tamati Ngapora to settle at Mangere,
the nearest portion of Waikato land to Auckland, largely as
guarantors against attack on the capital by Waikato Maoris further
inland. (PD, 1876, vol.XXII, p.90).
Maoris in road construction and other public works,\textsuperscript{141} supply of machinery and flour mills to assist commercial farming, and the sending of one or two instructors to train Maoris in cropping techniques, were all extremely worthwhile measures. The principle of mingling the two races in the schools and hospitals was to be extremely important for the future. But while generally appreciated by the Maoris who benefitted from them, these instructions were on too small a scale to reach the interior tribes nor did they bind any Maoris irrevocably to the Government. The extensive trade the Maoris developed in a great variety of commodities was largely a spontaneous effort of the tribes, working communally under enterprising leaders. Moreover the amalgamative effect of the social and economic institutions was to a considerable extent offset by Grey's Arms and Sale of Spirits Ordinances.\textsuperscript{142} It was highly desirable to prevent Maoris obtaining

\textsuperscript{141} The public works programmes were directed by army officers such as Captain A.H. Russell, 57th Regiment. Their experiences quickly confirmed those officers in their objection to Maori institutions. For instance, it was found that Maoris worked best when the gangs were composed of men from different hapu, placed under European foremen. When (as was originally arranged) they were from one hapu, under their own chiefs, they were fractious and troublesome. (Russell to Eyre, 1 January 1848 - GBPP, 1847-8 1002, pp.77-8). European supervisors were also appalled at the way the Maori owners of slaves who joined the road gangs would appear from time to time to mulct them of their hard-won wages and European clothing. (F. Marlow to Col.Sec., 3 May 1847 - ibid., p.51).

\textsuperscript{142} Arms Ordinances 1845 and 1846 - Ordinances of New Zealand, Sess.VI, n.1, and Sess.VII, n.XVIII; Sales of Spirits Ordinance - ibid., Sess.VIII, n.III.
unlimited supplies of arms and liquor but the discrimination was widely resented - and widely defied - among the tribes.

Moreover, Grey's R.M. system had done little to fill the gap in the out-districts. He had appointed R.M.'s at the principal settlements including Mangonui and Russell. The R.M.'s usually had responsibilities as collectors of customs, postmasters and registrars of births, deaths and marriages, as well as their judicial duties and were in fact the principal executive officers of the General Government.¹⁴³ Their responsibilities regarding Maoris included reporting on the general state of feeling, attending to medical and other requirements of Maoris and settlers. Their inexpensive and summary jurisdiction in civil suits was popular and many Maoris had recourse to them, often coming from long distances to state a case against a European. The discretion given to the R.M. made the court a flexible instrument and frequently enabled a magistrate to mediate between parties, as the protectors had mediated, without having to come to a formal adjudication. In this way the R.M.'s did much to foster good relations in the principal settlements.¹⁴⁴ Generally speaking, in the main centres,

¹⁴³ 'The Resident Magistrate was one of the most important officials in the country and was the most important General Government agent in a district.... Where there was no Resident Magistrate there was no General Government'. (A. Wood, 'The Political Structure of New Zealand, 1858-1861', unpublished Ph.D. thesis, University of Otago, p.308).

the Maoris respected the courts' decisions and there were spectacular cases of chiefs using the courts instead of exacting customary redress.\footnote{145} In theft cases the sentence of four times the value of the goods stolen was generally applied to Maori offenders much more often than a jail sentence and was rarely disputed.\footnote{146} Chiefs in the out-distiricts, embroiled with Europeans at whaling stations or, increasingly, with squatters, also from time to time requested magistrates.\footnote{147}

But while they valued the presence of a magistrate to adjust civil disputes with settlers this was about as far as Maoris, outside the main

\footnote{145} Wi Tako a leading chief of the Wellington district, reluctantly allowed St Hill and two Maori Assessors to try the case of a Maori charged with 'criminal conversation' - puremu in the Maori view. (St Hill to Col.Sec., 25 July 1848 - GBPP, 1849 \(1120\) p.32). The declining Te Rauparaha also submitted to the magistrate a case of puremu by one of his wives with a former slave. (Eyre to Grey, 11 September 1849 - GBPP, 1850 \(1280\), p.39). Formerly he would simply have killed the slave.

\footnote{146} Return of cases, Auckland R.M. Court, 1847 - GBPP, 1847-8 \(1002\), p.61.

\footnote{147} Raharuhi of Poverty Bay wrote: 'We want a law at our place to look into our faults and into those of the Europeans...we are unacquainted with the wrong trading or dealings of the Europeans of selling rum, and taking our food without payment, of cursing us. The Europeans are also displeased at our...taking their horses and property without payment'. (Raharuhi and others to Grey, c. February 1851 - GBPP, 1847-8 \(1002\), pp.99-192; McLean to Col.Sec., 21 February 1851 - GBPP, 1854 \(1779\), p.2).
settlements, were prepared to go in giving adhesion to the European courts. Even if they requested magistrates as mediators in civil disputes they specifically stipulated against gaols, thus implying their refusal to submit to European criminal law. Furthermore, except in rare instances, they withheld all disputes among themselves for the decision of their own chiefs and councils. When in 1847 a series of particularly repugnant killings for puremu and makutu occurred in the Bay of Islands, Waka Nene told Nugent, who went to investigate, that British law did not suit these matters and that no Maori would assist in the surrender of a man who killed an offender in a dispute arising from them. If customary practices had so much strength in a district so long subject to missionary influence and settlement it is a fair inference that considerably more blood was being shed over similar disputes in other parts of New Zealand. Furthermore, sporadic tribal warfare continued.

Grey minimised this as comparatively trivial and unimportant but, despite his claim that the R.M.'s would bring law to the villages, 149

148 Loc.cit.

149 Nugent to Col.Sec., 25 November 1847 - GBPP, 1850 \[1280\], p.98. The cruelty and carelessness of life in some of these killings was utterly repugnant to many Europeans.

150 '...for the next few years collision will occasionally take place between adjacent tribes, and no care on the part of the Government will be able to prevent the recurrence of such events; the disputes, however, will not lead to anything that may be termed a native war'. (Grey to Earl Grey, 21 January 1850 - GBPP, 1850 \[1280\], p.109).

151 Grey to Gladstone, 14 January 1846 - GBPP, 1847 \[837\], p.179.
knowledge of the continued disregard by Maoris of European magistrates made Grey refrain from appointing any outside the main settlements. He continued instead to rely on missionary influence to bring the Maoris under control. This he said '...whilst it is most effective, can neither irritate the pride nor offend the prejudices of the natives; nor does it engage the Government in a course of policy or of remonstrance on which having once embarked, they cannot retreat without an appearance of weakness.'

Grey was in fact falling back on 'moral suasion' just as Hobson and FitzRoy had been obliged to do. But his approach was even less constructive, for he no longer had the Protectorate to supplement the work of the missionaries. In the out-districts there was much need for officers equipped with a commission to mediate and work with salaried chiefs for the better government of the tribes, able also to accept initial set-backs without their being regarded as defiances and humiliations of the law. It would have been a slow and difficult work, but there were sufficient sighs of encouragement even in Clarke's time, to make the attempt worthwhile. As it was, the missionaries could not cope. Some of the Maori Assessors Grey had appointed struggled manfully to settle disputes in their districts without adequate guidance. But since they were not regular salaried officers few felt any obligation to work painstakingly for the

152 Grey to Pakington, 9 October 1852 - GBPP, 1854 [1779], p.162.
Government.  

Besides waiting upon missionary influence to make the tribes amenable Grey proposed to open them to the restraints of Government by making inroads of settlement among them. Land purchase operations were therefore important both for the purpose of satisfying settler requirements and assisting the Government to establish control over the Maoris. Many of the tribes in fact invited and welcomed a certain amount of settlement among them for the trade and employment opportunities it offered, and the advent of settlement did in fact channel some of the warlike energies of the tribes into more peaceful pursuits. But the process of purchasing land generated increasing antagonism between sellers and non-sellers and heightened the fear of the interior chiefs for their authority and the integrity of their tribes. Grey's land purchase methods furthermore were none too scrupulous. He mixed bullying and blustering with blandishment and guile which completely antagonised former friends such as Wiremu Kingi of the Atiawa. Boundaries of purchases and reserves were left ill-defined and purchase payments left incomplete. Former owners  

153 The R.M.s pointed this out as a weakness in the system well before Grey left the Colony. (St Hill to Col.Sec., 26 April 1847 - GBPP, 1851 /L1420/, p.202; Kemp report, 15 June 1850 - ibid., Appendix, p.241.  
154 For an oversanguine illustration of this see McLean's description of the supposed transformation of the Rangitikei district. (McLean to Col.Sec., 26 August 1861 - GBPP, 1854 /L779/, p.40).  
155 Rutherford, Grey, pp.177-86.
huddled on miserably small reserves dispirited and resentful. In Wellington and Motueka Grey offset the good effect of his earlier enlargement of Māori reserves by taking back some of the reserves (on the ground that there was then insufficient general reserve left) for the principal public schools, hospitals and military barracks. The Māoris were supposed to enjoy the benefit of these equally with the Europeans but were resentful at the loss of their land and never took full advantage of them. Despite the fact that in 1847 he proclaimed his awareness that the Māoris were not purely agriculturalists and needed hunting and fishing grounds, Grey left the Canterbury Māoris a miserable 10 acres per head of reserves. In 1881 he claimed that he had only just become aware of what his land purchase officer had done, and said: 'I feel a sort of humiliation when I think of what has taken place'. Yet his commissioner, Walter Mantell, had reported

156 E.g., see the description of the 'dreadful decay' within one year of the hapu of Ngairo, a chief of Wairarapa. (Kemp census returns, 1850-1 - GBPP, 1850 1420, pp.232ff). Ngairo had sold land eagerly enough, but, the consequences of his act having come home to him, he eventually became the leading Kingite of the district.


158 Grey to Earl Grey, 7 April 1847 - AJHR, 1888, G-1, p.4.

159 Minutes of evidence on petition of H.T. Taiaroa and others, Unpublished PP, Native Affairs Committee, 1881.
specifically to him at the time that he had left only 10 acres per
head in order that the Maoris might not 'continue to live in their old
barbarism on the rents of an uselessly extensive domain'. Some of
Grey's purchases in Wairarapa and Auckland included provision for the
setting aside of a proportion of the profits from the resale of the
land, for schools, hospitals, flour mills and annuities to chiefs.
(The 'Auckland ten per cents' and Wairarapa five per cents'). Here
the principle was excellent, but the percentage allowed far too low to
do more than pay for the daily needs of a few Maoris. In any case the
money was not paid until the Maoris had agitated for several years.

Matters such as these left a legacy of anger and ill-will for
Grey's successor to handle. Moreover, although he acquired most of
the South Island, his land purchase officers made comparatively little
progress in the North Island. Meanwhile, despite his Native Land
Purchase Ordinance, restoring the Crown's pre-emptive right to any
acquisition of Maori land, Grey connived at the spread of squatters into
all the more accessible low-land districts. Despite constant quarrelling

160 Mantell to Grey, 23 March 1851 - cit. R.W. Chapman, The South Island
of Canterbury, 1966, p.22. A further example of Grey's deviousness
was his inability to remember, for the benefit of a commission of
enquiry, such a major question as whether or not he had ordered that
'tenths' be reserved for the Maoris, in the Otago purchase. (Minutes
of evidence in petition of H.K. Taiaroa - Unpublished PP, Native
Affairs Committee, 1881).

161 AJHR, 1862, E-15.
with the settlers over payment of 'grass money' and the trespass of stock onto their cultivations, Maoris generally accepted the squatters as a source of revenue and did not want to expel them altogether. But the increase of squatting exacerbated the question of where power and sovereignty were to lie. The settlers were anxious to acquire the freehold and rid themselves of the dominion of their powerful Maori hosts; the Maoris were equally anxious to prevent the squatters - who after all came largely uninvited - from acquiring the freehold and placing them, the original owners, in subordination. The fact that Grey and his officers supported the squatters in seeking to acquire the freehold, made the Maoris of districts affected by squatting inclined to withstand all manifestations of the Government's authority. 162

Thus, while settler economic and social institutions, if increasingly made available to the Maoris, were likely to establish mutual confidence and bring the tribes under the main stream of Government, in the short run, they were driving them into stiffened resistance. By the end of Grey's governorship in 1853 not only had

162 Banking on their contentment with the squatting system, Grey wrote to the Wairarapa Maoris, saying that unless they sold some of the freehold 'then I shall desire the Europeans to depart from your land, and shall put an end to the arrangements at present existing between you and them'. His letter was reputedly torn up by the first chief into whose hands it passed. (Grey to chiefs of Wairarapa, n.d., c.1846 - GBPP, 1852/570, p.57; Wakefield to Eyre, 15 April 1848 - ibid., p.228).
English law made little progress in the out-districts but, as is well known, even before Grey left the Colony the first emissaries of what was to become the King movement, had begun to canvass their ideas through the North Island.

According to his successor, Colonel Gore Browne, Grey knew of this but did not warn him against it. Grey was anxious to wind up his governorship in a blaze of glory, and bombarded London with despatches, compounded of purblind optimism and a measure of deliberate deceit, about the progress of the amalgamation policy. These were received with enthusiasm, official and humanitarian circles being all too ready to believe that the coveted goal was being achieved.

163 Browne, minute, n.d., on ministerial memo., 8 October 1861 - GB 4/1; Brown to Maria Browne, 28 November 1861 - GB 2/4.

164 It was quite irresponsible to report that 'both races one harmonious community, cemented together by commercial and agricultural pursuits, professing the same faith, resorting to the same courts of justice....' (Grey to Earl Grey, 7 February 1852 - GBPP, 1854 [1772], p.71).

165 Grey knew how to play on their mood. He wrote: 'I think it must be to every British subject, and to every man of benevolent mind, an object of congratulation that Parliament, by adopting the liberal and generous course in reference to this colony which it thought proper to pursue, has at length shown to mankind that a barbarous race may be led to adopt the habits of civilized life, and that it is possible for Europeans and people of another and previously savage race to inhabit the same country as fellow-citizens, with equal rights, with a common faith, and united in feelings of loyalty to the same sovereign'. (Grey to Earl Grey, 15 September 1851 - GBPP, 1854 [1772], p.47). London officials purred over the supposed success of the 'great experiment' in New Zealand, and Grey's despatches were circulated among the British Cabinet. (H. Merivale minute, 13 July 1848 - cit. Remwick, 'Self-Government and Protection', M.A. thesis, Victoria University of Wellington, 1961, p.114).
Tamati Ngapora's complaints were all but forgotten.

Deluding himself that the continuation of his policies would soon bring the interior tribes under control, Grey passed up his one remaining chance of allaying the concern of the *ariki* to prevent the further disintegration of the society and safeguard their own status. Over the protests of the Aborigines Protection Society the Colonial Office again took the precaution of including, in the 1852 Constitution Act, provision for declaring Native Districts wherein Maori institutions could be preserved. But Grey's egotism and self-deception about the success of amalgamation was greater than his sensitivity: his paternalistic view of the Maoris led him to believe, despite the evidence of their restlessness and defiance, that they would continue to be placated by pensions and presents - the finance for which would be secured to the Governor by a small Civil List vote - until the spread of settlement had encompassed them.

He left the Colony without having declared Native Districts.

166 J.W. Davidson, ('New Zealand, 1820-70', in *Historical Studies*, vol.5, n.20, p.358), has erroneously attributed the inspiration for this provision to Henwick ('Self-Government and Protection', pp.103-4 and 149-53), shows that Grey, in 1851 as in 1846-7, considered the declaration of Native Districts a retrograde step. His despatches bearing on the Constitution Act suggested a civil list vote for Native Affairs, reserved to the Governor, and the right of the Crown to veto colonial bills affecting the Maoris; they do not suggest the declaration of Native Districts. (Grey to Earl Grey, 22 June 1849 - GBPP, 1850/1136, p.171).
Furthermore, his over-optimistic reports had the effect of leaving the Maoris unfranchised. Trusting his assurance that the progress of amalgamation was such that many Maoris possessed, or soon would possess, individual property sufficient to qualify them for the electoral roll, the Colonial Office did not make any special provision for Maori representation. Maori antagonism to Government and the rule of law might have been placated by generous provision for their own participation in it. But amalgamation had been pursued far enough to deny the Maoris a separate machinery of local administration, but not far enough to encompass them in the main institutions of Government. Meanwhile their society was crumbling from the pressure of European colonisation. The stage could hardly have been better set for the emergence of the King movement.

167 In reply to a question in the House of Commons by Sir Fowell Buxton, Chairman of the Aborigines Protection Society, Sir John Pakington, then Secretary of State for Colonies, replied on information supplied to Grey, that 'a very large proportion' of Maoris would be enfranchised on the common roll, under the 1852 Constitution Act. This reply satisfied the A.P.S. (Renwick, 'Self-Government and Protection', p.157).
(v) Intensifying Crisis - Various Solutions Attempted

ONE of the means by which Maori communities sought to regulate themselves and retain stability under the increasing pressures introduced by colonisation was through the elaboration of their traditional runanga or local assemblies. Traditionally, hapu or inter-hapu meetings had been held frequently, under the direction of the principal chiefs, to regulate matters such as puremu and makutu. In addition the missionaries had organised local 'komiti'. Under the leadership of chiefly converts or Maori deacons, the 'komiti', seeking zealously to enforce the teachings of the churches, tended to enforce, by a system of fines, a rigid and puritanical discipline over the minutiae of life. In the 1850's numbers of chiefs, Christian and non-Christian, took up the technique, imposing 'laws' to control such problems as wandering stock or sale of liquor, and to bolster their own position. The institutions they operated were given various names suggestive of the missionary influence behind them; 'Komiti' was common, but 'Christmases' were held in the Waikato about 1856 and a code of laws was promulgated by the 'Sanhedrin of Ngatimahuta'. 168 Subsequently, observation of R.M.s' courts and of European Provincial and General Assemblies, led to practices imitative of these, notably the designation of 'Judges' and 'roia' (lawyers) and attempts to follow

168 See AJHR, 1860, F-3, p.39 and appendix p.113; H. Turton report, 20 November 1861 - AJHR, 1862, E-5A, p.3.
committee procedure. Basically, however, the runanga system, as it again came to be known, never lost its Polynesian character, being a somewhat elaborate technique for arguing out the old problems such as puremu, while the system of 'fines' - usually a levy of goods - was little different from traditional muru.

The runanga movement, was a revived attempt by Maori communities at self-regulation. It was independent of the King movement but similar in spirit and in some degree contributory to it. It was also independent of, though not necessarily hostile to, Europeans. However, because a great many disputes arose between Maoris and settlers, particularly over the depredations of each others stock, the runanga sought to bring the settlers under their discipline also. The 'fining' of settlers, especially squatters on Maori land, was increasingly reported in the 1850's and intensified the hostility of the settler community towards independent Maoridom. Conveniently forgetting that they were occupying Maori land in contravention of the Native Land Purchase Ordinance, squatters increasingly urged the government to bring the Maoris under the rule of settler law.

The King movement derived from the same sort of impulses as the runanga system. Because of the disruption of their hapu, the

169 AJHR, 1862, E-7, and E-5A; 1860, F-3, p.80.
170 See William Williams, Christianity Among the New Zealanders, p.359.
disobedience of their slaves, the waywardness of their young men, and the decline of their own authority, the chiefs sought a means of preserving their leadership and the integrity of their society. There had been meetings of great chiefs, former enemies like Te Heuheu, Te Rauparaha, Te Puni and Wi Tako Ngatata, in the early 1840's, to consider the problems raised by European encroachment, but the sequence of events leading to the elevation of the Waikato chief Potatau Te Wherowhero as the first Maori King is obscure. The best connected Maori account is given in the Kingite newspaper Te Hokioi of 15 June 1862. This credits an Otaki Maori, Matene Te Whiwhi, a chief connected with Ngatiraukawa, Ngatitoa and Ngatiwhakaue (Arawa), with conceiving the idea of making himself King, and canvassing support for the idea at Rotorua and Taupo about 1853. At the Rotorua meeting, however, Te Heuheu first proposed Potatau as King. Further meetings followed, the Taupo meeting under Te Heuheu in December 1856 being the first to attract serious European attention. (Te Whiwhi, partly because he was being pushed aside, and partly because he was a Christian and under Hadfield's influence, dropped out of the movement.) The fourth King meeting at Maungatautari (Waikato) saw the beginning of Wi Tamehana's strong influence. 171 Others followed at Rangiaowhia,

171 Tamehana's influence seems to date from late 1856 or early 1857 after he had visited Auckland to gain sanction for a code of laws drafted by a runanga of his tribe, the Ngatihaua, and been turned away from the Native Office. (See my note, JPS, vol. LXXIII, (1964), n.3.
at Paetai (attended by Governor Gore Browne), at Ihumatao (attended by Bishop Selwyn) and at Ngaruawahia (the eighth in Te Hokioi's sequence), where Potatau was formally installed as King. 172

One of the earliest European commentators on the intentions of the chiefs was G.S. Cooper, then Land Purchase Officer in Hawkes Bay. He thought the Taupo meeting was to establish an annual Maori parliament to devise a means whereby,

'some check may be applied to the growing influence of the colonists, whilst the power of the Native Chiefs...shall be restored in so far as possible to its former status. As a powerful means towards this end, it is to be proposed to put an immediate stop to all sales of land to the Government, and to use every possible means to induce squatters to settle with flocks...in the interior...to occupy the position of vassals to the Chiefs under whose protection they may live...and to whom they are to afford a revenue, by way of rent for their runs, to assist in maintaining the power and influence of their landlords.'

Other purposes of the meeting were to discuss cattle trespass, the sale of spirits and of arms, (there were objections to restrictions on the purchase of these as much as to the damage they caused) and to consider a treaty with the Government whereby the chiefs could settle cases of homicide arising out of puremu and makutu disputes, according to their own customs - British law being considered very

172 Te Hokioi, 15 June 1862.
tardy in this regard. The exclusion of Maori leaders from any share in the European Assemblies inevitably drove them more firmly behind their own organisation. The feuding of tribes in Hawkes Bay and Taranaki, exacerbated by European attempts at land purchase, increased the determination of the Waikato and other interior chiefs to avert a similar fate. Once the King movement gained momentum it proved extremely satisfying to its participants and led to some extreme rejections of European authority, including regret that the Pakeha had been allowed to take and hang the chief Maketu in 1842.

The basic purposes of the movement were constructive, and as expounded by the moderates did not involve a total rejection of European influences. An acute administration could have bargained for relations with a semi-independent Maori organisation which would not necessarily have hindered unduly the growth of the settler community. But the quasi-nationalist element in the movement was alarming to

173 Cooper to McLean, 29 November 1856 - AJHR, 1862, C-1, p.323. Asked in 1860 to give evidence to the 'Waikato Committee' of the General Assembly, Tamehana declined but wrote: 'If any chief goes before the committee and names the mana Maori and holding land [te mana Maori pupuru whenua] - those are my opinions. Those are the real causes of the setting up of the King...I cannot tell you all the causes. They are many.' (Tamehana to Waikato Committee, 24 January 1861 - Unpublished PP, 1860, Official Correspondence.) For a similar statement see Te Hokioi, 2 September 1861 and evidence of Waata Kukutai and Wi Maihi Te Rangikahake to the Waikato Committee, AJHR, 1860, F-3, pp.24 and 35.

European observers, and the prospect of being permanently in
vassalage to somewhat capricious landlords was intolerable for settlers
to contemplate. The growth of the King movement therefore increasingly
posed, in acute form, the question of sovereignty in New Zealand: which
race, Maori or European, was going to have substantial control of the
country, or at least of the North Island.

Meanwhile Government policy towards the Maoris was pursuing an
erratic course. In the years following Grey's departure little was
done to follow up and settle problems outstanding from land purchase
operations in the South Island, Wairarapa and Hawkes Bay. McLean and
his staff were pursuing new operations and Nugent, the Native
Secretary, had neither the drive nor the resources to do much more than
arrange hospitality for chiefs visiting Auckland and arbitrate in
occasional disputes. In the first meeting of the General Assembly
(1854) the office of Native Secretary was attacked on the ground that,
'It's principal object has been to persuade the Natives that the
Government were their friends and the settlers their enemies.'175 A
motion to strike out the £650 vote for the Native Department was
defeated by only 14 votes to 12. However, in addition to Nugent, the
Native Secretary's Department included only a clerk, to produce the
tawdry newspaper Maori Messenger, about 20 to 30 Maori Assessors (some
receiving small pensions) and three Maori policemen at New Plymouth.

The only medical establishment provided, in addition to Grey's four hospitals, was a Board of Vaccination, to arrange smallpox vaccination of Maoris through missionaries and R.M.s. The £7,000 Civil List vote for Maori Affairs, provided under the 1852 Constitution Act, were mostly paid to the missionary societies which were running boarding schools for Maoris.  

The Reserves Boards which were supposed to administer the Maori reserves in the New Zealand Company settlements and apply the proceeds to Maori welfare, raised little revenue.

The Assembly was less reluctant to vote revenue to extend the R.M. system which Grey had established in the towns and in 1854-5 voted the salaries for R.M.s at Waikato, Rotorua, East Cape and the Chatham Islands. These were centres of increasing European infiltration and there were numerous disputes between Maoris and traders and squatters over wages, payments for goods, and stock trespass, the last of which

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176 Votes and Proceedings of the House of Representatives, 1854, Sess.II, section 8, p.13 (and also under 'Appropriation Act'; 1856, B-4, pp.6-7, C-3, pp.2-3.)

177 By 1853 the Nelson Reserves Board had raised only £300, which it spent on medical supplies, subsidies to teachers, Maori schools and repairs to the Maori hostelry built at Nelson by the Company itself in 1841 (Votes and Proceedings, 1854, Sess.II, section 6).

was related to the question of land title. In 1854 T.H. Smith, clerk and interpreter in the Land Purchase Department, was appointed R.M. at Rotorua and Dr. William Harsant (largely on account of his medical qualifications) to Rangiaowhia in the Waikato. H. Wardell was sent to Turanga, the principal settlement at Poverty Bay and A.S. Shand to the Chatham Islands.

The Maoris' reception of the magistrates was very mixed. While the Poverty Bay Maoris had recourse to Wardell's courts for the settlement of their disputes, they did not recognise the authority of the law and yielded obedience only as it suited their purpose. Maori hostility to Wardell was accelerated by the fact that the chief Kahutia had sold land to a Government agent without the consent of other owners, who were therefore anxious that no authority be established in the districts, which could enforce the contract made by Kahutia. While repudiation of

179 The request from the Chatham Island settlers for a magistrate came after a cargo of spirits had been dumped on the beach and sold by the barrel. 'The demoralization caused by this event was instantaneous and promises to be permanent. The native character has suddenly changed and those who were formerly industrious, peaceable and trustworthy have suddenly become turbulent, rapacious and dishonest. Before this event took place any contract between the Europeans and natives was adhered to by the latter...fairly and honestly...but this good faith is no longer to be found; on the contrary so soon as fulfilment of a bargain threatens to be come onerous to a native he repudiates it...and taunts the person injured by his dishonesty with the absence of any legal means of redress', (Petition of W. McClatchie and others to Col.Sec., 24 July 1854 - Votes and Proceedings, 1854, section 6, message n.12).

Warden's authority was particularly noticeable, the magistrates in other districts had no power to enforce summonses or warrants either and many settlers felt that the appointment of magistrates in rural areas only brought the law into contempt. 181

Thus matters stood when Colonel Thomas Gore Browne, who commenced his governorship in New Zealand in late 1855, took stock of the situation. A Board of Enquiry of 1856, revealed a difference of opinion on the question of how to proceed in regard to the problem of extending the rule of law. One view was expressed by F.D. Fenton who had been appointed R.M. at Kaipara by Grey and lately — probably by virtue of his memoranda on Maori policy — succeeded Nugent as Native Secretary. He considered the older and conservative chiefs to be merely obstructive and urged that more European magistrates be appointed, using the younger chiefs as assistants. McLean, in a dissenting report, urged that the principal chiefs showed great discretion and equity in decisions and should be themselves appointed magistrates and jurors, given salaries and guided by European 'political agents' or 'Residents' rather than magistrates. 182 Fenton rightly stated: 'If the Maori once receives the doctrine that his pride is as much concerned in securing obedience to the law, as he now believes it to be involved in disregarding the law, the great question of governing this country will be solved'. 183

182 See G 41/3; McLean memo., 4 September 1856 - McLean MSS, 9.
183 Fenton memo., 13 October 1856 - AJHR, 1860, F-3, Appendix, p.139.
But, given the prevailing fears and wishes of the principal chiefs, McLean's approach was the best means of attaining that condition.

The basic difference of approach was exacerbated by changes in the machinery of administration. The Governor and ministers concurred in McLean's view that confusion attended the division of duties between Native Secretary and Chief Land Purchase Officer, since their work was so closely related, and Maoris were being shuffled from one to the other. Accordingly, with no subtle political motive involved, it was agreed that McLean should combine both offices, and that Fenton should be sent to Whaingaroa (near Raglan) as R.M. Fenton was, presumably, not altogether pleased with this arrangement. Next an agreement was made between Browne and his ministers whereby, though he should receive the advice of his ministers, Browne would retain ultimate responsibility in Maori affairs. This made McLean specifically Browne's official, while Fenton inclined towards the ministerial group. The jealousy of the Governor and ministers and assembly, and of McLean and Fenton, bedevilled any useful scheme subsequently put forward.

In 1856 a request by the Governor for finance for McLean's system of salaried chiefs and political agents was declined. In March 1857 McLean tried again with a memorandum urging the appointment of chiefs as magistrates, to join with the European magistrate, 'in order that

184 Minutes of ministers and Governor, August 1856 - Votes and Proceedings of the House of Representatives, section 22; Whitaker memo., 23 May 1861 - Unpublished PP, 1861, n.3.
executive authority, instead of diplomatic bargaining, may attend the
decisions of the District Magistrates'.  Soon afterwards - in March
or April 1857 - Browne and leading ministers and officials attended the
King movement meeting at Paetai. Assuming that law and order was what
the Maoris sought, he there offered to send magistrates to teach English
law and to involve the chiefs in the law-enforcement process, if they in
turn would abandon the idea of choosing a King. He thought he had
secured the chiefs' agreement and when, in June 1857, a further meeting
at Ihumatao saw even stronger nationalist sentiments expressed, and the
Kingship advanced a stage further, Browne believed Potatau and others
had deceived him. He expressed concern that the Maoris who committed
offences against Europeans would look to the King as their protector and
that a European who offended against a Maori would be likely to be tried
according to Maori custom. There would be no prospect of extending
English law over the country and settlers would be in subordination to
the will of Polynesian chiefs. He added: 'I assume that it would not
be safe strictly to permit the election of a King, and the next question
is what steps should be taken to render such an election either
unsuccessful or nugatory'.

185 McLean memo., 20 March 1857 - Native Affairs, North Island, A.1, p.56.
186 C.W. Richmond wrote, more sympathetically, 'that the old man [Potatau]
is vacillating and uncertain'. (Richmond to McLean, 2 June 1857 -
Richmond-Atkinson Papers, vol.1, p.27.)
187 Browne memo., 5 June 1857 - G 36/3, p.60.
The principal means was a renewed drive to offer rival institutions. After the Paetai meeting Fenton had been selected as magistrate for the Waikato, at the ministers' suggestion, and had begun preparing a code of law in Maori. While R.M. at Whaingaroa he had observed the runanga in action and believed they could be transformed into a sort of democratic institution which could, under the guidance of a European magistrate, make and enforce laws in Maori districts. He now embodied these ideas in a report. He envisaged a thorough-going implementation of his scheme in a Waikato district. This involved individualisation of land titles (which he thought a panel of chiefs under the chairmanship of the R.M. of the district could undertake), fencing of land into small farms, growing of permanent grass, and the establishment of a model village, with a school, a church, and a cooperative store.

This programme underlay C.W. Richmond's legislation passed the following year. The Native Districts Regulation Act, 1858 authorised local councils - the runanga effectively - under a European chairman, to make bye-laws affecting a multiplicity of questions such as stock trespass, health and petty crime. The Native Districts Circuit Courts Act authorised the appointment of Circuit Court Judges, with slightly

190 The earliest exposition of these views is in Fenton memo., 13 October 1856 - AJHR, 1860, F-3, Appendix, pp.133-140. See also C.W. Richmond's evidence, ibid., p.53.
wider jurisdiction than R.M.s, to enforce English law, together with the bye-laws. It also allowed Maori Assessors to exercise a petty jurisdiction (up to £5) on their own authority. Because the idea of local bye-laws passed by Maori councils departed from Grey's policy of strictly inculcating English law, Richmond's bills aroused considerable opposition. He therefore explained that under the previous system Maoris about the towns had simply not imbibed English usages as expected, and that magistrates placed in the out-districts, independently of the will of the Maoris and without police power, had been in a false position. They could achieve nothing. Richmond concluded:

> It appears...that there has been no proper adaptation of British institutions to the present condition of the aborigines. It is unreasonable to expect that they should accept our laws without local modifications of detail which even British citizens require. It is now proposed to operate from Native centres by means of institutions English in their spirit if not absolutely in their form, devised to supply the peculiar necessities of the Native tribes, and to secure their confidence and support.191

This approach, which was not dissimilar to the intention of FitzRoy's and George Clarke's policies seemed to come very close to what was required. If applied resolutely but sensitively, with due regard for Maori needs, not settler interests, it may have been readily taken up by the Maoris. McLean, however, scoffed at the scheme as 'ill-judged interference' 'experimental theorising'. He argued that the chiefs

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would view the experiments with *runanga* as subversive of their authority and be antagonised.\(^{192}\) He held to his notion of working more gradually through the chiefs, at the same time advancing roads and cautiously opening the country to settlement. In fact the danger indicated by McLean was very real. The more senior chiefs were already disturbed at their declining authority; the King movement was intended to bolster it. The Fenton-Richmond scheme, clumsily applied, without their cooperation, was likely to provoke unrest. But McLean was not altogether correct either. If an officer had come among them, willing to assist them order their society, rather than to promote settler interest or attempt a too rapid reorganisation of Maori society, they may well have found the machinery envisaged by the 1858 legislation acceptable.

Unfortunately, (as McLean knew when he voiced his warning) for all his talk of adaptation of law to suit Maori conditions, a rapid reorganisation of Maori society was precisely what Richmond intended by his legislation;\(^{193}\) and Fenton, who went into the Waikato to pilot the scheme, evoked precisely the reaction that McLean had feared. He attracted a considerable amount of interest and support from the younger chiefs and eventually had a *runanga* (which passed some useful resolutions on stock trespass), five courthouses and a staff of Assessors operating

\(^{192}\) McLean memo., n.d., circa 1858 - McLean MSS, 9, n.5; Sewell to McLean, 27 October 1860 - McLean MSS, 375.

in the Waikato. But he did not take care to conciliate Potatau and Tamati Ngapora, his younger brother. And he pressed too carelessly a scheme for individualisation of land, a course dear to the heart of most settlers, both as a means of reforming the Maoris' communistic way of life - which was considered to be slothful and demoralising - and as a means of facilitating land purchase. Potatau and Ngapora pressed for his withdrawal, and McLean, no doubt not unhappy at being able to score over his rival, persuaded Browne to remove him.

Meanwhile McLean had been building his own empire as Chief Land Purchase Officer and Native Secretary. He directed a staff of about seven District Land Purchase Officers, two surveyors and some clerk-interpreters in the Land Purchase Department. T.H. Smith, lately R.M. Rotorua, had been made Assistant Native Secretary, while some of

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194 Whom he had once characterised as 'a stupid old man'. (Fenton report, 10 August 1857 - AJHR, 1860, E-1C, p.22).

195 The land involved was actually a piece in which Potatau had a major interest. (Sorrenson, 'The Maori King Movement, 1858-1885', Studies in a Small Democracy, ed. Chapman and Sinclair, pp.42-3. The Native Territorial Rights Bill - authorising direct purchase by settlers of Maori land to which the titles had been settled - was an integral part of the 1858 legislation. It was disallowed by the Colonial Office.

196 Despite his efforts to 'enfranchise' Maori land many of the Waikato settlers were antagonistic to Fenton and did not feel he was assisting their position. On the contrary they thought he was 'increasing that self-conceit and pride in a race who ought to have looked up to the Europeans as their teachers for many a generation yet'. (Waikato settlers to McLean, 10 October 1860 - McLean MSS, 10).

197 They included J. Rogan, W. Searancke, G. Hay, J. Preece, R. Parris, H.T. Kemp and G.S. Cooper. (AJHR, 1861, C-4).

198 W.B. Baker and J. White - ibid.
the R.M.s - J.R. Clendon (Hokianga), W.B. White (Mangonui) and H. Wardell (Poverty Bay) - were also under McLean's direction. In 1859, McLean had Clendon and White made Circuit Court Judges to work with Maori Assessors on a regular tour of duty. He did not, however, introduce the *runanga* system; on the contrary Clendon was instructed: 'it is desirable as far as possible to avoid an appearance of novelty and change of system; but rather to base all proceedings upon a recognition of that already in operation under the Resident Magistrates Ordinance of which the present should be regarded as but a further development'.

Ngapora told Browne that after the excitement caused by Fenton's activities had died down, another magistrate might be sent to the Waikato. Accordingly, in mid-1859, Hanson Turton (a former Wesleyan minister who sought employment in the Native Office) was sent on an exploratory circuit of the Bay of Plenty and Waikato. He was strictly instructed not to press British law on the Maoris but to await their requests to arbitrate. He was to see Potatau as soon as possible, gauge Waikato opinion, but do nothing to widen the breach between those hostile and those favourable to the introduction of English magistrates.

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199 Smith to Clendon, 12 March 1859 - MA 4/3. See also Smith to White, 14 October 1859 - ibid.


202 Smith to Turton, 8 April 1859 - ibid.
Turton reported that the Bay of Plenty Maoris had welcomed his coming and wanted a magistrate, though they did not want gaols - an indication that they wanted a regular judicial officer to assist their deliberations but did not yet want to surrender ultimate sovereignty to the settler legal system. As a result of this report H.T. Clarke was appointed R.M. in the Bay of Plenty. In the Waikato Turton found that a magistrate would not be unwelcome but it was felt that it would be safer to appoint a visiting magistrate at that stage than a permanent one. Accordingly Henry Halse, R.M. and Assistant Native Secretary, New Plymouth, was shifted to Auckland and made occasional forays to hear cases in the Lower Waikato. White and Clendon also met a favourable reception on their first round of court sittings and were ordered to keep working quietly and to recommend the next steps. Wardell had made no progress at Poverty Bay, because he had supported the view that the sale of land there, by some of its claimants, must be sustained.

203 Smith to Turton, 17 October 1859 - MA 4/3; Turton report, 14 October 1861 - AJHR, 1862, E-7, p.9.
204 Smith to H.T. Clarke, 3 March 1860 - MA 4/3.
205 Smith to McLean, 12 September 1859 - McLean MSS, 383; H. Turton Jnr. to McLean, 7 December 1859 - McLean MSS, 399; AJHR, 1860, F-3, p.100.
206 Smith to Halse, 30 November 1859 - MA 4/3; MA 1/1, N.O. 60/49, 60/57. Parris, Land Purchase Officer, New Plymouth, became Assistant Native Secretary. (Smith to Parris, 18 November 1859 - MA 4/3).
207 Smith to White, 14 October 1859 - MA 4/3. White's efficient Maori clerk and interpreter at Mangonui was, at White's recommendation, given a position in the Native Office, Auckland. (MA 1/1, N.O. 60/9).
208 Wardell to McLean, 29 June 1858 - Native Affairs, North Island, p.21.
In 1860 McLean agreed to a suggestion that he be appointed to the Wairarapa, but visiting it only, from Wellington, lest it appear that an attempt was being made to force a British magistrate on the Maoris. 209 Turton, who was now in the Rangitikei-Manawatu district, was told to "take no apparent notice of the disinclination of the Natives to submit their differences to you; but quietly to pursue the course adopted by you of hearing all cases that may be brought to you by the Natives - without making any observations which may be construed into an attempt to force British law upon them". 210 This was precisely the sort of cautious approach that was likely to win Maori cooperation. Having pursued it for some time W.B. White eventually found that the Rarawa were willing to assist in sending one of their number who had broken into a store, to trial at the Supreme Court. 211

Other officials - R.M.s and Assistant Native Secretaries combined - were also appointed at Otago (A.C. Strode) and Nelson (James Mackay). They were mainly to adjust outstanding boundary questions left over from the South Island purchases of 1848-53 and to arrange for health and educational care for Maoris as far as possible. W. Buller was made

209 McLean minutes, 23 January and 3 April 1860 - MA 1/1, N.O. 60/28.
Commissioner in Canterbury to try to see the reserves utilised to the best effect. 212 Medical officers were also appointed, at subsidies of £50 to £100, at six rural centres, 213 to attend Maori needs. McLean and Browne had schemes for further appointments of R.M.s., and medical attendants, and for building hostelries for Maoris in various towns, but the ministers declined funds for these. 214

Clearly the Native Department was not inactive during 1858-9. One of the more energetic men it appointed was James Mackay, R.M. and Assistant Native Secretary, at Collingwood and Nelson. Mackay's principal task was to supervise the opening of gold-fields in the district and to ensure protection of Maoris on the reserves there. He secured mining rights for them and arranged for them to take out miners' licences if they desired. He cleared trespassers off Maori reserves and fined Europeans who stole Maori property. The liquor trade was very heavy and much of his efforts were bent towards curbing drunken brawling, likely to lead to ugly racial strife. He was moderately successful in this though he could not check drunkenness effectively as he had only two or three ineffectual Provincial police to help him control the grog houses and large population. 215 He completed the purchase of the

212 Smith to McLean, 16 August 1859 - MA 4/3.

213 They were Whangarei, Otaki, Waimāte, Rangiaowhia (Waikato) and Wairarapa. (MA 1/2, N.O. 61/49).

214 See minutes of Whitaker and Richmond, 30 January 1860 and Stafford, 2 February 1860 - IA 1859/2106; Weld to Carleton, 19 March 1861 - MA 4/4; A. Mackay to U-Sec., 24 June 1874 - AJHR, 1874, G-2G, p.5.

215 MA Collingwood, 2/1 inter alia.
Westland district and paid off some Maoris who had not shared in the first payments for the Canterbury and Nelson districts. While he diligently sought to persuade the Maoris to sell the land much desired for European settlement or mining, at the same time he was anxious that the Maoris should immediately buy Crown Granted land at an upset price before it went to public auction and was deeply angry with the Commissioners of Crown Lands who declined to assist his plan.

Similarly, his efforts to see the reserves utilised or let to the best effect, or their funds made available for mills or agricultural implements, were frustrated by the local Commissioners of Native Reserves who were jealous of Mackay's interference and anxious to make their own arrangements with settlers. Working with three or four of the principal chiefs he arbitrated or adjudicated in numbers of disputes between Maoris and prevented recourse as far as possible to the more violent means of redress customarily employed in Maori society.

Although English law had but little established itself over Maori society by 1860, McLean's discreet but effective approach to the question

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216 Mackay to McLean, 19 April 1859 - MA Collingwood 2/1.
217 Mackay to Nat.Sec., 3 October 1863 - ibid.
218 A. Domett, one of the Commissioners, wrote '...of course Poynter and Brunner and I are not going to be directed by McLean or his subs...we are not going to have orders from McLean's office prompted by young Mackay...' (Domett to Richmond, 25 May 1859 - Richmond-Atkinson Papers, ed. Scholefield, vol.I, p.459).
219 E.g., prevent an utu killing after an insane man had murdered his wife (Mackay to McLean, 9 June 1858 - MA Collingwood 2/1); preventing a muru by a chief at whom someone had levelled a kanga or curse (Mackay to McLean, 13 February 1861 - ibid.); see other letters, MA Collingwood 2/1.
of extending magisterial authority boded well for the future. By 1860 the next steps in the process had been advocated by most of the R.M.s and agreed to by Browne and McLean. These included the payment of regular and substantial salaries to the chiefs, the training of Native Service Officers for the work, more medical care and vocational training for the Maoris. Sir William Martin prepared another code of laws for use by the Assessors. Even the ministers were beginning to see the necessity for more liberal spending on Maori policy; but they did not want McLean to have control of it. Rather they sought to end his Native Secretaryship and bring Maori policy under the control of responsible ministers.

Unfortunately the peaceful evolution of policy was prevented because McLean, believing just as strongly as Fenton and the other settlers, in the efficacy of land purchase and the intrusion of settlement as a means of breaking down tribal autonomy, had not shown the same discretion in land purchase operations as he had in extending magisterial authority. In March 1859 he had launched upon the course that led to the

220 AJHR, 1861, E-3 and E-3½; McLean to Browne, 29 December 1860 - MA 4/4; McLean memo., 31 January 1861 - Native Affairs, North Island, A-1, p.67; Browne to ministers, 25 May 1861 - Stafford MSS, 1.

221 Smith to Bp. of Waiapu, 28 June 1860 - MA 4/3.

222 McLean was obliged to surrender the Native Secretaryship in May 1861.
fateful Waitara purchase and the commencement of war in Taranaki. 223

The other great question, relations with the King movement, was complicated by the entry of the Kingites into the Taranaki war, in the belief that the expropriation of Wiremu Kingi could be the prelude to their expropriation. The settlers were bitterly hostile to the idea of the Kingship becoming established, checking land sales, and placing them in permanent subordination to Maori power. The continual defiance of magistrates by the independent Maoris, and their periodical refusal to pay debts or answer summonses, greatly irritated settlers. 224

C.W. Richmond wrote an impassioned argument in favour of asserting settler authority over the Maoris:

...the colonist is exposed to daily provocations. His cattle for example, stray from his paddock; he follows them to a neighbouring Pa, and is compelled to redeem them by an exorbitant payment. In the course of the altercation a musket is, perhaps, pointed at him, or a tomahawk flourished over his head. On the other hand should he try the experiment of driving Native cattle to the public pound for trespass on his cultivations, a strong party of Maoris, with loaded muskets, breaks down the pound and rescues them. He has to maintain party fences without contribution from his Maori neighbour. Herds of Native pigs break through his crops. The dogs of the Pa worry his sheep. To save his own farm he has to pay for the extirpation of thistles on the neighbouring Native land...Redress in the Courts of Law

223 This complex question cannot be discussed here. Indeed it has been exhaustively examined in Sinclair, The Origins of the Maori Wars.

224 See AG 59/298, IA 59/258 and IA 60/701 for examples of irritated settlers' correspondence with the Government, complaining of Maoris' refusal to pay debts or answer magistrates' summonses, or of themselves being summoned by King movement magistrates. They demanded to know why British law was said to be in force in New Zealand. But ministers referred to the provision in the R.M's Ordinance, and its successor, the R.M's Act 1858, authorising delay in the execution of judgments. (Whitaker minute, 3 January 1859, on Atkins to Col.Sec., 3 January 1859 - AG 59/298).
is not to be attained because it would be dangerous to the peace of the country to enforce the judgment. On the other hand, Natives freely avail themselves of their legal remedies against Europeans. 225

It was this sort of situation, as much as desire for more Maori land, that impelled settlers to desire an assertion of British power over the Maoris - although Richmond omitted to mention that, more often than not, the settler victims of his narrative were illegal squatters on Maori land.

For his part, Browne could not contemplate 'a Maori flag under the Union Jack'. 226 He was offended by their rejection of the aim of becoming, with the settlers, 'one people under one law.' 227 Browne greatly feared that the establishment of a successful league against land selling in Waikato, would be duplicated by neighbouring districts until a Maori national independence had been attained. 228 The continuance of puremu and makutu killings and tribal warfare convinced even humanitarians that the King movement must give place to the rule of English law. Only Sir William Martin believed the two to be not incompatible (Tamehana had spoken of two local sovereignties under the

225 Richmond memo., 25 May 1860 - AJHR, 1860, E-1B, p.5.
227 See his speech to the chiefs he assembled in conference at Kohimarama, Auckland, 10 July 1860 (Native Affairs, North Island, A-1, p.64).
228 Browne memo., 21 January 1861 - G 36/3. McLean still believed 'that the King Movement is supported, not so much with a view to the regaining of national independence, but as a means of exacting such a recognition of their rights as may ensure the preservation of the declining influence and power of their chieftainship'. (McLean to Browne, 31 May 1860 - MA 4/3).
and saw the recognition of the King movement in some form, as a desirable course. To Browne and the settlers its involvement in Taranaki was ample ground for subjugating the King movement and in 1861 Browne began to prepare plans for the invasion of the Waikato, to establish conclusively the dominion of the settler community in New Zealand. But seeking to avert the necessity for this, and believing erroneously in fact - that Grey, in his first governorship, had been able to win the Maoris' acquiescence in the extension of British colonisation, the Colonial Office recalled Browne and sent Grey to New Zealand for a second term.

229 Martin memo., May 1861 - MA 1/2, N.O. 61/65. (Smith's dissenting minutes said that the King movement was too implicated in rebellion to be recognised now).

230 'John Bull takes up the policy of thrashing the Maoris. That is always John Bull's policy, to thrash everybody. So be it. Of course the same spirit is prevalent here, where people think as little and care as little in reality as the people in England do. It is always pleasant to be on the thrashing side'. (Sewell Journal, 31 January 1861, vol.I, p.209).

231 Newcastle to Browne, 25 May 1861 - Native Affairs, North Island, A-1, p.70. ('I felt I should be neglecting the chance of averting a more general and disastrous war if I omitted to avail myself of the remarkable authority which will attach to his name and character as Governor of New Zealand'.)
APPENDIX B

From Tataraimaka to the Invasion of the Waikato.

PRIOR to going to Taranaki Grey had arranged with General Cameron that if the Waikato Maoris interfered in Taranaki he would return to Auckland, and bring them to terms before returning to conclude matters in Taranaki. On 4 April Tataraimaka was occupied; Rewi and the extremists then prepared for war and proposed to attack in the direction of Auckland. Now, when a liberal concession by the Government, over Waitara, or an amnesty for the events of the Taranaki war was urgently called for, the Government fell to bickering over the question of responsibility, for a step which would certainly be unpopular with the settlers. It was the crowning

1 Domett memo., 24 June 1863 - AJHR, 1863, E-7, p. 8. This document does not as Sinclair suggests (Origins of the Maori Wars, p. 260) state that Grey had at that stage agreed to confiscate the land of hostile Maoris, plant military settlements on part of it and sell the rest to pay for the war - (Though he almost certainly then had confiscation in mind as a means of making the King Maoris submit and of securing Auckland from attack). It states that Grey suggested confiscation (as a means of punishing hostile Maoris and planting military settlements) at 'a late meeting of the Executive Council', i.e., shortly before 24 June 1863, not before he went to Taranaki. (See also Grey memo., 5 November 1864, AJHR, 1864, E-2, p. 14, where the Governor refers to the plan of confiscation he put to the Executive Council shortly before the 24th of June.)


3 From his retirement in Rangitikei Fox expressed his surprise and congratulations at the Government having been able to reoccupy Tataraimaka, so far without resistance; he pleaded for the immediate issue of an amnesty for the Taranaki war adding prophetically: 'I have a strong feeling that not an hour ought to be lost in taking this step.' (Fox to Mantell, 22 April 1863, Mantell MSS, 281).

4 Sinclair, Maori Wars, pp. 261-4; see also Whitmore to Mantell, 9 June 1863, Mantell MSS, 402. 'Such is the deadlock of their present condition that it is very difficult to get anything done. They will oppose anything say anything, promise anything - but when action is required Domett says His Exc. and his Exc. says Domett will do nothing.'
act of irresponsibility. On 4 May Taranaki Maoris, instigated by Rewi, ambushed a party of troops at Oakura on the road to Tataraimaka and killed all but one. The Government hastily returned the Waitara block to avoid the charge of fighting a war over land.\(^5\) With war in Taranaki now a reality the important question remained whether it would also be taken to Waikato.

On the day of the Oakura killings Bell wrote to the chiefs at Ngaruawahia describing the murders and demanding that they openly disassociate themselves from the extremists or they would be held liable for punishment also\(^6\). The message was taken by John Rogan, no Maori guide daring to accompany him. Rogan found the Kingites bitter at Grey's not accepting the assistance of Tamehana in reoccupying Tataraimaka, and inclined to blame what followed upon that. After a lengthy conclave of the King's runanga he was told that the chiefs could not agree on an answer but that Matutaera had spoken only once to say 'Waikato, takoto.'\(^7\) Rogan, in reporting this added that Matutaera was entirely in the hands of the other chiefs - which was already well known - that the young men were already out of control, and that Rangiriri in Lower Waikato, the Ngatimaniapoto, some Ngatiruanui and an assortment of local Maoris, were building fortifications. The pro-Government Maoris were in arms, fearing attack, but Tamehana had allegedly promised one of them, Wi Nera


\(^6\) Bell to the chiefs of Ngaruawahia, 4 May 1863 - cit. *Te Hokioi*, 21 May 1863.

\(^7\) 'Waikato, lie.' (Contrary to 'Waikato arise' or 'fight'.)
to bring the Ngatihaua to his assistance if Rewi and the Ngatimaniapoto attacked him.\(^8\)

In June Grey returned to Auckland with the bulk of his troops, but for most of May and June the country outside Taranaki was relatively calm. The leading chiefs of anti-Government tendencies repudiated the Oakura killings\(^9\) and Tamehana and the moderates apparently checked Rewi's intended raid on the Auckland settlers.\(^10\) Upper Waikato Maoris still came to Auckland to sell produce.\(^11\) It was still not clear that Grey was obliged to extend the war to Waikato. Nevertheless, an exchange of despatches in late May indicated the Governor and Ministers had already agreed on the need for 'active measures' in Waikato.\(^12\) Grey could not invade, however, without sufficient evidence of provocation to satisfy critical eyes in England. On 8 May he had received a despatch from Newcastle informing him that he should generally accept the policies recommended by his ministers except that it would be his duty to act upon his own judgment if the policies proposed were 'marked by evident injustice towards Her Majesty's

\(^8\) Rogan report, 18 May 1863 - Unpublished PP,1865, no.22; Rogan to McLean, 26 May 1863 - McLean MSS, 359.

\(^9\) Wi Tako of Otaki, Pehi Turoa of the Wanganui River, and Ngairo of Wairarapa were the key figures among the southern Maoris. All declined at this stage to support the Ngatiruanui in their stand against the Government though some of Pehi's young men began to go to Tataraimaka to fight. The Ngatiapa and Ngatiraukawa of Manawatu were embroiled in a land feud of their own. (Fox to Mantell, 13 May, 27 May and 17 June 1863 - Mantell MSS, 261; Buller to Mantell, 22 May 1863 - Mantell MSS,257). The Hawkes Bay chiefs who had broken relations with the King movement when the Kingites refused to agree to an investigation of Waitara, were also for peace and, after an initial panic, the Hawkes Bay settlers relaxed. (Cooper to McLean, 31 May and 7 June 1863 - McLean MSS, 190).


\(^11\) Bell to Mantell, 23 May 1864 - Mantell MSS, 218.

\(^12\) See minutes of ministers, 23 May 1863, and Grey, 28 May 1863 - AJHR, 1863, E-7, pp. 9-11. Cit.Miller, Race Conflict in New Zealand, p.100.
subjects of the native race or involved the use of imperial troops. Ultimate responsibility still rested with Grey; clearly he had to have good reason before attacking the King movement.

But the Maori extremists played into the hands of the Europeans who wanted war. From mid-June reports began to come in of increasing unrest in the out-districts. Buller wrote of recent purchases of arms, lead nails and marbles, of talk of a general rising, of professedly loyal Maoris supplying lead to the Ngatiruanui, of liaison between Kingite emissaries and local chiefs. In May McLean had reported that while the Hawkes Bay Maoris were quiet, Taupo and Waikato emissaries were fomenting trouble and on 17 June he advised Grey of more specific warnings of a general rising, and an attack on Napier in particular, which it would be unwise to ignore. The Waikato Maoris began to exhume their dead from the vicinity of Auckland.

Finally, at an Executive Council meeting shortly before 24 June Grey 'proceeded to explain in detail to ministers the plan he would recommend for the defence of the Southern frontier of the settled districts of the Province of Auckland, and the establishment of a basis for further military operations in the interior of the enemy's country.' The plan was to place steamers on the Waikato river and forts along its northern bank. Next to throw forward military posts from the central bend of the river (the Great Southern bend of the Waikato which Grey's military road from Auckland had now reached) to

13 Newcastle to Grey, 26 February 1863 - AJHR, 1863, E-7, pp. 2-6.
14 Buller report, 15 June 1863 - AJHR, 1863, E-3, pp. 48-9. Lead nails and marbles were used as musket balls.
15 McLean to Mantell, 22 May 1863 - Mantell MSS, 216; McLean to Grey, 17 June 1863 - McLean MSS, 245.
16 Minutes of Executive Council, 15 June 1863 - EC 1/2.
Paetai and Ngaruiawahia, taking permanent possession of these places... At the same time to clear out all hostile Natives at present residing between the Auckland isthmus, and the line of the River and fortified posts. Lastly to confiscate the land of the hostile Natives, part of which would be given away and settled on military tenure to provide for the future security of the districts near Auckland, and the remainder sold to defray the expenses of the war.'

Writing of this 'bold policy' the Premier, Dommett, stated: '...you may suppose I was always for this - the difficulty of course was to get over Grey's horror (by anticipation) of the possible condemnations and ululations of Exeter Hall and Co.'

It needed little to precipitate Grey's resolution. On 25 June Whitaker reported that:

Things are fast moving to a crisis. I see nothing for it, but a campaign into Waikato, and I don't think, however we may try, that the Maoris will let us out of it unless we prefer fighting in Auckland Park... I am disposed to think that the Governor's patience is exhausted and that we are on the eve of great events.

In the last days of June the missionary Ashwell reported that Tamehana had warned him of a plan to attack out-settlers near Auckland and added:

'The false friends of the Governor about Auckland have laid a plot.'

He promised to frustrate their design and let Ashwell know. The ministers

18 Domett to Mantell, 10 August 1863 - Mantell MSS, 270.
20 Ashwell to Venn, 28 July 1863 - Ashwell Letters and Journals.
were certainly not, as Whitaker implied, trying to avoid an invasion of Waikato, but it was possibly Ashwell's warning that hastened Grey's decision. On 4 July he reported to Newcastle that he and his ministers had adopted plans, with General Cameron, not only to protect Auckland but to place 'this part of New Zealand' in a state of permanent security, and on 7 July the Government began to develop its military dispositions for the whole of the North Island. Bell wrote a long memo to Mantell enclosing a minute on military preparations agreed on between the Governor, the ministers and General Cameron. He went on:

The certainty of the existence of a conspiracy to commence the work of murder upon our own frontier has determined the Governor to make the first move...The Governor's mind has been very much influenced, as well as ours, in coming to the resolution that immediate action was necessary, by accounts similar to Ashwell's relating to a general rise throughout the Country, and he has sent to the Duke of Newcastle a copy of Buller's report which you sent up and which gives certainly a very dark picture of the state of the Natives of the West Coast.

The three aims of the Government, wrote Bell, were to secure the Auckland frontier, to force the Maoris to fight on a ground of the Government's choosing, and to divert danger from the Southern settlements, concentrating it rather, 'upon the battleground which must now, as we have always hitherto believed, be that upon which the question of the Queen's authority in New Zealand must be settled. You will see...that the Governor has come to the same conclusion that we all did in 1860-61, that fighting at Taranaki did nothing, and that the real issue must be tried in Waikato.' The Governor had already resolved and the General agreed, Bell continued, 'to turn out all hostile natives on the Auckland frontier,' and it would be settled and understood by ministers that if the Maoris resisted, 'we

21 Grey to Newcastle, 4 July 1863 - AJHR, 1863, E-3, p. 54.
shall take their land, fill it up with military settlers and perpetually advance our frontier. 22

Thus Grey had arrived at the main decisions within the first week of July 1863. His evidence for a general rising was very thin and as Archdeacon Maunsell, (a colleague of Ashwell's, seeking to counter that missionary's alarmist tendencies) had already pointed out, there had been dozens of rumours of impending attacks which came to nothing. 23 But Grey was shaken by the Oakura killings and easily panicked. He recoiled from the prospect of being held blameworthy for allowing frontier settlers to be killed through his inaction. Further warnings and alarms early in July hurried his military preparations and precipitated the turning out of the Maoris living between Auckland and the Waikato. 24 This, from the Kingites' point of view, was the first step in the European aggression against them. The Government then drew up quickly but carefully its proclamation justifying the invasion of Waikato. There was no ultimatum to the King. The charges against the King movement were recited and the Government simply said that

22 Bell to Mantell, 7 July 1863 - Mantell MSS, 244.


24. Sinclair, Maori Wars, p.270. One of the most serious warnings was given by Tamati Ngapora who dwelt at Mangere, just across the Manukau harbour from Auckland. He had always said that while he dwelt virtually in Pakeha hands he was a hostage for the Waikato's good behaviour. On 7 July he warned the missionary Purchas, that he was now no better than a dog - that turbulent elements might disregard him and leave him to his fate. He said that if there were no murders by 12 July all would be well as it would mean that Tamehana and the adherents of peace would have prevailed.(AJHR, 1863, E-3, p.61). Grey did not wait; on 9 July he ordered his warships to turn back canoes heading towards Auckland and began to clear out the Mangere Maoris. (Grey memo., 9 July 1863 -G 35/1). Morgan, the Otawhao missionary, then in Auckland, claimed also that his information - derived from supposedly trustworthy Maoris in the Waikato - of an attack on Auckland planned for 17 July, hurried Grey's actions. (Morgan to Browne, 23 September 1863 - GB 1/2).
it intended to take posts in the Waikato to secure the country, called on the well disposed Maoris to assist it and said that those tribes which resisted would forfeit the right to the possession of their lands. On 12 July, before the proclamation had reached the Waikato, Cameron's troops had crossed the Mangatawhiri stream into King territory.

There are a number of questions relating to Grey's decision to attack which are extremely difficult to answer. One is whether the moderates would have overcome the extremists' plans for a general rising. The Hawkes Bay chiefs later maintained that Rewi had in fact been persuaded to give up his plans for a raid on Auckland, had gone to a tangi for the late Te Heuheu at Taupo and had been met on his return by the news of Grey's expulsion of the Mangere people. On the other hand there was intercepted a letter, dated 29 June 1863, to the Kingite chiefs in Wellington province calling for a co-ordinated attack on Auckland and Taranaki on 17 July, and signed by Porokuru and Taati te Waru, two chiefs of Matutaera's rather than Rewi's circle. There was also some justification for the Government's fear of a rising by the southern chiefs, Wi Tako of Otaki, Ngairo of Wairarapa and numerous Waikato emissaries were in constant communication with one another. When the war started soldiers searched Te Aro pa in Wellington and found arms. Others were allegedly smuggled out to the

25 AJHR, 1863, E-5, pp.5-6.
26 Lamentation for the dead.
28 Grey to Newcastle, 1 August 1863 and enclosures - AJHR, 1863, E-3A, pp.2-3, and p.12.
Hutt Valley in carts of food.  

Another difficult and related question is how far the Waikato tribes could have been separated from the Ngatimaniapoto, the moderates from the extremists, and Grey's attack concentrated on Rewi and his turbulent followers. It was known that a group of important Kingite leaders, notably Tamehana and the chieftainess Te Paea, deplored Rewi's excesses and were working to restrain him. Bell later told Sewell that Tamehana and Matutaera himself had proposed to goin Waata Kukutai and William Naylor (Nera) to form a line of defence and offence against the Ngatimaniapoto and the other turbulent natives, but somehow or another the negotiations broke through. Sewell drew the conclusion that the Government never intended to be denied the excuse to march on Waikato and that Tamehana and the King's suggestions were not therefore followed up. He is very likely correct.

But Tamehana's own position is not clear. He was becoming very isolated in the King movement and a weak reed for the Government to lean upon.

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29 Mantell to Bell, 10 August 1863 - Mantell MSS, 221. The Government also made much of a letter from Tamehana to Archdeacon Brown supposedly threatening an attack on the settlers, in which neither man, woman nor child would be spared. It is certain that Tamehana had in fact written not a threat but a warning, an indication of what was likely to follow from the Maori method of warfare now that battle had been joined. (Grey to Newcastle, 8 August 1863 and enclosures - AJHR; 1863, E-3A, P.7; Sewell, The New Zealand Native Rebellion, p.36).


31 Sewell Journal, 24 January 1864, vol.II, p.268. Just when these proposals were made, to whom, and how firm they were, is quite unclear. Rogan had reported a similar proposal from Tamehana to Wi Nera after his visit to Waikato in early May. Gorst refers to a proposal by Tamehana to Kukutai at about the same time. (The Maori King, ed.Sinclair, p. 236-7). Gorst says that the Government did not like Tamehana 'and it was the fashion to believe him insincere. No encouragement was on this occasion held out to him, nor were any negotiations entered into.'
Moreover the last written communication the Government had from him was a letter to Bell of 15 June 1863 in which he stated that he had not made up his mind whether the Ngatiruamui Maoris were right or wrong in the Oakura murders and 'whether to sit still or get up'. (ki te noho ranei, ki te tu ranei). If the Government decided it was murder 'there is an end of it....There will be war.' He merely wanted the Government to write and tell him of their decision.  

The only possible official reference to the idea of a defensive pact between Waikato chiefs and the Government is an Executive Council minute of 20 June 1863 referring to a plan by Fenton to employ Lower Waikato chiefs in the defence of Auckland, but only Te Wheoro and Waata Kukutai are named.  

In answer to Gorst's charge that the Waikato tribes, especially those about Kihikihi and Rangiaowhia, were unjustly punished by the Government for the sins of Rewi, Fox and Grey noted that Porokuru and Taati te Waru of the Kihikihi district had been among the extremists and sent to the southern chiefs calling for a general rising, and that Rewi's message to the Taranaki Maoris to attack the troops was signed also by Herewini, a Lower Waikato Maori. Grey noted also that the Lower Waikato Maoris had begun assisting Rewi to fortify Rangiriri in April 1863,  

32 The letter is recorded in summary in the Native Office Register (now MA 2/40) and printed in English and Maori in AJHR, 1865, E-11, p.14. In 1866 Tamehana complained that the Government had not written of their intentions but simply moved against the Mangere Maoris. He also stated that he was of the opinion that 'it was right that they (the soldiers killed at Oakura) should die', for they had been warned, they were carrying guns, and they were well aware they might meet with Maoris; the Maori ambush was not therefore a kohuru or unjustifiable murder. (Petition of Tamehana to the General Assembly - AJHR, 1865, G-2, pp.5-6).

33 EC 1/2

34 Grey to Cardwell, 30 August 1864 - AJHR, 1864, D-6, p.11. ns. 40 and 42.
Gorst admitted that while the Ngatihaua opposed Rewi, 'the Lower Waikatos' abetted him.35 There is therefore some justification for Grey's contention that it was difficult to make a distinction between the Waikato Maoris and the Ngatimaniapoto. All this is, moreover, incidental to Grey's main contention that the King movement, however moderate and well-meaning the Tamehana circle, had succeeded only in creating a centre of disorder. For this reason, he argued, it had to be made to submit along with the actual perpetrators of crimes. Nevertheless it is clear that Grey and the ministry not only did not try to make a distinction between the well-meaning moderates and the extremists but in their marshalling of the evidence to prove charges of Maori aggression did all they could to blur it.36 The sordid campaign to blackguard the terribly divided Tamehana is among the least of Grey's works.


36 See note 29 above.
APPENDIX C

The Origins of the Anglo-Maori Wars - A Reconsideration.*

In the past decade New Zealand historians discussing the origins of the Maori Wars of the 1860s have rightly concluded that the Europeans, not the Maoris were substantially the aggressors in the conflict. But the contention has also been made that the overwhelmingly important motive for European aggression was the hunger to acquire Maori land for settlement, and this contention has been so vigorously advanced that it threatens to obscure other very important bases of European belligerence. Professor K. Sinclair certainly does recognize other factors in the situation, notably many settlers' fear of the Maoris, settler 'racialism' or contempt of the Maoris as primitive and barbaric - virtually a lesser species, and the personal determination of British Governors, notably Grey, to force the tribes to bow to their will;¹ W.H. Oliver and H. Miller also mention fear, and its reaction, vindictiveness, as a cause of the wars,² but the mention is bare indeed. Both, however, follow Sinclair in stressing the land-hunger of the confined Taranaki settlers, and the sinister influence of financiers and speculators led by Frederick Whitaker and Thomas Russell who coveted Waikato lands.³ Sinclair follows his discussion of the Whitaker-Russell group with a reference to the extensive confiscations of Maori land, which he writes of as 'blatantly demonstrating

* A slightly amended form of this appendix has been accepted for publication in the second number of the New Zealand Journal of History.


2 W. Oliver, The Story of New Zealand, p.89; H. Miller, Race Conflict in New Zealand, 1814-65, p.112.

3 Oliver, The Story of New Zealand, pp.93-4; Miller, Race Conflict in New Zealand, pp.70-1.
what the war was about.\footnote{Sinclair, Origins of the Maori Wars., p.257.} M.P.K. Sorrenson, another prominent writer on the period, highlights this statement in his review of Professor Sinclair's book.\footnote{Journal of the Polynesian Society, vol.66 (1957), n.4, p.439.} Finally J. Henderson has capped the whole argument by advancing the suggestion that the term 'Land Wars' should replace 'Maori Wars' in our terminology,\footnote{J. Henderson, 'The Ratana Movement', in The Maori and New Zealand Politics, ed. J.G.A. Pocock, pp.63-5.} an idea eagerly seized upon by the editor of the book to which Henderson was a contributor,\footnote{Ibid., p.3.} and by its reviewers.\footnote{See J. Barrington's review in Te Ao Hou, September 1966.}

All these writers, with the possible exception of Professor Sinclair, either explicitly or by implication, leave the impression that other motives than the acquisition of land, were comparatively unimportant as underlying reasons for European aggression. While not prepared to enter into arithmetical calculations as to the relative importance of one or another 'cause' of the wars, I am unwilling to concede this.

Admittedly, the land-hunger motive is overwhelmingly important in the case of the Taranaki War of 1860-61. This indeed began as an attempt to deny the right of Wiremu Kingi to prohibit the alienation, by minor owners, of the land of his tribe.\footnote{A recent work, B.J. Dalton, War and Politics in New Zealand 1855-1870, seems to believe that Kingi had at best a poor claim and that the Government's actions were largely justified. But he has not grappled with the evidence to the contrary marshalled in Sinclair, Origins of the Maori Wars.} The attempt failed owing to King's determined resistance, and to the support he received from adherents of the King movement, who saw that the threat of Wiremu Kingi's land was


7 Ibid., p.3.

8 See J. Barrington's review in Te Ao Hou, September 1966.

9 A recent work, B.J. Dalton, War and Politics in New Zealand 1855-1870, seems to believe that Kingi had at best a poor claim and that the Government's actions were largely justified. But he has not grappled with the evidence to the contrary marshalled in Sinclair, Origins of the Maori Wars.
ultimately a threat to their land as well. But even in the case of the Waitara purchase Sinclair has demonstrated that Governor Browne, misled by some of his advisers, ordered the troops against Kingi, not because, while knowing that Kingi had a just claim, he wanted to terrorise him, but because he genuinely believed that Kingi had no claim, and was merely an interfering bully - or perhaps an agent of a Land League - needing discipline. Browne believed that he was promoting law and order, ending a long anarchy in Taranaki, not merely seizing land for settlement.10 The involvement of the King movement in the Taranaki War highlighted issues in New Zealand race relations other than the settler hunger for Maori lands, issues that were resolved after a fashion, by Grey's ordering the invasion of the Waikato in July 1863. It was on these issues and their outcome in 1863 that this essay will principally centre.

But first it will be necessary to give a short answer to the writers listed earlier, who have suggested that the invasion of the Waikato was primarily intended for the acquisition of the fertile Waikato plain, for the purposes of speculation and settlement. It is adduced in support of this contention that Whitaker and Russell, who dominated the settler ministries of the period 1862-4, had sought to acquire those lands before the wars and did acquire huge interests in them after the confiscations.11 Then it is pointed out that the rich lands of the moderate Waikato tribes about Ngaruawhia and Rangiaowhia were confiscated and the rather less attractive lands of the extreme Kingites, the Ngatimaniapoto, left...

10 Sinclair, Origins of the Maori Wars, pp.141-8 and 200-1
11 See maps of subdivision of the Waikato confiscation in National Archives, with Whitaker's and Russell's names prominently featured.
virtually untouched. The Whitaker Government was accused by contemporary critics, moreover, of failing, in December 1863, after the occupation of Ngaruawahia to take the opportunity of concluding peace with the Waikato tribes, because the advance had not yet swallowed up sufficient good land.\(^{13}\)

This evidence is not entirely satisfactory. Firstly, although responsibility in Maori affairs had nominally been granted to the settler ministry and assembly, the Colonial Office made it quite clear that Grey was to exercise his own judgment if policies proposed involved the use of imperial troops, or were 'marked by evident injustice' towards the Maoris.\(^{14}\) The decision to send imperial troops into the Waikato rested squarely with Grey and it is not sufficient to show that the settlers were pressing for Waikato lands (as, indeed, they had been doing for several years); it is necessary also to show that Grey was moved by such pressure. The fact that he ordered the invasion of the Waikato is not in itself proof that he did so to satisfy settler land hunger.

Secondly, the taking of Waikato land and the leaving of Ngatimaniapoto land was to a considerable extent the result of accident rather than design. The confiscation of Waikato lands at least as far as Ngaruawahia was suggested by Grey and agreed to by General Cameron for reasons of their own - shortly to be discussed - not because they felt obliged to satisfy the Auckland land rings.\(^{15}\)


\(^{14}\) Newcastle to Grey, 26 February 1863 - AJHR, 1863, E-7, pp.2-6.

certainly sought to enlarge upon the opportunity the invasion of the Waikato gave them. The Whitaker ministry wished to confiscate as much land as Grey would allow north of a line from Raglan/Kawhia to Tauranga, in the district of the more moderate King tribes. But they also sought to include Ngatimaniapoto land as far as Hangatiki, some 20 miles south of the Kawhia–Tauranga line, if Cameron and the Imperial troops made it possible. The fact that none of the extremists' land had been brought within the scope of confiscation by Grey and Cameron's advance to Ngaruawahia was an important reason for the minister's wanting the advance to continue. However, the advance halted before it had engulfed much Ngatimaniapoto territory because Cameron objected to taking his troops into increasingly difficult country, and because the southern provinces, which until 1868 paid more towards the cost of the war than Auckland, Taranaki and Hawkes Bay combined, began to protest at its continuance. Ministers then accepted that the frontier established by Cameron in mid-1864 was, at least for the time being, the practical limit of confiscation in the Waikato and, in December 1864, Grey, Cameron and Weld Government agreed upon a confiscation up to Cameron's lines. The Ngatimaniapoto escaped lightly but ministers regretted that this was so and tended to look upon the question as something that could be reopened at a later time.

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16 R. Whitaker to Grey, 25 June 1864 – AJHR, E-2, pp.58-9; Grey to ministers, 5 November 1864 (and plan 3 enclosed) –AJHR, 1864, E-2C, pp.14-16; ministers to Grey, 14 November 1864 – ibid., pp.16-19; ministers to Grey 18 November 1864 – ibid., pp.2-11, esp. p.5 paragraph 12 and map D appended.

17 W. Hadfield to Venn, 5 May 1864 and 7 June 1864 – Hadfield Letters; see AJHR, 1869, B-2, p.41 for the annual expenditure of each Province upon the war.

Thirdly, there is evidence to show that the Whitaker ministry in December 1863, and subsequently, did not make peace, not merely because they wanted more land, but also because the independent power of the Maoris - in itself an object of attack - had not yet been crushed to their satisfaction. Grey was more ready to make terms, but Ministers feared that his terms were likely to leave the King movement still relatively intact and the tribes still capable of resistance. They refused to let him go to Ngaruawahia unfettered but insisted on terms which included the surrender of arms by the Maoris, a total cession of their lands, and their coming in to live on defined plots within the confiscation. Grey therefore did not go to Ngaruawahia at all. Gillies, a member of the Ministry, wrote: '...we grind on. Fox and all of us hold steadily to our point - we must have absolute submission this time.'

Much more was involved in this 'submission' than the facility to acquire Maori land. This is not to say that the invasion of Waikato was not largely to facilitate the acquisition of Maori land. It certainly was, but land (and Waikato land in particular) was not by any means what the invasion was all about. Unless the protestations of people like Gillies are brushed aside as a mere facade, masking the basic desire to secure land, there was something more involved and it is necessary to scrutinise European motives for aggression much more closely.

19 AJHR, 1864, E-2, pp.35-9.
SOME personal motives of Grey may be considered first. He had come to New Zealand in 1845 to implement the policy of racial 'amalgamation', a policy favoured by humanitarians since 1839 as a much better policy for the Maoris than segregation onto reserves, steadily subject to settler encroachment, as had occurred in the case of the indigenous peoples of North America and Australia. During his first Governorship Grey had, partly by the exercise of much charm and skilful diplomacy and the granting of small salaries and minor offices to ariki such as Potatau Te Wherowhero and Te Heuheu, apparently won the Maoris over to the goal of amalgamation. His reported success won him great acclaim in London; Grey established a high reputation as a colonial governor upon his ability to create a new and harmonious multi-racial society in New Zealand.

When Grey returned to New Zealand in 1861 he learned, however, that the Kingite chiefs would work with him only if he would let the King and his flag stand. The situation called for at least an attempt to negotiate some sort of defined authority for the King movement within the main framework of government. There was strong evidence that Wiremu Tamahana and the Kings council at Ngaruawahia were willing to co-operate in such a plan. Moreover Grey's instructions suggested that he consider the advisability of establishing Native Districts.

But, apart from the fact that this was anathema to the settlers, it was also not to Grey's taste. Firstly, like Browne before him, he was beset by a fatal tendency to believe that the Queen's government must be demonstrably exercised over all those who, since the Treaty of Waitangi,

had been regarded as British subjects. Secondly, Grey himself was an
autocrat, not readily inclined to brook a rival authority in the land.
Thirdly, the King movement's stand threatened to prevent him from attaining
speedily the coveted and reputation-making goal of amalgamation. He
therefore planned his rival scheme of civil institutions which entailed
giving the chiefs, including the Kingites, only limited authority in
local government, under the direction of Queen's magistrates, and
provided for the intrusion of settlement, under fairly strict safe­
guards, into Maori territory.

Grey placed this programme before the Kingite spokesman in December
1861 and, even before they had made the full extent of their demands
plain, denounced the King movement as dangerous, claiming that his new
institutions would outbid and topple it. The most he would concede was
to profess indifference to the King - a slight in itself. This approach
was essentially negative. He showed no real respect towards Kingite
sensitivities regarding the encroachment of European settlement and made
no suggestion of finding a defined role in government for the King
movement. Although the ministry were behind Grey in this stand, on
one point - the question of the return of plunder seized by Waikato
Maoris in the Taranaki war - Grey's attitude actually outran their thinking.
Before he met the Kingite leaders Grey himself privately expressed the
opinion that it was absurd to talk of recovering the plunder, but he

24 Notes of meetings - AJHR, 1862 - E-8, pp.6ff; Gorst, The Maori King,
pp.140-8.

25 A.S. Atkinson Journal, 20 December 1861 - Richmond-Atkinson Papers -
nevertheless demanded its return and threatened punishment for those who held it. The Premier, Fox, later remarked:

I never did much approve of his instructions to the natives on this point, and I think it would have been better if he had told them in fact that he would let bygones be bygones... I shall not early forget old Rangitake [Wiremu Kingi Te Rangitake, then sheltering in the Waikato] saying 'Don't you say anything about the plunder - I lost plunder also' - and no doubt he did.  

It had been suggested that Grey's undiplomatic approach may have sprung from an already-formed determination to attack the King movement, his civil institutions being merely a blind to deceive the Maoris while he made his preparations for war. Indeed his military preparations - especially the road from Auckland to Waikato - and some of his remarks to the departing Browne show that he was fully prepared to attack if the King movement would not submit. But other evidence - notably his letters to leading Kingite chiefs, suggest that, until about mid-1862, he was fairly confident of being able to undermine the King movement without war.

The manner of Grey's approach to the Kingites in fact sprang from his serious underestimation of the extent and depth of the Maori assertion of independence, and his vast overestimation of his own ability to win the great chiefs over to the goal of racial amalgamation, by the exercise of his personality. In October 1861 he expressed to Newcastle the hope that the dissident chiefs 'may possibly from a feeling of personal regard

26 W. Fox to Mantell, 22 April 1863 - Mantell MSS, 281.

27 Miller, Race Conflict in New Zealand, p.91, Dalton, War and Politics in New Zealand, pp.163, also suggests that 'the King party had good reason to think that Grey was maturing a deep and subtle plot against them.'

to myself, do all we could hope for. At the December meeting he encountered some of the chauvinism of the Kingite chiefs and tried to bring them to heel with a mixture of brusque threats and disdain. In January 1862 he wrote to Te Heuheu greeting him as an old friend and travelling companion from the days of his first governorship but saying he could not help him as he had formerly because 'you are the child who has run away from a father who loves you very much.' In February he capped this versatile display with a letter to King Matutaera himself. Grey recalled his own close association with Matutaera's father, Potatau Te Wherowhero, and wrote:

.....return o son of Potatau, return to Mangere near Auckland, where Te Wherowhero had lived to dwell there, that I may protect you, that you may dwell in peace in that place and be separated from the faulty teaching you are receiving...From your father, the everlasting friend of the children, G.Grey.

Grey's egotism had wedded him to the idea of being the fond and wise father of the Maoris, a role he imagined he had played with success in his first governorship. He still regarded the chiefs as essentially childlike people responsive to a mixture of chiding and candy. He seemed quite unable to grasp the fact that he was writing to men, who, backed by some 10,000 armed supporters, were experiencing the rich and heady satisfactions of creating an independent Maori nationality in defiance of the invaders. Grey's patronising suggestions were greeted with utter disdain. Possibly the most important man of all, Wiremu Tamehana, Grey did not seriously court; he had already dismissed him in a conversation with Gore Browne as 'a turbulent

29 Grey to Newcastle, 9 October 1861 - AJHR, 1862 - E-1, Section II, p.5.
31 Grey to Matutaera, 15 February 1862 - ibid., p.162.
and ambitious chief whom he disliked and wouldn't communicate with.\footnote{32}

By March 1862 Grey's complacency had been disturbed by the cold reception the Kingite chiefs had given him and his new institutions. He no longer spoke of the Kingship as 'a foolish toy'\footnote{33} but complained rather 'that the King is constantly fighting him; he is going to do this and that he (the Govr.) can never live in peace'.\footnote{34} Early in June he wrote again to Matutaera in consequence of the King's having offered armed support to a Thames chief who opposed the sale of land. Grey warned Matutaera that he would not forget the offence, that it was written in his book and the law was strong.\footnote{35} Matutaera himself believed that this was the turning point and that although Grey later turned his attentions to Taranaki, 'his thoughts were upon Waikato.'\footnote{36}

From June, in fact, Grey increased his pressure on the King movement, supporting Gorst's plan for police barracks in the Waikato and building gunboats for service on the river. He showed himself bound by considerations of prestige to continue policies provocative of unrest - for instance declining Tamehana's offer to assist in recovering the Tataraimaka block

\footnote{32} Browne, draft comments on a ministerial minute of 8 October 1861 - GB 4/1; see also Browne to Harriet Gore Browne, 19 December 1861 - GB 2/4. n.24.

\footnote{33} John Morgan to Browne, 29 February 1864 - GB 1/2.


\footnote{35} Grey to Matutaera, 9 June 1862 - \textit{cit.} GB 1/2, p.162 and \textit{Te Hokioi} (the King Movement newspaper), 8 December 1862. See also loc.\textit{cit.} for Matutaera's reply.

\footnote{36} Matutaera to chiefs of Hawkes Bay, 21 August 1863 - \textit{cit.} Sewell, \textit{The New Zealand Native Rebellion}, p.36.
and occupying it before relinquishing Waitara. Yet all the while, it seems, he still half-expected to gain submission.

Throughout the whole of his second governorship Grey revealed a sufficiently poor understanding of the Maoris to justify the judgment of Henry Sewell that 'the closer I see Sir George the less I am impressed with his solid capacities. He is essentially an egotist.' Contrary to persisting opinions that Grey was a protector of Maori interests, who might have averted war but for the intransigence of Maori extremists and land-hungry settlers, Grey himself advanced policies that led inexorably to war. Having provoked the Maoris to the point of retaliation, he loosed Cameron upon them. Even then he and Cameron had clearly in mind only the advance to Ngaruawahia, hoping that this would be sufficient to elicit an unequivocal submission from the King movement, and a cession of land sufficient to allow the planting of military settlements at key points in the interior, including Ngatimaniapoto country. As the war dragged on without any major submission he railed that a madness had cover over the Maoris similar to the cattle-killing delusion he had lately experienced among the Kafirs. By 1865, aware that he was not going to secure the submission of the Maoris, Grey lost interest in his earlier dream of conducting a harmonious amalgamation of races under his paternal wing, and became more concerned to bargain with settler Premiers in order to retain as much influence as he could in the now self-governing colony.

38 Grey to ministers, 5 November 1864 - AJHR, 1864, E-2D,pp.14-16.
39 Morgan to Browne, 29 February 1864 - GB 1/2; see Rutherford, Grey, pp.340-59 for the cattle-killing delusion.
Some sordid bargains resulted, including Grey's agreement to extensive confiscation in the Waikato and Taranaki and to a brutal military subjugation of the latter province by the Stafford Government in early 1866. These in turn weakened the confidence of the Colonial Office in Grey and contributed largely to his dismissal in 1867. Grey's view of Maoris then became intemperate to the point of paranoia. He habitually referred to them as 'barbarous', denounced any new suggestion of recognising the King as a concession to 'fierce and bloody fanatics' and attributed unprovoked and bestial atrocities to them in language to which few settler politicians and only the most rabid of colonial newspapers descended.

In the sense that his view of the place of the Maoris was as respectful subjects, submissive and grateful for his kindnesses, a vision that made no room for any show of Maori independence and little for their self-respect, Grey was, not the best, but the worst possible Governor to have sent back to New Zealand in 1861. The warm glow he had experienced as the patron of leading Maoris in his first governorship was denied him in his second, the chiefs having in the meantime discerned the weakness and indignity of their position and discovered a more satisfying goal. Grey's resentment of their rejection of him was not the least among the causes of war in 1863.

NEVERTHELESS, as Sinclair has pointed out, the basic antagonism between Maoris and settlers was such that war was likely to occur, at some time, even if Grey had averted, not invited, a collision in 1863. There were,

40 Grey to Sir F. Sandford, 13 November 1869 and Grey to Sir F. Rogers, 22 November 1869 - AJHR, 1870, A-1B, pp.82-6.

to begin with, certain obvious material satisfactions to be gained by the Europeans in making war on the King movement. The prospect of confiscation of land was only one of these. For the army and the adventure-seeking the onset of war meant glory, promotion and plunder. Fox referred contemptuously to the military, who, at the reoccupation of Tataraimaka, were 'up in the stirrups, congratulating themselves that at last they are going to have a brush', while the settler community — from the Richmond-Atkinson set, glorying in their role as cavalry leaders, to the riff-raff of Auckland — looked on the war as a great adventure, with just enough danger and just enough certainty of victory to give it the flavour of a daring game.

The clergy too saw advantages for themselves in the invasion of the Waikato. The King movement by 1863 had begun to regard the organised English missions with increasing distrust, as essentially agents of English dominion. Missionary schools and congregations in the Waikato had begun to be depleted by Maori attendance at political meetings and missionaries like the Anglican John Morgan looked eagerly to the Government for the subjugation of the Maori nationalism that was frustrating their progress.

Settlers commonly stated that the conquest of the King movement was intended to establish the rule of law. This too, to a great extent, implied the pursuit of material gain. The subjugation of the King movement meant

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42 Fox to Mantell, 25 March 1863 - Mantell MSS, 281.


not only that land in Waikato would be confiscated, but also that there would be more certainty of extensive purchases under the Native Lands Act of 1862. It is probable that some politicians, including Bell the author of the Act, at first hoped that the King movement would bow to the reoccupation of the Tataraimaka block and that henceforward the operation of direct purchase and the Native Land Court would whittle away the land on the margins of Kingite territory - as in fact occurred in the 1870s and 1880s.

But the certainty and extent of these operations were expected to be increased by a prior defeat of the centre of opposition to landselling. The assured supremacy of European power meant also that trade and commerce could exploit the Maori market with the certainty that the payment of debts could be enforced through the courts, or an equivalent taken in land.

Perceiving the relationship between the establishment of European law and the progress of land purchase operations, M.P.K. Sorrenson has interpreted the settlers' desire to establish the rule of law as meaning, predominantly, a desire to promote the 'enfranchisement' of land - meaning the individualisation of land title and direct sale to settlers. He has noted that F.D. Fenton, the magistrate sent into the Waikato in 1857-8, spent a disproportionate amount of his time in trying to induce the Maoris to individualise titles. From this he has generalised that other magistrates appointed in 1861-2 - particularly Armitage, a former

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45 Noting that Tamehana had advised the Taranaki Maoris to relinquish the Tataraimaka block Bell wrote: 'If this be done I shall be content to let the King movement rest and take care of itself.' (Bell to T.H. Smith, 12 February 1863 - Smith Letters).

squatting partner of Fenton — 'were more interested in land than in administering the existing law', and that because of this, their authority was repudiated by the King Maoris.  

But Sorrenson has carried his identification of 'rule of law' and 'enfranchisement of land' much too far. Fenton had a quite exceptional interest in land; he was a zealot, with a narrow legal education and a passion to reduce Maori customary title to an individual tenure. It is a mistake to infer from Fenton's activities that other magistrates were similarly disposed to concentrate on 'enfranchisement' of land. The citing of Armitage (as one whose supposed interest in land caused a rejection by the King Maoris of Grey's magistrates) misses the point. Armitage was appointed to the Lower Waikato district and proved popular there. His principal Maori Assessor, Wi Te Wheoro, and his Ngatinaho people remained among the strongest supporters of the Government throughout the war. Certainly Grey's plan of government in 1861-3 had envisaged the settlement of title by the magistrates, in conjunction with their Maori Runangas, and some R.M.s, including Armitage, made tentative efforts to decide disputed claims, but, soon realising the unpopularity of the move they did not persist with them. However, the magistrates continued with but one important exception, to extend their ordinary criminal and civil jurisdiction among the Maoris. The magistrate whom the King Maoris rejected was Gorst who more properly belonged to the humanitarian group than the


49 Armitage to Fenton, 6 January 1862 - AJHR, 1862, E-9, Section II, pp.8-9.
settler party proper, and was certainly not in sympathy with settler pressure to obtain Maori lands.

What Gorst and most magistrates intended - in fact what most settlers, clergy and officials intended - by the rule of law, were two things: firstly, civil peace and order; secondly, and less admirably, the unquestioned dominion of the white race. These two goals were inter-related, and both were desired for their own sake, not merely in order to facilitate settlement of Maori land.

In the first place it should be realised, notwithstanding assertions, by historians, to the contrary, that the Maoris were not in the period immediately prior to the wars, living in peace and tranquility under the guidance of missionaries, unless provoked to feuding by European offers to purchase disputed lands. Certainly the most serious feuding in Taranaki and Hawkes Bay, was promoted by such offers, but there were constant minor conflicts involving loss of life, arising out of a continuation of the tribal wars of the 1820s and 1830s and out of makatu and puremu disputes the activities of taua muru were a subject of constant criticism by magistrates in every district, as late as the 1880s.

Although these were essentially institutional means of adjusting differences in Maori society they gave Europeans an impression of constant turbulence and savagery. Humanitarian considerations alone demanded that violent customs be suppressed by the intervention of British law and, from the drafting of Hobson's instructions in 1839, successive British Governors


51 See annual Reports from Officers in Native Districts, AJHR, 1869, et. seq. (usually paper G-1).
had been urged to use their - largely nonexistent - authority to this effect. Their inability or neglect to do so in many instances since 1840 had been felt by officials as a source of deep humiliation, and the appointment of magistrates after 1858, to work with Maori Assessors in their districts, was intended largely to provide for the peaceful redress of grievances in Maori society. Moreover, although Maori hospitality and generosity were usually to the fore, the North Island settlers felt in a state of insecurity in the face of Maori power. Settler fears, if substantially unjustified, were nevertheless very real. They were the fears characteristic of a white population residing among a powerful and unsubdued coloured race and have been demonstrated by many a white community since. The Maoris did not always care to keep their power masked. One of the commonest words used in settlers writings to describe Maori behaviour during the period 1840-63 was 'bounce'. This term was used to describe the allegedly capricious and arbitrary behaviour of Maoris who impounded cattle, refused to pay debts, stopped roads and surveys, levied tolls, left passengers stranded on ferries in mid-river, threatened, abused and sometimes assaulted settlers and defied magistrates' summonses. These activities were often well deserved responses to acts of injustice, insults or breaches of Maori custom by settlers; they reached their peak after European aggressions such as the Wairau intrusion of 1843 and the Waitara war of 1860-1, which indicates that they were in fact largely defensive in origin, or assertions

52 E.g., Henry Sewell's remark:

*What are we to say to a Government with 50,000 subjects over whom it exercises, and can we exercise not the slightest practical control?...we profess to govern them and they are able to do so just so long and so far as they choose to let us.*

of the Maoris' claim that they were not yet to be trampled upon in their own land. But at times innocent and fair-minded settlers were hurt, and none felt secure. As a result, much of the settler community developed a deep loathing for the Maoris that grew positively explosive after 1861. After a Hawkes Bay settler had had his house plundered before his eyes by a wandering party of Kingites, McLean wrote 'they irritate and annoy to such an extent that at any moment we may have an outbreak.'

In 1861-3 the King movement was more active than ever in proselytising and showed a stiffened response to Grey's rival institutions. The reactions too were largely defensive. The Kingite leaders sought to safeguard the integrity of their movement by trying to extend their authority as widely as possible beyond their own base territory. But to the settlers they were aggressive, threatening to place the whole settler community in subordination to Maori authority. Settlers saw themselves as circumscribed and oppressed and looked upon suggestions that they were oppressors with unfeigned surprise. Nor did they regard their desire to subdue the Maoris as anything but righteous; as Frederick Maning put it: 'if the natives were once subject to the law and reduced to the condition of peaceable subjects, I would be the first to protect them from any unnecessary or vulgar tyranny.' And, as has been shown, the humanitarian Gorst leant the weight of his opinion in favour of establishing a strong police power to bring the Maoris under the rule of law.

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53 McLean to Bell, 24 December 1862 - McLean MSS, 146.


55 Maning to McLean, 7 November 1863 - McLean MSS, 311.

56 See above, pp.71-6 and 99.
Settler belligerence was caused not only by desire for security and law but by attitudes with which it is much easier to sympathise, namely, racist notions of white supremacy. The settlers in New Zealand usually omitted mention of colour and spoke rather of the superiority of their civilization. In detail they spoke of the Maoris' smell and skin sores, their limited hygiene and less limited sexual morality. Fastidiousness and narrow morality as always, produced deep undercurrents of racial antagonism. The late Sir Apirana Ngata expressed the opinion that the root of racial antagonism in New Zealand was the difference between the European 'home' and the Maori communal kainga. Whatever the term of their argument what stands out in the writings and public utterances of the settlers is that, whether or not they wanted land, they certainly wanted their superiority firmly established over the people they habitually spoke of as barbarians, or savages or increasingly, 'niggers'.

Racialist attitudes inhibited support for the Maori Runangas if, as it appeared, these would exert some restraint over settlers. Because numbers of Europeans were already settled in the Waikato and many more wanted to be, similar considerations inhibited suggestions that the King movement be recognised and offered a defined sphere of authority.

The crisis period of 1861-3 was, therefore, the climax of over 20 years of tension and mistrust arising from many causes, some connected directly with land, some not. 'Middle class' European opinion had been


58 E.g. 'Sir George Grey ought to be kicked if he does not soon kick these precious niggers.' (W.S. Atkinson to A.S. Atkinson, 16 March 1862 - Richmond-Atkinson Papers, ed. Scholefield, vol.1, p.752).
said to have shown a 'highly emotional reaction' to the Maori effort to curb land sales.\textsuperscript{59} This statement misses some of the fundamental bases of racial antagonism in 1863 and does disservice to the understanding of such antagonisms as exist at the present day. Settlers certainly displayed a highly emotional reaction, but the reaction was not merely from middle-class Europeans nor did it stem only from a cessation of land sales; it stemmed from any indication that Europeans were likely to remain in what they believed to be a state of fearful dependence upon a turbulent race of barbarians.

When the war began in 1803, the European population reacted with violent brutality towards, not just the 'rebels', but to Maoris as such. Sewell noted that in Auckland 'no native however friendly, dared to show his face in the streets. The temper of the people towards the whole Native race is indiscriminately cruel.'\textsuperscript{60} J. White, Resident Magistrate in Upper Wanganui, protested at the kicking and striking, by soldiers, of pro-Government Maoris, including the chief Hori Kingi upon whom the security of Wanganui largely depended.\textsuperscript{61} R.C. Barstow, R.M. of Russell, remonstrated with the editors of the \textit{Southern Cross} who had indicated regret that the expense ruled out the carrying of war against the Ngapuhi 'yet'.\textsuperscript{62}

Thus, while the desire for more land was uppermost in the minds of


\textsuperscript{61} White to Native Minister, 19 August 1863 - JC - WG4.

\textsuperscript{62} Barstow to Editor, \textit{Daily Southern Cross}, 12 August 1863 - J,C- Russell 1.
numbers of Europeans in 1862-3, the theme that emerges more strongly in the writings of the settlers is the demand for security of person as well as property, and for the supremacy of the white race. This is what made the invasion of the Waikato the climactic event in New Zealand race relations. As contemporaries observed, it was an event of much greater significance than the Taranaki wars, which, despite Governor Browne's arguments, arose more specifically from the desire to acquire land. The invasion of the Waikato expressed the determination of Europeans to resolve the ultimate question of which race and which society was going to prevail, and admit the other on sufferance. This was a question that had to be resolved in any colonial situation, whether or not the centre of resistance of the indigenous people was itself coveted for purposes of exploitation. For this reason, and even if the Waikato lands had been utterly unattractive to settlement, so long as the settlers on the periphery were unable to tolerate a Maori separatist movement, there they were likely, sooner or later, to have subjected the location of that movement, as the Urewera was subjected in 1916, to at least a punitive expedition.

Once the invasion was launched North Island settlers sought to make the Maori submission as complete and permanent as possible. Hence the demand of the Domett and Whitaker ministries of 1863-4 that the King Maoris surrender arms or the invasion be continued. When the advance was halted in 1864, Grey received a petition from the settlers of Wairarapa:

63 E.g., Whitaker's comment: "we are on the eve of great events!" (Whitaker to C.W. Richmond, 25 June 1863 - Richmond-Atkinson Papers, ed. Scholefield, vol. II, p.52). And that of Dillon Bell:
You will see by this that on the necessity of a campaign in Waikato there is no difference whatever between the Governor and us, and therefore in the most important thing which has happened in New Zealand the Governor and ministers are entirely of one mind....
(Bell to Mantell, 7 July 1863 - Mantell MSS, 244).
That...the Government...ought not relax its efforts to establish the Queen's supremacy until the whole Maori race yield entire obedience to the law...relations between the two races cannot be considered satisfactory nor can property, or even life, be regarded as secure so long as it remains purely optional with the Maories [sic] whether or not they will obey the law. It would be easy to adduce instances of debts repudiated, or long unpaid, or crimes committed, of cattle destroyed, and other injuries sustained by the settlers, who are compelled to put up with them under the conviction that it would be fruitless to appeal to a Court of Law for redress.... residing as they do in the midst of an aboriginal race well armed...and not as yet brought within the pale of the law.....therefore....it seems to your memorialists absolutely necessary that the strong natural positions and keys of the country should be occupied by a sufficient armed force of Imperial or Colonial troops. Such strongholds in the interior of the country would, moreover, not only strengthen the position of the settlers, but would render the towns on the sea coasts secure from all chance of attack.64

Because it was not achieved in the 1860s the desire of the Wairarapa petitioners persisted late into the century. It usually involved the acquisition of land but not merely for economic purposes. The opening of the King Country in the 1870s and 1880s by negotiation and land purchase was as much for the purpose of destroying the sanctuary it provided for Maori offenders against European authority as for securing a route for the Main Trunk railway.65 The enthusiasm among Europeans all over New Zealand to volunteer for the raid on Te Whiti's settlement at Parihaka in 1881 cannot be explained merely in terms of the desire for Te Whiti's land, which could benefit comparatively few. The bloody police raid on the settlement of Rua in the Urewera country in 1916 had nothing to do with the prophet's

64 Wairarapa settlers to Grey, 18 November 1864 - IA 64/2383.
65 In 1882 there were in the King Country, besides Te Kooti and others who had killed settlers during the main period of the wars, the 'executioners of Todd, Sullivan and Moffat (Europeans who had meddled with Kingite lands beyond the aukati). There was also Winiata, who had killed his employer in Epsom, in a dispute about money, and another who had killed a fellow-Maori over an alleged makutu near Tauranga. Several men against whom magistrates warrants had issued for theft or drunkenness or other petty crimes, had also found sanctuary.
land, for the Government had already decided to leave it as a forest covered reserve to minimise the danger of flooding on the Bay of Plenty plains beneath. In fact, the then Native Minister, William Herries, shortly before the raid, renewed his promise not to remove the restrictions on the alienation of the Urewera country. The raid was a classic illustration of European intolerance of independent Maori authority. Rua was feared and distrusted for the concentration of followers he had built up. When a Maori opponent of Rua complained to the Government of the prophet's religious pretensions and of his alleged talk of an impending German victory in the world war, Herries minuted: 'Reply that soon or later Rua will be arrested we want to do it by ordinary means without resorting to force if we can but Numia can rely on it that we will not let him go free. The mana of the law must be maintained.'

Soon afterwards Rua was served a further summons for brewing illicit liquor, an offence for which he had, only shortly before, served a short gaol sentence. He was in fact being hounded. He defied the summons on the ground that he had already been punished for his offence, but he was arrested after a gun battle in which one of his sons and another Maori were killed. Sentencing Rua to gaol again, Mr. Justice Chapman stated:

66 See MA 13/91.


68 My mother recalls that she and her brothers and sisters as children were hurried behind locked doors when Rua and his cavalcade rode by her home, on their journey to Gisborne.

You refused to submit to the magistrate's warrant. . . . now you must learn that the law has a long arm, and that it can reach you however far back into the recesses of the forest you travel, and that at every corner of this great Empire to which we belong the King's law can reach anyone who offends it. 70.

The ideal of the rule of European law in New Zealand, was, from the Maori standpoint, a very aggressive one. The police gunfire at Maungapohatu in 1916 was in effect the last shooting in the Maori wars, breaking into the last Maori stronghold and marking the complete attainment of European dominion and security.

IT HAS been held that humanitarians, because they were insufficiently in control of policy — or because they were not truly humanitarians at all — failed to check the influence upon policy of settler self-interest, and so failed to prevent the Maori wars. 71 While this is certainly true of the war which arose over the Waitara purchase it can be argued that the policy advocated by humanitarians, towards the Maoris, was in itself a major contributory cause of the invasion of the Waikato.

Even before the foundation of the Colony, Church Missionary Society missionaries in New Zealand had argued on theological grounds that Maori institutions were corrupt and self-destructive and ought to be changed. 72 When Britain took formal control of New Zealand, James Stephen, the

70 New Zealand Herald, 4 August 1916. I am indebted to Mr. Peter Webster of Victoria University of Wellington who is currently writing a M.A. thesis on Rua, for drawing my attention to Mr. Justice Chapman's statement.


humanitarian Under-Secretary in the Colonial Office, argued that the rule of law and the example of European husbandry and craftsmanship would be the basis of Maori prosperity and advancement in civilization.  

Successive Governors were urged by humanitarians in London and missionaries in New Zealand to use their powers to prevent Maori warfare and other injurious practices.

The belief that the Maoris would benefit from subjection to law and colonisation was the positive side of humanitarian policy in this period. There was also the negative argument that settlement was coming anyway and that the Maoris' only chance to avoid being trampled upon was to modernise and modernise quickly. Thus men like the Rev. T.S. Grace, one of the more determined advocates of Maori rights, long believed that unless the Maoris accepted the European order of things and learned European skills they would sink into servitude before the advancing settlers.

Both these lines of thinking left the humanitarians ill-prepared to approve any Maori rejection of a hurried Europeanisation or to encourage Maori efforts to preserve elements of the old order. The Aborigines Protection Society, in the debate on the 1852 Constitution, had questioned the provision for the establishment of Native districts as likely to hinder the programme of racial amalgamation and leave the Maoris in a sheltered and backward position when the settler tide should eventually sweep about them. Hadfield, the champion of Wiremu Kingi in 1859-61, had

73 CO 209/4 pp.237-42.
74 Letters and Journals of T.S. Grace, ed. Britten and Grace, pp.12 and 76.
argued, when the King movement was beginning, that 'the Government should do nothing towards establishing the influence of the chiefs, but should rather endeavour to lessen this by every legitimate means.' Most missionaries were quick to condemn the King movement as foolish, dangerous and retrogressive - slow to see it as something to be welcomed and guided.

Some outstanding men, like Selwyn and Martin, had sufficient flexibility of mind to advocate the recognition of the King movement in some form, or the temporary declaration of Native Districts but they too saw eventual acceptance of European settlement and authority as the best path to Maori welfare and continued to urge the Maoris to sell surplus lands. Two factors convinced them of the necessity for amalgamation. One was the continuance of violence and callousness in Maori life - the periodic killings for makutu and puremu, the casual slaying by chiefs of women who irritated them, the frequent neglect of widows, orphans, and the aged, unless they were people of rank. The other factor was the hideously apparent decimation of the Maori people by disease - a phenomenon attributed largely to the dirt and ill-ventilation of Maori whare, and faulty Maori habits of clothing, diet and hygiene. Fenton's report accompanying the census of 1858 was a classic exposition of the European remedy for the high Maori death-rate; it urged respect for law, security in the occupation of individual farms and homesteads, and the

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76 Cit. F.D. Bell memo. 1 February 1861 - Native Affairs - North Island, A-1, p.68


78 See e.g. Thomas Lambert, The Story of Old Wairoa, p.388

adoption of a predominantly European mode of life - the benefits of which Fenton claimed to demonstrate by comparing vital statistics of Maori villages with those of mission settlements among the Maoris.

Gorst, Fenton's successor in the Waikato, was also quick to condemn the dirt and disease of Maori pa and the prevalence of scrofulous sores, a state of affairs he attributed to the decline of missionary guidance. His conviction that the absence of a reliable form of government inhibited social order and economic progress, was one of the major reasons for his demand for the establishment of a strong police force.

It can be argued that humanitarians like Hadfield and Gorst, in advocating Maori submission to amalgamation and the rule of law, were unconsciously, or indirectly, motivated more by care for their own advantage than for Maori welfare. But this would be to put too fine a construction on their motives. Basically they were selfless men, but sincerely believed in the value of British institutions and regarded themselves as having an obligation to press upon the Maoris. In July 1863 both approved Grey's determination to make the King movement submit to the Government.

Their arguments were, however, extremely convenient ones for lesser men. They became axiomatic in the Colony and were urged in support of every demand that the Maoris submit to the extension of European settlement. Some obviously paid only lip service to humanitarian beliefs.

80 F.D. Fenton, Observations on the State of the Aboriginal Inhabitants of New Zealand, pp.39-51
81 Gorst report, 5 June 1862 — AJHR, 1862, E-9, Section III, p.11.
82 As noted above, Gorst helped draft the proclamation heralding the invasion. See also Hadfield to Alfred Venn, 7 June 1864 — Hadfield Letters, p.208.
83 Domett, who lauded Maori-European relations in the South Island as an example for the North Island but refused to take up the many serious problems affecting the South Island reserves, was outstanding among these.
Others such as J.C. Richmond, Dillon Bell, Henry Sewell and William Gisborne - an unusually well-educated and intelligent group of politicians, erudite, and according to their own lights, honest, hard-working and sincere - had persuaded themselves of their civilising mission, and although their vision was limited by self interest, they were not unwilling that the Maoris should share the benefits of the new order.

But in July 1863 the very preciousness of their culture and the self-righteousness of their idealism made them very belligerent. Dillon Bell, Native Minister in mid-1863, exemplified this tendency. He was an admirer of Hadfield's model village at Otaki where Maoris dwelt in English style cottages and the only outward remnants of Maori culture were the decorations of the church. \(^{84}\) He lectured the Maoris on the worthlessness of the mingling or co-existence of the two cultures - the Maoris had to become Englishmen if they were to progress. \(^{85}\) And when it was determined that Cameron was to invade the Waikato he cried exultantly to Mantell:

The general therefore describes his plan of operations as being that of an advanced guard constantly taking up fresh ground which should be filled up by civilians so as to make conquest and colonisation simultaneous. This had never been done before, since the time of the Romans, and we may preserve the remnant of the New Zealand race by forcing upon them a civilization which they will not accept as a peaceful offer. \(^{86}\)

Thus Christian notions of leading Maori society into changes considered beneficial had become distorted into a Roman concept of colonisation involving the imposition of these changes. Righteous idealism

\(^{84}\) Bell to Secretary of the New Zealand Company, 6 January 1849, GBPP, 1850/1136, p.244.

\(^{85}\) E.g., Bell to Piripi Matewha, 30 November 1861 - MA 4/73, p.116

\(^{86}\) Bell to Mantell, 7 July 1863 - Mantell MSS, 244.
had become self-righteous arrogance. Even Bishop Williams of Waipu argued that confiscation of Waikato lands would be for the ultimate good of the Maori people.

For fifty years and more after the invasion of the Waikato, New Zealand officials prided themselves on their Roman imperialism, in carrying what they conceived to be a beneficial law and civilisation to an initially reluctant native people. The fallacy of their belief that the Maoris would soon welcome and benefit from this process was pointed out by two contemporary observers. T.W. Lewis, a young Welshman, then en route to take up work in the Government service, observed to McLean that

One party consider that the Natives require nothing but law and order to render them loyal subjects of Her Majesty, forgetting all the time that law to be appreciated and obeyed must be the result of time as it has been in our country and that the forcing it upon a semi-barbarous people by spasmodic efforts is not the means by which we can have our institutions respected. It will be much wiser to let the Maori alone until he is softened by conviction to appeal to us for our laws...... Few will take pains to enquire into the past history, character, religion or superstitious belief of a people with a view to eliminate some principles upon which a fabric of government might be constructed. John Bull with all his love of justice has too little regard for the feelings and customs of people differently constituted from himself.

With the Australian example before them humanitarians had come to believe that the Maoris must either co-operate with settlement or be exterminated. Given that it was not then practical politics to control the driving progress of settlement, the remedy was to guide the Maoris into rapid amalgamation with the intruders. This remedy was not without some hope of success but when the patient began to react against too large and

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87 Williams to Colonial Secretary, 15 April 1864 - encl. in Grey to Newcastle, 25 April 1864, AJHR, 1864, D-6, p.5.

88 Lewis to McLean, 6 September 1862 - McLean MSS, 281.
too sudden a dosage of it, the doctors did not alter the prescription - they decided, with pious protestations, to shove it liberally down his throat. When the settlers themselves took up the task of administering the medicine the outlook for the patient was very grim indeed.

THE argument of this article has not been that European aggression in New Zealand can be justified, but that it must be explained as a complex social movement involving much more than land hunger. In 1863 the greed of land sharks and the genuine distress and fear of frontier families, the cultural snobbery of the educated settler elite and the brutish racial superiority of the ignorant whites, the desire of the Governor and the magistrates to end the humiliation of not being able to rule in the out-districts and the humanitarians' desire to carry the policy of amalgamation to a conclusion - all these found common expression in the impulse to end Maori resistance by force of arms. Obviously the humanitarians would not have wanted to persuade either imperial or colonial authorities to conquer the King movement merely in a spirit of altruism and concern for Maori welfare. The basic motives were indeed settler fear and settler self-interest, but the belief that the Maoris would benefit from submission to British rule inclined humanitarians to oppose Maori separatism and to acquiesce in the use of arms to end it. The fact that the wars had in part a 'humanitarian' purpose had a very important influence on their course and outcome. In the long run they were much less disastrous to the Maoris than most imperial conquests of indigenous peoples up to that time. Moreover, the final settlement and reconstruction was shaped in a way that
that admitted some protection of Maori interests and - when later and more enlightened Governments provided assistance and encouragement rather than compulsion - the possibility of full Maori participation in the new order.
APPENDIX D

Te Whiti and the Government. 1878-81

THE crisis with Te Whiti developed as the Grey Government advanced surveys onto the Waimate Plain, north of the Waingongoro River, in 1879. The land had been proclaimed as confiscated in 1865 but the Government had never previously exerted proprietary rights north of the Waingongoro. Te Whiti had always spoken of holding from European control his own immediate territory, and he taught a thorough-going rejection of European institutions such as schools and elections for the General Assembly, on the ground that the Europeans basically despised the Maori race and sought their subjection. He had little but contempt for Maoris who cooperated with the Government in facilitating the peaceful progress of settlement.¹ Prior to 1878 Te Whiti had not welcomed to his community Maoris who had sold land or taken Government 'takoha' (compensation) payments for acquiescence in the confiscation. Especially unwelcome were those who had fraudulently sold the lands of those who had earlier taken refuge at Parihaka. As Grey's survey advanced, however, Te Whiti welcomed all Maoris who came to Parihaka and his prophecies about the eventual return of the Maori land from Pakeha control, became wider in scope. From 1870 he held that 'All laws of the Government have become of no effect, all are destroyed by

¹. See his comments to the Maori members of the Assembly who accompanied McLean on his pacification of the district south of the Waingongoro in 1873. (Taranaki Herald clipping, 15 February 1873 - McLean MSS, 34).
me...no laws of the European shall govern the Maoris'.

Parihaka pa became a rapidly growing community of disaffected Maoris from every part of the Colony.

Te Whiti spoke of himself as the mouthpiece of Jehovah or said that he was like Joseph, 'the discarded stone [who] shall become the corner-stone of his people.' He predicted the ending of the present order 'in tumult and war' a period to be followed by a sifting of the people, in which Te Whiti's followers would be elevated. He spoke also of a rising of the dead and the disappearance of the Pakeha and the Kupapa Maoris from the face of the earth. But although his religion was messianic and millenarian, it had a highly practical note. He said of Queen Victoria that 'I don't know that [she] is a Christ but if she will ease our burdens she will be a true Christ.' He also specifically rejected prayer as a waste of time.

The steady advance of the survey, while his followers waited upon him for results, placed the prophet in an intolerable position.

2 Thompson to Sheehan, 19 November 1879 - evidence in support of the Petition of R.S. Thompson, Unpublished PP, Native Affairs Committee, 1879. (This and other information on Te Whiti's prophecies was recorded by the part-Maori interpreter, R.S. Thompson, who regularly attended Te Whiti’s meetings until 1880).

3 Thompson to Sheehan, 19 September 1879 and Thompson to Lt-Col. Roberts, 30 April and 3 August 1880 - loc.cit.

4 Thompson to Sheehan, 22 September 1879 - loc.cit. He said of himself, 'I am not Jesus Christ but a small Christ' (ibid).

5 'I say that prayer is useless and resultless and no man was ever made whole or benefitted through prayer. Given two men one of whom shall spend his night in sexual intercourse and the other in prayer, the former is rewarded by a pleasant sensation in the present and the prospect of an addition to his family in the future, whilst the latter's efforts have no tangible or perceptible result. We are all in the same hole and the rain wets the prayerful and prayerless alike.' (Thompson to Bryce, 19 December 1879 - loc.cit.)
Sheehan's visit to him in May 1879 to ask for the surrender of Hiroki (an ex-Government scout, well remembered by his commander) who had murdered the surveyor's cook precipitated Te Whiti's resolve. He ordered Sheehan away, had the surveyor's gear removed south of the Waingongoro and began the ploughing of land in the various parts of the confiscation, some of it already under settlement.

It has been suggested that the ploughing was intended to provoke a legal action in which Te Whiti could prove the confiscation invalid. It is, however, doubtful if Te Whiti had in mind such an alien and legalistic approach, though in August 1879 the four Maori members of the Assembly proposed a test case. In a somewhat confused statement, Grey and Sheehan said they had in fact proposed a test of the confiscation in a court of law and had no response from the prophet. According to Thompson, Te Whiti specifically rejected the notion, and certainly, in 1886, when tried for his part in a new campaign, Te Whiti declined a lawyer and made only a general statement that he was the original owner.


7 The unfortunate Hiroki incident did not cause the 'Parihaka crisis', as Brown, the Civil Commissioner who advised Sheehan it was safe to go ahead with the survey, tried to argue. (Brown to U-Sec., 2 April 1879 - AJHR, 1879, Sess.I, C-4, pp.9-10). There was a five month time lag between Hiroki's taking refuge at Parihaka and any show of activity from Te Whiti; during that time the survey had advanced and begun to interfere with Maori cultivations.

8 PD, 1879, vol.XXXI, p.557. Grey said that he had offered the suggestion to another Maori, not Te Whiti.

9 Thompson to Roberts, 23 August 1880 - evidence in support of petition of Thompson, Unpublished PP, 1879.
of the land concerned. In fact a legal trial would have availed Te Whiti little; two cases involving the validity of the confiscation proclamations were eventually carried to the Privy Council and in both, the Crown's case was sustained. While only hindsight shows the legal position of the confiscations not to be in doubt (the justice of them being another question) even in 1879 Te Whiti, in his 'ploughing' campaign, seems to have intended simply to assert the Maoris' claim to the confiscation by an act of proprietorship, trusting, probably, to supernatural intervention or oversight to sustain his stand.

The austere and practical Bryce had no sympathy with Te Whiti and regarded him as a fanatic, demented, who, though he might himself protest peaceful intentions, was gathering a following which was likely to get out of hand. He instanced Hiroki as an example of the tendency of Parihaka to abet lawlessness. Bryce considered that Te Whiti could not be placated by an award of reserves in the confiscation but aimed much higher, even at a restoration of Maori dominion and exclusion of the Pakeha. Since, in Bryce's view, substantial reserves were all the Maoris were entitled to, it would be necessary to assert the authority of the law at Parihaka, by armed force, and oblige the Maoris to accept the Government award. In fact, although Bryce was correct in assuming that

10 C.J. Roberts, Centenial History of Hawera and the Waimate Plains, Hawera, 1939, p.344.

11 See Te Teira Te Paea and others v Te Aoera Tareha and another, 1901 - New Zealand Privy Council Cases, ed. von Haast, p.399, and Manu Kapua and others v Para Haimona and another, 1913 - ibid, p.413.

12 For Bryce's views see AJHR, 1874, Sess.II, G-1, pp.12-13, Bryce evidence in Bryce v Rusden, pp.80 and 98.
Te Whiti would not acquiesce in a 'division of the blanket'—a mere allocation of reserves— it was hardly imaginable that Te Whiti would have extended his campaign beyond his immediate environment, or allowed his followers to do so, unless provoked. His whole influence since 1867 had been pacific.

The Hall Government attempted what it considered—from the premise that it was fully entitled to occupy the confiscated land—a reasonable and moderate course. A Royal Commission was appointed to allocate reserves and a road was pressed through the plains, under protection of Armed Constabulary. In June 1880 Te Whiti sent men to fence across the road and they were arrested and detained without trial as the 'ploughman' had been before them. In January 1881 Bryce proposed an expedition against Parihaka and when the Hall Government demurred, on the ground that the pacific policy had not been given a full trial, he resigned.

Rolleston, who took over Bryce's portfolio, bent every effort to seeing the reserves properly marked out and to persuade the Maoris to

13 A side issue arose about whether the Maoris would have been satisfied if the Government fenced along the road, to prevent Maori stock straying or wandering into crops. But the Government only normally did this with regard to roads through private lands, and declined in this case since to fence the road would be to recognise the Maori's claim to the land. (Bryce evidence, Bryce V Rusden, p.72: Rolleston to Hall, 11 February 1881 - Rolleston MSS, miscellaneous, 1881-1906). In fact even if the Government had fenced along the road it is doubtful if Te Whiti would for long have been satisfied, until it was fenced across and stopped. (Thompson to Bryce, 31 August 1880 - evidence in support of petition of Thompson - Unpublished PP, 1879).
accept them. At first it appeared that he would be successful. Te Whiti, pleased with the displacement of Bryce and with the issue of the first Crown Grant for the reserves, called off the fencing campaign. In April and May 1881 Te Whiti appeared to have accepted the situation and Rolleston persuaded his colleagues to release almost all of the imprisoned fencers and ploughmen. The situation, however, again immediately worsened. The prophet was no doubt placed under a heavy onus by the expectations of the released men and had to act. Fencing and ploughing began again almost immediately; soon afterwards some of Te Whiti's men, for the first time, began to resist arrest and to oppose the pulling down of their fences, engaging in hand-to-hand struggle with the Constabulary. Hall, Atkinson and Rolleston then began to build up troops in South Taranaki.

On 17 September 1881 Te Whiti brought the crisis to a new peak. Probably under the influence of the mounting tension he forgot himself so far as to use expressions which could be interpreted as incitement of

14 Rolleston to Fox, 21 May 1881 - Rolleston MSS, letterbook 1880-81; Rolleston to Hall, 8 April 1881 - Rolleston MSS, 3.

15 Report of Lt. Cols. Reader and Roberts - AJHR, 1882, H-14, p.2. Roberts claimed that he was stopped by a party of men, one of whom brandished a spear at him, and that if he had not turned back he would have been attacked.

16 Hall to Rolleston, 8 August 1881 and Atkinson to Rolleston, 27 September 1881 - Rolleston MSS, 4.
his followers to offer armed retaliation to the settlers. On 18 September the Government informed Te Whiti that it would not allow any more uncertainty as to its proposals being accepted or not and that a proclamation would be issued to the effect that, failing acceptance, they would be withdrawn. However, despite Te Whiti's speech Rolleston believed that Te Whiti did not intend fighting, and certainly Te Whiti and Tohu, his lieutenant, alarmed by the violence of the settler reaction, hastened to say that the only fighting they intended was with the tongue. Nevertheless the Government feared to erect more fences, until their troop concentration was stronger, for fear that the Maoris would retaliate.

Rolleston was most unhappy in the situation. He found the 'selfishness and talk of patriotism in New Plymouth...shocking' and repeatedly urged his colleagues not to be driven into extreme measures to placate the settlers and their press. However, he knew that Atkinson thought him too timorous and tried to divest himself of responsibility by urging Bryce to rejoin the Cabinet in his former

17 His words were reported to be: 'E nga Pakeha haria mai a koutou pu. E nga Maori kenea mai a koutou pu me te putu anake e whakarite'. ('Pakehas bring your guns, Maoris bring your guns. By the appearance of these alone will the thing be settled') and: 'Ka hopu hopu (alternatively hopa hopa) tahitia ha meke alternatively nekaneka tahitia ka herehere herehere tahitia' (If they strike with the fist strike with the fist at the same time; if they make prisoners, make prisoners at the same time'). See AJLC, 1882, n.9.

18 MA 68/10, N.O. 81/3807.

19 Rolleston to Hall, 25 September 1881 - Rolleston MSS, 4.

20 Rolleston to Hall, 4 October 1881 - ibid.

21 Rolleston to Hall, 26, 27 and 29 September and 2 October 1881, Rolleston to Atkinson, 27 September 1881 - ibid.
position. Hall felt that the recall of Bryce would 'be viewed by both races as almost a declaration of war,' but that once hostilities were imminent, the case would be different. In the meantime he authorised Rolleston to make a last effort to bring Te Whiti to submission, and told him, on behalf of their colleagues, to tell Te Whiti that his 'peaceable propositions, while possibly sincere come to nothing so long as he lets provocation to war continue in shape of fencing...I would point out that Europeans throughout the country were very angry at the continuance of the present agitation and excitement and that the Government cannot keep the peace much longer if this be allowed to last.' If Te Whiti wanted particular plots of land he was to have them on the understanding that there was to be no more interference with settlement.

Rolleston took this virtual ultimatum to Parihaka on 7 and 8 October but in the two days of discussion was unable to draw any concession from Te Whiti. The prophet went back to his first premises and said that the whole matter rested upon the Government's injustice in making war on the Maoris and confiscating land in the first place. Subsequent offers of reserves were humiliating and unacceptable. In the face of his passionate denunciation Rolleston's weak protestation that the Government was only seeking to fulfil the recommendation of the West Coast Commission

22 Rolleston to Bryce, 25 September 1881, Rolleston to Hall, 24 and 28 September 1881 - ibid.
23 Hall to Rolleston, 24 September 1881 - ibid.
24 Hall to Rolleston, 3 October 1881 - ibid.
appeared tawdry and hypocritical.\footnote{Rolleston, report of meeting, 8 October 1881 - Rolleston MSS, 5. Rolleston added, 'I could not get him to see me alone and perhaps this accounts for the differences between what he said to me and Reimenschneider' (a missionary whom Rolleston sent to Parihaka just before his own visit, and who found Te Whiti very amenable).}

Rolleston left satisfied that the Government could 'go to work with a good conscience of having done our best to settle affairs'.\footnote{Loc. cit.} Preparations for the investment of Parihaka now proceeded; Hall had in fact outlined them before Rolleston had made his last appeal,\footnote{See Hall to Bell, 18 May 1882 - Hall MSS, 10.} but there was now no serious division of views in the Cabinet on the question. Nevertheless, fearful that Rolleston might shrink at the actual moment of conflict, if the Maoris resisted, Hall now urged the recall of Bryce.\footnote{Rolleston to Bryce and Bryce to Rolleston, 27 October 1881 - Rolleston MSS, 5. When the Governor, Sir Arthur Gordon, attempted to check the Government's course Rolleston wrote to Bryce: 'Don't let the Governor worry you or us by attempts to enhance our responsibilities already big enough and salve his own weak conscience'. (Rolleston to Bryce, 4 November 1881 - Rolleston MSS, 5).} On 19 October Bryce resumed his portfolio to carry into fruition plans already prepared by Hall, Atkinson and Rolleston.

Rolleston was not sorry to surrender him the responsibility but continued to help supervise troop movements.\footnote{Loc. cit.} The actual raid was carried out on 5 November, when a force of some 1600 men surrounded Parihaka. Te Whiti, true to his teaching, called on his people not to resist, and allowed himself, Tohu and Hiroki to be arrested, and the community was subsequently dispersed.
A number of myths have grown up about the Parihaka raid. The early historian, O.T.L. Alpers, attacking Bryce's policy, suggested that Rolleston had shaken himself free of it and that Bryce compelled the Hall Cabinet to agree to it as a condition of his rejoining them. In fact, as the above narrative shows, the Hall Cabinet, including Rolleston, were, by mid-October, agreed on the investment of Parihaka and urged Bryce to rejoin, Rolleston subsequently standing firmly by Bryce throughout the crisis. As Hall wrote the following year..."...if he [Bryce] had never existed the plans would have been carried out all the same".

A more recent historian, D.K. Fieldhouse, in an otherwise informative article, errs in suggesting that the Government calculated on being resisted during the raid and were at a loss with what to charge Te Whiti and Tohu when they surrendered peacefully. But on 1 November Hall wrote: 'It seems probable they will allow themselves to be arrested, and I hope their infatuated followers will not interfere.' The Government was in fact uncertain how the Parihaka community would react and mounted a massive force to overawe the Maoris and deter resistance - which a weak police party, may not have done. Certainly there was no

30 Bryce's statement to Alpers 1903 was quite correct: '...when I resumed office no conditions were made or were necessary. The preparations for the occupation of Parihaka were nearly completed before I had anything to do with them'. (Bryce to Alpers, 17 February 1903 - Alpers MSS, Alexander Turnbull Library, Wellington).

31 Hall to Bell, 17 June 1882 - Hall MSS, 10.


33 Hall to Fox, 1 November 1881 - Hall MSS, 9.
machialvellian intention to incite violence in order to be able to lay responsibility for bloodshed with Te Whiti. In the preparations for the raid following Te Whiti's speech of 17 September, the Government simply had not clearly thought out its legal ground; that had never seriously mattered in the 1860's nor did it now.

The uncertainty of the Maori response, and anxiety at the possibility of widespread bloodshed among the community as a whole, made Bryce something other than the swaggering tyrant on his white horse his opponents pictured him to be. Rather he appeared to an eye-witness 'as careworn and unhappy as the horse he rode'; indeed Bryce wrote to Alpers that he undertook the seizure of Te Whiti '...at a cost of emotion to myself which you would not readily understand'. But despite this - or perhaps because of it - Bryce was extremely vindictive towards Te Whiti himself and expressed regret when the legal complications arose, that he could not 'hang him and be done with it'.

Finally the Government must be cleared of the contemporary imputation that the investment of Parihaka was timed in order to give the Government a notable victory just before the pending general election. The crisis arose in fact as a consequence of the whole development of events during 1881, particularly after Te Whiti's speech of 17 September and Rolleston's visit to Parihaka on 7 and 8 October.

34 The Press, 4 February 1903.
35 Bryce to Alpers, 17 February 1903 - Alpers MSS.
36 Bryce to Rolleston, 20 November 1881 - Rolleston MSS, 5.
But when all the myths have been cleared aside, the Government's record is still not a very creditable one. The ministers seem to have convinced themselves that their every action was reasonable and moderate. Rolleston broke off a long friendship with J.E. FitzGerald when the latter alleged that the Government had been motivated by a hunger for land. 37 And Hall wrote that even if they had returned the land seaward of the new road (inland of the road, towards Mt Egmont, was largely to be reserved in any case) 'it would only have removed the struggle for mastery to some other place or time. The Parihaka gatherings would have continued, and when the time came for the removal of the Constabulary, the belief of the Natives...in their own physical power and in the supernatural power of their prophet, would inevitably have led to obstruction or interference with European settlers'. 38 But the ministers' self-righteous utterances did not square entirely with their conduct. They did not dare bring Te Whiti to trial for fear of his acquittal. They took the best land on the plain for settlement, even if it had Maori cultivations on it, and the Maori reserves were largely vested in the Public Trustee to be let to settlers. Finally they might have questioned, as Te Whiti questioned, the validity - moral as well as legal - of the Government's right to the confiscation, the fundamental premise upon which their claim to have acted

37 Rolleston to FitzGerald, 17 November 1881 - ibid.

38 Hall to Bell, 15 July 1882 - Hall MSS, 10.
very moderately was based. The question as to whether that premise was valid is still likely to divide historians. The fact remains that there never would have been a Parihaka crisis if the Government could have seen its way, by an act of generosity if not by recognition of a right, to abandoning the confiscation north of the Waingongoro. But partly for the very attractiveness of the fertile Waimate plain and partly from fear of the response that abandonment would evoke from Taranaki, the Waikato and other Maoris whose land had been confiscated, the Government could not contemplate this course.
### Appendix E

Native Ministers 1858-93

<table>
<thead>
<tr>
<th>Name</th>
<th>Start Date</th>
<th>End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>C.W. Richmond</td>
<td>August 1858</td>
<td>November 1860</td>
</tr>
<tr>
<td>F.A. Weld</td>
<td>November 1860</td>
<td>July 1861</td>
</tr>
<tr>
<td>W.B.D. Mantell</td>
<td>July 1861</td>
<td>December 1861</td>
</tr>
<tr>
<td>F.D. Bell (Acting)</td>
<td>December 1861</td>
<td>May 1862</td>
</tr>
<tr>
<td>W. Fox (Acting)</td>
<td>May 1862</td>
<td>August 1862</td>
</tr>
<tr>
<td>Bell</td>
<td>August 1862</td>
<td>October 1863</td>
</tr>
<tr>
<td>Fox (Colonial Secretary and Native Minister)</td>
<td>October 1863</td>
<td>November 1864</td>
</tr>
<tr>
<td>Mantell</td>
<td>December 1864</td>
<td>July 1865</td>
</tr>
<tr>
<td>J.E. FitzGerald</td>
<td>August 1865</td>
<td>October 1865</td>
</tr>
<tr>
<td>A.H. Russell</td>
<td>October 1865</td>
<td>August 1866</td>
</tr>
<tr>
<td>J.C. Richmond</td>
<td>August 1866</td>
<td>June 1869</td>
</tr>
<tr>
<td>(Collector of Customs)</td>
<td>June 1869</td>
<td>December 1876 (save from 10/9/72 to 11/10/72)</td>
</tr>
<tr>
<td>D. McLean</td>
<td>June 1869</td>
<td>December 1876</td>
</tr>
<tr>
<td>D. Pollen</td>
<td>December 1876</td>
<td>October 1877</td>
</tr>
<tr>
<td>J. Sheehan</td>
<td>October 1877</td>
<td>October 1879</td>
</tr>
<tr>
<td>J. Bryce</td>
<td>October 1879</td>
<td>January 1881</td>
</tr>
<tr>
<td>W. Rolleston</td>
<td>January 1881</td>
<td>October 1881</td>
</tr>
<tr>
<td>Bryce</td>
<td>October 1881</td>
<td>August 1884</td>
</tr>
<tr>
<td>J. Ballance</td>
<td>August 1884</td>
<td>October 1887</td>
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<tr>
<td>E. Mitchelson</td>
<td>October 1887</td>
<td>January 1891</td>
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<tr>
<td>Ballance (Acting)</td>
<td>January</td>
<td>February 1891</td>
</tr>
<tr>
<td>A.J. Cadman</td>
<td>February 1891</td>
<td>June 1893</td>
</tr>
</tbody>
</table>
Appendix F
Native Secretaries
(Under-Secretaries of the Native Department) 1856-92

D. McLean 1856-61
H. Halse (Acting) 1861-3
E. Shortland 1863-4
Halse (Acting) 1864-5
W. Rolleston 1865-8
G.S. Cooper 1868-71
Halse (Acting) 1871-3
H.T. Clarke 1873-9
T.W. Lewis 1879-91
W.J. Morpeth (Acting) 1891-2
A Note on the Primary Sources

The principal sources for this study have been Maori Affairs Department records in the National Archives, Wellington. The yearly files showing Under-Secretarys' and ministers' minutes survive only for the years 1857-63, 1892, and 1906 onwards. However, special series of files such as the series MA 13/1 et seq. (pertaining to particular blocks of land) and MA 23/1 et seq. (pertaining to leading figures such as Te Kooti) go far to make up for this. The outwards letterbooks and circulars of the Native Department provide a comprehensive indication of its activities. A reading knowledge of 'official' Maori (relatively simple in comparison with many colloquial and literary Maori compositions) is of value in view of the importance of some of the outwards correspondence in the Maori language letterbooks.

The work of the civil officers in the out-districts is revealed in the surviving Maori Affairs files of officers such as Woon, in the unofficial MSS of John White and in the letterbooks of other officers collected from various local Magistrates Court offices and filed in the Justice Courts series.

The shaping of policy at government level is revealed to some extent in Governor's papers, Prime Ministers Department files and other official records, but better still in the unofficial MSS collections held in the Alexander Turnbull and General Assembly Libraries. Of particular importance are the Mantell MSS (for the period 1861-5), the Rolleston MSS (Rolleston MSS, 1 covers the period 1865-7 when Rolleston was Under-Secretary in the Native Department) the McLean MSS, which provide insights into every aspect of Maori affairs from the 1850's to 1876, and the Hall
MSS, (for the period 1879-84). The published Richmond-Atkinson Papers (ed. G.H. Scholefield), if supplemented by reference to the MSS originals, are also extremely helpful.

Of printed material, New Zealand Parliamentary Debates, and Appendices to the Journals of the House of Representatives contain an inexhaustible mine of material. The annual 'Reports from Officers in Native Districts' (usually AJHR, G-1 for each year after 1870) provide a ready insight into the work of Native Department Officers and into Maori social conditions. Important information is also to be found in unpublished parliamentary papers, numbers of which were presented in the House of Representatives each year but not ordered to be printed. These, together with minutes of evidence heard by parliamentary committees, are housed in the cellars of the Legislative Department. (See my note in The New Zealand Journal of History, vol.I, n.1, April 1967). Newspapers are useful for expressions of settler opinion on various issues, but are unreliable guides to fact, especially in the 1860's.

Colonial Office records in the series CO 209 are essential to an assessment of British policy about the foundation of the Colony; published House of Commons Papers, disclose events and evolution of policy in New Zealand in the 1840's and 1850's. Important contemporary published works include the pamphlets of Sewell, Fitzgerald, Weld and Fox, and Gorst's The Maori King.
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