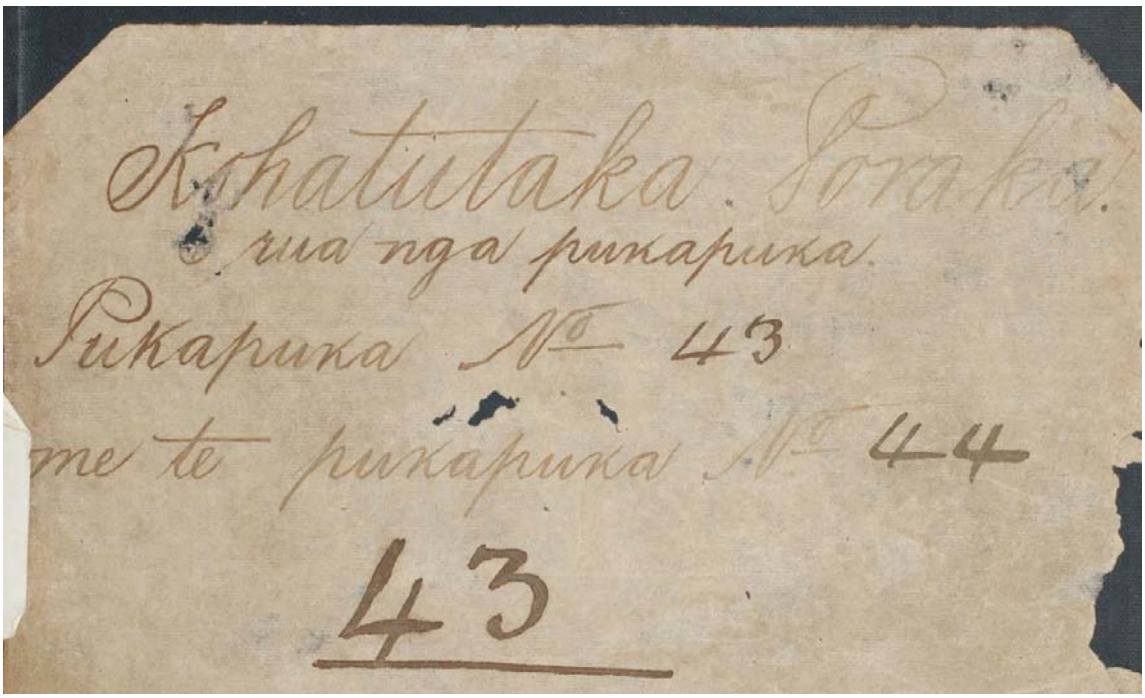
‘The Power to Settle the Title’?: The operation of papatupu block committees in the Te Paparahi o Te Raki inquiry district, 1900-1909



Paul Hamer and Paul Meredith

A report commissioned by the Waitangi Tribunal for the Te Paparahi o Te Raki inquiry (Wai 1040)

October 2016

About the authors

Paul Hamer is a Wellington historian. He holds an MA (Distinction) from Victoria University of Wellington and is currently enrolled in a PhD at Monash University in Melbourne. He has worked as a professional historian since 1992, mainly at the Waitangi Tribunal where from 1993 to 1995 he was a research officer and from 1996 until 2004 he was the Senior Report Writer, the manager of the section of Tribunal staff who assist Tribunal members to write their reports. From 2004 until 2007 he worked at Te Puni Kōkiri as a senior analyst and policy manager. Since 2008 he has worked as a contract report writer and contract researcher at the Tribunal (ongoing) and as a contract researcher and project co-ordinator for the Institute of Policy Studies at Victoria University (from 2009 to 2011). He was a senior associate of the Institute of Policy Studies from 2008 to 2012 and since 2012 has been a research associate of Te Kawa a Māui, the School of Māori Studies at Victoria University.

As a report writer he assisted in the drafting of a number of Tribunal reports, including *Ngai Tahu Ancillaries* (1995), *Whanganui River* (1999), *Ngati Awa Raupatu* (1999), *Pakakohi and Tangahoe Settlement Claims* (2000), *Te Arawa Mandate* (2004), *Mohaka ki Ahuriri* (2004), *Ko Aotearoa Tēnei* (2011), and *He Whakaputanga me Te Tiriti* (2014). His previous commissioned research report for the Tribunal was 'Porotī Springs and the Resource Management Act, 1991-2015', which was completed in April 2016 for the Te Paparahi o Te Raki (Wai 1040) inquiry. He has authored a number of articles published in scholarly journals, mainly about the migration of Māori and other New Zealanders to Australia. In 2006 he was a visiting fellow at Griffith University where he researched and wrote a report on Māori in Australia published by Te Puni Kōkiri in 2007.

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Paul has authored a number of articles published in scholarly journals around Māori identity, customary law and history. He is a co-author of *Te Mātāpunenga: A Compendium of References to the Concepts and Institutions of Māori Customary Law* published by Victoria University Press in 2013.

Cover image

The cover image shows the label on the front cover of papatupu minute book 43. Wai 1040 document #A54(b), vol 31, p 6373

Report title

In 1900 the former Native Minister, Alfred Cadman, told the Legislative Council that, through the introduction of the papatupu block committees, Māori land claimants would 'virtually' have 'the power to settle the title and the boundaries' of those lands.[*]

[*] NZPD, vol 115, 12 October 1900, p 307

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Abbreviations

AJHR: *Appendices, Journals of the House of Representatives*
NZPD: *New Zealand Parliamentary Debates*
no: number
p and pp: page and pages
vol: volume

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We would like to thank Waitangi Tribunal research manager Dr James Mitchell for offering us this research assignment and senior research analyst and inquiry facilitator Fiona Small for supervising it. Fiona gave very helpful feedback on a first draft of the report. We would also like to thank mapping officer Noel Harris for his mapwork and senior research analyst and inquiry facilitator Barry Rigby for his comments on the draft. Thanks are also due to principal historian Michael Allen and research analyst and inquiry facilitator Jacinta Paranihi for their formal review of the draft and recommendations for improvements. Tribunal librarian Jeff Abbott was also ever helpful with information requests.

Chapter 1: Introduction

1.1 Introduction

Papatupu (or papatipu) land is customarily owned Māori land, which has not been 'clothed' with a European title. According to the legal historian Richard Boast, no papatupu land 'of any significance' remains in New Zealand today, beyond some lakebeds and 'fragments revealed by defective surveys'.[1] This was not the case in 1900, when hundreds of thousands of acres of land remained unpurchased and unadjudicated upon by the Native Land Court. Aside from Te Urewera, where the Native Land Court had been kept out and a separate arrangement was negotiated in the 1890s for the titling of land,[2] a large proportion of the papatupu land remaining in 1900 was in Te Tai Tokerau. Raniera Wharerau, a Ngapuhi member of the Te Kotahitanga Parliament, estimated just before the turn of the century that 'e 800,000 nga eka whenua o Ngapuhi e takoto papatupu nei' [there are 800,000 acres of Ngapuhi land still in customary title].[3] Wharerau may have exaggerated; as the Native Minister Timi Kara or James Carroll told the press in 1903, 'The bulk of the native lands in the North are papatupu, the area being estimated at about 400,000 acres.'[4]

This report concerns the operation of papatupu block committees in the Te Paparahi o Te Raki inquiry district from 1900 to 1909. These committees, which were provided for by the Maori Lands Administration Act 1900, were charged with investigating the customary ownership of blocks of Māori land, in lieu of the Native Land Court, and making recommendations thereon to the local Māori land council. The committees comprised members nominated by parties claiming interests in each block, and their recommendations, if not appealed, could lead to the grant of title to the land by the land council. As such, the committees and council collectively took over some of the key functions of the Native Land Court, although the court continued to deal with titled Māori lands and the Chief Judge of the court had to countersign council orders. Some 90 committees were set up between 1902 and 1905 for blocks of land within the Te Paparahi o Te Raki inquiry district, encompassing altogether more than 235,000 acres. These blocks are depicted in outline in figure 1 and again in more detail in figure 2, albeit with the exception of eight small blocks that could not be located.[5] Provision in law for the committees was removed by the passage of the Native Land Act 1909.

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[1] Richard Boast, *Buying the Land, Selling the Land: Governments and Maori Land in the North Island 1865-1921*, Victoria University Press, Wellington, 2008, p 67. An example of the latter is Popotea 3, above Pipriki on the Whanganui River. See http://www.maorilandonline.govt.nz/gis/title/18183.htm (accessed 26 July 2016)

[2] Boast, *Buying the Land, Selling the Land*, pp 206-212

[3] 'Whakaaturanga', *Te Tiupiri*, 28 Hune 1898, p 3

[4] 'Maori lands', *Evening Star*, 15 June 1903, p 3

[5] We largely relied on Paula Berghan's block research for the location and boundaries of the blocks (Wai 1040 document #A39), as well – in the case of blocks with the same names as others elsewhere – as other information as to their location, such as the Council or Board minutes. The eight blocks not included in the maps are Kaiwhai, Waimahe, Orakau, Korotangi, Ruangarahu, Section 123 Block XI Waikiekie Parish, Te Aioheketoru,

Aside from Te Tai Tokerau, the committees operated elsewhere too. Jane McRae, in her 1981 MA thesis on the committees in Northland, remarked that 'The Papatupu Block Committees … received island-wide response.'[6] It is certainly true that a significant number of committees were set up in Te Tai Rawhiti, and McRae noted this. However, she did not name any other districts where the committees operated, and it appears that they were made little use of outside Northland and the East Cape. One exception to this is the Waikato, however, where at least one block – the 45,000-acre Moerangi block lying between Kawhia and Raglan – had a papatupu committee set up in 1903.[7]

The 'komiti papatupu' or papatupu committees – often referred to simply as 'block committees' – represent a singular departure from the standard means by which the title to Māori land was investigated after the introduction of the Native Land Court in 1862 (notwithstanding other exceptions such as the Urewera Commission). The committees' significance in this regard has seldom been recognised, and this report makes a contribution towards plugging that gap.

1.2 Commission background

In October 2013, the Tribunal Chief Historian, Richard Moorsom, completed his 'Local Issues Research Review' for the Te Paparahi o Te Raki inquiry. He noted that

> The Papatupu Block Committee minute books, recorded in te reo Māori, would add valuable insight into the efforts by Te Raki Māori in the early 1900s to exert greater control over the titling and governance of their remaining customary land. For the half century to 1915, by when nearly all Māori-owned land had received a Crown title, there are some 60 NLC minute books (approx. 15,000 pages) and another 50 Papatupu Block Committee minute books.[8]

He considered that a stand-alone research project could be commissioned which made particular use of the committee minute books. As he put it,

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and Mataranui. In sum, the maps are based on the best information available to us given the time constraints of the project. With more time, for example, we are confident that all blocks for which papatupu committees were set up in Te Raki would have been located. It also needs to be noted that we were unable to establish the boundaries between Kotuku A and B or Otuhi 1 and 2, or the exact boundary of Punakitere 4 (and thus the Punakitere block is mapped). We note too that Berghan shows Motairehe and Kawa as separate blocks, and so we have mapped them as such, but they were treated as one block in the committee process. We have also included Rawhiti 2A and 2B, although we are unsure whether they were part of the Rawhiti block for which a committee was set up. Despite these qualifications, we are confident that the maps present a reliable picture of the areas covered by the block committees.

[6] Jane McRae, 'Participation: Native Committees (1883) and Papatupu Block Committees (1900) in Tai Tokerau', MA thesis, University of Auckland, 1981 (Wai 1040 document #A47), p 102

[7] 'Maori Council', *Waikato Argus*, 15 July 1903, p 2

[8] 'Te Paparahi o Te Raki: Local issues research review', Richard Moorsom, October 2013. Wai 1040 paper #6.2.13, p 35

> Given the sizeable areas of Māori land first titled after 1900, there is … a need to assess the sub-regional experience and outcomes of the Papatupu Block Committee system that operated for nearly a decade under the Māori Land Council and Board regime. The assessment might best take the form of a dedicated study, for which the archival sources in te reo Māori would be essential.[9]

Mr Moorsom therefore recommended

> that a dedicated study be commissioned of the operation and outcomes, in particular for the titling, control and use of Māori land at the sub-regional level, of the Papatupu Block Committee system between 1900 and 1909.[10]

In December 2013, Te Paparahi o Te Raki inquiry Presiding Officer Judge Coxhead approved the local issues research programme for Stage 2 of the Te Raki inquiry 'subject to detailed planning and to available resources'. This included the dedicated study of the operation of the block committees recommended by Mr Moorsom.[11]

The researchers were commissioned by judicial direction on 12 April 2016 to produce a report that explained the origins of the papatupu committees; the legislation governing their operation; the nature of their operation in practice; the differences between their investigation of title and that characteristic of the Native Land Court; the proportion of committee decisions that were accepted or appealed; and the reasons for the committees' demise. The full text of the commission, including all ten detailed research questions, is attached to this report as appendix 2. The commission directed that the work commence on 28 March 2016, that a full draft be submitted by 2 September 2016 for distribution to all parties, and that a final report be submitted on 28 October 2016.[12]

While we have endeavoured to answer all the commission questions, we note at this point that some may have been based on a misapprehension as to the committees' powers and role. For example, question (f) asked about the nature of the title recommended by the committees, and question (g) asked about any recommended restrictions on alienation. However, the committees could in fact do no more than list the owners with an interest in the block and their relative shares.[13] Question (h) asked about the extent to which committee decisions were appealed to the Native Appellate Court, but it was Council or Board decisions on committee reports that could be appealed to the court, rather than committee decisions themselves.

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[9] Wai 1040 paper #6.2.13, p 37
[10] Wai 1040 paper #6.2.13, p 38
[11] Wai 1040 paper #2.6.51, pp 8-9
[12] Wai 1040 paper #2.3.47, pp 1-2
[13] We do go on to note in chapter 2, however, that there was a difference between the court and the committees over how many owners were identified for inclusion in the titles.

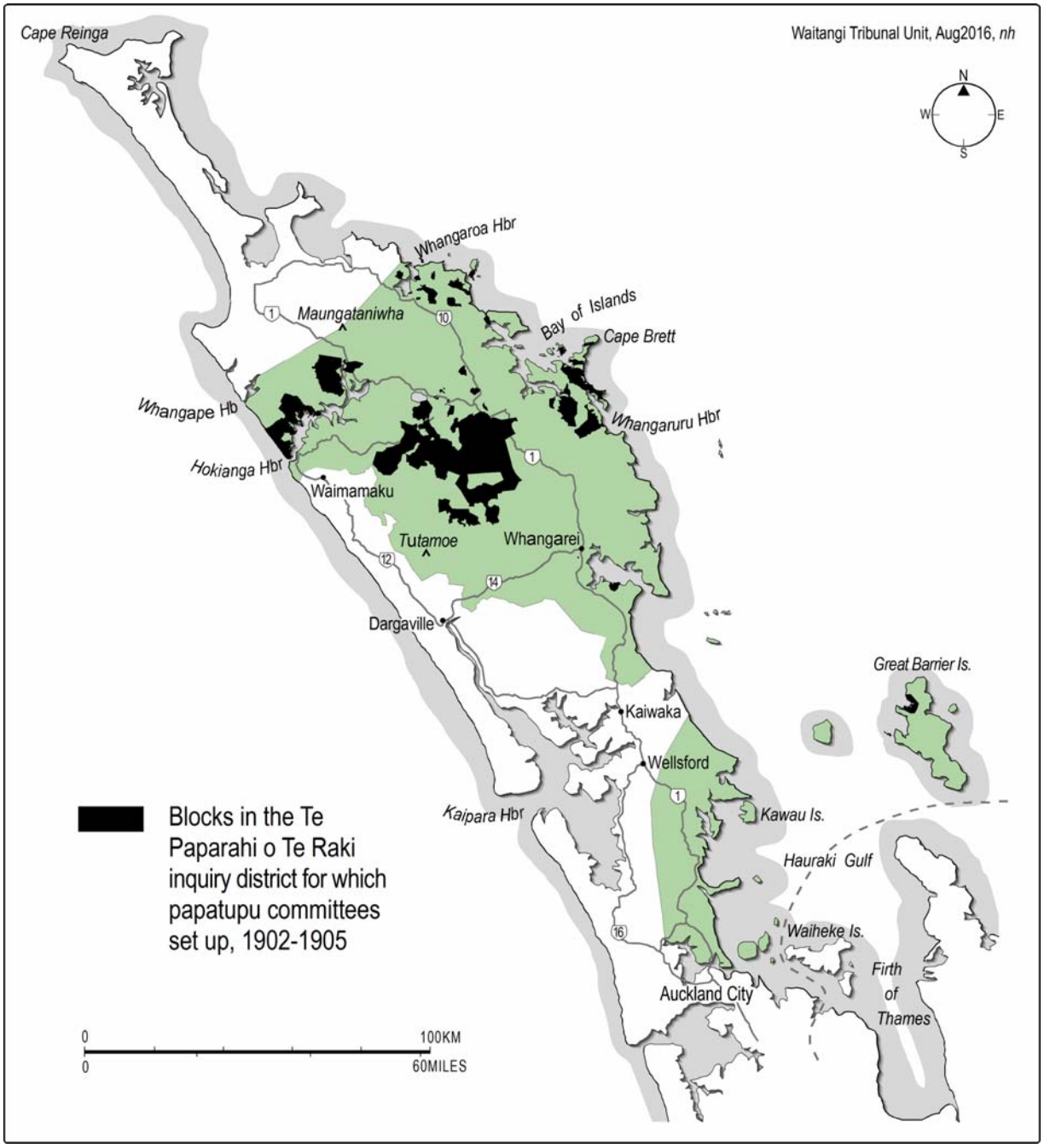

Figure 1: The Te Paparahi o Te Raki inquiry district, and the papatupu lands for which block committees were set up

It should also be noted that the commission concerns papatupu committees set up in the Te Raki inquiry district. The report therefore largely excludes consideration of committees established at Ahipara or Helensville, which concerned lands within the Muriwhenua and Kaipara inquiry districts. However, since it was the same Council in operation, some details about these committees are included that shed further light on the Council's conduct or which serve as useful illustrations of the patterns and themes we identify. At the same time, though, the Muriwhenua and Kaipara blocks have been excluded from the quantitative assessments made in the report.

1.3 Methodology

1.3.1 Roles, approach, and primary sources

The drafting of this report was principally carried out by Paul Hamer, who surveyed the primary English-language sources, while Paul Meredith complemented this by reading the primary Māori-language sources. Paul Meredith's input is throughout the report, but particularly in chapters 4 and 5 on the operation of the committees. The research was conducted entirely in Wellington, from existing digitised primary sources (such as the papatupu committee and Tokerau Maori Land Council or (from 1906) Board minute books), secondary sources, and some files held by Archives New Zealand. Partly owing to time constraints, and partly also because it was unlikely to yield significant amounts of material, no additional archival research was undertaken either at Archives New Zealand in Auckland or the Māori Land Court in Whangarei.

As an important aside, we note here that in this report we refer to the Tokerau Maori Land Council and its successor, the Tokerau Maori Land Board, as 'the Council' and 'the Board'. The reader should not confuse 'the Council', therefore, with the Maori Councils that were also set up in 1900 under the Maori Councils Act of that year and operated as a form of Māori local government. There were six Maori Councils in Te Tai Tokerau: Hokianga, Whangarei, Tokerau (later renamed Pewhairangi), Mangonui, Ngati Whatua, and Wairoa.[14] Where, however, we are talking about the land councils generally (for example in relating the regulations governing the interaction between the committees and the district land council), we write 'the council' (lower case).

The key sources for the report are the minutes of both the Council or Board and the papatupu committees themselves. The six Council and Board minute books that cover the period are hand-written records made by the Council or Board president of the body's proceedings. They include minutes concerning applications to lease already-titled blocks and sundry other matters of Council or Board business, as well as arrangements concerning blocks lying outside the Te Paparahi o Te Raki inquiry district in Muriwhenua or Kaipara. Much of their 2,500 pages, however, concern applications for Te Raki papatupu committees to be set up, the hearing of objections to these committees' reports, and additional investigations into block ownership conducted by the Council or Board itself. The hearing of claimant objections to committee reports provides a considerable amount of English-language information about the conduct of the committee investigations themselves, as objectors tended to complain about aspects of the committees' operations. This helps fill gaps in the surviving committee minute books as well as gaps within these books themselves, in that the objectors gave details of outside agreements that were not recorded by the committees.

[14] David Armstrong and Evald Subasic, 'Northern Land and Politics: 1860-1910', June 2007 (Wai 1040 document #A12), p 1406

There are 38 extant committee minute books covering partly or fully the investigations of 61 of the 90 Te Raki committees. Like the Council and Board minute books, these are hand-written records of varying degrees of legibility and detail, but they are generally readable and, in several cases, very presentable. They were probably made by the clerks appointed to each committee. Unlike the Council and Board minutes, however, they are almost entirely in te reo Māori, with only the occasional word or phrase in English. A very helpful guide to the Tribunal's document bank containing the minute books was made by Tribunal staff member Jacinta Paranihi. She also explained the contents of a 1992 index of tūpuna named in the minute books created by the Whangarei office of the Ministry of Māori Development, and introduced the Tribunal's own index of the books that sets out the contents of each volume, the blocks and hapū involved, and other relevant information such as the names of claimants and committee members.[15]

Our approach to the information was partly qualitative and partly quantitative. Given the large number of committees set up in Te Raki, we have attempted to quantify the committees' operation through the use of what we might call the metadata. We report, for example, on the number of claims made per block, the overall numbers of claimants and committee members and the cross-over between these two groups, the length of time taken to hear cases (both by the committees and the Council), and so on. We have also sought to identify common features in the committees' operations as well as in the Council or Board's actions in respect of the committees, and have provided a series of illustrative examples from the minutes as evidence of these patterns.

The papatupu minute books allow us to attend to the important panoply of Te Raki Māori voices and perspectives about this moment in their history. They offer the opportunity to examine Te Raki Māori agency – the kinds of strategies and tactics Māori from this region employed as participants and contributors in negotiating and mediating the papatupu committee system. Furthermore, they present a vastly significant archival store of Te Tai Tokerau Māori history, culture, and fluid and fluent language that should be the envy of any tribal historian or linguist.

The minute books include much historical and contemporary evidence to support the array of *take* that claimants presented before the committee. There is also whakapapa or genealogical information to describe ancestral connections and relationships to the people and to the land; detailed descriptions of the block boundaries, settlement patterns, and demographic movements; and narratives of traditional and post-European resource use and land

[15] Jacinta Paranihi, 'Part One: Introduction to the Index of Te Taitokerau Papatupu Block Committee Minute Books, 1902 – 1908 covering pōraka within the Te Paparahi o Te Raki inquiry district'; 'Part Two: 'Ministry of Maori Development, Whangarei. Papatupu Block Committee Books [Tupuna names] Index'; 'Part Three: Index of Te Taitokerau Papatupu Block Committee Minute Books, 1902–1908 covering pōraka within the Wai 1040 inquiry district', Waitangi Tribunal, April 2016. Wai 1040 document #A54 and #A54(a). We note that Ms Paranihi stated that the papatupu minute books involved '68 pōraka and partitions thereof' (p 4). The difference between this figure and our total of 61 blocks presumably relates to some wāhi tapu cut out of blocks (such as Pipiro and Parengaroa in the Wairoa block) being counted in Ms Paranihi's total.

transactions. The minute books also record the decisions of the committees as well as any disputes or challenges, this being a common feature of hearings.

Like any texts, they are highly mediated and come with their own interpretative and contextual biases and thus should be read with a critical eye. Nevertheless, they allow us, importantly, to place Te Raki Māori at the centre of the papatupu committee story, and extend our shared understanding of their history and specific concepts and practices framed within a Māori cultural context.

It was not possible to read all the surviving papatupu minute books in their entirety in the time available, but nor, we would suggest, was it necessary to do so. This is because there was no intention to examine and evaluate any specific block inquiry in its entirety. Moreover, as we have explained, the Council and Board minutes (which were surveyed more thoroughly) provide a great deal of information about the conduct of the committee inquiries, including those for which committee minutes no longer exist.

1.3.2 Matters not addressed

At the same time it is necessary to explain what this report is not. It is not an account of the Māori political pressure that built in the 1890s for a greater degree of Māori autonomy over their own lands. While this political context is discussed in the report, that section of the report relies to an extent on secondary sources. More to the point, the politics of the period for Te Raki Māori has been the subject of other research commissioned for this inquiry.[16] Nor is the report an account of the operation of the independent Te Raki Māori committee that investigated title to papatupu lands in the 1880s and 1890s, the Komiti o Te Tiriti o Waitangi. That committee is referred to to the extent to which its investigations served as a precedent for the papatupu committees, but its operation was not within the scope of this project. The same applies to the official committee set up under the Native Committees Act 1883 to investigate land titles and perform other functions in the Bay of Islands. This 'Committee of Twelve', which was chaired by Hone Mohi Tawhai, was also referred to regularly in the context of papatupu committees' investigations.[17] Another committee that served as a precedent for the papatupu committees, and which is referred to briefly in the report, is the 1886 Native Department-sponsored arbitration committee that settled a dispute between Maihi Kawiti and Wiki Moeanu over whether any survey could be made of the 'rohe potae' lands around Motatau.[18]

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[16] Armstrong and Subasic, 'Northern Land and Politics'

[17] In 1906 Hone Rameka referred the Board to an 1889 investigation by 'the Com of twelve of Hone Mohi Tawhai'. Tokerau District Maori Land Council (TDMLC – note that we maintain this abbreviation even after the Council became known as the Board) Minute Book 5, p 153 (Wai 1040 document #A49, vol 6, p 23491). We note, however, that Armstrong and Subasic described the 'Committee of Twelve' as an unofficial committee and indeed the initiative of Maihi Kawiti (Armstrong and Subasic, 'Northern Land and Politics', pp 76-77, 1042-1048). It is possible that two separate committees – one official and one not – both went by the name of the 'Committee of Twelve'.

[18] Peter Clayworth, 'A History of the Motatau Blocks, c.1880-c.1980', draft report, October 2016, pp 49-57

As alluded to above, nor is the report an account of the merits of the claims and counter-claims for any specific blocks or the committee or Council or Board decisions thereon. That role is performed by the histories commissioned for the local issues research programme that concern blocks that were subject to papatupu committee investigations of title. These include studies concerning the Matauri, Motukawanui, Wiroa, Mimitu, Rua a Rei, Punakitere 4, Kohatutaka, Whangaruru Whakaturia, and Motatau 1-5 blocks. It is not for us to say, in other words, whether claims were genuine or the committees were correct in their decisions. Again, we are looking for patterns and themes that illustrate the overall operation of the committees and the Council and Board, rather than the detail of particular cases.

We also note that, while the commission asked us to compare the committees and the land court in terms of their respective powers and procedure – and we have done so wherever possible – we have not been able to make a thoroughgoing comparison of the two institutions. This would have necessitated a degree of research into the operation of the court in the north that we did not have time to undertake. Moreover, some commissioned research that would have assisted us with this task was not available to us while we were writing this report. We have, however, drawn a number of parallels and contrasts on issues such as cost, surveys, identification of owners, and general procedure that we believe serve to comply with the requirements of the commission.

1.3.3 Secondary sources

We go on in chapter 2 to discuss the extent to which the historiography of the Liberal Government's Māori land policies has included discussion of the papatupu committees. Suffice it to note here that the histories of this period have generally made little mention of the committees, although a key exception is the 1981 MA thesis on the operation of the committees in Te Tai Tokerau by Jane McRae. Another thesis that has dealt with the work of the committees is Verity Smith's 2002 MA about Māori oral tradition as recorded in the papatupu committee minute book concerning the title investigation of the Waikare and Kopuakawau blocks in 1902 and 1903.[19] The historical aspect of Nin Tomas's 2006 doctoral study of jural principles of Māori customary law focused mainly on quotations from the papatupu minutes.[20] Te Atawhai Kumar's 2010 MA thesis on ahi kā also made use of the papatupu minute books that covered several northern Hokianga blocks.[21] Furthermore, the narrative in the 1987 publication *Karanga Hokianga*, which was compiled and researched by Teresa Paparoa and edited by Pa Henare Tate, is based on the Whakarapa and Waihou papatupu block minutes.[22]

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[19] Katherine Verity Smith, 'He tao huata e taea te karo, he tao kī e kore e taea: The resilience of the oral style in Māori traditions', MA thesis, University of Auckland, 2002. Smith's supervisor was Jane McRae.
[20] Nin Tomas, 'Key concepts of tikanga Maori (Maori custom law) and their use as regulators of human relationships to natural resources in Tai Tokerau, past and present', University of Auckland PhD, 2006
[21] Te Atawhai Praneeta Devi Kumar, 'Kia Māia ki te Kānga o Tā Koutou Ahi: Keeping the home fires burning', MA thesis, Victoria University of Wellington, 2010
[22] Henare Tate (ed.), *Karanga Hokianga*, Motuti Community Trust, Kohukohu, 1987

In terms of material submitted in evidence to or commissioned by the Te Paparahi o Te Raki Tribunal, the 2007 report for the Crown Forestry Rental Trust by David Armstrong and Evald Subasic on 'Northern Land and Politics: 1860-1910' devotes attention to the Maori Lands Administration Act 1900 and the operation of the papatupu committees.[23] The committees and related legislation are also mentioned in Terry Hearn's 2006 report on socio-economic change in Northland in the first half of the twentieth century.[24] In her 2010 brief of evidence, Nin Tomas also discussed the usefulness of the papatupu committee minutes for understanding northern Māori concepts of customary law.[25] The reports or proceedings of the papatupu committees are also mentioned in several other items on the Tribunal's record of documents, such as the briefs of evidence of Wayne Te Tai and Pairama Tahere, the research submitted on behalf of Te Kapotai, and so on.[26] Maurice Alleman had also produced some research touching on the operation of papatupu committees in the Kaipara district, which was subsequently added to the Te Raki record.[27]

In the course of our research the drafts of two tribunal-commissioned research reports on blocks subject to papatupu committee investigations were available to us. These were the report on Matauri and Motukawanui by Anthony Patete and the report on the Motatau blocks by Peter Clayworth. Both these historians had engaged with the work of the committees in their regions and associated matters in some detail, which was of valuable assistance to us. Towards the end of our project we also saw Terry Hearn's completed report on the Tuparehuia, Otara, Oteaka, and Whangaruru Whakaturia blocks, which concerned the operation of a papatupu committee in the case of Whangaruru Whakaturia.[28]

1.3.3 Te reo Māori sources and orthography

We make use of Māori language text where available, recognising that this was the principal language in which papatupu committee members and claimants understood the legal framework and conducted proceedings. The papatupu minute books are perhaps an unprecedented – and largely untapped – historical source of northern reo Māori. We provide a number of extracts from these minute books along with other Māori language sources. These include debates in Parliament recorded in or translated into te reo Māori, Māori language translations of legislation, petitions, and contemporary Māori newspaper articles

[23] Armstrong and Subasic, 'Northern Land and Politics', pp 1433-1457
[24] T J Hearn, 'Social and Economic Change in Northland c.1900 to c.1945: The role of the Crown and the place of Maori' (Wai 1040 document #A3), particularly pp 99, 176-177
[25] Brief of evidence of Dr Nin Tomas, 13 July 2010 (Wai 1040 document #C1)
[26] Brief of evidence of Wayne Te Tai, 30 July 2010 (Wai 1040 document # C26); brief of evidence of Pairama Tahere, 15 September 2014 (Wai 1040 document # N20); and 'Mana i te Whenua: Te Kapotai hapu korero for Crown breaches of Te Tiriti o Waitangi', no date (Wai 1040 document #F26)
[27] Maurice Alemann, 'The Mangawhai Forest Claim (Wai 229)', no date (Wai 1040 document #E17)
[28] T J Hearn, 'Local study: Tuparehuia, Otara, Oteaka, and Whangaruru-Whakaturia', June 2016 (Wai 1040 document #A59)

and editorials.[29] There are also several letters written in Māori to the Council in files consulted at Archives New Zealand.

In this report we do not italicise Māori words, with the one exception being *take*, meaning claim or right. We do so in recognition of the possibility of confusion with the English word 'take'.

1.3.3.1 Transcriptions and translations

Where we have quoted from a published source, transcriptions have been reproduced without change. On the other hand, the papatupu minute books and other hand-written sources have been transcribed to contemporary orthography. The papatupu minute books do not always employ question marks, full stops, or commas, which can sometimes render an interpretation challenging. Our transcriptions thus include altered punctuation, word breaks, and paragraphing, and less use of capitals. We accept that there would also have been merit in the alternative approach, of being faithful to the original. This indeed has been our approach to the English-language minutes of the Council and Board. However, we felt ultimately that the committee minutes would benefit from some minor editing for the sake of their readability. We note that Smith, for example, also altered the original minutes in her thesis, including through the use of macrons.

Smith noted that readers of papatupu minute books are relying on a faithful transcription by the clerk of an oral account by claimants.[30] This was at times very much an adversarial process of claim and counter-claim with accusations of 'korero teka' or contrived evidence, or the more diplomatic suggestion of 'he pohehe' or to be mistaken in belief. We nonetheless share Smith's belief that 'the transcription is probably very close to the spoken witness due to its comprehensiveness and fluency'.[31]

Translations taken from the original text source are indicated as such. In other instances, we provide our own interpretation, which we note as our work or signify with square brackets ('[…]'). Māori language scholar, Bruce Biggs, in quoting the Italian saying 'Traduttore, tradittore' ('the translator is a betrayer'), reminds us of the 'difficulty of saying in one language exactly what has been said in another'.[32] Another Māori language scholar, Helen Hogan, has highlighted the problem of choosing between too literal or too free a translation. She comments that 'The former runs the risk of making the original writer falsely appear

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[29] For the Parliamentary debates in Māori, see generally *Nga Korero Paremete* available online in the New Zealand Electronic Text Centre – www.nzetc.victoria.ac.nz. For the Māori newspapers see the digital collection *Niupepa: Maori Newspapers* at www.nzdl.org/niupepa and within Papers Past at www.paperspast.natlib.govt.nz/.

[30] Smith, 'He tao huata e taea te karo, he tao kī e kore e taea', p 19

[31] Smith, 'He tao huata e taea te karo, he tao kī e kore e taea', p 19

[32] Bruce Biggs, 'Humpty-Dumpty and the Treaty of Waitangi' in I H Kawharu (ed.) *Waitangi: Maori and Pakeha Perspectives of the Treaty of Waitangi*, Oxford University Press, Auckland, 1989, p 303

naïve or childish in expression; the latter might blunt the freshness of the language and lose the force of the original imagery'.[33]

We have favoured something in between that ensures the reader is provided with a good readable English translation while trying to remain faithful to the historical nuances of the day and the 'style and sense of the oral composition'[34] of the Māori text. Any ambiguity around the transcription of illegible text or the translation presented is noted in a footnote.

1.3.3.2 Te tō or macrons

Our own text includes the use of the tō or macrons to indicate vowel length. Where we have quoted from a published source, we do not add macrons in their absence. Nor do we add macrons to the titles of legislation or to institutions where it would be ahistorical to do so, such as the Tokerau District Maori Land Council. Generally, vowel length was not noted in the papatupu minute books, either by macrons or double vowels. Despite our policy of transcribing such handwritten text to contemporary orthography, we do not insert macrons into our transcriptions. Nor do we generally throughout the report in the case of personal Māori names. This is because of our lack of in-depth understanding of northern reo and our corresponding uncertainty about correct pronunciation. For the same reason, we have also omitted macrons from place names.

1.3.3.3 Place names

On the subject of place names, we note that the spelling of certain blocks was either different at the time of the committees or at least inconsistent. For example, the Paremata Mokau block was known as Parimata Mokau, and Kohatutaka was often referred to as 'Kowhatutaka'. Likewise, Maungapohatu was often written as 'Maungakohatu'. In these and other cases we have employed the current name for the blocks, as used for example in official Māori land titles.

1.4 Te Paparahi o Te Raki inquiry Claims concerning the papatupu block committees

Reference to the committees is made in a number of claims being heard by the Te Paparahi o Te Raki Tribunal, although in general this is merely in passing[35] or as sources of information

[33] Hogan, Helen, *Bravo New Zealand: Two Maori in Vienna 1859–60*, Clerestory, Christchurch, 2003, p 19
[34] Smith, 'He tao huata e taea te karo, he tao kī e kore e taea', p 20
[35] For example, the Wai 824 claim by Marama Waddell 'on behalf of herself, her whanau and her hapu who are members of Te Whiu, Te Uri Taniwha and Nga Uri o Wiremu Hau raua ko Maunga Tai', p 58 (Wai 1040 claim #1.1.95(a)).

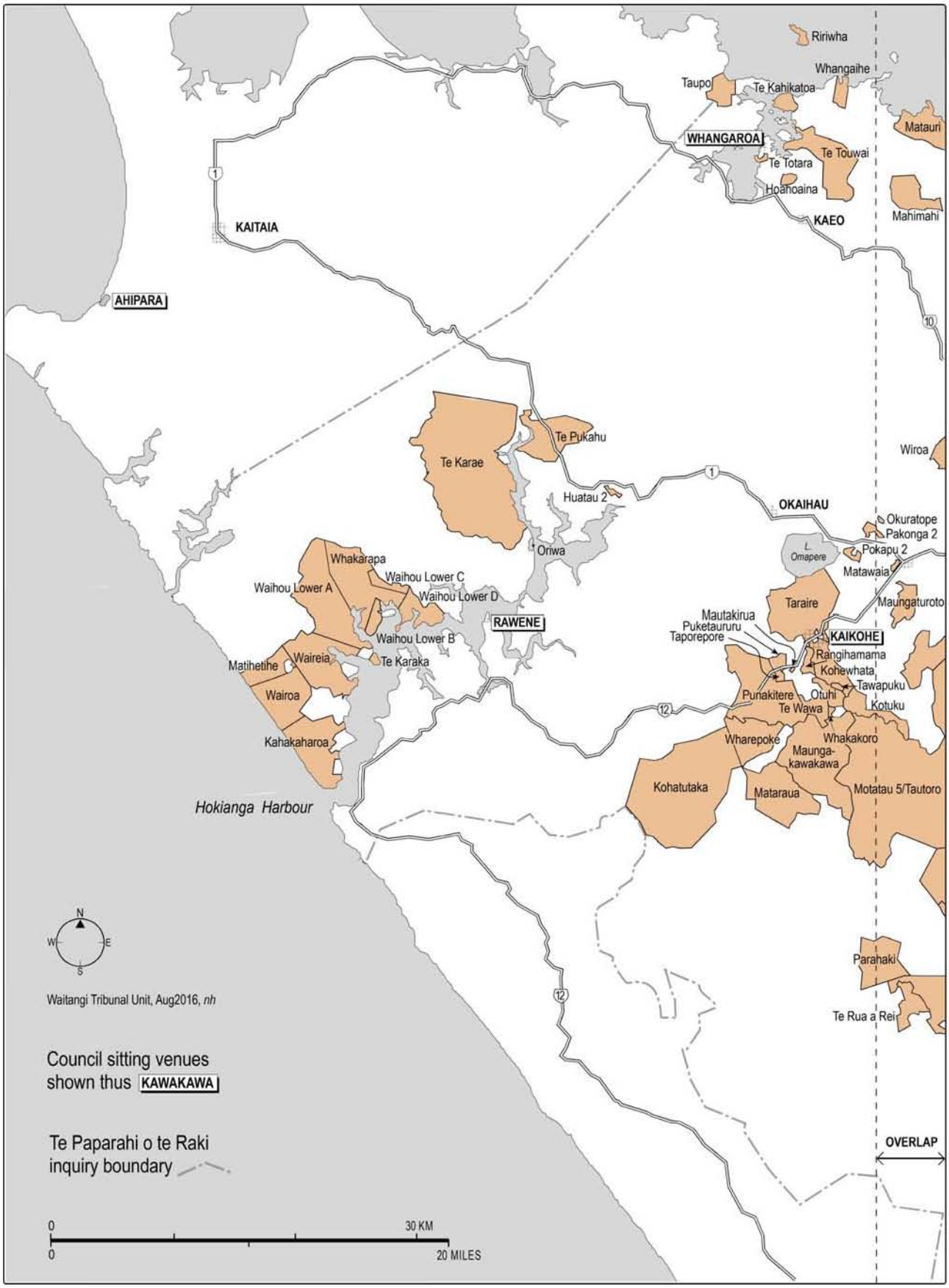
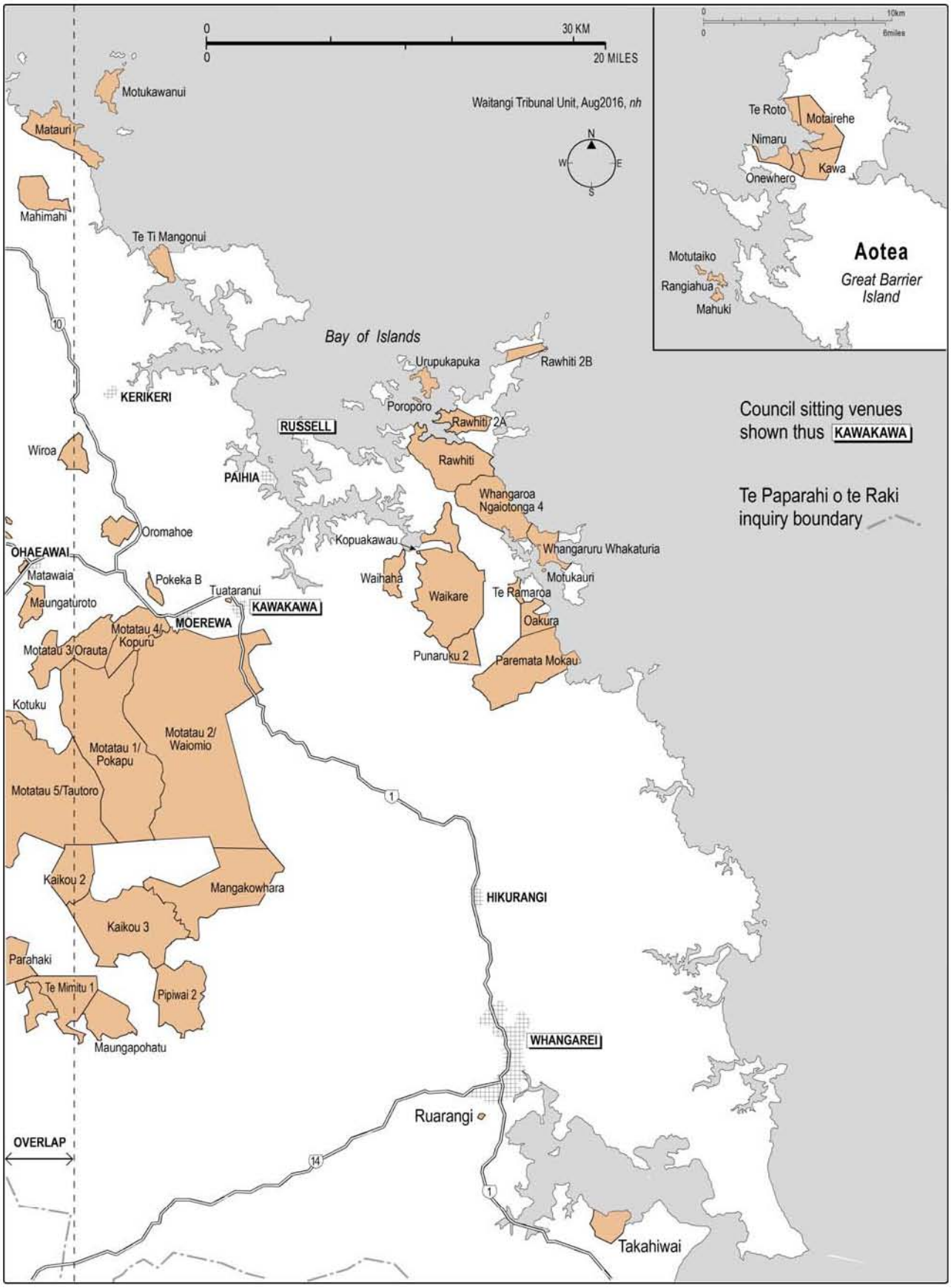


Figure 2: Te Raki blocks for which papatupu committees set up, 1902-1905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RUSSELL
Wiroa
Rawhiti
PAIHIA
Whangaroa Ngaiotonga 4
Oromahoe
Kopuakawau
Whangaruru Whakaturia
OHAEAWAI
Matawaia
Pokeka B
Waihaha
Motukauri
Tuataranui
Waikare
Te Ramaroa
Maungaturoto
KAWAKAWA
MOEREWA
Oakura
Motatau 4/ Kopuru
Motatau 3/Orauta
Punaruku 2
Paremata Mokau
Kotuku
Motatau 2/ Waiomio
Motatau 1/ Pokapu
Motatau 5/Tautoro
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Kaikou 2
Mangakowhara
HIKURANGI
Kaikou 3
Parahaki
Te Mimitu 1
Pipiwai 2
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Mahuki
Aotea
Great Barrier Island
Council sitting venues shown thus KAWAKAWA
Te Paparahi o te Raki inquiry boundary

about tīpuna[36] or as part of a factual narrative.[37] Two exceptions to this stand out. Pairama Tahere and others of Te Ihutai, for example (Wai 1538), stated in 2010 that

> Under the Native [L]and Administration Act 1900 ownership of Te Karae block was determined in 1905 by the Papatupu Committee according to traditional tikanga. The decision on the relative interests were accepted by Te Ihutai as fair and the process involved only a fraction of the cost that was associated with title investigations that went through the Native Land Court.
> The difference in costs highlights the unfairness the Native land court charges regime.[38]

In other words, the Wai 1538 claimants were quite positive about the role and function of the block committees, especially compared to the Native Land Court. By contrast, the Mana Wahine claimants (Wai 2260) had argued in 2009 that many laws had been passed which 'diminished the role and status of Maori Women within New Zealand society'. Among the Crown's alleged failings they cited the

> Failure to enact legislation to provide for Maori Women representation in such statutes as the NZ Maori Council Act 1900, the Native Land Laws creating Native Land Block Committees, Native Land Boards and the Native Land Court.[39]

We will return in the report to the subject of the role of Māori women within the papatupu committee system.

1.5 The contents of this report

The report comprises eight chapters, including this introduction. The second chapter sets out some of the background to the enactment of provisions for the establishment of papatupu committees in 1900. It also details the terms of the 1900 legislation and the committee regulations that were gazetted in early 1901. These regulations are included, in full, in appendix 1. The chapter also comments upon Māori and Crown expectations of the committees. It concludes by traversing the legislative amendments to the Maori Lands Administration Act over subsequent years, including the Maori Land Settlement Act 1905, which replaced the land councils with land boards.

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[36] For example, the Wai 605 claim of Terence D Lomax concerning the Waimimiti block (Wai 1040 claim #1.1.73).
[37] For example, the Wai 1384 claim by Elvis Reti, Henry Murphy and Merepeka Henley 'on behalf of the tangata whenua of Whangaruru', pp 67-68 (Wai 1040 claim #1.1.162(a)).
[38] Wai 1040 claim #1.1.218(a), pp 33-34
[39] Wai 1040 claim #1.1.380. Note that this document contains two claims within it: the first statement of claim, dated 8 August 2008, and the first amended statement of claim, dated 14 May 2009. The text quoted is from p 4 of the second document.

Chapter 3 concerns the process by which papatupu block committees were set up. In doing so it describes the procedure adopted by the Tokerau Council at its first series of meetings, including the venues used, the notice given, and the members present. It also quantifies the numbers of claimants and sets out the grounds of claim most frequently asserted by them, and describes the methods by which committee members were appointed. It also notes the costs involved in setting up committees, as well as discussing the particular circumstances surrounding the Motatau 5 or Tautoro block.

Chapters 4 and 5 concern the operation of the committees themselves. Here we make use of the committee minutes, along with the many comments about the committees' investigations made by claimants to the Council and Board when the committee reports came up later for review. Chapter 4 addresses the mechanics of the committee process, including the venues used, the hours kept, and the opening formalities. It also discusses the grounds of claim asserted, the outside arrangements by the parties made in many cases, and the manner in which the committees presented their reports to the claimants. Chapter 5 deals with the challenges faced by committee inquiries. These included the claimants' need to meet both the costs of the committee as well as those of the conductors of their cases, as well as the delays in many committees' proceedings. The chapter also discusses both the delays in the Council's own consideration of committee reports and the various controversies that beset certain committees, including the use of misleading evidence and other causes of dispute.

Chapter 6 deals with the consideration by the Council and Board of completed committee reports and the many objections made in response to them. The chapter sets out how many objections were resolved through give and take, as well as how many others were rejected by the Council or Board, with the decisions of the block committees upheld in full. By the same token, the chapter also discusses the occasions on which the Council or Board decided to set aside a committee's report and decide matters for itself. The chapter also discusses the Government's pressure in late 1905 on the Tokerau Council to move faster, the cessation of setting up new committees after 1905, the number of appeals lodged by claimants against Council or Board decisions, and – once again – the costs borne by claimants during this part of the process.

Chapter 7 covers the reasons for the demise of the committees. It also discusses the achievements and worth of the Tokerau committees overall, noting the limited historiographical debate about the committees and commenting on the operation of the committees in other districts and the innovative aspects of the committees' practice. Chapter 8 follows this by offering a conclusion to the entire report.

Chapter 2: The 1900 legislation and Māori and Crown expectations

2.1 Introduction

We begin this chapter by setting out the background to the papatupu committees, noting not just the general secondary literature on this period but also quoting from official publications, such as parliamentary debates, government inquiries into Māori land tenure, and the proceedings of the 1899 parliamentary Native Affairs Committee. We then set out sections 16-20 of the Maori Lands Administration Act 1900, which provided for the committees, and summarise the associated regulations which were gazetted early in 1901. We outline, to the extent possible, what can be gleaned about Māori and Crown expectations of the committees, although here as well as elsewhere the committees were only one aspect of a much broader set of reforms, and commanded relatively little attention. While it involves a departure from strict chronology, we conclude the chapter by noting the legislative amendments that affected the committees from 1901 to 1906, including the passage of the Maori Lands Settlement Act 1905, which saw the Council replaced with the Board. We detail this at the outset so that we do not have to explain this change when describing more thematic issues later in the report.

The chapter addresses questions 2(a), 2(b), and 2(f) of the research commission, concerning the nature of the legislative regime created for the papatupu committees, the nature and extent of the committees' powers and jurisdiction, the nature of the title the committees recommended, and the intentions and expectations of both the Crown and Te Raki iwi and hapū in establishing the committees.

2.2 The background to the papatupu committees

The background to the establishment of the papatupu committees is to be found, among other things, in Māori dissatisfaction with the Native Land Court in the late nineteenth century, the advent of 'te Paremata Maori o te Kotahitanga' or the Kotahitanga Māori Parliament, and the Crown's consideration of granting Māori some autonomy over their own land. This story has been well traversed in previous research. Those who have discussed this period include John Williams, Vincent O'Malley, David Williams, Richard Hill, Richard Boast, and – as noted in chapter 1 – David Armstrong and Evald Subasic. Donald Loveridge also wrote an overview of the Maori Land Councils and Land Boards from 1900 to 1952 that described much of this background.[40]

[40] John A Williams, *Politics of the New Zealand Maori: Protest and cooperation, 1891-1909*, Oxford University Press, Auckland, 1969; Vincent O'Malley, *Agents of Autonomy: Maori Committees in the Nineteenth Century*, Huia, Wellington, 1998; David Williams, *'Te Kooti tango whenua': The Native Land Court 1864-1909*, Huia, Wellington, 1999; Richard Hill, *State Authority, Indigenous Autonomy: Crown-Maori Relations in New Zealand/Aotearoa 1900-1950*, Victoria University Press, Wellington, 2004; Richard Boast, *Buying the Land, Selling the Land: Governments and Maori Land in the North Island 1865-1921*, Victoria University Press, Wellington, 2008; Armstrong and Subasic, 'Northern Land and Politics'; Donald M Loveridge, *Maori Land*

In most of these accounts, however (with the exception of Armstrong and Subasic's)[41] the papatupu committees are little more than a passing reference.[42] As we have also noted in chapter 1, a much more comprehensive treatment of them is to be found in McRae's 1981 MA thesis, which covered both the papatupu committees and the committees set up under the Native Committees Act 1883. She too introduced the committees by discussing the ongoing efforts of Te Tai Tokerau Māori to control their own affairs from the time of the signing of Te Tiriti o Waitangi onwards, as well as the national political events of the 1890s such as the findings of the 1891 commission of inquiry into Māori land laws; the establishment of the Kotahitanga Parliament in 1892; and the boycott of the Native Land Court in 1895-96.[43] Ultimately, though, McRae's focus was on whether the committees were 'a combination of Maori custom and Pakeha method and planned in such a way as to effect transformation in the system of governing or merely a hand-out of power carefully calculated to maintain government authority and silence protest'.[44]

McRae's conclusions are naturally returned to in the course of this report. For now it can be noted that the Liberals had come to power in part on the back of a policy to 'bust up' the Māori land estate and place Pākehā small farmers on 'idle' Māori land. Through re-asserting its pre-emptive purchasing right in 1894, the Crown cheaply bought up 2.7 million acres of Māori land between 1892 and 1900. In fact, so much land was purchased, explained Loveridge, that by the late 1890s the Government was prepared to make some concessions, including even a moratorium on further purchasing. This followed on from the growing (yet factional) Māori opposition to land purchasing and calls for Māori autonomy, as exemplified by the efforts of the Kīngitanga (or King Movement) and the Kotahitanga Parliament, including the latter's 1897 petition to Queen Victoria. This petition stated

> Ki to matou Kuini Atawhai; ki a Kuini Wikitoria ... Kia pai koe ki te whakaae i tetahi tikanga rahui tuturu e toea ai te morehu o o matou whenua hei wai-u mo to Iwi Maori, ake, ake. [45]
>
> [To our benevolent Queen; to Queen Victoria ... Let you approve of a policy of the permanent reserve of our remaining lands to provide for your Maori people, forever and ever.]

Robert Stout and Apirana Ngata summed up the events of the 1890s in their 1907 report to the Government on 'Native lands and native land tenure':

Councils and Maori Land Boards: An historical overview, 1900 to 1952, Rangahaua Whānui National Theme K, Waitangi Tribunal, December 1996

[41] It should also be noted that O'Malley's coverage ended at 1900.

[42] In discussing the Maori Lands Administration Act 1900, for example, Boast does not even mention them. Boast, *Buying the Land, Selling the Land*, pp 218-221

[43] McRae, 'Participation', pp 14-41

[44] McRae, 'Participation', p 4

[45] Loveridge, *Maori Land Councils and Maori Land Boards*, pp 3-6

Image 1: Kotahitanga Parliament, Papawai, 1897[46]

Events that followed in quick succession between 1892 and 1900 – the wholesale purchase of Native lands under the pre-emptive right at prices that seemed inadequate, and under a system that appealed to the weaknesses and improvidence of the Maoris, the sudden introduction of settlers into hitherto virgin areas through the medium of the ballot-box, the necessity of providing roads and other means of communication with the new settlements and of providing by rates for their maintenance; the hampering restrictions against leasing, which, while retarding the utilisation of unoccupied lands, allowed large areas of expired leaseholds to revert to the owners and to be subjected to costly and futile litigation; the delays in partitioning and surveying lands and in the completion of titles, to which delay Parliament contributed by legislative interference with the work of the Native Land Court; these and other circumstances conspired to create between 1897 and 1900 a bewildering state of affairs. Maori opinion was gradually consolidated in numberless meetings all over the North Island, and for the first time the Waikato confederacy, under the leadership of their hereditary chief and of their representative in Parliament, took an active part in Maori politics. Petitions setting forth general principles for the future administration of Native lands were presented year after year, and one numerously signed was presented to the late Queen Victoria on the occasion of her Diamond Jubilee. Though divided on many points, the tribes were unanimous in asking—

(i.) That the Crown cease the purchase of Native lands;

[46] Alexander Turnbull Library, ref. 1/2-170058-F. The premier, Richard Seddon, stands at the front towards the left of the picture.

(ii.) That the adjudication, management, and administration of the remnant of their lands be vested in controlling Councils, Boards, or Committees composed of representative Maoris.[47]

The Government's offer to cease purchasing, however – generally known as its 'taihoa' policy – was not without important qualifications. As Loveridge put it,

> any political party which cut off the supply of Maori land altogether in the middle of an economic boom was likely to be ejected from the Treasury benches with unseemly haste. From this perspective, a termination of purchasing had to be compensated-for by a significant increase in the supply of Maori land made available for settlement by other means.[48]

The Government thus planned to set in place a new system for the administration of Māori land that allowed for 'surplus' areas to be vested in a body and leased to Pākehā farmers. The Government prepared a bill to give effect to this, with Seddon telling the House in October 1899 that its passage would mean that

> a million acres of land would in a very short time be handed over to this administrative body, and … the difficulty that obtains at the present time in respect to large tracts of Native lands would be removed: they would not remain idle and unoccupied, and so prove only a barrier to the settlement of many districts.[49]

Image 2: Hone Heke Ngapua[50]

[47] AJHR, 1907, G-1c, p 5
[48] Loveridge, *Maori Land Councils and Maori Land Boards*, p 6
[49] NZPD, vol 110, 19 October 1899, p 743. See also Loveridge, *Maori Land Councils and Maori Land Boards*, p 7
[50] Alexander Turnbull Library, ref. PAColl-D-0011

During the debate on the Government's bill the MP for Northern Maori, Hone Heke Ngapua, explained that he had had two new clauses inserted into it during its consideration by the Native Affairs Committee. In these clauses he proposed that

> an investigation can be carried out by a Committee appointed by Natives alleging interest in such lands; that that Committee can carry on an investigation as to who are the proper owners there is no doubt in my mind. They can also ascertain and set out the Rohe Potae boundaries, hapu boundaries, sub-hapu boundaries, and family boundaries.[51]

Indeed, Heke had made the following proposal to the 'Komiti mo nga mea Maori' or Native Affairs Committee:

> Let those hapus who claim to have an interest in these uninvestigated lands select a Committee from amongst themselves, such Committee to meet at an appointed time and place, and thoroughly inquire into and ascertain the outside boundary of such uninvestigated land, its tribal or sub-tribal partitions and family subdivisions. That having been first done, and the external and internal boundaries having been, by that means, definitely ascertained, then it will be quite time enough for a survey to be made of such partitions if desired by the people. It will then be competent for the Committee, which has been selected by the interested hapus, to proceed to exercise its other functions. To pass, for instance, the list of names of the various owners entitled to each respective subdivision of such land. Now, I am myself satisfied that such a system, in respect to papatupu land, as I have outlined is quite within the possibility of accomplishment. I have myself proved such to be the case. I have constituted and worked out a similar scheme, and I say that this system would remove a great many burdens now severely felt, and it would remove a great many causes of trouble that frequently arise between Natives and Natives. I say that if the Committee had once ascertained the tribal boundaries, the hapu boundaries, and so forth, and had passed a list of owners for each respective partition, that that would be all such Committee would have to do, and then it would simply be for them to submit their finding either to the Board or other duly appointed tribunal for confirmation. Then there is the whole matter solved without the excessive charges and irritation following on Native Land Court proceedings; and, as I understand that we are now assembled here for the purpose of discussing matters with a view to discover the most beneficial and least expensive way of securing the welfare of the Maoris, I submit, from my point of view, that this is a scheme which is eminently fitted for the necessities of the occasion, and now that I understand the present intention I may say that I am prepared to concede a good deal of what I would wish to see accomplished with a view of having the views of the Government in this matter carried out.[52]

This was translated into Māori[53] as follows:

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[51] NZPD, vol 110, 19 October 1899, p 747

[52] AJHR, 1899, I-3A, p 10

[53] According to Phil Parkinson, the Māori parliamentarians in the late nineteenth century had begun to use English 'as their primary language'. Phil Parkinson, '"Strangers in the house": The Māori Language in government and the Māori Language in Parliament 1865-1900', *Victoria University of Wellington Law Review* 32 (3), August 2001, p 46. It is not clear to us in this instance whether Heke and Wi Pere spoke to the committee in English or Māori; the Māori language text, however, was described as a translation.

> Me penei he ture, me whakamana nga hapu e ki ana he paanga o ratou ki tetahi, ki etahi whenua papatupu, ki te whakatu i tetahi Komiti i roto ano i a ratou, me tu taua Komiti ki nga wahi e whakaritea e ratou. (1) Ki te kimi, ki te whakatau i te rohe potae o te whenua, o nga whenua papatupu ranei; (2) ki te kimi ki te whakatau i nga rohe hapu, wahanga hapu hoki, tae atu hoki ki nga rohe whanau. Kia oti rawa tena te whakatau, katahi ano ka ahei te ruri te haere mehemea ka hiahiatia e nga tangata mo ratou tena wahanga tena wahanga o aua whenua. Ka oti ena rohe katoa te mahi—katahi te Komiti ka timata ki te whakatutuki i tetahi o aua mahi, ara, ki te kimi ki te whakatau i nga rarangi ingoa o nga tangata e tika ana ki ia wahanga ki ia wahanga o te whenua. Kei te tino mohio ake ahau, ka taea tenei huarahi te whakatinana. Kua kite ahau i te whakatatanga o tetahi tikanga penei. Ki te whakaaetia tenei huarahi kia whakaturia, ka ki ake ahau ka mawehe atu etahi o nga taumahatanga nunui e tau mai ana ki runga ki nga whenua Maori i raro i nga ture o naianei; a ka taea hoki te whakakore atu nga tini raruraru nunui e oho ake ana i waenganui i nga Maori me nga Maori. Ki te oti enei i nga Maori, ara, i to ratou Komiti, na, heoi he mahi ma ratou i muri o tena, he tuku atu i ta ratou whakaotinga ki te Kooti kia whakamana—ki te kore te Kooti, a ki te ropu hei tango i te mana o te Kooti. Engari kaua ki te Poari. Na, kua oti katoa te take, a kua araia atu nga huarahi whakapau nui i te moni, whakakino hoki i te tangata, e puta mai ana i nga keehi penei, ana mahia e te Kooti Whenua Maori. Na, i te mea ko ta tatou noho e noho nei tatou, hei whakaatu i o tatou mahara, he uiui, he tautohe, i nga tika i nga he, i nga uauatanga, i nga ngawaritanga o o tatou hiahia, kia taea ai te komiti i roto i a tatou huarahi korero tetahi ture e tau pai ai ona hua ki nga iwi Maori, a e tino iti ai hoki nga moni e pau i runga i nga huarahi whakahaere i raro i taua ture; koia nei ahau i ki ai, koia tenei ko te huarahi e oti ai taua hiahia i raro i nga tini ahuatanga e pa atu ana ki enei whakahaere. Na, i te mea kua maramatia te putake o ta tatou noho, koia ahau i ki ai, ka taea e ahau te whakangawari te nuinga o nga take kei te hiahiatia e ahau kia oti, kia riro ai ma taku whakangawari i etahi o aku take e ngawari ai pea te whakaaetia nga take a te Kawanatanga kua whakaaturia nei e te Pirimia i roto i ana whaikorero i runga i te Motu nei.[54]

The system Heke referred to having outlined was set out in his written submission to the committee, as follows:

> *Papatupu Lands*.—That all hapus, sub-hapus, families, and individuals alleging to have a right to any papatupu lands after the passing of this Act shall elect a committee from amongst themselves, such committee to be called the '*Papatupu* Committee,' or Native-land Committee, the names of the members of such committee to be recorded in a record book, and such book to be the property of the Registrar of the district.
>
> *Its Functions*.—(l) To ascertain the hapus, sub-hapus, families, and individuals properly interested; to record a list of the owners; and (2) to locate the outside boundaries, hapu boundaries, sub-hapu boundaries, family boundaries, and individual boundaries if convenient, and comply with the wishes of the owners. All proceedings under this head must be recorded, and it must give the cause, the reasons, and source of all claims to such lands, whether it is by:—
>
> (1) Ancestry (*mana*), (2) conquest (*ringa kaha*), showing (*a*) by whose mana the territory was protected from outside raiders and attacks, (*b*). for how long did such mana exist, (*c*) through

[54] AJHR, 1899, I-3A ('Translation'), p 10

> what families was such mana held, (*d*) who are the nearest descendants. Members of the hapu or hapus claiming ancestry as their rights must show source in usual way: (3) Occupation; (4) gifts and pakuhas or marriage gifts; (5) Aroha, &c, and all other conditions, modern or old, under Native customs or otherwise. All such proceedings to be recorded in a record-book; such book to be the property of the Registrar of the district. A survey of all such *papatupu* lands can only be made after a settlement is come to in open meeting by the *Papatupu* Committee. Provisions authorising surveys under the existing laws applicable to Native lands shall not apply to papatupus after the passing of this Act. All such settlements to be confirmed by the District Committee, but, should the Native Land Court be continued, then by the Native Land Court.[55]

This was translated as follows:

> *Whenua Papatupu.* —(l.) Ko nga hapu wahanga-hapu, whanau me nga tangata takitahi e ki ana he take o ratou ki te whenua papatupu, i muri o te paahitanga o tenei Ture me whakatu e ratou he Komiti i roto ano i a ratou, a me ki taua Komiti ko te 'Komiti Papatupu,' ko nga ingoa o nga tangata o taua Komiti me tuhi ki roto i tetahi pukapuka-rehita, ko taua pukapuka hei taonga ma te Kai-rehita o te takiwa.
>
> *Nga Mahi ma te Komiti Papatupu.* —(1) He kimi i nga hapu, i nga wahanga-hapu, i nga whanau me nga tangata takitahi e tika ana ki te whenua; he tuhi i nga ingoa o nga tangata; (2) he whakapumau i te rohe potae, i nga rohe hapu, wahanga-hapu, whanau, tangata takitahi hoki mehemea e pai, a hei whakarite hoki i nga hiahia o nga tangata no ratou te whenua. Me tuhi katoa nga mahi e meatia i raro i tenei upoko ki te pukapuka, me whakaatu nga take, me nga huarahi o nga kereeme katoa ki te whenua, i ma enei huarahi ranei:—
>
> (1) Tupuna (mana-ringa kaha) (2) raupatu (mana-ringa kaha), me whakaatu (*a*) te mana i tiakina ai te whenua te takiwa i araia ai nga ope taua o waho, (*b*) pehea te roa o taua mana i puritia ai, (*c*) na ehea whanau i pupuri taua mana, (*d*) ko wai ma nga uri tata. Ko nga tangata e kereeme ana i raro i te take tupuna me whakaatu nga huarahi i runga i te whakatuhono penei me to nga whakahaere kooti nei; (3) Ahika (4) Tuku, pakuha; (5) Aroha, me etahi atu tikanga, tawhito hou ranei, i raro i nga ritenga me nga huarahi Maori i etahi atu ritenga ranei. Me tuhi katoa ki te pukapuka; ko taua pukapuka na te Kai-rehita o te takiwa. Heoi te wa e ahei ai te ruri mo aua whenua te haere, kia taea ra ano he otinga te whakatau e tetahi o nga hui a te Komiti Papatupu. Ko nga ture katoa e whakaahei ana i te tangata ki te tono ruri whenua papatupu me kaua e pa mai ki nga whenua papatupu i muri iho o te paahitanga o tenei Ture. Ko nga whakatau-whakaotinga katoa e oti i te Komiti Papatupu ma te Komiti Takiwa e whakapumau, engari mehemea ka tu tonu Te Kooti Whenua Maori ma Te Kooti Whenua Maori.[56]

Wi Pere, the Member for Eastern Maori, also proposed that a Māori land board be established and that

> The Board shall appoint five local committees for the Eastern Maori Electoral District, which shall have power to investigate titles and define the relative interests in the various blocks of

[55] AJHR, 1899, I-3A, pp 26-27

[56] AJHR, 1899, I-3A ('Translation'), pp 27-28. Heke's proposals and speech were also reported in the Māori newspaper, *Te Tiupiri,* 26 October 1899, pp 10-11.

> Maori lands, including papatupu lands, and shall have power to decide all matters therein as they shall deem just, and shall report on all the various matters submitted to them to the Board, whose decision on all such matters shall be final.[57]

His words were translated into Māori as follows:

> Me whakatu e te Poari kia rima nga Komiti Takiwa mo te Takiwa Pootitanga o te Tai Rawhiti hei uiui i nga take, a hei whakatautau i nga paanga o nga tangata ki ia poraka whenua Maori hui atu ki nga whenua papatupu**,** a me whai mana aua Komiti ki te whakatau i aua mea katoa i runga i ta ratou i kite ai he tika, a me tuku e ratou he ripoata mo aua tu mea ki te Poari, a ma te Poari e tino whakatau.[58]

The idea of Māori committees adjudicating title to papatupu land had been circulating for some time. It had been given legislative effect in section 14 of the Native Committees Act 1883, although that role was recommendatory to the Native Land Court only and routinely ignored by the court (and thus made relatively little use of by Māori).[59] Both before and after this 1883 experiment there also operated unofficial Māori committees which adjudicated title to papatupu land, such as the Ngāti Hine leader Maihi Kawiti's Komiti o Te Tiriti o Waitangi (Committee of the Treaty of Waitangi), although their lack of legal sanction imposed obvious limits on their ultimate utility. The benefit of title investigations by committees of Māori was recognised by William Rees and James Carroll in their 1891 report to the Government on Māori land laws. They noted that Māori they had spoken to believed that titles

> can be found and determined, boundaries can be settled, and lists of owners prepared, by the Maoris themselves, leaving only a few disputed cases to be determined by the Court. The respective interests of the owners they think can be arranged by the Committees, with the aid of the District Commissioner and District Judge hereinafter mentioned.[60]

Rees and Carroll agreed, and recommended that the first say in the ascertainment of title be performed by a 'Native committee of claimants', which would report to a district native committee.[61]

Seddon's 1899 bill was not enacted, mainly because of an ongoing division of opinion among Māori between the advocates of 'mana motuhake' (or 'home rule'), who wanted complete Māori control over Māori land, and the 'taha Kawanatanga me ona ture' (or the 'pragmatic minority' as Loveridge called them) who preferred to place their faith in a parliamentary solution. The proponents of mana motuhake were drawn largely from the supporters of the Kotahitanga and Kīngitanga movements, while the backers of a legislated system came principally from the East Coast. In October 1899 the Government did pass a measure that officially suspended Government land-purchase operations, section 3 of the Native Land

[57] AJHR, 1899, I-3A, p 25
[58] AJHR, 1899, I-3A ('Translation'), p 26
[59] O'Malley, *Agents of Autonomy*, pp 263-264
[60] AJHR, G-1, 1883, p xix
[61] AJHR, G-1, 1891, p xxi

Laws Amendment Act stating that 'On and after the commencement of this Act Native land or land owned or held by Natives shall not be alienated to the Crown by way of sale'. Loveridge believed that this development, along with the appointment of Carroll as Native Minister in December 1899, 'was probably a significant factor in tipping the scales in favour of the "legislative faction"'.[62]

The March 1900 meeting of Kotahitanga in Rotorua resulted in a compromise: the advocates of mana motuhake would support the passage of legislation providing for a new system of Māori land administration in exchange for the simultaneous creation of an elected Māori form of local government.[63] This arrangement led to the introduction of two different pieces of legislation into Parliament later in the year: a Maori Councils Bill and a Maori Lands Administration Bill.[64] The general mood of compromise was reflected by Heke in the debate on the administration Bill:

> Ehara tenei i te Pire i hiahiatia e au. Otira kua oti i a matou te whakatikatika kia tata ai tona ahua ki ta nga Maori i hiahia ai: ara, kia mutu rawa te hoko, heoi te tuku e whakaaetia ko te riihi anake.[65]

The English record of this was as follows:

> It is not really the Bill I would like to see passed. We have endeavoured to amend it in the direction of carrying out the wish of the Maori people: that is, the direct prohibition of all sales of Native land, and simply to allow the only form of alienation to be that of leasing.[66]

Crucially, in terms of gaining Māori support, the administration Bill made the vesting of land in the new councils (that is, for on-leasing to Pākehā) voluntary. Loveridge thought that this represented a satisfactory outcome for Māori: the Act 'did not actually bind them to any action', but nonetheless 'secured the continuance of the of the Crown's voluntary moratorium on new purchases'.[67] How this would work in practice, however – especially if Māori did not vest their lands to the extent Seddon and his government anticipated – remained to be seen.

The parliamentary debate on the Maori Lands Administration Bill was practically silent on the issue of the papatupu committees. Seddon mentioned them briefly in his speech introducing the Bill, albeit without appearing to capture the essence of the committees' role. As he put it,

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[62] Loveridge, *Maori Land Councils and Maori Land Boards*, pp 12-17

[63] See also proposed amendments to the Maori Lands Administration bill by Mahuta and the Kingitanga leadership in *Te Puke ki Hikurangi*, 29 Hepetema 1900, pp 1-2

[64] A te reo Māori translation of the latter was published in *Te Tiupiri*, 26 Hune 1900, pp 4-11.

[65] *Nga Korero Paremete*, 12 October 1900, p. 45 (http://nzetc.victoria.ac.nz/etexts/NZPa1900NgaK/NZPa1900NgaK047.gif)

[66] NZPD, vol 115, 12 October 1900, pp 188-189.

[67] Loveridge, *Maori Land Councils and Maori Land Boards*, pp 17-19

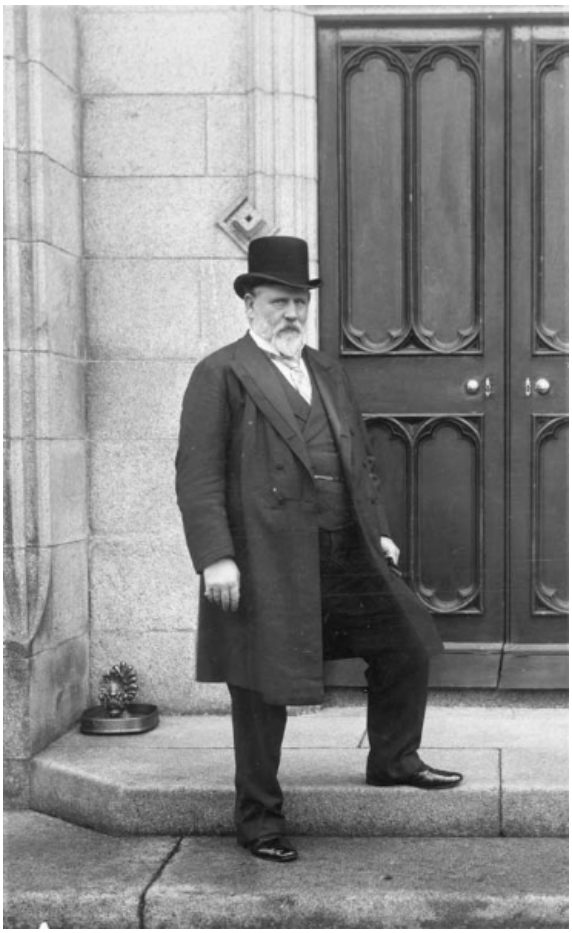

Image 3: Richard John Seddon (c. 1897)[68]

> Then we come to *papatupu* lands; there they elect Committees, and the land is handed over to the Council under certain conditions by the Committee. … [T]hey first of all … elect a Committee, to be known as a 'Block Committee,' and then the Committee may hand over the land at the wish of the owners to the Council to be dealt with.[69]

In other words, Seddon did not even mention the fact that the block committees would adjudicate the title to the land. The committees' role was better summed up, however, by former Native Minister Alfred Cadman in the Legislative Council:

> Then, we come to clause 16. That deals with *papatupu* land. That means land that is not yet through the Native Land Court and the owners ascertained. It makes provision for Block Committees. These Committees are to consist of numbers of Natives who lay claim to certain blocks of land. These claimants virtually under this Bill, will have the power to settle the title and the boundaries, in so far as the investigation is concerned, and they are to get the Council afterwards to confirm their decision.[70]

[68] Alexander Turnbull Library, PAColl-3861-30-01
[69] NZPD, vol 115, 12 October 1900, p 170
[70] NZPD, vol 115, 12 October 1900, p 307

Overall, the debate on the Bill was dominated by issues such as the cessation of land purchasing, the object of bringing 'surplus' Māori land into production, the lack of compulsion to vest lands in the councils, the prospect of 'Maori landlordism', the election rather than appointment of Māori members of the councils, the degree of restriction over Māori dealing with their lands, and so on. To that extent, the advent of the papatupu committees was not an issue of any parliamentary controversy.[71] Nor, from what can be ascertained, was it a particular issue either for the press.

2.3 The Maori Lands Administration Act 1900

The preamble to 'Te Ture Whakahaere i nga Whenua Maori'[72] or the Maori Lands Administration Act 1900 ('the Act') set out the rationale for the legislation. It stressed the need to preserve sufficient land for Māori to live on and better manage the remainder of their estate:

> kia rahuitia nga toenga whenua Maori (e tae ana pea ki te rima miriona eka) e toe nei ki nga Maori whaitake, kia waiho era hei painga hei oranga hoki mo ratou, ara kia awhinatia ratou kei noho kore whenua ratou.
>
> that the residue (about five million acres) of the Maori land now remaining in possession of the Maori owners should be reserved for their use and benefit in such ways as to protect them from the risk of being left landless.

However, the preamble placed no specific emphasis upon Māori adjudicating the title to their own lands. It may have obliquely referred to this, however, with its remark that it was 'necessary also to make provision for the prevention … of useless and expensive dissensions and litigation'.

The Act set up an unspecified number of (but at least six) Māori land districts within the North Island. Each would have a Maori land council of between five and seven members consisting of a president, two or three other members appointed by the Government (one of whom would be Māori), and two or three Māori elected by the Māori population of that district. Structured in this way, it can be seen that it was impossible for there to be a Pākehā majority on a council, and the more likely scenario was a Māori majority. Aside from the president, whose salary was paid for by the Government, each other member was to receive 10 shillings a day for their services, as well as the reimbursement of all travelling expenses (section 7(12)). A Pākehā appointee was to act as chairman in the president's absence (section 8(3)).

[71] See also the debate in te reo Maori with regards to this bill in *Nga Korero Paremete* 1900, pp 43-45.
[72] A copy of Te Ture Whakahaere i nga Whenua Maori can be found in the Alexander Turnbull Library, ref: Bim 1429.

Section 9 of the Act described the powers of the councils as being to 'have and exercise all the powers now possessed by the Native Land Court as to ascertainment of ownership, partition, succession, the definition of relative interests, and the appointment of trustees for Native owners under disability'. Section 9 included the proviso, however, that a council could 'not proceed to exercise its powers in any matter under this section unless and until directed so to do by the Chief Judge of the Native Land Court'. Under section 10, council decisions on matters such as 'ascertainment of ownership' could be appealed within two months to the Chief Judge of the Native Land Court, who could inquire into the matter himself or refer it to the Native Appellate Court.

This wording of section 9 was a cause of some confusion to the first Tokerau Council president, Edward Blomfield (who was known to Te Raki Māori as Purumawhiria). In February 1902, he told Patrick Sheridan, the Superintendent of the Maori Land Administration Department, that at the Council's first sitting at Dargaville he had received various applications from claimants for 'papatupus, partitions, succession and definition of interests'. As he explained,

> Although by sec. 9 of the Act none of these powers can be exercised without the consent of the Chief Judge, I take it that the rules contemplate papatupus being dealt with by the Council through block committees, as a matter of course, I considered it advisable to receive any applications that were made to the Council, leaving it for an after consideration as to whether my Council should be allowed to exercise its jurisdiction. Seeing that the Council is to be a self supporting body, it is, I submit, only fair that it should entertain all such work as is entrusted to it.[73]

Section 11 provided that the council could 'refer any claim or question brought before the Council to any Block Committee for further investigation and report', although there is no indication that this provision was made use of by the Tokerau Council. Council orders were to be signed by the president and at least two other members, one of whom had to be Māori (section 13). They were to be forwarded to the Chief Judge and published in the *Kahiti*, and if no appeal was lodged within two months the Chief Judge would 'countersign and issue the same, whereupon the order shall have effect as though it were an order of the Native Land Court' (section 14).

The work of the papatupu committees themselves was addressed under sections 16-20 of the Act, which are set out below in full in both Māori and English.

Mo Nga Komiti Poraka Papatupu

16. Ko nga Maori e kereeme ana ko ratou nga tangata whaitake ki tetahi poraka whenua papatupu e ata whakaingoatia ana i roto i tetahi takiwa, me ahei i runga i nga huarahi kua whakatakotoria, ki te pooti i tetahi komiti, ka huaina te ingoa ko 'Te Komiti Papatupu o Poraka'; a mo runga mo taua komiti me pa enei tikanga e whai ake nei, ara, –

[73] Blomfield to Sheridan, 10 February 1902. Document A12(a) vol 15, p 55 (document bank reference 8: 43b)

(1.) Ko nga tangata mo taua komiti me kaua e hoki iho i te tokorima, a me kaua e maha atu i te tokoiwa, i runga ano i nga tikanga kua whakatakotoria.

(2.) Ahahoa [sic] pewhea e kore rawa e ahei kia tu he mema o te Kaunihera hei mema mo te komiti.

(3.) Te roa o te wa e tu ai ia mema hei mema mo te komiti e toru tau, engari ka ahei ano nga mema e mutu ana te tu kia pootitia houtia ano; a ko ia pootitanga mema me tu a te wa, a i te takiwa hoki tera e whakaritea e te Kaunihera.

(4.) I raro i nga tikanga o tenei Ture, ma te komiti ano e whakahaere ana mahi.

17. Me tahuri te komiti, i runga ano i te ata whakaaro ki nga tikanga Maori, ki te tino rapu me te tino uiui i nga whai paanga ki te poraka, a hei tukunga iho mo taua uiuinga me whakahau kia hanga he mapi ahua e tetahi kai-ruri whai mana hei whakaatu i te takiwa me nga rohe o taua poraka, a me haere aua rohe i runga i nga rohe hapu mehemea ka taea.

18. Me hanga e te komiti he ripoata whakaatu–

(1.) I nga ingoa o nga tangata nona te poraka, me whakanohonoho-a-whanau, engari me te ata whakaingoa ano i ia tangata o ia whanau ;

(2.) I te rahi me te iti o te paanga o ia whanau ki te poraka ;

(3.) I te rahi me te iti o te paanga o ia tangata o roto o ia paanga whanau ki te poraka ;

(4.) Me era atu mea kua whakatakotoria.

19. Me tuku atu taua mapi ahua me taua ripoata e te komiti ki te Kaunihera, a ina oti i te Kaunihera te whiriwhiri i aua mea, me te whakatuwhera i tetahi taima hei rongonga mana i runga i te whakawa i nga korero a nga taha katoa e eke ana ki runga ki taua mapi me taua ripoata, kia mutu ra ano te pera, hei reira me tahuri te Kaunihera ki te hanga ota, i runga i nga huarahi kua whakatokotoria [sic], hei whakamana i taua mea hui atu ki nga whakarereketanga me nga whakatikatikanga tera e kitea e ia e tika ana kia mahia.

20. Ko te mapi ahua me te ripoata a te komiti tae atu ki te ota whakamana a te Kaunihera e ahei ana kia mahia ahakoa kaore ano i ruritia te poraka, kaore ano ranei kia hanga he mapi ruri i whakamana e te Tumuaki Kai-ruri, a, haunga ia mehemea ka ata tonoa e te komiti, kaore he tikanga e tino ruritia ai te katoa, tetahi wahi ranei o te poraka, kia whai mana ra ano te ota whakamana a te Kaunihera, ahakoa e takoto ke ana te tikanga o etahi kupu i roto i "Te Ture Kooti Whenua Maori, 1894," i roto ranei i tetahi atu Ture.

As to Papatupu Block Committees.

16. Maoris claiming to be the owners of any specified block of papatupu land within a district may, in the prescribed manner, elect a committee, to be called 'the Papatupu Committee of the Block'; and with respect to such committee the following provisions shall apply:--

(1.) The committee shall consist of such number of persons, being not less than five nor more than nine, as is prescribed.

(2.) In no case shall a member of the Council be a member of the committee.

(3.) The term of office of each member of the committee shall be three years, but retiring members shall be eligible for re-election; and every election shall be held at such time and place as the Council appoints.

(4.) Subject to regulations under this Act, the committee may direct its own procedure.

17. The committee, having due regard to Maori customs and usages, shall make full investigation into the ownership of the block, and, as the result of such investigation, shall cause a sketch-plan of the block to be prepared by an authorised surveyor setting forth the situation and boundaries of the block, adopting hapu boundaries as far as practicable.

18. The committee shall also prepare a report setting forth–

(1.) The names of the owners of the block, grouping families together, but specifying the name of each member of each family;

(2.) The relative share of the block to which each family is entitled;

(3.) The relative share to which each member of the family is entitled in such family's share of the block;

(4.) Such other particulars as are prescribed.

19. Such sketch-plan and report shall be forwarded by the committee to the Council, and the Council, after considering the same, and giving all parties concerned full opportunity of being heard, may in the prescribed manner by order confirm the same, with such modification or alterations as it finds to be necessary.

20. The committee's sketch-plan and report and the Council's confirming order may be made although the block has not been surveyed, or a survey-plan authorised by the Surveyor-General has not been prepared, and, except at the request of the committee, the actual survey of the block or of any part thereof shall not be necessary until after the Council's confirming order has taken effect, anything in 'The Native Land Court Act, 1894,' or any other Act to the contrary notwithstanding.

In sum, the Act provided that the owners of papatupu land would elect committees to investigate and report on the customary ownership of that land, including the relative share of the block that should be awarded to every individual owner. The council would then hear from the parties on the matter and could alter the committee's decision as it saw fit, issuing an order to that effect, and dissatisfied claimants would have two months in which to lodge an appeal against the council's decision with the Chief Judge. No survey of the block was required until the council's order had been issued, thus enabling the council to make its decision on the basis of the same sketch plan used by the block committee (the issue of a formal title that would enable the land to be leased, however, first required a proper survey).[74]

[74] As Patrick Sheridan reminded Tokerau Council president James Browne in December 1905, 'Every block of land which has been dealt with by papatupu committee finally or otherwise requires to be surveyed before title can be completed.' Sheridan to Browne, 22 December 1905. Archives New Zealand file ADYU 18191 MA-MLA1 4 1905/44

The remainder of the Act dealt with the reservation of sufficient areas of land by the council as papakainga, the vesting of lands in the council and the leasing thereof, and so on. None of these undertakings or responsibilities involved the papatupu committees.

2.4 Committee regulations

Under section 50(3) the Act made provision for the Governor to make regulations 'Defining the powers, functions, and duties of Block Committees', which were to be published in both the *Gazette* and the *Kahiti*. They were evidently to be read in conjunction with section 16(4) of the Act, which set out that a committee could, subject to the regulations, 'direct its own procedure'.

The 'huarahi whakahaere' or regulations were published in the *Gazette* on 7 January 1901 and in the *Kahiti* on 16 January 1901.[75] Altogether, 34 separate regulations were set out governing the operation of the committees (they were published alongside others concerning the election to the council of Māori members, papakainga certificates, leases, and so on). While generally quite prescriptive, the regulations – which, along with the associated forms, are set out in full in both Māori and English as appendix 1 – also allowed a block committee to dispense with them and proceed in the manner it saw fit to achieve the purpose of ascertaining title and furnishing a report (see regulation 27). Other notable features of the regulations include:

- claimants were to list their *take* to the land on their claim form (regulation 10);
- the council was to meet for the election of block committees in a rūnanga house or kainga on the land in question or at some other nearby place that was convenient to the majority of the claimants. The president and at least one Māori member were to attend (regulation 11);
- after claims had been presented, the council would decide how many members of the block committee each party could elect (regulation 15);
- the parties would then select their nominees, and the council would declare them elected (regulation 17);
- the committee would elect a chairman, and otherwise regulate its meetings as it saw fit (regulations 18 and 22);
- parties could call witnesses and conduct cross-examination (regulation 28);
- after hearing the evidence, the committee would prepare its report and call a hui to present its report to the parties (regulation 32);
- objectors could appear at this point and the committee could amend its report, if it saw fit (regulations 33-35);
- the committee would then sign its report and forward it to the council, and the council would then publicise a meeting at which objectors could appear before it (regulations 36-38); and

[75] *Gazette*, no. 1, 7 January 1901, pp 2-3, *Kahiti*, no. 2, 16 Hanuere 1901, pp 6-7

- the council would then consider the report and objections and issue an order (regulation 39).

A separate schedule of fees was published at the same time. This set out that filing a claim to papatupu land cost 'e rima hereni' or 5 shillings, an order setting up and electing a block committee cost £1, and an order 'whakamana i te ripoata o te piira papatupu Poraka' (or 'confirming report of papatupu block appeal') also cost £1.[76]

It should be noted that regulation 11 stipulated a lower number of council members needing to be present for a quorum when setting up block committees than that set out in section 8(1) of the Maori Lands Administration Act 1900. That provision stated that, with respect to any council meetings, 'The quorum shall in every case be a majority of the total number of members constituting the Council: Provided that in every case at least one Maori member shall be necessary in order to constitute the quorum.'

In his letter to Sheridan of 10 February 1902 Blomfield mentioned that he had 'Not yet received any of the printed forms set out in the regulations' and had been receiving applications 'in any informal way'.[77] This situation does not appear to have been rectified by the time of his letter of 24 May 1902, in which he complained that, 'in the matter of papatupus', the Council had been 'considerably hampered through having no printed forms of applications'.[78]

2.5 Comparison of the new regime with the Native Land Court

The legislation governing the operation of the Native Land Court at the time of the Maori Lands Administration Act 1900 was the Native Land Court Act 1894, which set out the practice and procedure of the court in some detail. In contrast to the committee system and subsequent review by the council, section 18 of the 1894 Act provided that a Native Land Court judge could exercise all the powers of the court alone. However, he was to be 'assisted' in coming to his decisions on the ownership of Māori land by a Māori assessor. This was naturally a significantly different arrangement to the papatupu committees, where the investigation of title and ensuing recommendations were made by an entirely Māori committee.

However, the provision for 'assistance' by the assessor bore some similarity to the council, where a Pākehā president was clearly to take the lead role in matters of council business. This included the review of committee reports (and indeed – as noted – the Government's Pākehā appointee was to be the president's deputy). The Tokerau Council presidents may well have regarded their Māori members as fulfilling assessor-like roles. In August 1904 Herbert Edger proposed that the Māori members of the Council be simultaneously appointed court

[76] *Gazette*, no. 1, 7 January 1901, p 9; *Kahiti*, no. 2, 16 Hanuere 1901, pp 14-15
[77] Blomfield to Sheridan, 10 February 1902. Document A12(a) vol 15, p 57 (document bank reference 8: 43d)
[78] Blomfield to Sheridan, 24 May 1902. Document A12(a) vol 15, p 61 (document bank reference 8: 46)

assessors, for the sake of convenience.[79] The Government agreed, gazetting them as such the following month.[80]

The fees that prevailed in the land court at the time of the enactment of the Maori Lands Administration Act had been gazetted on 7 March 1895 (as provided for by section 101 of the 1894 Act). These included £1 per day for each party throughout the course of a court hearing; 2 shillings for the swearing of each witness; £1 for every partition order, or order defining relative interests'; 10 shillings for the office copy of the same; £2 for an application under section 39 of the 1894 Act for an amendment of a court order based on an error or omission; and so on.[81] Perhaps the key one of these was the daily cost of the hearing. As can be seen, no such expense was levied when the council was considering block committee reports, and the regulations were silent on the fees that might be charged by the committees themselves. We therefore return to the issue of comparative costs after setting out the typical expenses incurred in bringing or countering claims before the committees in chapter 5. We note, however, that the service of interpreters was not needed by claimants appearing before the committees, but the daily interpreter's fee before the court in 1890 was £2 2s.[82]

The court rules and regulations gazetted in 1895 also included a schedule of fees to be paid to witnesses. Bearing in mind that the members of the council other than the president were to be paid 10 shillings per day, it is worth noting that this rate was payable in the court to witnesses who were 'Shopmen, journeymen, mechanics, petty officers of ships, and officers of police of inferior grade'. By contrast, 'professional men' appearing as experts were to be paid between £1 1 s and £2 2s for each day they were required as witnesses.[83]

Another key difference between the operation of the committees and the court was the lack of requirement for a proper survey as a block passed through the committees and council or board. This meant that the claimants to a block of land were put to less expense upfront, although of course an approved survey plan was still needed before title to the block could issue. In the court, any application for the investigation of title for a block of land that had not been surveyed had to be accompanied by an application for such a survey to be undertaken.[84] The reliance on a sketch during the committee proceedings probably contributed to the less formal atmosphere that prevailed vis-à-vis the court, although it appears to have been a reason why the committees were expected solely to ascertain the owners of the block and their relative interests, and not to make any recommendations about how the block should be partitioned (for more on this point see chapter 3). Hearn located the sketch plan used in the Whangaruru-Whakaturia investigation, which shows the rudimentary nature of such plans. We have included it as figure 3.

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[79] H F Edger to P Sheridan, 23 August 1904. Archives New Zealand file ADYU 18191 MA-MLA1 3 1904/82
[80] *Kahiti*, no. 43, 15 Hepetema 1904, p 358; *Gazette*, no. 76, 15 September 1904, p 2210
[81] *Gazette*, no. 18, 7 March 1895, p 456
[82] *Gazette*, no. 14, 20 March 1890, pp 318-319
[83] *Gazette*, no. 18, 7 March 1895, p 456
[84] *Gazette*, no. 18, 7 March 1895, p 442

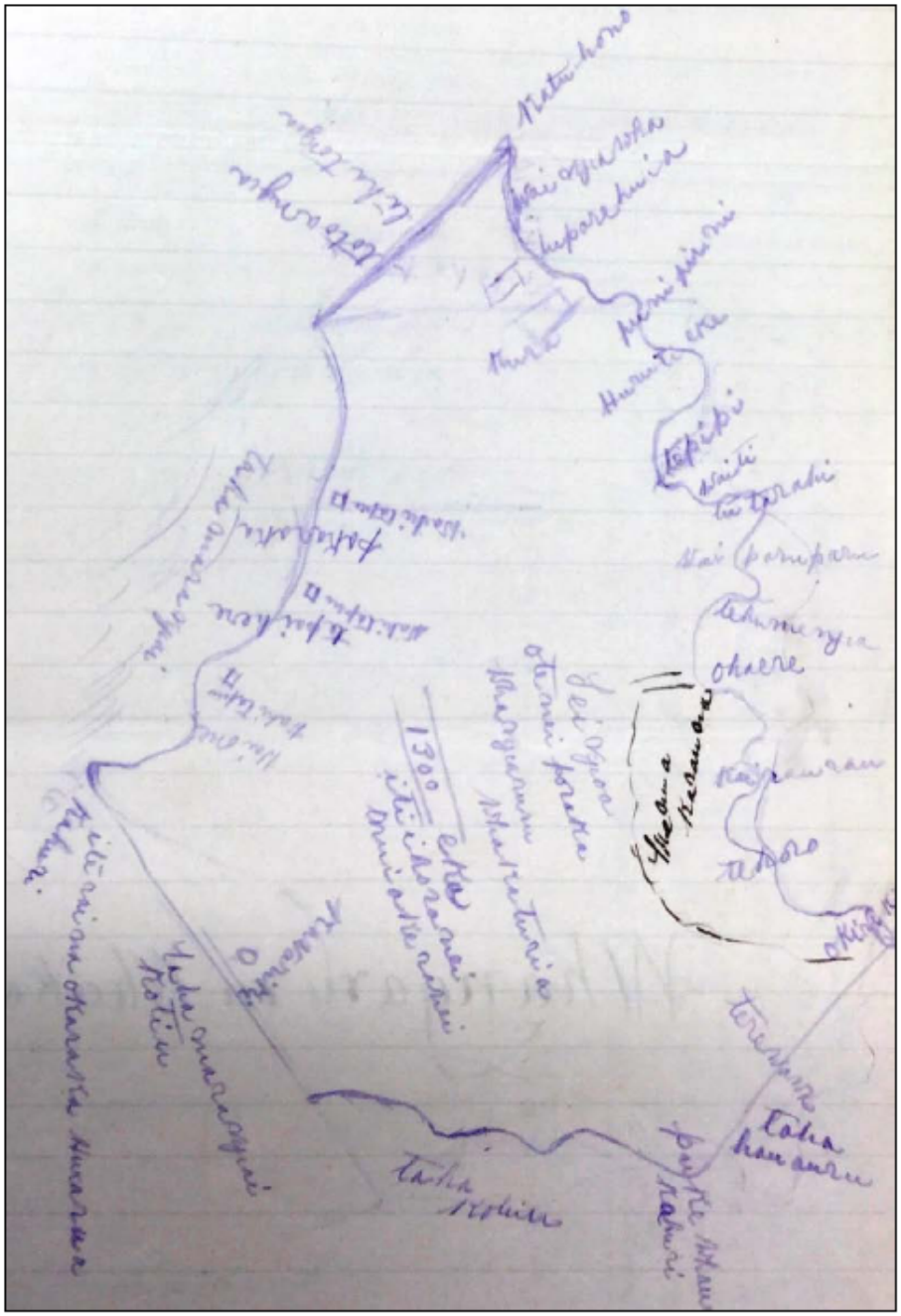

Figure 3: Sketch plan used in the Whangaruru Whakaturia block committee investigation[85]

The fact that the committees were to issue a report setting out 'The names of the owners of the block' created another point of contrast with the practice of the land court. The committees produced long lists of names of those deemed to have a customary right to the land, together with their recommended shareholding for each owner. In the court, however, it had been a regular practice for title to be awarded to a few individuals only, as representatives of the wider kin groups.[86] This often reflected the fact that sales had been

[85] Taken from Hearn, 'Local study: Tuparehuia, Otara, Oteaka, and Whangaruru-Whakaturia', p 22

[86] This practice had changed by the 1890s, when far fewer blocks were passing the court, with all identified owners generally being included in the titles. Personal communication from Paul Thomas, 4 October 2016.

arranged, which the small number of owners in the title was designed to facilitate. However, these arrangements were open to abuse by the named owners. Armstrong and Subasic give the example of the 43,622-acre Opouteke block west of Whangarei in this regard, which was granted to one individual only in the mid-1870s.[87] By the same token, the committee system and the court shared the common feature that it was open to any individual to make a claim. This had long been a cause of complaint in Te Raki.[88]

A final, and fundamental, point to make at this point in comparing the regime instituted in 1900 and the operation of the court is that the committees were at liberty, to a large extent, to make their own rules. Regulation 27 stated

> Ka ahei te komiti ki te whakahaere i a ratou mahi i runga i nga tikanga kua oti nei te whakatakoto i roto i enei huarahi-whakahaere, i runga ranei i era atu tikanga e whakaarohia ana e tika ana hei whakatutuki i nga tikanga o nga tekiona tekau ma whitu tekau ma waru i taua Ture.
>
> The committee may proceed in the manner prescribed by these regulations, or in such other manner as may be deemed best fitted for carrying out the provisions of sections seventeen and eighteen of the said Act.

This was in stark contrast to the land court, which operated under a very prescriptive set of rules. The regulations gazetted in 1895, for example, included 53 separate forms that were to be used for different applications, orders, or declarations. An example of the court's prescriptive rules – based on what David Williams describes as 'the English common law's adversarial modes of trial'[89] – was regulation 82, which set out that

> Upon any investigation of title, the claimants shall proceed to establish a *primâ facie* case without cross-examination by any counter-claimant or objector. If, in the opinion of the Court, a *primâ facie* case can be established, the counter-claimant or objector shall then proceed with his case. If there are more than one counter-claimant or objector, or party of counter-claimants or objectors, the Court shall decide the order in which their cases shall be taken. The case of each counter-claimant or objector being closed, the claimant shall proceed with his case. Each counter-claimant shall then be entitled to address the Court in such order as the Court shall direct, and the claimant shall be entitled to reply.[90]

While some committees may have proceeded in a similar fashion, the point is that they could use their discretion not to.

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[87] Armstrong and Subasic, 'Northern Land and Politics', pp 740-741, 864
[88] See, for example, Armstrong and Subasic, 'Northern Land and Politics', p 794
[89] Williams, *'Te Kooti tango whenua'*, p 140
[90] *Gazette*, no. 18, 7 March 1895, p 444

2.6 Māori and Crown expectations of the committees

Our summary here inevitably covers similar ground to section 2.2 above, where we discussed the background to the committees including the growing Māori concern about the loss of their land. Essentially, Māori expectations of the papatupu committees were that they would offer what the Native Land Court had not. That is, they would constitute a Māori-controlled process that was less costly and time-consuming than the court, and which did not depend on the decisions of a Pākehā judge, whose knowledge of tikanga was considerably less than the litigants before him. In 1883, for example, the four Māori members of Parliament had written to the Aborigines Protection Society appealing for help in keeping the Native Land Court out of the Rohe Potae:

> At present our lands are dealt with by the Native Land Courts, which are presided over by Judges appointed by Government to decide questions of native title. The decisions of these judges are very often unjust. Tribal lands are often declared to be the property of individual Maoris. The land is often years going through the Court. Maoris, who have no right to land often have it awarded to them through false swearing. European lawyers are allowed to practise in the Courts, and they and numerous officials usually swallow up the proceeds from the sale of the land.
>
> We have always admitted the supremacy of the Queen. Our protest is against the breaking of the bond of Waitangi by the Colonial Government, which being a party to a suit in the question of lands, acts also as its judge. We do not object to being subject to any laws made by the New Zealand Government that do not overstep the bounds of our bond with the Queen. We desire that the Native Courts should be done away with, and the land vested in an elective body of Maoris, who would be better able to decide questions of title than European judges.[91]

Armstrong and Subasic summarised the northern Māori complaints to Rees and Carroll in 1891 as including

- the existence of a baffling plethora of constantly changing land laws
- the heavy expense of surveys
- the heavy expense of lawyers and agents
- onerous court fees
- the great length of time it took to hear cases
- frequent adjournments and delays
- the great expense involved in attending the court
- the need to travel long distances to attend courts
- the destruction of tribal structures and rangatiratanga through individualisation of title
- the ability of individuals to make application to the court irrespective of the wishes of the wider community
- the encouragement of deception and fraud
- the encouragement of division and conflict
- the failure to provide a role for tribal committees or Runanga in the title adjudication process
- the inability of tribal committees or Runanga to enforce community decisions in the matter of title applications and alienation

[91] Quoted in McRae, 'Participation', p 33

- inappropriate choice of Assessors
- the court's failure to understand or properly apply custom law[92]

Later in 1891, McRae noted, a delegation of rangatira met with the Māori members of Parliament and proposed, among other things, that 'the Maori district committees be empowered to adjudicate upon native lands, and lands which have not been adjudicated upon by the Native Land Court, and also with subdivisions and successions, having similar powers to the Native Land Court'.[93] In 1893, the Kotahitanga Parliament petitioned the New Zealand Parliament asking for the right for Māori to govern their own affairs and manage their own lands: 'He whakahoki mai ki nga iwi Maori te mana whakahaere i o ratou whenua me o ratou rawa katoa, me te mana whakahaere i to ratou tikanga hei oranga mo te iwi Maori me te rangimarietanga me te pai mo enei motu katoa.' This was translated as 'that the right to manage our own property be given back to us; so that peace and happiness may reign throughout these islands'.[94]

This 1893 petition included a specific rejection of te Kooti Whenua Maori or the Native Land Court: 'Kua nui haere inaianei te pouritanga me te kino o te mahi a te Kooti Whenua Maori, he mea whakakino tangata ia, e hara i te mea whakapai tangata.' This was translated as 'The administration of the Native Land Court is becoming more and more confusing and unsatisfactory. It injures, but never benefits, the people'.[95] One of the petitioners' requests was for the Māori Parliament to be empowered to set up committees to investigate land titles: 'e tuku he mana, ki nga komiti Takiwa o ia Takiwa o ia Takiwa. Ko aua komiti he tangata Maori ko ta ratou mahi he rapu i nga take whenua me nga wehewehe nga mea katoa e mahia ana e ratou i runga i te pono me te tika' ('to appoint District Committees comprised of Maoris, who shall investigate titles to Native lands, and subdivide the same, according to the rules of equity and good conscience').[96]

Māori were not entirely optimistic about the new regime introduced in 1900, however. As we shall see in chapter 3, when the Tokerau Council first sat it was apparent that few understood the new legislation or that the Council was regarded suspiciously, as another agent of the state that would deprive them of their lands.

For its part, the Crown's expectations of the committees were also bound up with the broader package of reforms ushered in in 1900. These were partly aimed, as noted above, at ensuring that Māori did not become landless, but also – and more importantly – at ensuring that 'surplus' Māori land was more quickly made available for Pākehā settlement. The 'taihoa' on purchasing was part of a quid pro quo under which 'idle' Māori land would have to be vested in the land councils and onleased to Pākehā farmers. As Seddon told the House in the debate on the Bill,

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[92] Armstrong and Subasic, 'Northern Land and Politics', p 1192
[93] Quoted in McRae, 'Participation', p 106
[94] AJHR, J-1, 1893, pp 2, 4. See McRae, 'Participation', p 37
[95] AJHR, J-1, 1893, pp 2, 4. See McRae, 'Participation', p 37
[96] AJHR, J-1, 1893, pp 2, 4. See McRae, 'Participation', p 37

> we do not wish to see the Maoris disappear, nor do we wish to see them a burden upon the ratepayers. We do not wish to see them landless, but we do desire and we do insist that the land owned by them shall be made productive, and that this keeping back from settlement valuable lands in the colony, which has been the case for so many years, must be put a stop to. And it is for the well-being of the Maoris themselves as well as the Europeans.[97]

The benefit to Māori, Seddon foresaw, would not come just from them being prevented from becoming landless, but also from a change in lifestyle that individualising title would entail. As he put it in the same speech,

> once you give a Maori a piece of land of his own, and let him know that it is his, he will go and work it, and become as much endeared to it and as good a settler as you have amongst the Europeans —and a hard worker he is too. It is this communal life, this non-subdivision of land, and communal titles which force them into idleness, carelessness, and neglect.[98]

In 1901, in his role as a Māori census enumerator, future Tokerau Council president Blomfield likewise signalled to the Under-Secretary for Justice his hope for what he regarded as the assimilative process of titling papatupu Māori land:

> Many large blocks of land are still unadjudicated upon. Not knowing who will be declared the owners, the Natives are naturally diffident about improving these lands to any extent, and this undoubtedly retards the advancement of many places in the district. This is noticeably the case at Kaikohe, Bay of Islands, where many thousand acres of magnificent land are still lying idle. Whether the compulsory passing of such land through the Native Land Court, or of vesting it in a Committee or Council, to lease or deal with in trust for the owners to be thereafter ascertained, would be practicable, is a question well worth considering. Undoubtedly when these various blocks have been thrown open for lease and occupation by the Maoris, many who no longer favour the holding of lands and goods in common as in olden times will largely adopt sections for their individual cultivations and homes. The old system of communism, which has paralysed individual effort and retarded advancement in the past, is gradually passing away.[99]

Blomfield believed Māori to be 'naturally indolent and thriftless', but felt that the time would come when 'the Native, instead of becoming extinct, as is so often predicted, will have increased and have developed into the steady if somewhat indolent settler, looking on himself no longer as a Maori, but as an Englishman, one of the units of the mighty British Empire'. This would be achieved through 'judicious assistance and encouragement' towards 'the settlement, occupation, and cultivation of his lands, and the running of stock thereon'. [100]

As was clearly hinted at in his 1901 comments, however, Blomfield was motivated by more than just a desire to Europeanise Māori; he also saw the Council's work as leading to the

[97] NZPD, 12 October 1900, vol 115, p 168
[98] NZPD, 12 October 1900, vol 115, p 171
[99] AJHR, 1901, H-26B, p 7
[100] AJHR, 1901, H-26B, p 8

productive use, by Pākehā farmers, of much of the 'magnificent' but 'idle' Māori land in the district. As we shall see in chapter 3, in 1902 Blomfield again used the term 'magnificent' in describing some of the lands Te Raki Māori were prepared to have investigated by the papatupu committees.

As we also note in chapter 3, Blomfield was sceptical about the committees' ability to complete their reports in a timely fashion. He told Sheridan that 'Amongst many of the Natives there seems to be a feeling that block committees will be unable to agree'.[101] This perhaps ties in with McRae's belief that 'the predominant Pakeha feeling' was that the committees would fail. As evidence of this she pointed to the comment of one Pākehā observer in 1888 (based on Hanson Turton's reports of the early 1860s) that the idea of Māori taking control of their own affairs had been 'tried and … failed – miserably failed. The proceedings of Maori komitis have resulted in the open ridicule of the system by those who have examined it.'[102] In 1893, Rees observed that there existed, among opponents of 'the committee system', a belief that the Māori 'character' was inherently unsuited to the work of committees, the claim that committees always failed, and a notion that 'the Maoris as a people are averse to management by committees'.[103]

Finally, it must also be noted that the papatupu committees were seen by the Crown as a means of saving expenditure. Seddon proposed that 'If this Council gets hold of and settles a million acres of land, without it being any cost to the State, we shall have saved increasing the public debt of the colony, and settlement – that is what we aim at – will have progressed.'[104] Stout and Ngata remarked later upon what they saw as the manifest savings to the Crown of the committees' activities (see chapter 7).[105]

There was little press comment about the block committees themselves beyond reasonably straight reportage of the provisions set out in the legislation. However, the Kawakawa *Luminary* did remark cynically on what it saw as the false notion of cost savings from the new regime:

> By doing away with the present Native Land Court system, and saving an expenditure of £1,200, Government on the one hand contend it is a clever piece of business and deluded natives on the other hand are pleased to think they have all the law to their own liking and self administration. They forget, of all lands dealt with, that the land has to pay the Maori Block Committee, the Maori Council, and an equal number of native and European administrators (three of each); and that the whole business of passing over their lands will fall to interested parties, and will be humbugging, lengthy, and tedious besides.[106]

[101] Blomfield to Sheridan, 24 May 1902. Document A12(a) vol 15, p 65 (document bank reference 8: 50)
[102] Quoted in McRae, 'Participation', p 104
[103] Quoted in McRae, 'Participation', p 104
[104] NZPD, 12 October 1900, vol 115, p 168
[105] AJHR, 1908, G1-j, p 8
[106] Quoted in 'What the papers say', *Observer*, 1 December 1900, p 4

2.7 Changes to the legislation governing the papatupu committees, 1901-1906

While it involves a leap forward chronologically at this point, it is necessary here to introduce the key legislative changes that followed the setting up of the Tokerau Council and the commencement of its work. That is because the subsequent chapters trace the operation of the committees from their establishment from late 1902 through until the consideration of their reports. Until the end of 1905, committee reports were considered by the Council, but from the start of 1906 the Council was replaced by the Tokerau District Maori Land Board.

Before getting to that change, however, we need to note some more minor amendments to the Maori Lands Administration Act. In 1901, section 19 was amended through the addition of the words 'subject always to the right of appeal as provided by section ten hereof'.[107] In 1902 – and perhaps to resolve the contradiction between section 8(1) of the Act and regulation 11, section 8(1) was amended by the insertion of the following words after 'Council': 'unless in consideration of the purely formal nature of the business to be transacted at any particular meeting the President sees fit to dispense with the attendance of any members non-resident within five miles of the place of meeting'.[108] This provision was itself amended the following year, when section 4 of the Maori Land Laws Amendment Act 1903 replaced the quorum references in the 1900 Act and 1902 amendment with the following words

> A quorum shall consist of the President (or, in his absence, of one European member) and not less than two Maori members: Provided that if in consideration of the purely formal nature of the business to be transacted at any particular meeting the President sees fit to dispense with the attendance of any members non-resident within five miles of the place of meeting, the President (or, in his absence, one European member) and one Maori member shall constitute a quorum.

A further amendment in 1903 made provision for what would happen if a committee failed to report in a timely fashion. This appears to have responded to a concern raised by Blomfield in 1902 (see chapter 3). Section 6(1) of the Maori Land Laws Amendment Act 1903 stated that

> If any Papatupu Committee fails within six months from the date of its election, or within such further period (not exceeding six months) as the president in his discretion may allow, to furnish a report as provided by section eighteen of 'The Maori Lands Administration Act, 1900,' the Council may, by notice in the *Kahiti* under its seal and the hand of the President, direct the Committee to furnish such report within one month from the date of publication of the notice in the *Kahiti*.

If the committee failed to comply with this directive the Council could dissolve it and either elect a fresh committee or decide to complete the committee's investigation itself (section 6(2)). Furthermore, section 7 repealed section 16(3) of the 1900 Act – which stipulated three-year terms for members – and replaced it with a provision for members to hold office either

[107] Section 8(6), Maori Lands Administration Amendment Act 1901
[108] Section 6, Native and Maori Land Laws Amendment Act 1902

until the committee was dissolved or the Chief Judge had signed an order issuing title to the block. Carroll explained in Parliament that this provision was 'to prevent a deadlock, because you might have a committee appointed for three years who would refuse to carry out the Act'.[109] Section 8 further stated that

> Any vacancy in the Committee may be filled by the appointment by the President of some Maori selected, if possible, from the same hapu, family, or tribe as the vacating member; but the Committee shall have power and shall continue to act notwithstanding any vacancy.

This provision added to what was already set out in regulation 20 about a committee being able to continue despite a vacancy so long as it maintained a quorum.

Section 5(1) of the 1903 amendment Act provided that

> A Papatupu Committee may, in connection with any title investigated by it under 'The Maori Lands Administration Act, 1900,' recommend that the shares or interests of any owners under disability shall be vested in trustees to be named in the recommendation, and the order of the Council approving or varying such recommendation shall be deemed to be an order of the Court under the provisions of 'The Maori Real Estate Management Act, 1888.'

Carroll explained that this was a cost-saving measure, as granting the committees the same power as the Native Land Court to appoint trustees 'saves a fresh judicial proceeding'.[110]

In section 11(2) the 1903 amendment Act also repealed all of the words in section 19 of the 1900 Act after 'opportunity to be heard' (including the additional words introduced in 1901) and substituted the following:

> may confirm the same, or may make such other order as it finds consistent with the evidence before it, and may before doing so refer the report, or any portion thereof, or any question in connection therewith, back to the Committee for any purpose which may seem necessary:
>
> Provided that every person who is dissatisfied with any such order may within two months after the date of the publication of the order as provided by section fourteen appeal therefrom to the Chief Judge, who, after reviewing the evidence taken by the Council (as contained in the President's official minute-book), shall either refer the appeal to the Native Appellate Court to be dealt with in the same manner as an appeal from the decision of the Court under 'The Native Land Court Act, 1894,' or shall dismiss the appeal and proceed under section fourteen of this Act as if no appeal had been lodged.

Since section 10 of the 1900 Act remained in force – which provided for the Chief Judge to 'either himself inquire into and determine' appeals (concerning matters including the Council's 'ascertainment of ownership') or refer them to the appellate court – it is not

[109] NZPD, vol 127, 12 November 1903, p 524
[110] NZPD, vol 127, 12 November 1903, p 524

immediately clear whether section 10 or 19 of the Act held sway in the case of appeals against Council decisions on committee reports.

In 1905, rather more sweeping change was introduced via the Maori Land Settlement Act, which bore the date 30 October 1905. It was an amendment to the Maori Lands Administration Act 1900 rather than a stand-alone Act, and was to be read in conjunction with the 'principal Act'. The reasons for the Maori Land Settlement Act are set out in chapter 7, where we discuss the factors that led to the demise of the papatupu committees. For now, we set out the detail of the legislation so that the reader will understand the references to the Board that arise from chapter 3 onwards.

Essentially, the Council was renamed as the Board: every mention of the 'Council' in the principal Act was to be read as if it said 'Board'. Its membership was also changed: it retained a president, but now only had two additional members, 'of whom one at least shall be a Maori', with both to be appointed by the Crown. As can be seen, this effectively ended the Māori majority on the Council that had prevailed hitherto. Section 7 of the Act made direct reference to the investigation of title to papatupu lands. It stated that

> The Native Minister may apply to the Native Land Court to investigate the title to and ascertain and determine the owners, according to Native custom, of any papatupu land, and thereupon the said Court shall proceed in all respects as if the application had been made by some person claiming an interest in such land.

This provision did not do away with the papatupu committees, but it rather emphasised a shift away from them. As it transpired, it does not appear that any new committees were established in Te Tai Tokerau after May 1905.

Perhaps the key change introduced by the Maori Land Settlement Act was the compulsory vesting in the Board of any land 'which in the opinion of the Native Minister is not required or not suitable for occupation by the Maori owners' (section 8). Up until this point, vesting in the Council had of course been voluntary. While the Tokerau and Tairawhiti districts were subject to this new provision, they were exempted, until 1 January 1908, from section 20, which reintroduced Crown purchasing of Māori land.

The following year a further amendment was passed that allowed a Board, among other things, to simply disregard a block committee report and refer the matter on to the Native Land Court. Section 17 of the Maori Land Claims Adjustment and Laws Amendment Act 1906 stated that

> Where a claim has been received by the Board, applying to have the title to a block of land investigated by a Papatupu Block Committee, under the provisions of 'The Maori Lands Administration Act, 1900,' but–
>
> (*a*.) No such Committee has been elected; or
>
> *(b.)* Such Committee, if elected, has failed to forward a report to the Board; or

> *(c.)* The Board deems it inexpedient to either confirm the report of any such Committee or make any other order in relation thereto,–
>
> the Board may refer such claim to the Court, and thereupon such claim shall be deemed to be an application for investigation of title under the provisions of 'The Native Land Court Act, 1894,' and may be dealt with accordingly[.]

The only proviso to this was that the court could consider and use the block committee's report and minutes as part of its own investigation.

2.8 Conclusion

The papatupu committees have not been entirely overlooked by historians covering the 'taihoa' period in the Liberal Government's Māori land policy, but they are not an issue with which most scholars have engaged to any significant degree. This will partly be because the work of the committees is less accessible, due to the committee minutes themselves being recorded entirely in te reo Māori. But it also reflects the fact that the switch from title investigations by the Native Land Court to the committees was a relatively uncontroversial development. While some Pākehā opinion may have been sceptical about how successful the committees would be, the Government clearly had no ideological objection to Māori committees assuming much of the role of the land court judges. It also foresaw that it would save some money. Its key objective, in any event, was to create a system with which Māori would engage and which would lead to the availability of more 'idle' Māori land for Pākehā settlement. Māori would also become more 'Europeanised' into the bargain.

For their part, Te Tai Tokerau Māori were likely to have seen the committees as an opportunity to gain back control over the titling and administration of their lands. The principal proponent of the committee system in Parliament was the MP for Northern Maori, Hone Heke. He envisaged the committees being both a means of lessening disputes over land titles and significantly reducing the costs borne by Māori claimants to land in the Native Land Court. Te Tai Tokerau Māori may also have contemplated that the committees would function as had the committees Māori had previously set up in Te Raki to investigate land titles, such as the independent Komiti o Te Tiriti o Waitangi and the committee set up under the Native Committees Act 1883. Aside from these expectations, however, there must also have been a fair degree of scepticism about the new system among those who considered the Council merely another agent of the Crown that would part them from their lands (as we shall see in chapter 3)

In sum, the committee members were to be elected by claimants to the papatupu land, and were, having 'regard to Maori customs and usages', to produce a report setting out the owners of the land and the relative shares to be awarded each of them. The committees were then to forward such reports to the council, which would call for objections. If none were received the council would then make a confirming order for title to issue (after a proper survey of the land) or, if there were objections, the council would hear these and then issue its

own decision. Council decisions could be appealed to the Chief Judge of the Native Land Court. It cost 5 shillings for each claim or counter-claim before the council and £1 for each committee the council set up. We cannot at this point compare the expense of the process with the land court until we have discussed the costs incurred before the committees themselves, a subject we return to in chapter 5. The nature of the committee inquiry (and indeed that of the council, if there were objections to go into) was often similar to that of the court, with conductors acting for parties of claimants, and witnesses being subject to cross-examination. However, in contrast to the court, and its highly prescriptive rules and regulations, the committees were empowered to adopt a form of procedure they felt best suited to investigating a block's customary ownership.

Amendments to the legislation governing the committees began in 1901. The first significant change came in 1903, when the council was empowered to dissolve any committee and either replace it with a fresh committee or continue the committee's investigation itself if the committee was unable to furnish its report within a set period. More sweeping changes occurred in 1905, when the land councils were replaced by land boards (now with a Pākehā rather than a Māori majority) and the Native Minister was empowered to apply to the land court to investigate the title to any papatupu land. This amendment did not mention the committees, but appeared to raise significant questions over their future use. In 1906, the boards were empowered to disregard both committee reports and applications for new committees and refer such matters to the court.

Chapter 3: Setting up the block committees

3.1 Introduction

The previous chapter set out the background to the papatupu committees, the Māori and Crown expectations of them, and the detail of the legislation and regulations governing their conduct. This chapter looks specifically at the Tokerau District Maori Land Council's activities in setting up the committees themselves. It describes the Council's first meetings across the district to acquaint Te Raki Māori with the new regime and the first sittings of the Council at which committees were set up. The chapter then goes on to discuss the notice given of both Council sittings and of applications for committees to be set up; the numbers of Council members present at the Council's sittings; the number of claimants and the nature of the claims asserted; the methods used by the Council to appoint and apportion committee members, and the costs borne by claimants at this preliminary stage.

The chapter contains a number of tables quantifying the number of claims made for each block, the number of committees set up at each Council sitting, the number of individual claimants and individual committee members in total, and the frequency of the most common grounds of claim or *take*. Another table sets out the names, hapū, and extent of claims of the 18 individual claimants for the Taraire block, the single largest number. This table demonstrates that many claims were to portions of the blocks only. A further table and map show where committee members for selected blocks had their principal residences, thus illustrating the way that many committee members came from neighbouring districts rather than from the location of the block under claim. The chapter concludes by discussing the particular circumstances of the Motatau 5 or Tautoro block, the committee investigation of which commanded more press interest than any other.

This chapter addresses questions 2(a) and 2(c) of the research commission, concerning the means by which the papatupu committees were appointed and the extent to which the opportunity they offered was taken up by Te Raki iwi and hapū. The primary source of information relied on in the chapter is the Council's minute books.

3.2 The Council's explanation of the new regime at district-wide sittings in 1902

The first sitting of the Council was set down for 3 February 1902 in Dargaville, the initial applications it received (concerning a variety of land matters within its jurisdiction) having come from that district. Beforehand, on 13 January 1902, Council president Blomfield wrote to Sheridan, the Superintendent of the Maori Land Administration Department, and noted his anticipation that

> much work will not be done by any Council in the way of hearing applications at its first meeting at any centre. The natives will probably attend the meeting more to learn than to submit matters for hearing. The District is a very large one, and it would probably be advisable to hold a short introductory sitting at four or five of the principal centres at early dates. This could be done even though there are no specific applications to gazette for hearing.[111]

If Sheridan and Carroll approved, continued Blomfield, he would schedule sittings at Wairoa (Dargaville), Whangarei, Kaikohe, Russell, and Mangonui.[112] In a separate note of the same date he added to Sheridan that the Council would, at its first sitting at Dargaville, 'discuss and arrange its movements and procedure generally'.[113]

Image 4: Wiremu Rikihana in 1927[114]

Present at the Dargaville sitting on 3 February 1902 were Blomfield and Council members Henry Speer Wilson, Herepete Rapihana (representing Te Rarawa), Kiingi Ruarangi (representing Ngati Whatua) and Wiremu Rikihana (representing Te Roroa). The only absentee was Iraia Kuao of Ngapuhi, the elected member from Tautoro, who – despite having

[111] E C Blomfield to P Sheridan, 13 January 1902. Archives New Zealand file ADYU 18191 MLA-MA1 2 1902/4 (on stationery numbered 'M.C.-126')
[112] E C Blomfield to P Sheridan, 13 January 1902. Archives New Zealand file ADYU 18191 MLA-MA1 2 1902/4 (on stationery numbered 'M.C.-126')
[113] E C Blomfield to P Sheridan, 13 January 1902. Archives New Zealand file ADYU 18191 MLA-MA1 2 1902/4 (on stationery numbered 'M.C.-125')
[114] Alexander Turnbull Library, S. P. Andrew Collection (PAColl-3739). Reference: 1/1-018944; F

been the highest-polling candidate[115] – apparently had no intention of participating.[116] The Council met first in committee 'to discuss and regulate general procedure', with Blomfield's minutes recording that he 'fully explained the Act and the regulations thereunder, and a general discussion took place'.[117] It is likely that Blomfield emphasised to the Māori members his own view of how the Council should operate. The previous year, in his role as a Māori census enumerator, he had told the Under-Secretary for Justice that he had 'noticed … the ample scope of the Maori Councils Act of last session' and

> feared that unless the official members of these Councils are prepared to spend a very considerable amount of their time in assisting and directing the Councils, the Maori members will experience great difficulty in realising the necessities of the case, and successfully coping with them.[118]

The following day the Council opened its doors to local Māori in the Dargaville hall. The members were joined by clerk and interpreter, F M Cannaghan. Blomfield 'fully explained the Maori Land Administration Act, and regulations to the natives present', who 'expressed their satisfaction as to the Act, but asked for time to talk matters over'.[119] Blomfield told Sheridan several days later that Wairoa Māori had 'no idea of the purpose' of the Maori Land Administration Act, and he had 'therefore devoted a considerable time to an explanation of the provisions'.[120] The following day, at the suggestion of Rikihana, who lived at Opanake,[121] the Council sat in the Kaihu rūnanga house there. Here again 'the Acts' (presumably including the Maori Councils Act 1900) were 'fully explained to the natives assembled', by Rapihana and Rikihana as well as Blomfield.[122]

The Dargaville sitting of the Council had been held for the purpose of dealing with applications for succession, partition, and leasing of blocks already clothed with titles, but Blomfield felt that the discussion of the 1900 legislation had been so 'well received' that it had served to encourage a number of applications for 'papatupus'. He reported to Sheridan that Wairoa Māori had advised that the Council hold 'a short introductory sitting at all of the principal maori [sic] centres in the North'. Presumably, they had answered in the affirmative to a question from Blomfield as to whether they agreed with his ideas about this. Accordingly, the Council had fixed its next meeting for Whangarei on 21 February and from there would move to Kawakawa, Kaikohe, Rawene, Whangaroa, Mangonui, and Ahipara, thus ensuring an explanation of the legislation 'throughout the whole district'. Blomfield

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[115] *Kahiti*, no. 54, 29 June 1901, p 311. See also 'Maori Lands Council', *Auckland Star*, 22 May 1901, p. 2.
[116] Blomfield to Sheridan, 10 February 1902. Wai 1040 document A12(a) vol 15, p 54 (document bank reference 8: 43a)
[117] TDMLC Minute Book 1, p 1 (#A49, vol 6, p 21810)
[118] AJHR, 1901, H-26B, p 8
[119] TDMLC Minute Book 1, p 2 (#A49, vol 6, p 21811)
[120] Blomfield to Sheridan, 10 February 1902. Document A12(a) vol 15, p 54 (document bank reference 8: 43a)
[121] Papatupu Minute Book 22, p 5 (#A54(b), vol 12, p 2162). See also Henare Arekatera Tate. 'Rikihana, Wiremu', from the Dictionary of New Zealand Biography. Te Ara – the Encyclopedia of New Zealand, updated 30-Oct-2012
URL: http://www.TeAra.govt.nz/en/biographies/3r21/rikihana-wiremu (accessed 26 July 2016)
[122] Blomfield to Sheridan, 10 February 1902. Document A12(a) vol 15, p 54 (document bank reference 8: 43a); TDMLC Minute Book 1, p 6 (#A49, vol 6, p 21815)

considered that, 'unless these introductory sittings were held, the Act would remain a dead letter'. The meetings would remove some of the initial suspicion he had encountered at Dargaville, and – he predicted – soon lead to the Council having 'enough work to keep us going for a very considerable time'.[123]

Image 5: Former Mangonui courthouse[124]

While Blomfield had envisaged only he would need to attend this initial circuit,[125] it seems that the full Council participated. The exception remained Iraia Kuao, who therefore lost his seat under section 7(4) of the Maori Lands Administration Act 1900 for having been absent without leave for three successive Council meetings. Blomfield was presumably relieved, having heard that Kuao 'belongs to the nonprogressive party which declines to have the titles to any lands ascertained'.[126] Kuao's involvement with the Motatau 5 or Tautoro block is discussed below.

As it happened, the Council's circuit took in Russell and Kaitaia in addition to the settlements Blomfield named, but did not include Ahipara. Blomfield reported to Sheridan in May 1902 that the Council had done 'no actual work beyond explaining the working of the Act and receiving applications for future consideration'. As at Dargaville, the Council's role was at first regarded suspiciously, with many believing 'it was simply a measure by which Government would heap up costs against the land, eventually swamping them in this way'.

[123] Blomfield to Sheridan, 10 February 1902. Document A12(a) vol 15, pp 54-57 (document bank reference 8: 43a-d))
[124] Image taken by Martin Jones in 2002. http://www.heritage.org.nz/the-list/details/78 accessed 1 August 2016
[125] Blomfield to Sheridan, 10 February 1902. Document A12(a) vol 15, p 57 (document bank reference 8: 43d)
[126] Blomfield to Sheridan, 24 May 1902. Document A12(a) vol 15, p 59 (document bank reference 8: 44)

The sittings were therefore usually 'uphill work at the start', but Blomfield was satisfied that the Act eventually gained approval. He pointed, for example, to the applications received so far for title investigations by papatupu committees covering between 50,000 and 100,000 acres of land.[127]

Not only were Te Raki Māori applying for block committees to investigate the title to significant areas of land, but so was the quality of the land a cause of Blomfield's contentment. He explained to Sheridan that the majority of the land was good, 'and some of it is magnificent'. It was also the very land 'which the natives in the past have absolutely refused to allow the Native Land Court to [d]eal with'. He was confident that, while investigations had so far been requested over portions of the land, 'This undoubtedly will only be a preliminary to the adjudication of the whole of the land'. Blomfield told Sheridan that it was 'necessary for us to proceed with actual work as soon as possible – to strike while the iron is hot'. Indeed, such was the volume of applications (for a variety of matters provided for under the Act) that he feared 'that the mana of the Council will be gone unless it shortly starts work in real earnest'.[128]

Blomfield held some serious reservations, however, about how successfully the block committees might actually operate. He pointed out to Sheridan that the committees were not obliged to make a decision within any particular timeframe, even though the appointment of members was for three years. Nor, he added, did there appear to be 'any provision made for procedure in case of failure in coming to a decision' (and, as noted in chapter 2, he sensed that many Māori believed the committees would not be able to reach agreement). He felt that the committees should be compelled to give their decisions within a certain time and, if they failed to do so, the Council should step in and make the decision itself.[129] The Government seems to have responded to this concern by passing the 1903 amendment to the Maori Lands Administration Act (as set out in chapter 2).

3.3 The first Council sitting for setting up block committees

The Council's first sitting for the business of setting up of block committees began at Russell on 5 September 1902. As per regulation 6 (see appendix 1), it had been advertised as such ('ki te whakatu komiti poraka papatupu') in the *Kahiti* on 28 July 1902 (using the exact format of form E, in Māori), and was scheduled to cover 25 individual applications for 13 separate blocks. The *Kahiti* notice set out that the claims and associated maps could be viewed at 'Te Whare-whakawa o te Kai-whakawa Tuturu, i Kororareka' or the courthouse at Russell.[130] In accordance with regulation 8, publication of the notice was repeated in the

[127] Blomfield to Sheridan, 24 May 1902. Document A12(a) vol 15, pp 59-60, 68 (document bank reference 8: 44-45, 53)
[128] Blomfield to Sheridan, 24 May 1902. Document A12(a) vol 15, pp 60-61 (document bank reference 8: 45-46)
[129] Blomfield to Sheridan, 24 May 1902. Document A12(a) vol 15, p 65 (document bank reference 8: 50)
[130] *Kahiti*, no. 54, 28 Hurae 1902, p 359

subsequent two editions of the *Kahiti*.[131] A note attached to the pānui in the Council's minute book records that 173 copies had been posted to 'different parties throughout the whole of Tokerau District'.[132] This will have followed on from Sheridan sending Blomfield 200 copies of each notice with the following request:

> The circulation should be as wide as possible as the lands are not sufficiently described for identification[.] [Y]ou must be careful to see that all parties claiming to be concerned are aware of the proposed proceedings.[133]

At the sitting itself Blomfield and Hoterene Paraone Kawiti were in attendance, the latter having replaced Kuao as a Council member.[134] This was the quorum required by regulation 11. The Council opened at 10 am in the Russell courthouse, but quickly adjourned to the public hall 'on account of the great number of natives present not being able to find room in the Court'.[135] It is not known why a rūnanga house had not been chosen as the venue, as was suggested by regulation 11. Blomfield explained the purpose of the meeting, with his words interpreted into Māori by C W P Seon, the Council's clerk and interpreter.[136]

The first application heard was by Hone Tautahi Pita for Waikare, a block thought at the time to contain about 15,000 acres. Pita explained that he had affixed a notice concerning his claim prominently on the block itself (attached to Henare Keepa's house), and that his grounds of claim were ancestry (from Te Ahi and Ra Takitahi), occupation, 'The strong arm' (ringakaha), and the presence of ancestral burial grounds. The principal claim in opposition was made by Mita Wepiha, whose claim had also been notified in the *Kahiti* pānui and whose grounds included ancestry (from Rangi Te Kii and Tarana), 'conquest and the strong arm to defend', 'continuous occupation', and burial grounds. There were several other claimants for all or part of the block (one of whom had also been listed in the *Kahiti* notice), who withdrew their claims and fell in under either Pita's or Wepiha's. It seems that this was initiated more by the claimants than (as envisaged by regulation 15) directed by the Council. Both Pita and Wepiha paid the standard application fee of 5 shillings.[137]

Blomfield then directed the establishment of a block committee of five members, with two to be elected by Pita, two by Wepiha, and the fifth 'to be nominated by all four members and his appointment confirmed by the meeting'. The nominees selected by Pita and Wepiha were then elected unanimously on a show of hands by their respective parties. The following day these four in turn nominated Hetaraka Manihera as the fifth member. Blomfield's minutes

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[131] *Kahiti*, no. 55, 31 Hurae 1902, p 365, and no. 56, 7 Akuhata 1902, p 380
[132] *Kahiti*, no. 54, 28 Hurae 1902, p 359, with undated annotation. Insert in TDMLC Minute Book 1, p 18 (#A49, vol 6, p 21821)
[133] Sheridan to Blomfield, 28 July 1902. Archives New Zealand file ADYU 18191 MA-MLA1 2 1902/147
[134] *Gazette*, no. 59, 24 July 1902, p 1558
[135] TDMLC Minute Book 1, p 17 (#A49, vol 6, p 21820)
[136] After the first Council meeting at Dargaville, Seon had acted as clerk and interpreter during the Council's ensuing circuit of the district, and in May 1902 Blomfield had requested that his appointment be made permanent (as noted in the chapter text below). See Blomfield to Sheridan, 24 May 1902. Document A12(a) vol 15, p 62 (document bank reference 8: 47)
[137] TDMLC Minute Book 1, pp 17-19 (#A49, vol 6, pp 21820, 21822-21823)

note that Manihera, of Kaikohe, was 'a disinterested person', and that he was unanimously elected on a show of hands by 'all persons interested in the block'. Blomfield then spoke to the committee, although he did not record what he told them. He fixed their first meeting for later that morning, at which they elected a chairman. This was Hare Matenga from Te Ahuahu, one of Pita's nominees.[138] The minutes do not mention the £1 fee payable upon the order confirming the committee's membership.

Broadly speaking, this was the procedure adopted by the Council for the establishment of block committees. There were naturally variations in practice, which are discussed in turn below. By and large, however, the process was the same: a pānui advertised the applications received; such applications had to be made in advance of the sitting of the Council, although – as per regulation 14 – counter-claims to those blocks were permitted on the day; grounds of claim had to be stated; the number of actual claimants was often whittled down as arrangements were made and the parties coalesced into a small number of competing groups; and a block committee would then be set up comprising members elected by each of the parties. In all, from our research, the Council set up 90 committees within the Te Raki inquiry district boundaries between September 1902 and May 1905. The amount of land they dealt with would appear to have been around 235,000 acres.[139]

The Pākehā press reported enthusiastically about the first sittings of the Council. According to the *New Zealand Herald* in November 1902,

> The North Auckland District Maori Land Council is making good progress with its work, and more particularly in the Bay of Islands district. The Council (Mr. E. C. Blomfield, S.M., president) has held meetings for the purpose of explaining the operations of the Act and the setting up of block committees at Russell, Whangaroa, Mangonui, Kawakawa, Hokianga, and Kaikohe. The claimants to over 300,000 acres have applied for investigation of titles, and nearly 185,000 acres are in process of being handed over to the Council, making a total of about half-a-million acres that the Council are dealing with. The major portion of the 300,000 will be also handed over to the Council for administration. Of these lands some 78,000 acres in the Motatau survey district, 30,000 in the Whangarei district, and 60,000 in the Hokianga district have hitherto been persistently held back from the Native Lands Court, the owners refusing to have the land dealt with in any way. There are also applications filed for the hearing of 3000 acres at the Great Barrier, and a like area at Helensville, sittings being now arranged for at Orakei, Helensville, and Whangarei.[140]

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[138] TDMLC Minute Book 1, pp 19-20, 25-26 (#A49, vol 6, pp 21823-21824, 21829-21830)

[139] In July 1905 Browne provided Sheridan with a return of blocks subject to committee reports (see also chapter 6). If the blocks outside the Te Raki inquiry district are subtracted from this list, the total area for which committee reports had either been reviewed by the Council or were waiting for the Council to review, or for which the committees were still deliberating, amounted to 235,680 acres. This figure is somewhat less than the total area actually subject to block committee reports in the Te Raki inquiry district, as some blocks were not included in Browne's list. These omissions included Rawhiti, Urupukapuka, and Poroporo, where the committee's work had been overtaken by the Native Land Court in 1904. But also omitted were Mataraua, Punakitere 4, Pakonga 2, Pipiwai 2, Tuataranui, Korotangi, Motukauri, and Kaiwhai. Jas W Browne, President, Tokerau Maori Land Council, to P Sheridan, Maori Land Administration Department, 5 July 1905, and attached return. Archives New Zealand file ADYU 18191 MA-MLA1 4 1905/44

[140] 'North of Auckland Maori Land Council', *New Zealand Herald*, 20 November 1902, p 7

The following year the same newspaper added that

> The many meetings of the Council that have been held in Russell, Whangaroa, Mangonui, Kawakawa, Kaikohe, Hokianga, and Whangarei have resulted in ascertaining and fixing the ownership of a large proportion of the … blocks, and the work is still in active progress. There is no questioning this fact, that the Maoris have listened to the advice of the President, and readily done their part in dealing with lands hitherto rigorously held back from the Land Court.
>
> A visit to the Court and a look at the set of books and pile of documents for each block, all in order and in the same form, whatever the size of the block may be, enables one at once to understand how quickly the Maoris have taken to the work.[141]

In trying to reassure its readers that the committees' powers were actually quite limited, the *Herald* appeared to assume that the Council would automatically take control of the land once title had been awarded:

> Some amount of misapprehension has existed in the public mind as to the extent of the powers of the block committees. After all the forms are gone through and the titles and proportions definitely fixed, the block of land itself, with all on it and under it, passes, into the hands of the Council to administer. The Council assumes powers very similar to the Crown Lands Board, and stands between the Maori owners and the parties leasing the land, or purchasing timber, etc.[142]

The *Herald* concluded that the new regime was something of a breakthrough, and supported by the younger generation of Māori:

> From a public point of view all this should indicate the speedy bringing about of a better state of things than has obtained hitherto. Anyway, that seems to be the aim of those in charge. ... For the Maoris themselves this will work a marvellous revolution. No doubt that this great change in prospect is acting very powerfully, on the minds of the younger Maoris especially, in favour of the Court.[143]

3.4 Venues for Council sittings

It has already been noted that the Council held its first public gathering in the Dargaville Hall, before adjourning the following day to the marae at Opanake. It is not known where it sat during the rest of its initial circuit. As is also noted above, when the Council first sat for the purpose of setting up block committees in Russell in September 1902, it was quickly obliged to move from the courthouse to the public hall to accommodate the numbers of Māori attending. This was a repeating occurrence in late 1902, with further adjournments from

[141] 'The native lands in the north', *New Zealand Herald*, 8 July 1903, p 1 (supplement)
[142] 'The native lands in the north', *New Zealand Herald*, 8 July 1903, p 1 (supplement)
[143] 'The native lands in the north', *New Zealand Herald*, 8 July 1903, p 1 (supplement)

courthouse to public hall in Whangaroa on 11 September, Kawakawa on 23 September, and Rawene on 15 October.[144] In Ahipara, where there may have been no public hall, Blomfield adjourned the sitting after it opened at the courthouse on 1 October to the local meeting house '[o]n account of the very great crowd of natives present'.[145] As noted, the wording of regulation 11 might have suggested that the meeting house should have been selected as the venue in the first place.

By the time the Council came to sit at Kaikohe on 23 October 1902 it is possible that it had thought to sit in the hall from the outset (Kaikohe did have a courthouse at the time). Despite this, Blomfield's minutes record that, when the sitting opened, 'Only portion of the crowd could get into the hall.'[146] With one exception, there is no further mention of any difficulties in accommodating attendees at subsequent sittings, both at Whangarei and Helensville as well as at return sittings for setting up block committees at Rawene and Kaikohe. The exception is Russell in June 1903 where, despite the difficulties accommodating the crowd the previous year, the sitting again began at the courthouse. Henare Hemoiti of Te Hikutu asked if the meeting could adjourn to the hall 'as only a small number of the natives present can get into the Court to hear what is going on'. Blomfield duly obliged.[147] There was also an issue over the venue to hear objections to block committee reports in Ahipara in September 1904, however, which is discussed in chapter 6. On that occasion the Council president was not so obliging.

As per regulation 6, *Kahiti* notices were published in advance of each hearing. These pānui advised when and where the sittings would take place, but did not state the specific venue. As noted, information about the claims could be viewed at the Russell courthouse in the lead-up to the first sitting there, as could they before the June 1903 and August 1904 Russell sittings.[148] In advance of the second sitting at Whangaroa, the applications and plans could be viewed at the Whangaroa courthouse.[149] Similarly, inspections could be made at the Rawene courthouse before the October 1902 and June 1903 Rawene sittings,[150] at the Whangarei courthouse before the May and October 1903 and May 1905 Whangarei sittings,[151] and at the Helensville courthouse before the May 1903 sitting there.[152] When the Council sat to set up committees at Kawakawa and Kaikohe in September and October 1902 respectively, however, inspections of the applications and plans could only be made in Russell.[153] The plans and claims for the October 1902 Ahipara hearing likewise had to be viewed at the

[144] TDMLC Minute Book 1, pp 37, 55, 81 (#A49, vol 6, pp 21841, 21860, 21884)
[145] TDMLC Minute Book 1, p 73 (#A49, vol 6, p 21878)
[146] TDMLC Minute Book 1, p 97 (#A49, vol 6, p 21900)
[147] TDMLC Minute Book 1, p 177 (#A49, vol 6, p 21984)
[148] *Kahiti*, no. 54, 28 Hurae 1902, p 359; no. 14, 9 Aperira 1903, p 100; and no. 33, 7 Hurae 1904, pp 273-274
[149] *Kahiti*, no. 54, 28 Hurae 1902, p 360
[150] *Kahiti*, no. 54, 28 Hurae 1902, p 362; no. 62, 28 Akuhata 1902, p 417; and no. 42, 7 Akuhata 1903, p 499
[151] *Kahiti*, no. 13, 19 Maehe 1903, pp 73-74; no. 45, 27 Akuhata 1903, p 535; and no. 14, 30 Maehe 1905, p 123
[152] *Kahiti*, no. 13, 19 Maehe 1903, p 75
[153] *Kahiti*, no. 54, 28 Hurae 1902, pp 360, 362; no. 62, 28 Akuhata 1902, p 417

Kaitaia courthouse.[154] But inspections for the (postponed) April 1903 Kaikohe sitting could be made at the courthouse in Kaikohe.[155]

The Council sittings at which block committees were set up were as follows:

Table 1: Council sittings at which block committees were set up	
Venue	**Date**
Russell	5-8 September 1902
Whangaroa	11-12 September 1902
Kawakawa	23-25 September 1902
Ahipara	1 October 1902
Rawene	15-16 October 1902
Kaikohe	23 October-7 November 1902
Whangarei	14-15 May 1903
Helensville	18-19 May 1903
Russell	8 June 1903
Rawene	16 September 1903
Whangarei	5-8 October 1903
Kaikohe	28 October 1903
Russell	18, 23 August 1904[156]
Whangarei	23-24 May 1905[157]

Most of these sittings were for the exclusive purpose of setting up block committees, with the first committee reports not reviewed until late 1903. By 1904, the Council was also devoting a reasonable proportion of its sitting time to applications for consent to sell or lease. Separate notices were published to alert claimants to the Council's review of committee reports, as per regulation 37 (see chapter 6).

3.5 Notice by the Council of its sittings and by the claimants of their applications

As mentioned, *Kahiti* notices advertised the applications for the setting up of block committees that were to be considered at forthcoming Council sittings. Aside from the 173 copies of this notice directly distributed before the Russell hearing in September 1902, the Council clerk also posted around 200 copies of the *Kahiti* notice for the subsequent Whangaroa sitting.[158] Despite the apparent onus on the Council in the regulations to ensure

[154] *Kahiti*, no. 54, 28 Hurae 1902, p 361
[155] *Kahiti*, no. 13, 19 Maehe 1903, p 72. The name of Kaikohe was misspelled as 'Kaitoke' in the reference to the courthouse.
[156] This sitting ran until 5 September, but block committees were only set up on 18 and 23 August (at the start of the sitting).
[157] This sitting ran until 2 June, but block committees were only set up on these dates in May (at the start of the sitting).
[158] *Kahiti*, no. 54, 28 Hurae 1902, p 360, with undated annotation. Insert in TDMLC Minute Book 1, p 38 (#A49, vol 6, p 21842)

adequate notice of the claims and sittings, it appears that the responsibility for placing notices on the block fell upon the individual applicants. We have already seen that Hone Pita told the Council that he had affixed a notice concerning his Waikare application to Henare Keepa's house on the block, and so it was with other applicants. Thus claimants reported that they had posted notices for various blocks 'on Paul Pakaraka's house' (Punaruku 2),[159] at Waikare Post Office near the block (Kopuakawau),[160] on Harata Ngere's house on an adjoining block (Whangaroa Ngaiotonga 4),[161] on Hipena's house (Oakura),[162] at Waihaha School (Waihaha),[163] at the post office at Totara (Taupo),[164] 'on Christie's store and at several other places' (Te Touwai),[165] at 'Atkinson's store, Waimate, near the block' (Wiroa),[166] and so on. The Council needed to be satisfied that the applicants had complied with notice requirements, observing in the case of Paremata Mokau, for example, that the pānui 'proved to have been duly posted up as required by regulations'.[167]

It is not clear how the Council was able to pass on the responsibility it carried under regulation 6 to affix notices prominently on or adjacent to the land, although it made sense for this to be carried out by those who actually lived on the land. The Native Land Court regulations, by contrast, said nothing about placing notices on or near blocks to be investigated. Instead, the court was to publish notices about applications and sittings in the Kahiti, as well as posting them to all applicants and any others the court thought necessary.[168]

It appears that the physical posting up of notices might take place some weeks after their initial publication in the *Kahiti*. For example, Hone Pita said that the notice concerning Whangaroa Ngaiotonga 4 had been posted on 23 August 1902 (thus under two weeks before the start of the sitting in Russell).[169] The notice for Oakura was posted on 22 August,[170] while notices for Waihaha were posted up in different locations on 20 and 30 August.[171] This compares to initial publication in the *Kahiti* on 28 July. Perhaps inevitably, there will have been those who did not learn of a Council sitting. When the block committee report on Maungakawakawa was reviewed by the Board in July 1906, Hori Paraea said that 'We did not set up a case before the Council. I got no notice. I know my brother John got no notice because he did not come to set up a case.'[172] Likewise, Te Kohi Tahere claimed the same month, in objecting to the Mautakirua committee report, that

[159] TDMLC Minute Book 1, p 22 (#A49, vol 6, p 21826)
[160] TDMLC Minute Book 1, p 30 (#A49, vol 6, p 21834)
[161] TDMLC Minute Book 1, p 31 (#A49, vol 6, p 21835)
[162] TDMLC Minute Book 1, p 33 (#A49, vol 6, p 21837)
[163] TDMLC Minute Book 1, p 35 (#A49, vol 6, p 21839)
[164] TDMLC Minute Book 1, p 37 (#A49, vol 6, p 21841)
[165] TDMLC Minute Book 1, p 42 (#A49, vol 6, p 21847)
[166] TDMLC Minute Book 1, p 58 (#A49, vol 6, p 21864)
[167] TDMLC Minute Book 1, p 20 (#A49, vol 6, p 21824)
[168] *Gazette*, no. 18, 7 March 1895, p 444 (regulations 73 and 74)
[169] TDMLC Minute Book 1, p 31 (#A49, vol 6, p 21835). The date is difficult to read, but it was certainly not before 22 August.
[170] TDMLC Minute Book 1, p 33 (#A49, vol 6, p 21837)
[171] TDMLC Minute Book 1, p 35 (#A49, vol 6, p 21839)
[172] TDMLC Minute Book 5, p 45 (#A49, vol 6, p 23383)

> I did not see the notice of the setting up of the Block Com for this Bk. I did not know that Mautakirua & Rangihamama appeared on the same notice. I was present when the Bk Com for Rangihamama was set up. I did not set up a case for Mautakirua because probably I was confused on account of the number of lands that were coming on.[173]

Others were simply unable to attend Council sittings, a subject returned to in chapter 5 in relation to block committee hearings.

In general, however, there was little if any complaint before the Council that notice had been inadequate. With regard to Taupo, Hemi Paeara told the Council that 'all the people had panuis and knew about the meeting'.[174] In Kohatutaka, Wiremu Poakatahi stated that

> Notices delivered personally to many people, and posted up at Taheke and Kaikohe. The natives also have gazettes. Chiefs residing on land all notified.[175]

Likewise, with regard to Punakitere, Hori Rakete told the Council that 'Notices were posted at Paripari on the block and at other places & distributed amongst the maoris [sic].[176] The same kind of assertion was made in the case of Mataraua, although in that case the very posting of the notices was a cause of some discontent. A claimant to the land, Wiremu Tuwhai, told the Council that 'Notices were stuck up on block, but torn down again by the people who were annoyed.'[177] It is not clear why some took such exception to the application for a Mataraua block committee.[178]

3.6 Members present at Council sittings convened to set up block committees

While the president was to sit with 'at least one' Māori member when setting up block committees, Blomfield never sat with more than one at such sittings. This was usually Kawiti, with Rapihana not sitting as a member when a block committee was set up until May 1905. Seon, however, was ever-present as clerk and interpreter (apart perhaps from the Whangarei sitting in May 1905, where he is not mentioned). It may be that Seon had been assigned to the Council full-time. As Blomfield had told Sheridan in May 1902 after the initial circuit,

> …a Clerk and Interpreter will require to be permanently appointed. Mr C.W.P. Seon of Russell, a Licensed Interpreter has been acting as clerk and Interpreter at each of our meetings, and he has given such satisfaction, and shown such keen interest in the Act, that all the members of my Council would respectfully recommend his appointment. I believe that he

[173] TDMLC Minute Book 5, pp 98-99 (#A49, vol 6, p 23436-23437)
[174] TDMLC Minute Book 1, p 37 (#A49, vol 6, p 21841)
[175] TDMLC Minute Book 1, p 134 (#A49, vol 6, p 21939)
[176] TDMLC Minute Book 1, p 146 (#A49, vol 6, p 21951)
[177] TDMLC Minute Book 1, pp 138-139 (#A49, vol 6, pp 21943-21944)
[178] The Mataraua committee minutes show that the customary ownership was tightly contested but do not reveal why anyone would have torn down the notices.

formerly held a Government appointment, and that his ability is well known to the Hon. The Native Minister.[179]

Table 2: Members present at Council sittings to set up block committees		
Venue	**Date**	**Members present**
Russell	Sep 1902	Edward Blomfield and Hoterene Paraone Kawiti
Whangaroa	Sep 1902	Edward Blomfield and Hoterene Paraone Kawiti
Kawakawa	Sep 1902	Edward Blomfield and Kiingi Ruarangi
Ahipara	Oct 1902	Edward Blomfield and Kiingi Ruarangi
Rawene	Oct 1902	Edward Blomfield and Hoterene Paraone Kawiti
Kaikohe	Oct-Nov 1902	Edward Blomfield and Hoterene Paraone Kawiti
Whangarei	May 1903	Edward Blomfield and Hoterene Paraone Kawiti
Helensville	May 1903	Edward Blomfield and Kiingi Ruarangi
Russell	Jun 1903	Edward Blomfield and Kiingi Ruarangi
Rawene	Sep 1903	Edward Blomfield and Wiremu Rikihana
Whangarei	Oct 1903	Edward Blomfield and Hoterene Paraone Kawiti
Kaikohe	Oct1903	Edward Blomfield and Hoterene Paraone Kawiti
Russell	Aug 1904	Herbert Edger, Kiingi Ruarangi, and Wiremu Rikihana[180]
Whangarei	May 1905	James Browne, Herepete Rapihana, Kiingi Ruarangi, and Hoterene Wi Kaipo

Seon was also highly regarded by Blomfield's successor, Herbert Edger (known to Māori as Etika), who told Sheridan in November 1904 that Seon should be appointed a member of the Council to act as his deputy in the 'out-districts' while Edger was based in Auckland. Edger described Pākehā Council member Henry Wilson, by contrast, as 'absolutely useless and incompetent' (adding, for good measure, that 'the Maori members are but so many drags').[181] Edger repeated much of this to the Native Minister the following month when asking to be relieved of his duties.[182]

The Māori members of the Council were sometimes involved in the prosecution of claims before the block committees themselves. Herepete Rapihana, for example, was a prominent claimant at Ahipara,[183] and also claimed Whakarapa at Rawene in October 1902.[184] Wiremu Rikihana also put in a claim for Kahakaharoa in advance of the October 1902 Rawene

[179] Blomfield to Sheridan, 24 May 1902. Document A12(a) vol 15, p 62 (document bank reference 8: 47)
[180] These members appear to have been present when the committee for Motukauri was set up. However, both Henry Wilson and Herepete Rapihana also attended this sitting. Wilson appears to have been presiding when the committee for Oromahoe was settled, with Rapihana also present. See TDMLC Minute Book 2, pp 142-143, 147, 158-160 (#A49, vol 6, pp 22315-22316, 22320, 22331-22333).
[181] H F Edger to P Sheridan, 5 November 1904. Archives New Zealand file ADYU 18191 MA-MLA1 3 1904/104
[182] H F Edger to Native Minister, 22 December 1904. Archives New Zealand file ADYU 18191 MA-MLA1 4 1905/8. By contrast the *Northern Advocate* remembered Wilson upon his death in 1916 as a 'genial, highly intelligent, and entertaining gentleman'. 'Mr H. S. Wilson', *Northern Advocate*, 20 October 1916, p 2
[183] See TDMLC Minute Book 2, pp 212-362 (#A49, vol 6, pp 22386-22536).
[184] See TDMLC Minute Book 1, p 84 (#A49, vol 6, p 21888).

sitting,[185] as well as putting in another for Waihou at the sitting itself.[186] At Helensville in May 1903, Ruarangi was the claimant for the first two blocks the Council was to consider, Aotearoa and Te Kawau.[187] According to Blomfield's minutes, Ruarangi 'withdrew from applications 1 and 2 in order to sit with [the] President'.[188] While he was not adjudicating title in this role, but merely ordering the setting up of block committees, it seems inappropriate that he acted as a member of the Council at this sitting. By contrast, as we will see, in Russell in 1904 (where in the main committee reports were being considered) a member with local interests (Kawiti) did not take his seat on the Council.

It should be noted that Rapihana's role as a claimant for blocks at Ahipara made him deeply unpopular with many of the local people there, who felt that he had profited through his trusted position as a Council member by obtaining unduly large shares of the Pukepoto, Ahipara, and Manukau blocks. In October 1904, Natanahira Awarau and 49 others signed a petition accusing Rapihana of trickery and calling for his roles as a Council member and Native Land Court assessor to be terminated.[189] Edger told Sheridan that he did not see any justification for Rapihana's services to be dispensed with. He added that

> He is no better or worse than any other fairly educated Maori who takes a leading part in the conduct of affairs. There is in my opinion scarcely one Maori who is fit to be trusted with the control and management of the lands of other Natives, and personally I should like to see the Councils composed exclusively of Europeans.[190]

Sheridan wrote back to the petitioners telling them that, if they were dissatisfied with any Council decision, they could appeal to the Native Appellate Court. Likewise, if they were unhappy with Rapihana's performance they would shortly be able to vote him out of office.[191] Separately, however, Sheridan told Edger that he thought Rapihana was 'sailing very close to the wind' and should not sit on any of the cases when they came before the Council.[192] This dispute is returned to in chapter 5.

Aside from a few block committees set up when Edger and James Browne (known to Māori as Hemi Paraone) were presiding, therefore, the establishment of the committees was almost entirely overseen by Blomfield. Despite his earlier circuit of meetings explaining the legislation, he regularly appears to have taken the opportunity to repeat his key messages. At Kawakawa in September 1902, for example, he 'addressed the natives at great length,

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[185] See TDMLC Minute Book 1, p 81 (#A49, vol 6, p 21884).
[186] TDMLC Minute Book 1, p 89 (#A49, vol 6, p 21893)
[187] *Kahiti*, no. 13, 19 Maehe 1903, p 75
[188] TDMLC Minute Book 1, p 171 (#A49, vol 6, p 21978)
[189] Petition dated 14 October 1904 from Natanahira Awarau and 49 others. Archives New Zealand file ADYU 18191 MA-MLA1 3 1904/120
[190] H F Edger to Patrick Sheridan, 14 December 1904. Archives New Zealand file ADYU 18191 MA-MLA1 3 1904/120
[191] P Sheridan, Hekeretari, Tari Whenua Maori, 22 December 1904. Archives New Zealand file ADYU 18191 MA-MLA1 3 1904/120
[192] Sheridan to Edger, 22 December 1904. Archives New Zealand file ADYU 18191 MA-MLA1 3 1904/120. Edger pointed out that they had already been dealt with by the Council.

explaining the workings of the Act as to Block Committees'.[193] At Rawene the following month he 'addressed the natives in the Public Hall, explaining the procedure'.[194] In May 1903, at Helensville (which had admittedly not been part of the initial circuit), Blomfield 'explained the Act at length',[195] while at the Council's second sitting at Russell, in June 1903, he 'addressed the meeting at length re the working of the block committees &c.'[196]

Image 6: Former Kawakawa courthouse[197]

There is little information about how exactly Blomfield explained the committees would operate. The minutes do record, however, that at Kaikohe in October 1903 the meeting was told (presumably by Blomfield) 'that the duty of a block committee is to investigate title and not to attempt to act as a partitioning body'.[198] In other words, the Council was only interested in obtaining from the committees a list of those entitled and their relative shares, not a series of proposed subdivisions. Edger wrote in December 1904 that divisions made by block committees before adequate plans were available were a cause of trouble, as they would inevitably be adjusted upon proper survey. He added that Blomfield had 'constantly told the Block komitis to make no divisions of blocks they deal with; but the direction is disregarded'.[199]

[193] TDMLC Minute Book 1, p 55 (#A49, vol 6, p 21860)
[194] TDMLC Minute Book 1, p 81 (#A49, vol 6, p 21884)
[195] TDMLC Minute Book 1, p 171 (#A49, vol 6, p 21978)
[196] TDMLC Minute Book 1, p 177 (#A49, vol 6, p 21984)
[197] http://rwkaikohe.co.nz/far-north-district/kawakawa/806041/ accessed 2 August 2016. The courthouse is now a private residence.
[198] TDMLC Minute Book 1, p 200 (#A49, vol 6, p 22008)
[199] H F Edger to Patrick Sheridan, 14 December 1904. Archives New Zealand file ADYU 18191 MA-MLA1 3 1904/120

3.7 Numbers of claimants

Of the 89 blocks for which information exists, there were an average of 4.7 claimants per block. The majority of blocks – 47 out of 89 – had fewer than four applicants, and 40 per cent had either one or two. But one block, Taraire (to the immediate south of Lake Omapere), had 18 claimants, and altogether 11 had ten or more (see table 3). Larger numbers of claimants tended to be a feature of the Kawakawa and Kaikohe sittings, as well – to a lesser extent – as those in Whangarei (see table 4). In part this reflected the larger size of blocks around these locations. Motatau 1, for example, was 19,000 acres and had nine claimants, while Motatau 2 was 35,500 acres and also had nine claimants. Committees for both of these blocks were set up at Kawakawa. Motatau 5 – the committee for which was set up at Kaikohe – was 22,000 acres and had 13 claimants.[200] And Kaikou 3 and Mangakowhara – committees for which were set up at Whangarei – were both around 10,000 acres and had nine and seven claimants respectively. But large numbers of claimants also stemmed from the traditionally contested nature of certain blocks. Thus, the 2,000-acre Kohewhata block[201] and the 1330-acre Kotuku block (both set up at Kaikohe) had 14 and 10 claimants respectively. The blocks for which committees were set up at each Council sitting venue are shown in figure 4.

Table 3: Number of blocks by specific numbers of claimants

Number of claimants	Number of blocks	Number of claimants	Number of blocks
1	12	10	2
2	24	11	3
3	11	12	2
4	6	13	1
5	7	14	2
6	7	15	–
7	6	16	–
8	1	17	–
9	4	18	1

[200] The committee was initially set up with six members representing 12 claimants, but a late claim was permitted from Kaka Porowini, and the committee was thus increased to seven members.TDMLC Minute Book 1, pp 109, 154-155 (#A49, vol 6, pp 21914, 21959-21960)

[201] The block's size was recorded as 1,920 acres by Paula Berghan but 2,023 by Peter McBurney. See Berghan, 'Northland Block Research Narratives: Vol. IV: Native Land Court Blocks 1865-2005: Ahitunutawa- Kuwaru', February 2006 (Wai 1040 document #A39(c)), p 403, and McBurney, 'Northland: Public Works & Other Takings: c.1871-1993', July 2007 (Wai 1040 document #A13), p 255

Table 4: Number of claimants per block by sitting venue				
Sitting venue	**Date**	**Number of blocks**	**Number of claimants**	**Claimants per block**
Russell	September 1902	9	20	2.2
Whangaroa	September 1902	11	26	2.4
Kawakawa	September 1902	8	55	6.9
Rawene	October 1902	7	41	5.9
Kaikohe	October-November 1902	23	158	6.9
Whangarei	May 1903	7	44	6.3
Russell	June 1903	5	14	2.8
Rawene	September 1903	5	10	2.0
Whangarei	October 1903	6	17	2.8
Kaikohe	October 1903	4	21	5.3
Russell	August 1904	2	5	2.5
Whangarei	May 1905	2	5	2.5
Total		89	416	4.7

The requirement for applicants to pay fees probably served as a means of limiting the number of claims. As noted above, each confirmed claimant had to pay the Council a fee of five shillings. Where claimants agreed to work together under the one claim, therefore, they paid a single fee collectively rather than a separate fee each. Examples of such accommodation and fee-sharing occurred with Te Ramaroa and Whangaruru Whakaturia. In both cases, having established that his claims were identical to Hone Pita's, Mita Wepiha withdrew his claims and joined with Pita in paying the 5-shilling fees.[202] In the case of Paremata Mokau, Wepiha assessed that his claim was practically the same as Marara Pita's. He stated that he would 'go under Marara's claim with the exception of about 20 acres which I claim under a separate gift to my ancestor. … I wish to withdraw my application. I will assist Marara to pay her fees.'[203]

Claimants asserting rights might withdraw their claims in response to an assurance by a claimant that they would be accommodated, or even a recognition that their claim was valid. For example, in the case of Paremata Mokau, Henare Keepa said he would withdraw his claim and come under Marara Pita's if she admitted his claim.[204] In that case she did not, but elsewhere such recognition was given. In Te Ramaroa, for example, Hohepa Watene claimed a portion of the block under gift and stated that 'If Hone Pita admits me I will not make a separate claim', and Pita acknowledged the gift.[205] Likewise, in the case of Parahaki, Kuia

[202] TDMLC Minute Book 1, pp 27, 29 (#A49, vol 6, pp 21831, 21833)
[203] TDMLC Minute Book 1, p 20 (#A49, vol 6, p 21824)
[204] TDMLC Minute Book 1, p 21 (#A49, vol 6, p 21825)
[205] TDMLC Minute Book 1, p 27 (#A49, vol 6, p 21831)

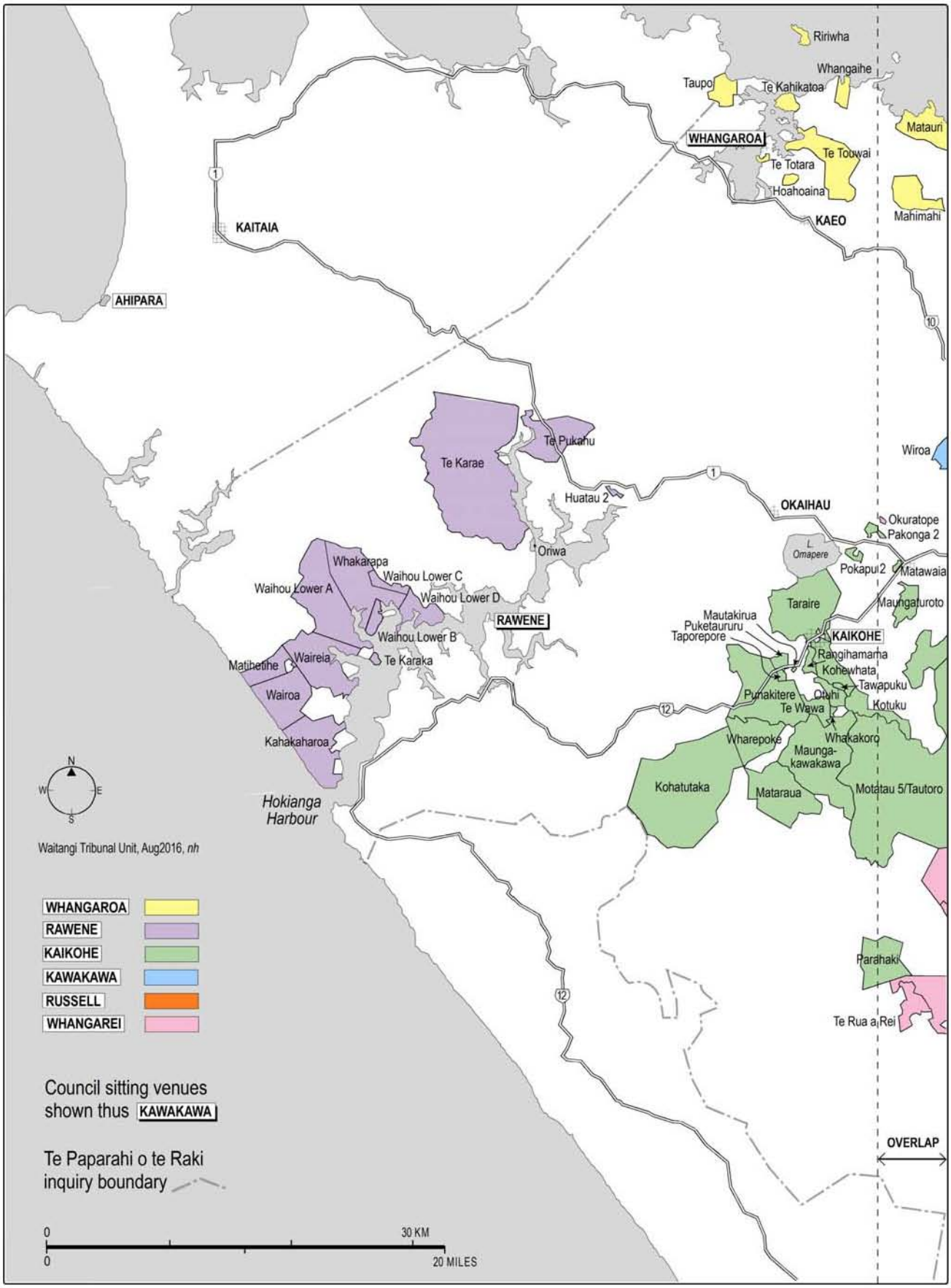
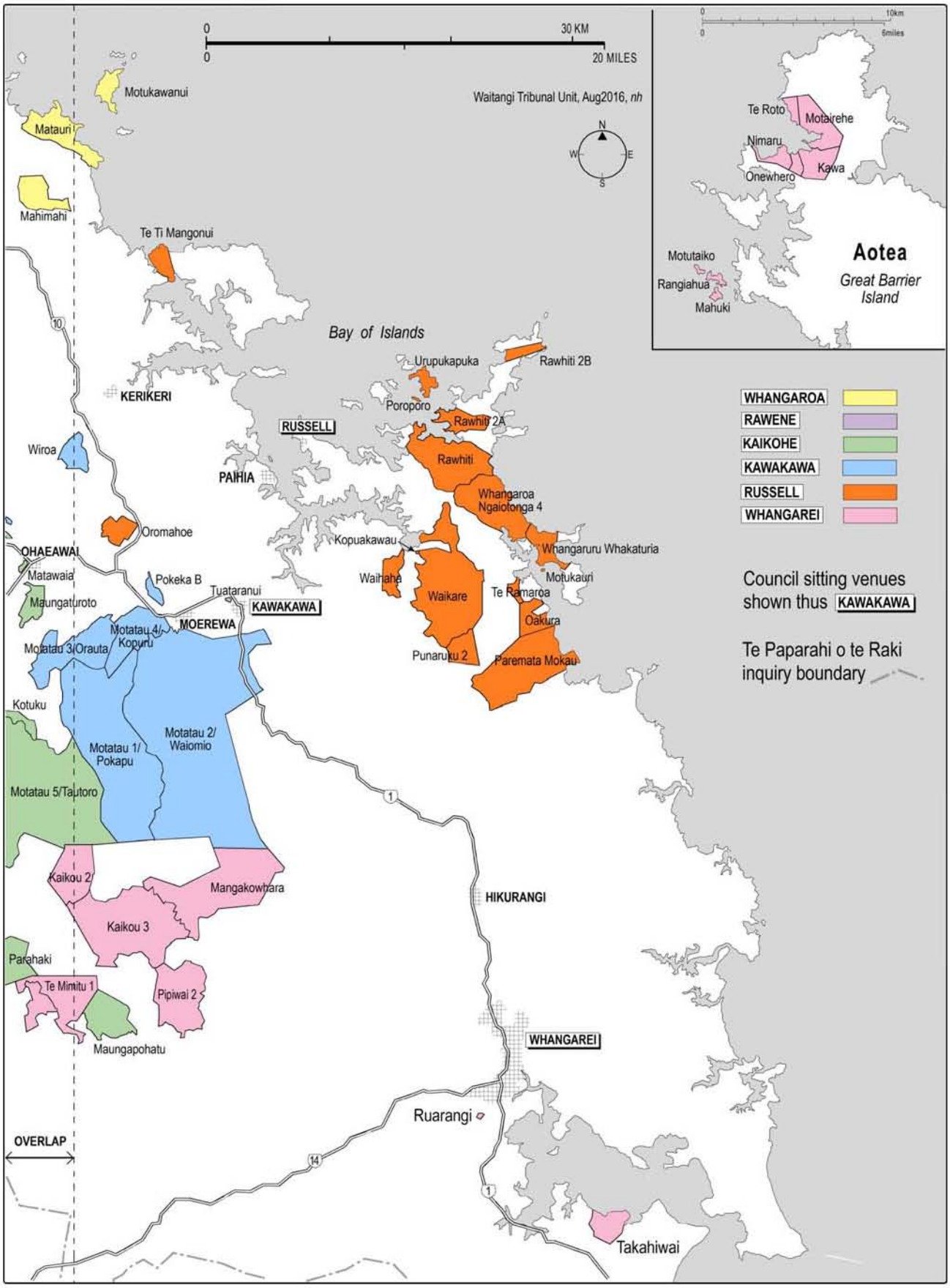


Figure 4: Blocks for which committees set up, by Council sitting venue, 1902-1905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OHAEAWAI
Matawaia
Maungaturoto
Pokeka B
Tuataranui
KAWAKAWA
Kopuakawau
Waihaha
Waikare
Whangaruru Whakaturia
Motukauri
Te Ramaroa
Oakura
Punaruku 2
Paremata Mokau
MOEREWA
Motatau 4/ Koputu
Motatau 3/Orauta
Kotuku
Motatau 1/ Pokapu
Motatau 2/ Waiomio
Motatau 5/Taitoro
Kaikou 2
Mangakowhara
Kaikou 3
HIKURANGI
Parahaki
Te Mimitu 1
Pipiwai 2
Maungapohatu
WHANGAREI
Ruarangi
OVERLAP
Takahiwai
10km
6miles
Te Roto
Motairehe
Nimaru
Kawa
Onewhero
Motutaiko
Rangiahua
Mahuki
Aotea
Great Barrier Island
WHANGAROA
RAWENE
KAIKOHE
KAWAKAWA
RUSSELL
WHANGAREI
Council sitting venues shown thus KAWAKAWA
Te Paparahi o te Raki inquiry boundary

Tere Totara of Te Kumutu stated that 'My claim is the same as Kerei Mitai. … I will go in under the claim of Kerei Mitai', to which Mitai consented.[206] Sometimes, however, would-be claimants placed their faith in the formal applicants recognising their rights. Eru Tahere told the council that, with respect to Kohatutaka, 'I won't put in a claim. I know that they will put me in for my proper share.'[207] In the same case Wiremu Paati made a claim but explained that 'I only wish to protect my right to speak before block committee. I withdraw my claim on that assurance.'[208]

Sometimes the sticking point in resolving differences between the parties might be the grounds of claim one applicant had asserted. At Kawakawa in September 1902, Hone Tana asked the Council for a brief adjournment in respect of Pokeka B 'in order that the parties might amicably arrange matters'. When the case resumed Tana told the Council that 'We have arranged that if I withdraw the claim of conquest, we will all go together under the one claim.'[209] These accommodations were often made outside (even more so when the parties were resolving their differences during committee investigations or their objections to block committee reports – see chapters 4 and 6). For example, Paora Hori told the Council that, with respect to Te Touwai, he had 'arranged outside Court [sic] with Hemi Tupe and Unaiki Tupe that we all claim the land together.'[210]

If such arrangements were possible it begs the question as to why a block like Taraire had so many claimants. Many of the Taraire claims were in fact to a portion of the block only, although the picture of ancestral rights there was clearly quite complex and the block was a reasonable size at over 6,000 acres.[211]. Three claims had been made to Taraire in advance of the sitting, by Heremaia Hiku, Kaipo Hoterene, and Mate Monoa, with the *Kahiti* notice giving the size of Hiku's claim as 300 acres.[212] Table 5 summarises the Taraire claimants.[213]

Table 5: Claimants to the Taraire block, October 1902

Claim no.	Name	Whole or part	Ancestor(s)	Hapū	Particulars
1.	Kaipo Hoterene	Whole	Taura	Te Uriohua	
2.	Heremaia Hiku	Part	Rongo, Tukarawa, Takohu	Taka Tokei, Te Uriohua	'I only claim that portion included in the boundaries given by me called Te Raire and Te Puna te Ahu.'

[206] TDMLC Minute Book 1, p 116 (#A49, vol 6, p 21921)
[207] TDMLC Minute Book 1, p 136 (#A49, vol 6, p 21941)
[208] TDMLC Minute Book 1, p 138 (#A49, vol 6, p 21943)
[209] TDMLC Minute Book 1, pp 55, 57-58 (#A49, vol 6, pp 21860, 21864-21864)
[210] TDMLC Minute Book 1, p 42 (#A49, vol 6, p 21847)
[211] Paula Berghan, 'Northland Block Research Narratives: Vol. VIII: Native Land Court Blocks 1865-2005: Rahuikotuku-Tuwhakino', February 2006 (Wai 1040 document #A39(g), p 239
[212] *Kahiti*, no. 54, 28 July 1902, p 362
[213] Information drawn from TDMLC Minute Book 1, pp 118-124 (#A49, vol 6, pp 21923-21929)

Table 5: Claimants to the Taraire block, October 1902					
Claim no.	**Name**	**Whole or part**	**Ancestor(s)**	**Hapū**	**Particulars**
3.	Mate Monoa	Part	Moetu	Ngati Koro	'I don't claim the whole block, only that portion claimed by Heremaia Hiku, whose claim I admit.'
4.	Arapeta Haami	Unclear	Te Manu, Hira, Tawhio, Hua	Ngati Whakaeke, Ngati Tautahi, Ngati Te Rehi, Ngati Kino, Te Uriohua, Taka Tokei	
5.	Hetaraka Manihera	Whole	Korora, Peke, Tamaki Te Ra	Te Uriohua	A mixture of personal claims and one by both him 'and my people to the rest of the block'.
6.	Hemi Wi Hongi	Whole	Kira Mahutu, Raumati	Te Uriohua	'I claim the whole block. The other claims come under my ancestor.'
7.	Manihera Kauwhata	Whole	Tieri, Korora	Te Uriohua, Taka Tokei, and Ngati Kura	'My claim is to the whole block, but I admit the claims of others.'
8.	Hirini Heremaia	Part	Kauau, Korora	Takatokei, Te Uriohua	'a particular piece of this block called Upanati and Tununu'.
9.	Pukeatua	Part	Huru	Ngati Whakaeke	'I don't claim the whole block, only portions known as Kaikohe and Wai Ngaehe.'
10.	Hirini Taui	Part	Tamaki Te Ra	Ngati Rangi	'a portion called "Opango"'.
11.	Hone Toia	Part	Korohue, Rangihaua	Ngati Korohue, Ngati Pakau	'a number of portions of the block'.
12.	Hare Matenga	Part	Korohue	Ngati Korohue	'the piece adjoining Omapare No 1.'
13.	Hone Tautahi Pita	Part	Tamaki Te Ra	Ngati Tautahi	'a particular portion of the block called

Table 5: Claimants to the Taraire block, October 1902					
Claim no.	**Name**	**Whole or part**	**Ancestor(s)**	**Hapū**	**Particulars**
	for Eru Tahere				"Kaikohe puke"'.
14.	Wiremu Poakatahi	Part	Tamapu Wewero	Ngati Ue, Ngati Tautahi	'a small portion called Kaikohe puke'.
15.	Hini Tuwhai	Part	Te Ripi	Te Uriohua, Taka Tokei, Ngati Kura	'a portion of the block called "Kaikohe puke"'.
16.	Putoto Kereopa	Part	Haumia	Ngati Tautahi	'a small piece called Manawa Kaikeha'.
17.	Hone Ngapua	Part	Hotete		'a number of portions of the block'
18.	Raina Puriri	Whole	Hone Heke	Ngati Rahiri, Te Uriohua, Ngati Hine, Ngati Rangi	

The block committee investigation of Taraire and subsequent objections are returned to in chapter 6.

Altogether, across the 89 blocks, some 192 individuals laid claims to Te Raki lands adjudicated upon by block committees. The majority laid only one claim each, and three quarters were claimants in no more than two blocks. By contrast, one individual laid 12 claims, as set out below in table 6.

Table 6: Number of claims to papatupu blocks made by individuals	
Number of claims made across the 89 Te Raki blocks	**Number of individuals**
12	1
11	0
10	0
9	3
8	1
7	4
6	4
5	10
4	13
3	13
2	33
1	112

The most frequent claimants are set out in the table 7.

Table 7: Most frequent claimants for papatupu blocks	
Name	**Number of claims**
Hirini Taui	12
Mita Wepiha	9[214]
Te Rata Riimi	9
Matiu Wi Hongi	9
Marara Hirini	8
Hori Rewi	7
Hiramai Piripo	7
Hone Ngapua	7
Huirua Tito	7
Hone Paama	6
Pukeatua	6
Hori Rakete	6
Te Kohe Tahere	6

Hirini Taui and Marara Hirini – the most frequent male and female claimants to papatupu blocks – were, it seems, husband and wife. It is not clear why they were such frequent claimants and whether this was linked to any particular standing within their hapū. In any case, we note that several claimants were well known and senior leaders of their communities, such as Hone Heke Ngapua's father Hone Ngapua; Heremaia Te Wake, the father of Whina Cooper; the prophet and religious leader, Hone Toia;[215] and Wiremu Rikihana, who was also, of course, a Council member, and who later went on to become a member of the Legislative Council. Many others, on the other hand, were younger members of their hapū, as observed by *Te Puke ki Hikurangi* in an article concerning the troubles surrounding the Motatau investigation: 'te tokomaha o nga taitamariki kai te akiaki, kia hohoro te whakahaere i tetahi tikanga mo ratau, ara, kia wehea mai he waahi mo tena ano tena o ratau, hei whakatu kainga mo ratau, penei me nga tikanga Pakeha'[216] [many young ones are eager to speed up the process for them, that is, to partition out a piece for each of them, to establish a home, like the European does.] Hirini Taui himself was reportedly a young man, aged 36 in December 1906 (as revealed in news reports when he attempted to shoot Marara but shot and killed three other people instead before turning the gun on himself). [217]

[214] In addition to these nine, Wepiha also appeared as claimant on behalf of Ngapera Taiawa in bringing a further four claims for blocks in northern Aotea. See TDMLC Minute Book 1, p 198 (#A49, vol 6, p 22005).
[215] Angela Ballara. 'Toia, Hone Riiwi', from the Dictionary of New Zealand Biography. Te Ara - the Encyclopedia of New Zealand, updated 30-Oct-2012 (accessed 28 July 2016)
URL: http://www.TeAra.govt.nz/en/biographies/2t45/toia-hone-riiwi
[216] *Te Puke ki Hikurangi* , 15 May 1903, p 1
[217] See 'Women Shot at Kaikohe', *Auckland Star*, 15 December 1906, p. 5; 'The Maori Murders', *Northern Advocate,* 24 December 1906, p. 2; 'He Parekura Kohuru', *Te Pipiwharauroa,* Hanuere 1907. The last of these

Image 7: Hone Toia, c. 1910s[218]

3.8 The claiming of non-papatupu blocks

A number of smaller blocks were claimed that, upon investigation, were ruled not to be papatupu land. This shows that Māori were not always certain if a European title had been issued over land, whether or not they continued to use it in a customary way. For example, Pene Arano and others at Whangaroa claimed the Horu, Ikaporipori, and Tokatarakihi blocks in September 1902, all of which had been occupied by Pākehā. However, Native Land Court records showed that title to the 5-acre Horu block had been granted in 1872 and subsequently sold to a European.[219] The opinion of a surveyor named Campbell was that Ikaporipori and Tokatarakihi were also European land. The cases were all adjourned at Arano's request 'to allow him to search the titles', but are not mentioned again in the Council or Board minute books.[220]

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articles was written by the Reverend Matiu Kapa who, as we note below, was appointed to more papatupu committees than anyone else.

[218] Sir George Grey Special Collections, Auckland Libraries, 31-70772

[219] TDMLC Minute Book 1, p 43 (#A49, vol 6, p 21848)

[220] TDMLC Minute Book 1, p 52 (#A49, vol 6, p 21857)

In September 1903, at Rawene, Pita Anihana's claim to Pikiwahine was considered. Anihana asserted that the land was not European land and had never had Pākehā live on it. However, William Webster appeared for the Crown and contended that the land had been purchased by William White in 1835 and considered by the Land Claims Commission in 1842 and 1843. As a result of this White was awarded 465 acres and the balance was kept by the Crown as surplus land (it appears that it was this latter area that Anihana was claiming). A settler named George Woods, who had erected a house there on the part claimed by his wife's father, argued that the land remained in customary Māori ownership. The Council, however, dismissed Anihana's application and ruled the land to be owned by the Crown.[221]

At the Whangarei hearing in October 1903, several blocks were claimed that turned out to have already been through the Native Land Court as part of other blocks: Rangikapohia, Mokoparu, and Koekoea. Likewise, Te Angiangi 1 was found to be part of Pipiwai 2, for which a block committee had been set up, and the claim to Kaitaringa was also abandoned when the applicant saw that 'Mr Walton's name is written over all that land.' However, one other block claimed at this sitting, over which some doubt existed, was concluded to be papatupu land. This was the 51-acre section 123 block XI Waikiekie parish. The land court registrar had noted that the land 'was originally Crown Land and was returned to the natives as a native reserve'. The Council set up a committee 'reserving the point of gift by Crown for information from Wellington'.[222] This evidently affirmed the Māori ownership, as the block committee later issued its report.[223]

In Russell in August 1904, the Council considered Kipa Roera's application on behalf of his wife Hara Roera for Motuarohia, an island in the Bay of Islands. Edger noted that 'Correspondence shows that this island is definitely the property of a European', but Kipa Roera explained that he had

> spent some time in Auckland searching the title, & could not find that there was any title in favour of a European. So I applied to the Council, so that the matter could be settled. I intend to go to the Supreme Court about the title.[224]

Edger replied that 'The Supreme Court is open to you.'[225]

Two or three other examples of this title confusion will suffice. At the 1902 Whangaroa hearing, Putete Heke applied for a committee investigation into Te Totara. More Tukariri thought the block had already been awarded to Taniora Arapata, but Mita Hape believed that this had been a small adjoining piece, and not Te Totara itself. A committee for Te Totara was duly set up.[226] By contrast, in August 1904 Eru Nehua told the Council, with regard to a

[221] TDMLC Minute Book 1, pp 187-188 (#A49, vol 6, pp 21993-21994)
[222] TDMLC Minute Book 1, p 194 (#A49, vol 6, p 22000)
[223] TDMLC Minute Book 1, p 291 (#A49, vol 6, p 22099)
[224] TDMLC Minute Book 2, p 142 (#A49, vol 6, p 22315)
[225] TDMLC Minute Book 2, p 142 (#A49, vol 6, p 22315)
[226] TDMLC Minute Book 1, p 51 (#A49, vol 6, p 21856)

block called Porotu, that 'We are in trouble about this land. We do not know whether we are owners of it, or not. Or whether a certain 120 acres is Native land or not.' The Council minutes state at this point, somewhat abruptly, 'Grant produced. (Examined). Question answered.'[227]

In May 1905, a committee was set up at Whangarei to investigate Te Aioheketoru, a block of 137 acres.[228] This was one of the last two Te Raki committees the Council set up, with all but four of the 89 committees having been set up in 1902 or 1903. There is no trace of the Te Aioheketoru committee report, and it may be because the land was found not to be papatupu after all. An 1891 return of blocks which had passed the Native Land Court and remained in Māori ownership listed Te Aioheketoru of 137 acres.[229]

Finally, it should also be noted that Hone Paraea (otherwise known as John Bryers, a land court assessor) and others requested a block committee investigate the title to Lake Omapere at the Rawene sitting in September 1903. The application was adjourned to the next sitting at Kaikohe but does not appear to have featured again. The Council minutes record that there was a 'Query whether Council can deal with the matter. It is probably a navigable lake bounded in most parts by Crown and other ascertained titles which might claim rights.'[230] In 1904 Paraea and 14 others petitioned the Native Affairs Committee on the matter, asking 'kia whakahaua te Kaunihera o Tokerau ki te whakawa i nga take paanga ki Omapere Roto, i te takiwa o Peiwhairangi' ('that the Tokerau Council may be instructed to deal with the question of ownership of the Omapere Lake, Bay of Islands district'). The Native Affairs Committee's response was that 'as the question referred to is before the Tokerau Council, and the rights of the Natives are still preserved, the Committee has no recommendation to make'.[231]

3.9 Grounds of claim stated to the Council

The usual grounds of claim provided to the Council when committees were being set up (the formal requirement of regulation 10) involved *take* tupuna (ancestry) and *take* ahi kaa (occupation), but often included a variety of other *take* as well, such as raupatu (conquest), ringakaha ('the strong arm', or defence of the land against challengers[232]), tuku (gift), and the presence of cultivations, burial grounds, fishing reserves, and pā sites. These *take* were almost always expressed in English in the Council minutes. There are some exceptions: Hone Ngapua, for example, was recorded as claiming the Taraire block under 'Te Ahikaroa',[233] Hiramai Piripo's one ground for claiming Poroporo was 'mana rangatira',[234] while Mita

[227] TDMLC Minute Book 2, p 198 (#A49, vol 6, p 22371)
[228] TDMLC Minute Book 1, pp 297-298 (#A49, vol 6, pp 22105-22106)
[229] AJHR, 1891, G-10, p 35
[230] TDMLC Minute Book 1, p 189 (#A49, vol 6, p 21995)
[231] AJHR, 1904, I-03, p 22
[232] Our translation of this term aligns with that of the Tribunal in its stage 1 report. Waitangi Tribunal, *He Whakaputanga me te Tiriti: The Declaration and the Treaty*, Legislation Direct, Wellington, 2014, p 30
[233] TDMLC Minute Book 1, p 123 (#A49, vol 6, p 21928)
[234] TDMLC Minute Book 1, p 178 (#A49, vol 6, p 21985)

Wepiha claimed the islands of Rangiahua, Mahuki, and Motutaiko off Aotea in part under 'ringakaha'.[235]

Sometimes a *take* was expressed through what Blomfield referred to as a 'proverb'. In claiming Taraire under Tamaki Te Ra, Hetaraka Manihera cited a proverb by this ancestor 'relating to the land', although he was unable to recite it to the Council.[236] Karora Kahuitara, however, did recite a proverb in the case of Kohatutaka, although the Council's limited rendering of this in the minutes ('The red soil, the red soil') does not reveal what kind of right was being asserted.[237]

Table 8 sets out the *take* most frequently put before the Council in support of claims to papatupu lands.

Table 8: Most frequently cited *take* in support of claims to papatupu land before the Council

Take	**Frequency of mention in grounds of claim**
ancestry	366
occupation	301
burial places	156
strong arm	113
pā	110
conquest	84
mana	68
gift	62
cultivation	35
chieftainship	27

Different kinds of occupation were asserted. Often it was continuous occupation down to the present time, while in other cases the occupation had extended only as far as a parent or grandparent. Riri Maihi described the occupation he claimed with respect to Motatau 5 or Tautoro as being 'not by habitation but by mana'.[238] Similarly, a claim on the basis of a gift could be made because an ancestor had received the land as a gift or had had the mana to gift it to others. Sometimes the *take* were used in conjunction, or as examples of each other. 'Strong arm' usually went with continuous occupation or the maintenance of possession, for example, rather than any initial conquest.

Aside from these more traditional bases of claim, which were routinely employed to assert customary rights in the Native Land Court (which employed what is known as the '1840 rule' whereby title was to be awarded according to who was deemed to have held customary rights

[235] TDMLC Minute Book 1, p 300 (#A49, vol 6, p 22108)
[236] TDMLC Minute Book 1, p 120 (#A49, vol 6, p 21925)
[237] TDMLC Minute Book 1, p 135 (#A49, vol 6, p 21940)
[238] TDMLC Minute Book 1, p 109 (#A49, vol 6, p 21914)

in 1840), claimants before the Council also used a range of more modern *take* that reflected the contemporary environment. This environment included, notably, the relationship of hapū with Pākehā settlers and authorities. Thus claimants would often assert a right to the land on the basis of having held the 'administrative mana' over it (the very term used, for example, by a claimant to Otuhi 1 and two claimants to Kohewhata).[239] This might entail having sold or leased parts of the land previously to Pākehā, including leases for timber-cutting or grazing rights, or indeed having worked the timber themselves for sale to Pākehā interests.

Thus at Russell, for example, Hone Pita set out the claim of his party to Whangaroa Ngaiotonga 4 on the grounds of ancestry, occupation, the strong arm, burial grounds, and the fact that 'We have always administered the block and we ordered the survey.'[240] At Whangaroa, Ritete Puke claimed Ririwha (or Stevenson's Island) on the grounds of ancestry, occupation, burial and pā sites, and having 'leased the right of grazing sheep to a European.'[241] At the same sitting Unaiki Tupe claimed Te Touwai through ancestry, occupation and 'Mana – dealing with the block',[242] while one of Paora Kira's grounds of claim to another island, Motukawanui, was 'Leasing the land to Europeans without dispute'.[243] At Whangaihe, Wiremu Ihaia had 'leased the grazing rights to Europeans for the last 10 years without dispute'.[244]

In the Taraire case, one of Hemi Wi Hongi's grounds of claim was 'Latterly the power of dealing under modern law by locating Europeans on the land.' Another Taraire claimant, Hirini Heremai, stated that he had 'Mana over the land. Without molestation we have worked and sold the timber.'[245] Hori Rakete claimed Whakakoro through gift and likewise asserted that 'Through the power of this gift I have worked the timber without molestation.'[246]

Sometimes the mana over the land was claimed not just to stem from leasing it to Pākehā, but from having previously gifted or sold portions of it to them. For example, Hirini Taui noted that his father had given part of Maungaturoto to the Government for a school site,[247] and two claimants to Kotuku, Pukeataua and Tirarau Perehe, noted that their forebears had 'sold a portion of the land to Europeans'.[248] Hirini Heremaia claimed rights to Kohewhata by virtue of his 'Administrative mana – power of sale',[249] although in that case he may have been referring to sales to other Māori.

Indeed, some claimants asserted that they had previously purchased the land off their whanaunga. Hemi Riwhi claimed the 7-acre Kaiwhai block at Whangaroa on the basis that he

[239] TDMLC Minute Book 1, pp 130, 143-144 (#A49, vol 6, pp 21935, 21948-21949)
[240] TDMLC Minute Book 1, p 32 (#A49, vol 6, p 21836)
[241] TDMLC Minute Book 1, p 39 (#A49, vol 6, p 21844)
[242] TDMLC Minute Book 1, p 42 (#A49, vol 6, p 21847)
[243] TDMLC Minute Book 1, p 50 (#A49, vol 6, p 21855)
[244] TDMLC Minute Book 1, pp 48-49 (#A49, vol 6, pp 21853-21854)
[245] TDMLC Minute Book 1, pp 120-121 (#A49, vol 6, pp 21925-21926)
[246] TDMLC Minute Book 1, pp 153-154 (#A49, vol 6, pp 21958-21959)
[247] TDMLC Minute Book 1, p 128 (#A49, vol 6, p 21933)
[248] TDMLC Minute Book 1, p 99 (#A49, vol 6, p 21902)
[249] TDMLC Minute Book 1, p 142 (#A49, vol 6, p 21947)

had bought it from his uncle Arama Patena 20 years previously for the sum of £5.[250] In Taraire, Hone Ngapua claimed one portion on the basis of a specific purchase he had made from Hemi Wi Hongi and others. He further laid claim to another portion on the basis of a purchase his wife had made from Tepene Wi Hongi and others.[251] Hone Ngapua also claimed Kohewhata on the basis of 'Gift and sale by living claimants to myself.'[252] Erana Wi Hongi similarly claimed part of Kohewhata on the basis of her father having bought it from Katarina Tiatoa. To add to her claim, she now leased the land to a Pākehā.[253]

Sometimes the authority or mana claimed over the land involved physical strength or enforcement. One of Taniora Te Korohunga's grounds for claiming Kotuku was 'Administration of the land by restraining others from working it.'[254] Likewise, Kaipo Hoterene claimed Taraire in part on the basis that he had the 'Mana to keep off trespassers,'[255] and Henare Marino claimed a portion of Rangihamama partly on the basis of 'Strong arm against trespass.'[256] Another modern variant on a traditional *take* was to assert the mana to have kept Pākehā, rather than other Māori, at bay. Thus one of Hare Napia's grounds for claiming Waimahe at Kawakawa in September 1902 was 'The exercise of acts of ownership by restraining Europeans from digging gum and cutting timber.'[257] Raina Puriri laid claim to Motatau 5 on the basis of Hone Heke's strong arm. As she explained when the Motatau 5 committee report was reviewed,

> I set up 'strong arm' before the Council. The strong arm was by Hone Heke although his strong arm was never used. The strong arm was against Europeans & the Maoris helping them.[258]

If the claimants' strong arm had failed to keep Pākehā at bay, then a claim to the land was a potential means of resolving the issue. For example, in the case of the 20-acre Korotangi block at Kerikeri, Wi Kaitara explained he was claiming the land

> because it is occupied by a European. The boundaries have been fenced by the adjoining owners. The present occupier has been there under a year. He has erected a house with an iron roof, but no fences. I know the land to be papatupu. I claim it. … [There is] a burial ground on this piece. This was the reason of it being reserved. We buried our dead there in a cave.[259]

Another modern ground was the erection of important dwellings such as churches. Hemi Tupe cited among his grounds for claiming Te Touwai 'A Church and a meeting house

[250] TDMLC Minute Book 1, p 52 (#A49, vol 6, p 21857)
[251] TDMLC Minute Book 1, pp 123-124 (#A49, vol 6, pp 21928-21929)
[252] TDMLC Minute Book 1, p 142 (#A49, vol 6, p 21947)
[253] TDMLC Minute Book 1, p 145 (#A49, vol 6, p 21950)
[254] TDMLC Minute Book 1, p 100 (#A49, vol 6, p 21905)
[255] TDMLC Minute Book 1, p 118 (#A49, vol 6, p 21923)
[256] TDMLC Minute Book 1, p 113 (#A49, vol 6, p 21918)
[257] TDMLC Minute Book 1, p 61 (#A49, vol 6, p 21867)
[258] TDMLC Minute Book 3, p 370 (#A49, vol 6, p 22918)
[259] TDMLC Minute Book 1, p 182 (#A49, vol 6, p 21989)

there.'[260] Similarly, the fact that her father had 'established 5 Churches there' was a ground of claim to Matauri by Rawinia Tamati.[261] The existence of fences was also raised regularly in claims. In the case of Whakakoro, Arapeta Haami's second *take* was that 'a fence on that land was put up by the descendants of Whanga'.[262] It is clear that some claimants believed that fencing in an area of land was a good means of asserting a right to it before the Council. Thus Te Kohe Tahere, who laid claim to a portion of Kohewhata, told the Council that 'I have the place fenced in and occupy it now'[263], while one of Erana Kapa's grounds for claiming Otuhi 2 (as stated by her husband, Matiu Kapa), was 'I have fenced it all in.'[264] The erection of fences as a means of enclosing and claiming land was a source of friction in some cases, as we shall see in chapter 4.

Some claims may have been made for rather more personal reasons. In Punaruku 2 claims were laid by both Hone Tautahi Pita and Mita Wepiha, even though they both admitted that their grounds were the same. Pita explained to the Council that the reason lay in their competing claims to Waikare. As he put it, 'hitherto we have both gone in always under the same claims, but owing to friction over Waikare Block, Mita Wepiha has now set up different claims'. Wepiha soon enough withdrew his claim, however, and came in under Pita's.[265]

3.10 Appointment and apportionment of block committee members

Armstrong and Subasic write that the Council generally made its decision as to how block committee members should be nominated on the basis of 'the relative support for each claim that had been put through'.[266] This was certainly true for some cases. The best example of it, which Armstrong and Subasic note, is the Whakarapa block (and by extension also neighbouring Waihou, which had the same committee), for which 11 claims were put in at Rawene in October 1902. The Council asked those assembled to indicate their support for each of the claimants, and 'A show of hands showed Heremia te Wake and Rei [sic] te Tai being much the largest Claimants the numbers being 30 – 30 – 5 – 4 – 10 – 3 – 3 – 3 – 1 – 4 – 10.' Accordingly, the Council ordered a block committee of five, with one elected by Heremia Te Wake, one by Re Te Tai, and three by all the other claimants jointly.[267] This was only moderately proportionate, however, as these two leading claimants had the support of 60 per cent of those present but were only able to nominate 40 per cent of the committee members.[268]

[260] TDMLC Minute Book 1, p 42 (#A49, vol 6, p 21847)
[261] TDMLC Minute Book 1, p 45 (#A49, vol 6, p 21850)
[262] TDMLC Minute Book 1, p 154 (#A49, vol 6, p 21959)
[263] TDMLC Minute Book 1, p 144 (#A49, vol 6, p 21949)
[264] TDMLC Minute Book 1, p 129 (#A49, vol 6, p 21934)
[265] TDMLC Minute Book 1, p 23 (#A49, vol 6, p 21827)
[266] Armstrong and Subasic, 'Northern Land and Politics', p 1428
[267] TDMLC Minute Book 1, p 86 (#A49, vol 6, p 21890)
[268] It is not clear if those assembled could indicate their support for more than one claimant.

While such divisions were imperfect, therefore, they nonetheless took some account of relative interests. Other examples of this method included Motatau 1, where 9 claims were made and the Council ordered a block committee comprised of two members to be elected by claimants 1, 2, 3, 4, 5, and 9; two to be elected by Kaka Porowini and party; one to be elected by Mita Wepiha; one by Matiu Wi Hongi; and a seventh by all claimants jointly.[269] The same balancing of interests applied also in the case of Motatau 2, 3, and 4, which all had the same committee as Motatau 1.[270] The Waireia committee of five was similarly chosen on the basis of one nominee each from claimants 1 to 3 and two nominees collectively from the remaining three.[271]

By and large, however, the Council's method of apportioning the nomination of block committee members was much more rudimentary. In blocks with large numbers of claimants the Council would often pair or group claimants sequentially according to their claim numbers, and allow each group or pair to nominate the same number of committee members. Thus sequential pairs of the 10 claimants to Kotuku could nominate one member each for the five-person committee.[272] The Motatau 5 committee of six was selected in the same way by the 12 Motatau 5 claimants,[273] while the 18 Taraire claimants were grouped into threes, with each group nominating one member of the six-person committee.[274] An uneven number of claimants was no barrier to this practice. In the case of Maungaturoto, where there were nine claimants, the Council ordered 'Two members to be elected by each three claimants in sequence'.[275]

Similar methods of apportioning the selection of block committee members were made in Mautakirua (seven claimants nominating seven committee members),[276] Kohatutaka (13 claimants nominating seven committee members in sequential pairs),[277] Kohewhata (the same formula as Kohatutaka),[278] Punakitere (11 claimants nominating five members in sequential pairs, albeit with the fifth member chosen by claimants 9-11),[279] and Pipiwai 2 (a committee of five, with one elected by each two claimants in sequence and a fifth by all eight claimants jointly).[280] It may well be that the Council became less bothered about working out the relative levels of support for claimants as time went by; a shift in approach seems discernible between the Kawakawa and Rawene hearings in September and October 1902 (where the Motatau 1-4, Whakarapa, and Waireia committees were set up) and the Kaikohe hearing in October and November the same year, where the Council was faced with a considerably

[269] TDMLC Minute Book 1, p 65 (#A49, vol 6, p 21871)
[270] TDMLC Minute Book 1, pp 67, 69, 70 (#A49, vol 6, pp 21873, 21875, 21876)
[271] TDMLC Minute Book 1, p 92 (#A49, vol 6, p 21896)
[272] TDMLC Minute Book 1, p 100 (#A49, vol 6, p 21905)
[273] TDMLC Minute Book 1, p 109 (#A49, vol 6, p 21914)
[274] TDMLC Minute Book 1, p 124 (#A49, vol 6, p 21929)
[275] TDMLC Minute Book 1, p 128 (#A49, vol 6, p 21933)
[276] TDMLC Minute Book 1, p 102 (#A49, vol 6, p 21907)
[277] The minutes state that a committee of seven would be chosen 'by each two claimants in sequence', but there were clearly only 13 claimants. TDMLC Minute Book 1, pp 133-138 (#A49, vol 6, pp 21938-21943)
[278] TDMLC Minute Book 1, p 145 (#A49, vol 6, p 21950)
[279] TDMLC Minute Book 1, p 148 (#A49, vol 6, p 21953)
[280] TDMLC Minute Book 1, p 165 (#A49, vol 6, p 21972)

greater volume of both cases and claimants. Nevertheless, it is worth repeating that the ability of the claimants to nominate committee members was a sharp contrast with the Native Land Court, where claimants to land had no say over the identity of the (Pākehā) judge.

Where there was only one claimant to a block, that individual appears to have been permitted to nominate all five committee members. This occurred, for example, in the case of Kopuakawau, Te Totara, Matihetihe, Orakau, Motukauri, and Pokapu 2.[281] The minutes do not make clear whether this was also the case with the Ruarangi block, which was claimed by Piriniha Arika alone. In that case, Arika was one of the five selected committee members.[282] As we shall see, the general idea was that block committee members should not be interested in the land in question, but this may well have been seen not to matter in the case of a block with no counter-claimants (Ruarangi was a burial place and all present supported Arika's evidence). This was clearly so with Motukauri, where the applicant, Hone Rameka, selected himself among the five members of the block committee.[283]

Overall, blocks with larger numbers of claimants tended to have more committee members. Leaving aside the solitary block with a committee of eight (none had nine), which was subject to only four claims, the eight committees of seven members had an average of 9.6 claims per block, while the 12 committees of six dealt with an average of 7.7 claims. The 68 committees that had the statutory minimum of five members, by contrast, had 3.6 claims to assess each. But despite this picture, it is clear that mathematical convenience, rather than the number of claimants, often determined the number of members on a block committee.

It seems, from the Russell sitting in September 1902, that applicants were initially able to nominate committee members who held interests in the land in question. There was nothing in the regulations to suggest that they could not. In any event, the minutes only made a point of noting that the (in each case) fifth member had no interest in the block. For example, in the Waikare case – discussed at 3.3 above – the Council referred at one point that 'the nomination of fifth member of committee who is (by consent) to be a disinterested party'.[284] In Te Ramaroa, the four nominees of Hone Pita and Mita Wepiha jointly nominated as fifth member Hetaraka Manihera, 'a disinterested person'.[285] This practice may have changed somewhat by the subsequent sitting at Whangaroa, where two of the nominees of the four Taupo claimants were noted to be disinterested (and another may perhaps be assumed to have been, since he lived at Ahipara). In any event, these four jointly nominated Hapeta Renata as fifth member of the Taupo committee, who was 'not interested in the land.'[286]

The fact of nominees being disinterested was more commonly mentioned at the Kaikohe sitting in October and November 1902. When the Taraire committee was elected, for

[281] TDMLC Minute Book 1, pp 31, 51, 93, 111, 143, 153 198 (#A49, vol 6, pp 21835, 21856, 21897, 21916, 21948, 21958)
[282] TDMLC Minute Book 1, p 164 (#A49, vol 6, p 21971)
[283] TDMLC Minute Book 2, p 143 (#A49, vol 6, p 22316)
[284] TDMLC Minute Book 1, p 20 (#A49, vol 6, p 21824)
[285] TDMLC Minute Book 1, p 28 (#A49, vol 6, p 21832)
[286] TDMLC Minute Book 1, pp 38-39 (#A49, vol 6, pp 21843-21844)

example, the Council minutes record alongside every name nominated by the six groups of three that the nominee was 'not a claimant'.[287] The same or similar qualification was made alongside the names of nominees for election to other committees, such as those for the Orakau, Maungaturoto, Otuhi 1, Otuhi 2, Tuataranui, Kohatutaka, Mataraua, Punakitere, Pakonga 2, and Whakakoro blocks.[288] But whether the practice was universal by this point is unclear. The status of nominees was often not stated (for example with respect to the Kotuku, Mautakirua, Maungakohatu, Rangihamama, Motatau 5, Makamaka, and Pokapu 2 committees),[289] and in the case of Kohewhata only one of the seven nominees was noted not to be a claimant.[290]

It may well be that Blomfield adopted the practice of noting the lack of any conflict of interest of committee members during the course of the Kaikohe sitting, but failed to note it on every occasion. This would appear the most logical explanation for why only one Kohewhata nominee was recorded as not having any interest in the block, although that nominee – Hone Mokena – was the only one whose place of residence was recorded (which was Mangakahia). In subsequent sittings mention of the lack of interest in the block in question by committee members was recorded only occasionally. In the case of Te Mimitu at Whangarei in October 1903, for example, all six elected members 'declared (themselves) not interested'.[291]

Regardless of these considerations, however, there is only one instance of nominated committee members being rejected by those interested in a block and assembled at a Council sitting. That occurred with respect to the Matauri block, where the Council ordered a block committee of six members to be comprised of one nominee of each of the four claimants and two to be elected by the four claimants jointly. The four individual nominees were all elected unanimously but the voting for the two joint nominees was 'equally for and against'. At Blomfield's suggestion these two men were withdrawn and, at the 'request of the whole meeting', the Reverend Herewini Paerata and the Reverend Hapeta Renata were nominated and unanimously elected in their place.[292] It seems that, in every other case of a block committee being set up, the nominees put forward by the claimants – whether individually or jointly – were given full support.

[287] TDMLC Minute Book 1, p 125 (#A49, vol 6, p 21930)
[288] TDMLC Minute Book 1, pp 115, 128, 132, 133, 138, 140, 148, 152, 154 (#A49, vol 6, pp 21933, 21920, 21937, 21938, 21943, 21945, 21953, 21957, 21959)
[289] TDMLC Minute Book 1, pp 103, 104, 110, 114, 115, 118, 153 (#A49, vol 6, pp 21908, 21909, 21915, 21919, 21920, 21923, 21958)
[290] TDMLC Minute Book 1, p 145 (#A49, vol 6, p 21950)
[291] TDMLC Minute Book 1, p 197 (#A49, vol 6, p 22004)
[292] TDMLC Minute Book 1, pp 46-47 (#A49, vol 6, p 21851-21852)

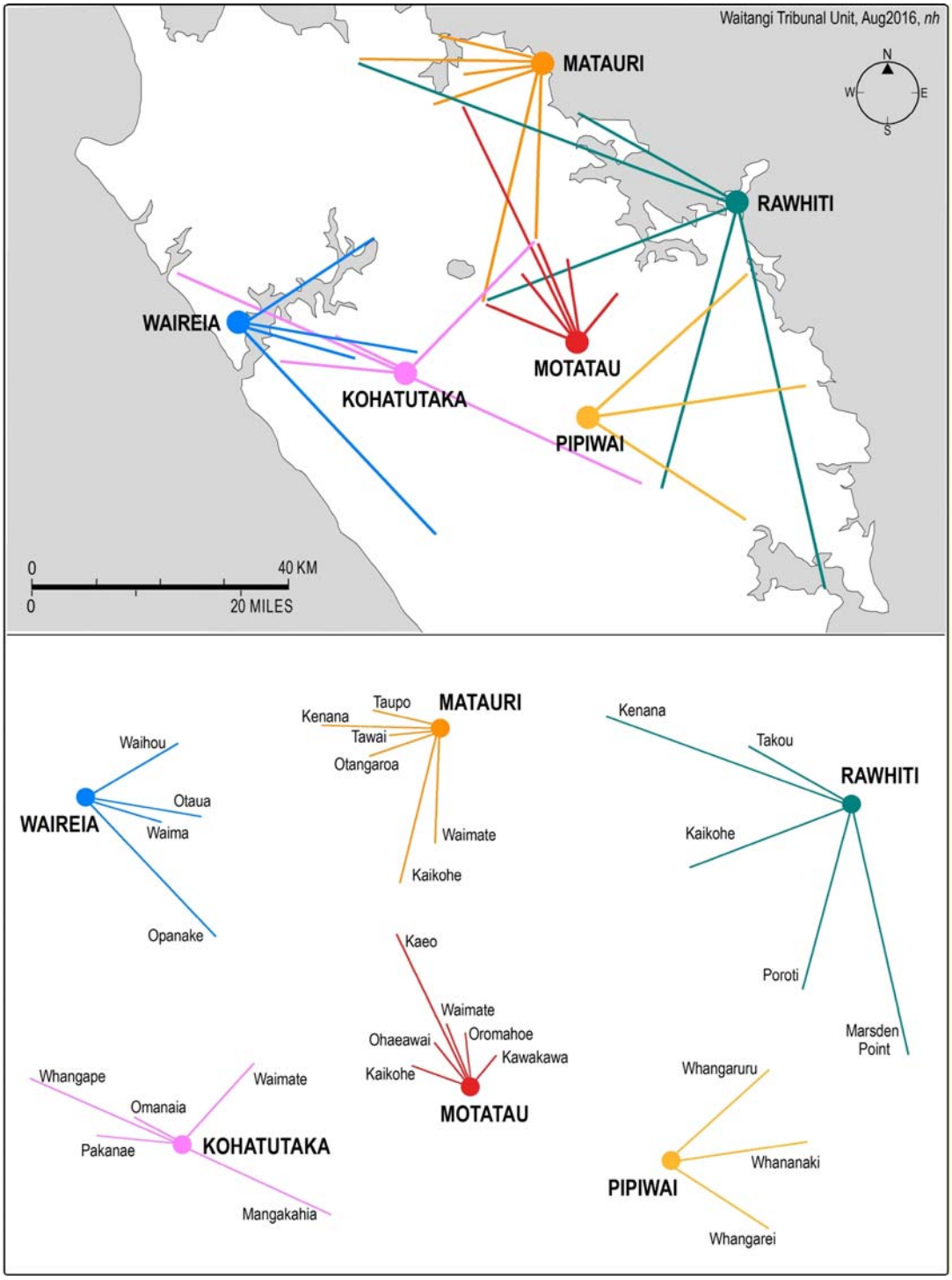

Figure 5: Recorded place of residence of block committee members for selected blocks[293]

The Council minutes often recorded where block committee members lived. The Kohewhata example invites the interpretation that this occurred to demonstrate the outside status of disinterested members, but there is inadequate corroboration of this. The information certainly suggests that many committee members did not live on or very near the block they

[293] Note that we have interpreted 'Waihou', where a Waireia committee member lived, as referring to Waihou upper rather than Waihou lower.

were investigating, although again the picture is quite complex. Table 9 shows the place of residence of committee members for a selection of blocks, while figure 5 depicts this visually for six of these blocks.

Table 9: Stated residence of committee members for selected blocks		
Block	**Approximate location**	**Residence of committee members**
Kahakaharoa	Panguru	Whirinaki (3), Kohukohu, Kaikohe
Kotuku	Kaikohe	Kerikeri, Kaikohe (2), Utakura, Whirinaki
Kohatutaka	Otaua	Whangape, Pakanae, Waima, Waimate (2), Omanaia, Mangakahia
Matauri	Whangaroa	Kenana, Kaikohe, Otangaroa, Waimate, Touwai, Taupo
Te Mimitu	Pakotai	Whangarei (2), Poroti, Dargaville, Waimate North, Marsden Point
Motatau 1-4	Motatau	Kaeo, Waimate North, Ohaeawai, Oromahoe, Kaikohe (2), Karetu
Pakonga 2	Waimate North	Waimate, Karetu, Utakura, Kaikohe (2), Whirinaki (plus one not stated)
Paremata-Mokau	Whangaruru	Waimate North (3), Rawhiti, Te Ahuahu
Pipiwai 2	Kaikou Valley	Whangarei (2), Whangaruru (2), Whananaki
Rawhiti	Bay of Islands	Kaikohe, Kenana, Porotī, Marsden Point, Takou
Ririwha	Whangaroa	Waimate North, Touwai, Kaeo, Pupuke, Hokianga
Te Roto	Aotea	Whangarei, Maunu, Porotī (2), Maungatapere
Taupo	Whangaroa	Kenana, Otangaroa, Ahipara, Taupo (plus one not stated)
Te Tii Mangonui	Takou Bay/Te Puna Inlet	Whangaroa (2), Te Ahuahu (2), Kaikohe
Tuataranui	Moerewa	Kaikohe (2), Otaua (3)
Waireia	Panguru	Opanake, Whirinaki, Waima, Waihou, Otaua
Whakakoro	Kaikohe	Punakitere, Kaikohe (4)
Whakarapa	Panguru	Opanake, Whirinaki, Otaua, Waipoua, Waimamaku

As noted above with respect to both Waihou and Whakarapa and Motatau 1-4, adjoining (or nearby) blocks with the same claimants and *take* were often considered by the same committee. Other examples include Kaikou 2 and 3 and Mangakowhara; the four Aotea blocks for which committees were set up in October 1903 (Te Roto, Motairehe Kawa, Onewhero, and Nimaru); Rawhiti, Poroporo, and Urupukapuka; Te Karae and Te Pukahu; Oriwa, Ruangarahu, and Huatau 2; and Taupo, Te Totara, Kaiwhai, and Hoahoaina.

In all, the 89 committees encompassed 477 committee positions, which were filled by 139 individual people.[294] On average, therefore, each individual who served on a committee was a member of 3.4 committees. Service on multiple committees was the norm, as table 10 shows.

Table 10: Number of committees served on by individuals	
Number of committees served on	**Number of individuals**
14	1
13	1
12	2
11	1
10	5
9	1
8	2
7	8
6	5
5	9
4	14
3	17
2	24
1	49

In other words, it was a minority of committee members that served on one committee only, with nearly half serving on at least three and ten individuals serving on ten or more.

Table 11 sets out the most frequently appointed committee members:

Table 11: Most frequently appointed committee members	
Name	**Number of committees appointed to**
Matiu Kapa	14
Hone Rameka	13
More Tukariri	12
Hori Rewi	12
Hone Weera	11
Hare Matenga	10
Hetaraka Manihera	10
Huirama Tukariri	10

[294] One committee member could not be identified due to illegible handwriting and is omitted from the table. The figure of 139 may be approximate if individuals' names were recorded differently in the Council minutes. It would in that case be the maximum number of individuals.

Table 11: Most frequently appointed committee members	
Name	**Number of committees appointed to**
Rawiri Te Ruru	10
Henare Matehaere	10
Hori Puriri	9
Aperahama Parangi	8
Te Waaka Hakuene	8

Image 8: Matiu Kapa, 1903[295]

When compared to table 7, it can be seen that there was little cross-over among the most frequent committee members and claimants. Only Hori Rewi features in the top 13 of each list, with seven claims and 12 appointments to committees. This should not obscure the fact, however, that it was quite routine for claimants to serve as committee members. In all, some 52 individuals played both roles, although in 22 of these cases the individuals had made only one claim each and in another 12 cases they had made only two claims. Rewi was simply

[295] Sir George Grey Special Collections, Auckland Libraries, NZG-19030530-1516-12

unusual in that he featured so regularly as both applicant and adjudicator. Matiu Kapa, who was appointed to more committees than anyone,[296] made no claims; both counts are presumably related to him being an Anglican clergyman. He was recorded in the Council minutes as serving as chair of six of the committees.

3.11 The absence of women from papatupu committees

While women often appeared as claimants (such as the aforementioned Marara Hirini, who laid claims to eight blocks, and Mate Monoa, who put in six claims), it appears that none served on committees. This is despite a news report from November 1900 that a Te Raki papatupu block committee was to be set up consisting 'of Maori women, whose names have been already selected with the unanimous consent of the hapus interested'.[297] It is not known which block this was and whether any steps were taken to establish such a committee. But, as it transpired, women do not appear to have been nominated as committee members, even by female applicants. This also contrasts with the attitude to the involvement of Māori women in land administration expressed by Kotahitanga leaders assembled at Papawai in June 1898. They had told Seddon that

> He tika noa atu te wahine whai take ki te whenua kia uru hei mema mo te komiti poraka, ma hiahia ki te uru, he tokomaha ke nga wahine mohio e whakahaere tika ana i o ratou hapu.[298]

The English text was as follows:

> It is but right and proper that women having an interest in land should be eligible as members of the block committee, should they so desire it, for there are many competent women who are quite able to administer affairs amongst their people.

Māori women's committees had been active around the country in the 1890s dealing with a variety of issues – including land – both as a formal part of the Kotahitanga movement and independently.[299]

It may be that Tai Tokerau Māori had been influenced by the negative attitudes of Pākehā men to women holding positions of authority and participating in any decision-making forums. While it dates from an earlier period, and is not specifically about Te Raki, an editorial in the government newspaper *Te Manuhiri Tuarangi and Maori Intelligencier* may well have been representative of such views. It was highly critical of women participating in tribal meetings:

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[296] Hone Rameka in fact served on 17, albeit with four of these appointments coming later, as a replacement for members who had resigned.
[297] Untitled editorial, *New Zealand Herald* and *Daily Southern Cross*, 23 November 1900, p 4
[298] AJHR, 1898, G-7, pp 2-3
[299] Atholl Anderson, Judith Binney, and Aroha Harris, *Tangata Whenua: An Illustrated History*, Bridget Williams Books, Wellington, 2014, p 364

> Ta te maori, me hui katoa, te iti te rahi, te tane te wahine, te koroheke te ruhi me te tamariki …; e uru katoa ana ki nga Runanga Maori, me o ratou whakaaro me o ratou korero; e whakatika una tenei wahine me ana korero ano, e whakatika ana hoki tenei taitamariki me ana ano … noho hu ana nga kaumatua, a he noa iho te mutunga.[300]

The English read:

> But with the Maori Runanga, all must assemble together, the small and the great, the husband, the wife, the old man, the old woman and the children …: these all obtain admittance to the Runanga Maori, with all their thoughts and speeches: this woman gets up and has her talk, and that youth gets up and has his … whilst the elder men sit still in silence, and so an erroneous decision is come to in the end.[301]

The idea of Māori women playing a role in opening up Māori land for settlement was a cause of mirth to the Premier. In the House in September 1905, in the debate on the Maori Land Settlement Bill, Opposition leader William Massey proposed that the Government should set up a committee to draft a Bill to 'settle the Native difficulty'. This committee would comprise Massey himself, W H Herries, two country Liberal members (Fraser and Houston), the Native Minister, 'and perhaps one of the Maori members'. Seddon was scornful in response:

> He named certain members and he included himself but I believe if you were to get a Committee of Maori *wahines* they would do more in the way of settling the question and giving us a satisfactory Bill than would the members the honourable gentleman mentioned; and the Maori people, and I believe, also, the European settlers, would be safer in the hands of a Committee of Maori women than in the hands of the Committee suggested.[302]

In any event, the absence of women from membership of the committees was in keeping with the relatively circumscribed role played by women in Native Land Court proceedings. According to Boast, there were some female claimants in the court but 'most witnesses and all conductors were male'.[303]

3.12 Costs to claimants and resources for the Council

As noted above, each admitted applicant (that is, those who did not withdraw their claims before the Council), had to pay a fee of 5 shillings. Council orders setting up committees carried a fee of £1. The Council minutes contain no mention of this latter charge at the first three sittings to set up block committees at Russell, Whangaroa, and Kawakawa, with it being first noted at the Ahipara sitting on 1 October 1902.[304] After not being mentioned again at the subsequent sitting at Rawene, it then became routinely noted in the Council minutes

[300] *Te Manuhiri Tuarangi And Maori Intelligencer*, 1 Akuhata 1861, p 10
[301] *Te Manuhiri Tuarangi And Maori Intelligencer*, 1 Akuhata 1861, p 10
[302] NZPD, vol 135, 27 September 1905, p 247
[303] Boast, *Buying the Land, Selling the Land*, p 83
[304] TDMLC Minute Book 1, p 74 (#A49, vol 6, p 21880)

whenever the membership of a block committee was confirmed. Since it formed part of the regulations, however, it is almost certain that it was collected in every instance.

At the end of the May 1903 Whangarei sitting, Blomfield recorded that £18 in total had been collected in fees.[305] This stemmed from 44 claimants paying 5 shillings each and seven block committees being set up with a £1 fee for each. The £18 amounts to around $3,000 in today's money.[306] At the end of the Russell sitting the following month Blomfield likewise noted that the £8 10s due in fees had been received.[307] This amount stemmed from five block committees having been set up to consider a total of 14 claims.

Altogether it can be calculated that, from 1902 to 1905 (but almost entirely within the period from September 1902 to October 1903), the Council took in £193 from 416 claimants paying 5 shillings each and 89 committees being set up at £1 each. This amounts to approximately $32,000 in contemporary value, which would hardly have met the Council's expenses. The Councils were expected to be self-financing, but struggled to generate much revenue.[308] Armstrong and Subasic note that their principal source of income became collection of the controversial dog tax.[309] As the *Poverty Bay Herald* remarked in January 1901,

> The financial position of the Council is abnormal; no finance and no system of finance is propounded by the [Maori Lands Administration] Act, no funds are provided for any of the numerous expenses for which the Council will become responsible. The very first step to be taken, namely, the election of the Maori members, provided for in the fourth paragraph of the regulations, will necessarily entail expense, and there are no funds from which such expenses can be defrayed. Again the election of Papatupu Block Committees is subject to the same infirmity. For all the working of the Councils and Committees, for rent for offices, for payment of salaries, and for all the hundred and one demands which will be made upon the purse of the Councils and Committees no provision is made.[310]

In such circumstances the Councils were hardly likely to be able to fund the activities of the block committees. Methods of financing the committees' activities are returned to in chapter 5.

When Blomfield reviewed the regulations in December 1901, he wrote to Sheridan to say that he could see 'no indication as to how the initial expenses of the Council (the first meetings) are to be defrayed, but possibly a careful examination of the Act will disclose this'.[311] It is not known how Sheridan replied.

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[305] TDMLC Minute Book 1, p 169 (#A49, vol 6, p 21976)
[306] This calculation was made using the Reserve Bank's inflation calculator at http://www.rbnz.govt.nz/monetary-policy/inflation-calculator.
[307] TDMLC Minute Book 1, p 184 (#A49, vol 6, p 21991)
[308] Loveridge, *Maori Land Councils and Maori Land Boards*, p 35
[309] Armstrong and Subasic, 'Northern Land and Politics', p 1407
[310] 'Maori Lands Administration Act', *Poverty Bay Herald*, 15 January 1901, p 2
[311] E C Blomfield to P Sheridan, 30 December 1901. Archives New Zealand file ADYU 18191 MA-MLA1 2 1902/1

3.13 Tautoro (or Motatau 5) and Iraia Kuao's resistance to the setting up of a block committee

While it is covered elsewhere in the Te Raki inquiry research by Armstrong and Subasic[312] and, particularly, Clayworth,[313] the Tautoro or Motatau 5 block requires special mention here. This is because it involved the one direct and pointed challenge to the authority of the Government to provide for a title to be ascertained via the work of a papatupu committee. It also involved threats of violence and a heavy police response to the Māori resistance, and showed that not all Te Raki Māori embraced the opportunity offered under the new regime.

Tautoro was the home of the aforementioned Iraia Kuao, who not only had declined to take up his elected position on the Council but who was also absent when the Motatau block boundaries and divisions were considered by the Council at its September 1902 sitting at Kawakawa. Block committees for Motatau 1-4 were set up at Kawakawa, but Motatau 5 came before the Council at Kaikohe on 23 October 1902. Kuao had made it clear that he did not want the block to go through a committee appointed by the Council. Apparently for this reason, therefore, when Motatau 5 was called Huirua Tito of Poroti asked that the setting up of a committee be adjourned until the following morning 'For the sake of a peaceable arrangement between us all'.[314]

The Council consented, and the next day Tito asked that the claim stand down. He explained that 'We would like to withdraw the application in order that our elders may decide as to the owners.' Blomfield first wished to know if there were other claimants, and nine came forward to assert their claims.[315] Later the same day Tito joined with one of these, Arapeta Haami, and three others also asserted claims, to make a total of 12. The Council ordered a committee of six members, which was duly elected on 25 October. The chairman, Hori Kakuere, gave notice that the first sitting of the Motatau 5 committee would be on 1 December.[316]

In other words, Kuao's desire for the block to be investigated independently of the system provided by the 1900 legislation was rejected both by Blomfield and a number of other claimants. On 1 November 1902, Tirarau Perepe, Kuao, and 19 others petitioned the Native Minister asking that the investigation by the block committee not proceed. Their view was that there had as yet been no application for an adjudication into the title, and indeed that Tautoro had been added to 'Motatau' (which had been included in the *Kahiti* notice for the

[312] Armstrong and Subasic, 'Northern Land and Politics', pp 1434-1440
[313] Clayworth, 'A History of the Motatau Blocks, c.1880-c.1980'
[314] TDMLC Minute Book 1, p 98 (#A49, vol 6, p 21903). It is not clear if Kuao was present. The Council minutes do not mention him being so, but Constable T Cahill's report of 2 May 1913 on the 'land trouble at Kaikohe' states that Kuao was present on the morning of 23 October. Cahill may well have been in error. Document A12(a) vol 15, p 100 (document bank reference 8: 69a)
[315] TDMLC Minute Book 1, pp 104-106 (#A49, vol 6, pp 21909-21911)
[316] TDMLC Minute Book 1, pp 108-109, 115 (#A49, vol 6, pp 21913-21914, 21920)

Kawakawa sitting) by Blomfield without any authorisation.[317] Perepe asked, in a covering letter, that Tautoro be left to the owners to settle:

> me waiho ma matou ano e whakariterite ra waho i runga i te ritenga hui Maori kia oti ka tuku ai e matou te Ripoata ki te Kaunihera Whenua, hei reira ka rite ano na te Komiti Papatupu he wehi no matou kei eke he tau wehewehenga ki runga i a matou.[318]

This was translated as a request that Tautoro

> be left to ourselves to settle (the title to the said … land) by voluntary arrangement per the medium of Maori meetings, and when we have so finished the matter we will then forward our report to the Land Council, thus it will be the same as though the Papatupu Committee had dealt with (the said land), for we are afraid (that otherwise) divisions of opinion may arise amongst us'.[319]

It seems that, at the same time, Kaka Porowini was endeavouring to convince Kuao to join the Council process, albeit to no avail. On 7 November Kakuere asked the Council if Porowini could now put in a claim to Motatau 5 himself, explaining that

> he has exhausted himself in following Iraia Kuao & others round and trying to persuade them to put in a claim. He wants to put in a claim now for fear of being too late.
>
> I ask on the ground that he has tried to persuade these opposers, and now would put in a bona fide claim.[320]

Nine other Motatau 5 claimants were present and agreed to Porowini's inclusion as well as the election of an additional block committee member. Blomfield thus consented to amend his order and Matiu Kapa was added as a seventh member of the committee.[321]

Kuao did win a compromise, however, when two unofficial committees – a kaumātua committee led by Kuao and a committee of younger men chaired by Matiu Kapa – met on 27 January 1903 to define the boundaries of the different claimants to the Tautoro block.[322] According to a later report by the local police constable,

> Kuao pointed out all the boundaries and showed each claimant his share. They all agreed to this and were quite satisfied with the position given to them provided it was confirmed by the Maori Council Committee. To this Kuao objected as he thinks no one has a right to deal with the land except himself. He does not recognise the law in the matter hence the trouble.[323]

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[317] Armstrong and Subasic, 'Northern Land and Politics', pp 1434-1435; document A12(a) vol 15, pp 95-96 (document bank reference 8: 67b-c)
[318] Document A12(a), vol 15, p 97 (document bank reference 8: 68a)
[319] Document A12(a) vol 15, p 94 (document bank reference 8: 67a)
[320] TDMLC Minute Book 1, p 154 (#A49, vol 6, p 21959)
[321] TDMLC Minute Book 1, p 155 (#A49, vol 6, p 21960)
[322] See Clayworth, 'A History of the Motatau Blocks, c.1880-c.1980', pp 76-78
[323] Document A12(a) vol 15, p 102 (document bank reference 8: 69c)

In due course, on 17 April 1903, Kuao threatened to 'shoot every one of the claimants who attempted to go on with their claims'. Kuao's position is recorded in the Motatau papatupu committee minute book:

> Iraia Kuao: … Kua mea au kia haere nga keereme kia roherohea te whenua, kaore nei i whakaae, ka ara te Pakanga ki tenei whenua … Kaore au e korero ko wai kei te tautoko i taku tikanga. Ka ara i a au te mau patu he pu, aku patu mo nga keereme mo taku whenua. [324]
>
> [Iraia Kuao: … I say that if the claimants go to partition the land, I won't agree, and there will be fighting on this land … I will not say who supports my position. I will take up arms, guns will be my weapons for the claimants and for my land.]

THE MEN WHO CAUSED THE TROUBLE—KUAO AND HIS FOLLOWERS.—Kuao is the old man with the white beard sitting in the front row in the middle of the photo.

Image 9: Iraia Kuao and his followers, 1903[325]

The committee was adjourned until the arrival of the Native Minister, James Carroll who visited Kaikohe on 29 April (image 9 was quite possibly taken at Carroll's meeting with Kuao). Kuao asked him directly to have Tautoro withdrawn from the block committee. Carroll instead urged Kuao to join the process with the other claimants, to which Kuao responded by refusing and leaving 'very abruptly'. The block committee met the next day

[324] Papatupu minute book 27, p 8 (Wai 1040 document #A54(b), p 3119). See also 'The Land Dispute at Kaikohe', *New Zealand Herald*, 25 April 1903, p 3

[325] *New Zealand Graphic*, 16 May 1903. Sir George Grey Special Collections, Auckland Libraries, NZG-19030516-1366-1

and decided to adopt the boundaries laid down by the January committees, and adjourn until September to give the parties time to prepare their lists.[326]

That was by no means the end of the Tautoro drama. As Armstrong and Subasic relate, Kuao was arrested in advance of the September resumption of the block committee's sitting for fear of what action he might take. Ultimately, Armstrong and Subasic conclude that Kuao's position was based on the principle that 'it was his preserve to deal with his hapu's land, and not expose it to instruments of Government authority', including even the block committees. But in this Kuao was an isolated figure, as most Te Raki rangatira had chosen to embrace the block committee process.[327]

During the setting up of the block committees, Blomfield suspected Kuao's influence spread wider than just Tautoro. For example, when the 10-acre Orakau block at Mangakahia came before the Council at Kaikohe on 24 October 1902, the claimant, Arapeta Whare, asked to withdraw his claim. Blomfield wrote that he was 'probably influenced by Iraia Kuao who is endeavouring to block work'.[328] Indeed, Hirini Taui told the Board in August 1906 that he had wanted to make a claim for Orakau but

> Iraia Kuao prohibited me from setting up any case for land within the boundaries of his Rohepotae. Arapata Whare withdrew his case on account of that prohibition by Iraia Kuao. … Iraia Kuao & the others threatened to shoot me if I set up a case.[329]

As we shall see in the next chapter, Kuao eventually joined the Tautoro committee process and indeed wielded great influence over it – so much so, in fact, that his death in 1905 was regarded by various other claimants as an opportunity at last to undo the arrangements he had set in place.

3.14 Conclusion

The first Tokerau Maori Land Council president, Edward Blomfield, insisted on conducting an early tour of the principal centres of Māori population in the north to acquaint locals with the new Council and the legislative provision for block committees. He found that many Te Raki Māori knew nothing of the new regime and regarded it suspiciously as another means by which they might be deprived of their lands. However, the assurances of Blomfield and his three Māori colleagues on the Council must have been reasonably persuasive, because a large number of applications were soon filed for block committees to be set up, and such numbers of people turned up to the Council sittings that adjournments constantly had to be made from the local courthouse to public hall to accommodate them. Blomfield reported enthusiastically that Te Raki Māori were at last allowing title adjudication over areas of 'magnificent' land that had long been withheld from the land court.

[326] Document A12(a) vol 15, pp 101-103 (document bank reference 8: 69b-d)
[327] Armstrong and Subasic, 'Northern Land and Politics', p 1440
[328] TDMLC Minute Book 1, p 111 (#A49, vol 6, p 21916)
[329] TDMLC Minute Book 1, pp 85-86 (#A49, vol 6, pp 21889-21890)

The Māori members of the Council were usually involved in claiming papatupu land themselves, and it was invariably arranged that any Council member interested in land coming before the Council would not sit at that hearing. More often than not, there were fewer than four claimants for each block, and lower numbers of claimants were a characteristic of certain districts, such as Whangaruru, Whangaroa, and Aotea. Blocks for which committees were set up at Kaikohe and Kawakawa, by contrast, tended to have much larger numbers of claimants. This partly reflects the larger size of some of those blocks, but it also relates to the traditionally highly contested nature of blocks such as Taraire and Kohewhata.

As envisaged by Hone Heke in 1899, the grounds of claim asserted were focused upon ancestry, occupation, conquest, and gift, although there was little mention of aroha as a *take* to the land. Heke had also contemplated that claims might be based on 'all other conditions, modern or old, under Native custom or otherwise',[330] and so it proved, with many *take* reflecting the modern environment, including relations with Pākehā. Thus claimants often asserted that they had leased the land or part thereof to Europeans for grazing or timber-cutting, or indeed that they had taken action to prevent Pākehā from digging gum or cutting timber on it. The presence of churches and fences was asserted as a *take* to the land, and sometimes claims were based on the fact that the land had been purchased from other Māori. The new regime thus represented a significant contrast with the Native Land Court, which was interested only in who held customary rights in 1840.

The Council's method of selecting committee members was occasionally based on the proportionate support in evidence for each party of claimants, but was usually – and perhaps increasingly, with time – calculated on a much more simple basis. Claimants were numbered off and asked to elect committee members in pairs or threes so that the total number of committee members added to five, six, or seven. By and large, however, claimants did not object to this method, with only one instance of nominated committee members being rejected by those assembled. Another inconsistent aspect of the Council's methods was whether the committee members should have no interest in the land themselves. At times the Council made a particular point of noting this, but at others it did not. The initial idea may have been that the opposing sides would select even numbers of members and all claimants together would select a neutral member, but it is difficult to detect a clear pattern in procedure.

In any event, the ability of the claimants to the land to select those who would investigate the land's title was another fundamental departure from the land court, where of course claimants had no say in the identity of the Pākehā judge that would hear their claims.

In all, some 139 individuals served as committee members, with 49 being appointed to one committee only and one being appointed to 14. The extent of cross-over between these 139

[330] AJHR, 1899, I-3A, p 27

committee members and the 192 individuals who made claims appears to be 52 people. In other words, it was reasonably commonplace for claimants to take their turns serving as committee members elsewhere. Women were often claimants but were never, as far as we can tell, appointed as committee members.

Altogether it appears that the opportunity offered by the committee system was taken up willingly by Te Raki Māori, with perhaps the majority of remaining papatupu land in the district becoming subject to a block committee investigation. The notable exception to this enthusiasm was at Tautoro, where the old rangatira, Iraia Kuao, resisted any investigation of title by a papatupu committee. He preferred the land to be adjudicated independently, on his terms, and threatened violence against anyone who defied him. The Government took this seriously and Kuao and his supporters were arrested when the Tautoro block committee was due to sit in September 1903. Kuao later appeared to come into the fold, but managed to do so in such a way as to wield great influence over the committee's decision, as is set out in chapter 4.

Chapter 4: The general course of block committee inquiries

4.1 Introduction

The previous chapter looked at the establishment of the block committees in Te Raki, a process that was all but complete by the end of 1903. This chapter – the first of two considering the operation of the committees themselves – concerns the general course of the committee inquiries and the nature of some of the evidence presented to support claims. As noted, we had available to us some 38 extant minute books, with these comprising 8,000 pages of administrative matters, claims, evidence, and decisions, and either partially or fully covering 61 hearings of papatupu committees.

In this chapter we discuss the basic mechanics of the committee process, including the roles of members and clerks, the taking of oaths, the venues used, the hours kept, and so on. We also spend some time on setting out both the kinds of *take* asserted by claimants to the land and the frequent outside agreements made by the parties and indeed requested by the committees. We also explain how committees presented their decisions to the claimants, and note the opportunities that existed at that point for objections to be made. Our next chapter will go on to explain some of the challenges the committees faced, in terms of funding, disputes, absences, and delays.

This chapter addresses questions 2(a), 2(c), 2(d), and 2(e), of the research commission, concerning how the committees functioned in relation to the Council and Board; how widely the opportunity offered by the committee system was taken up; how the committees operated in practice; what the nature of the evidence was that was put before the committees; and how their operation reflected Māori priorities.

4.2 Venues and preliminary administrative matters at committee sittings

It is not always clear where exactly the block committees sat; in most cases merely the general location of the sitting is recorded in the minutes, such as Kaikohe, Te Karaka, or Touwai, rather than the specific venue. We do know, however, that the Mahimahi committee met in 'Te Whare Kooti i Matauri Bay',[331] the Maungaturoto committee convened in the 'Ohaeawai whare kooti',[332] the Kaikou 2 committee met in 'Te Horo Kaikou',[333] while the Mataraua committee sat in 'Te Hooro Kaikohe'.[334] Like Council sittings local courthouses and halls seemed to be the preferred venues rather than rūnanga house, perhaps because of their perceived neutrality.

[331] Papatupu Minute Book 4, p 5 (#A54(b), vol 1, p 10)
[332] Papatupu Minute Book 49, p 264 (#A54(b), vol 36, p 7769)
[333] Papatupu Minute Book 51A, p 1 (#A54(b), vol 38, p 8004)
[334] Papatupu Minute Book 48, inside cover (unpaginated) (#A54(b), vol 35, p 7204)

Kaikohe appears to have been the most popular location, with Ohaeawai also a common venue. The five committee members selected by Hone Rameka for Motukauri, an island in the Whangaruru Harbour, lived at Te Ahuahu, Waimate (including Rameka himself), and Kerikeri. Despite its distance from Whangaruru, Rameka proposed Ohaeawai as the venue for the committee's sitting, as 'that is the convenient place'.[335]

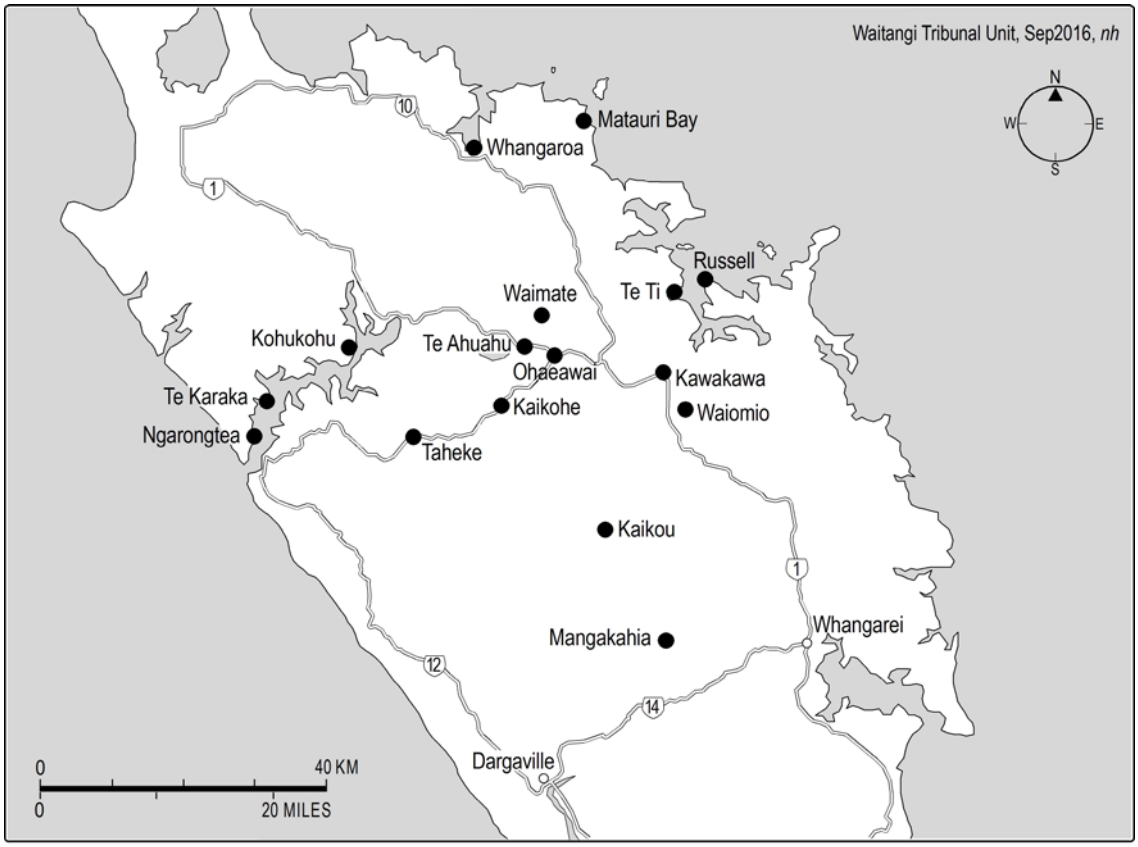

Figure 6: Known locations of block committee sittings

The committees confined themselves to matters related to the investigation of title. The only exception to this we have seen in the minute books is a local Pākehā, Gilbert Lane, requesting of the Waikare committee 'he huarahi hei utunga i nga nama a nga tangata o Waikare ki ia' [a way to settle the debts owed to him by Waikare people]. The committee decided that these debts would be settled through money generated from gum-digging on the Waikare block.[336]

Hearings often commenced with the committee first ensuring it had a quorum of members and, secondly, that there was a 'karaka' or clerk. As will be seen in chapter 5, there were often absences in this regard, which caused delays. Members were also required to take an oath. In the case of Kohatutaka, this was as follows:

> Whakaoatitanga o nga Mema

[335] TDMLC Minute Book 2, p 143 (#A49, vol 6, p 22316)
[336] Papatupu Minute Book 12, p 172 (#A54(b), vol7 7, p 1622)

> Ko matou e mau nei o matou ingoa i raro iho nei e oati ana e mea ana ka pono tonu ta matou mahi e kore matou e whakahoa, a ka whakapaua e matou to matou kaha to matou matauranga me to matou mohiotanga ki te whakahaere i te tika, a ki te whakatutuki hoki i nga mana i nga tikanga me nga mea katoa kua tau nei ki a matou i runga i toku [tohu?] hei Mema mo te Komiti Papatupu i raro i te mana o te Ture Whakahaere i nga whenua Maori 1900
> He mea oati e matou ki Taheke i tenei te 3 o nga ra o Pepuere 1904 i toku aroaro …[337]
>
> [Swearing of Members
> We who have attached our names below swear that we shall carry out our work in good faith, that we shall not show favouritism and that we shall exert our efforts, our knowledge and skills to administer what is just and to carry to completion the jurisdictional matters and procedures that have been given to us as members for the papatupu committee pursuant to the Native Lands Administration Act 1900.
> An oath taken by us at Taheke on the 3rd of February 1904.]

The oath was signed by the members four days later.

The principal claimants were also identified and encouraged from the outset to go outside to make agreements amongst themselves. This included to 'whakakopi' or to consolidate the number of claims. We discuss this in more detail later in the chapter.

The minutes of the Punakitere 4 committee give us some insight into the manner in which papatupu committees began their proceedings:

> Ka puare te nohoanga o te Komiti ... Ko te wahi tuatahi ko te Panui i nga whakahaere a te komiti mo tenei ra. Mo te wahi kite Pirihimana me te wahi ki te Karaka o te Komiti. Me te uiui i nga rohe o te Poraka katoa. Me te tono kia maharatia nga pihi takoto marama kei roto i tenei Poraka kahore nei i keremetia mai. Me te mahara ki nga keehi whakauru.[338]
>
> [The committee opened ... the first matter was reading out the arrangements for the day. There was the matter concerning the policeman and the matter concerning the clerk of the committee. And the questioning of the boundaries of the complete block. And the request to consider those pieces which are clearly known and not contested. And to consider the participating claims.]

The minutes go on to note 'Nga Ruri mo te Mahi Whakawa' [The Rules for the Hearing] including 'E kore e whakaaetia nga urunga maha o ia tangata o ia tangata kotahi ki roto ki te katoatanga o nga keehi' [It shall not be permitted that an individual person can be a party to all of the cases].[339]

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[337] Papatupu Minute Book 44, p 124 (#A54(b), vol 32, p 6539)
[338] Papatupu Minute Book 39, p 47 (#A54(b), vol 27, p 5701)
[339] Papatupu Minute Book 39, p 47 (#A54(b), vol 27, p 5701)

4.3 Claimants' grounds of claim

4.3.1 Comparison with the statement of take *to the Council*

As with the formal statement of claims to the Council for the purpose of having the committees set up, block committee hearings generally began – after the opening preliminaries – with a recitation by each claimant of their grounds of claim. We can see from the committee minutes that it was possible for new claims to have been added beyond those confirmed by the Council. In the case of Maungakawakawa, for example, six individuals had laid claim before the Council at Kaikohe on 28 October 1903,[340] but when the block committee sat a year later Pukeatua Te Awa and Akuhata Haki also appeared as claimants.[341] In the case of Te Wawa, too, Arapeta Hami was an additional claimant before the block committee in November 1904 to the five who had laid claims before the Council in October the previous year:[342]

> Ka oti te panui atu nga kai kereme tuatahi i roto i te oota ka tonoa nga tangata e whakaara kehi mai ana ano
> Ka tu mai ko
> 1. Arapeta Hami
> ko Ngatititerehu hapu
> ko Tapuhi te Tupuna[343]
>
> [When the first lot of claimants from the order were read out, those persons wishing to also bring claims were called for
> Thence stood
> 1. Arapeta Hami
> Ngatiterehu is the hapu
> Tapuhi is the ancestor]

By and large, however, it appears that the number and identity of the claimants remained the same.

So too were the grounds of claim sometimes different, or at least recorded differently by the block committees from the record made by the Council. For example, Taniora Te Korohunga was recorded by the Council as claiming Maungakawakawa on the basis of ancestry and 'occupation right down to the present',[344] but the block committee noted his *take* more expansively as

[340] TDMLC Minute Book 1, pp 204-205 (#A49, vol 6, pp 22012-22013)
[341] Papatupu Minute Book 41, pp 4-6 (#A54(b), vol 29, p 6154-6156)
[342] Papatupu Minute Book 26, p 9 (#A54(b), vol 15, p 2984); TDMLC Minute Book 1, pp 200-201 (#A49, vol 6, pp 22008-22009)
[343] Papatupu Minute Book 26, p 1 (#A54(b), vol 15, p 2978)
[344] TDMLC Minute Book 1, p 204 (#A49, vol 6, p 22012)

> 1. He mana 2. He ahi ka tonu 3. wahi Tapu 4. He pa 5. He ringa kaha 6. he noho tonu mai i nga tupuna tae noa mai ki naianei[.][345]
>
> [1. Mana 2. Occupation 3. Sacred sites 4. Fortified villages 5. Strong arm 6. Permanent settlement from ancestors down to the present.]

In most other cases the *take* were similar, with smaller variations. In the case of Wiroa, Hiramai Piripo's grounds of claim were recorded by the Council as

> 1. Conquest by Auwha and Whakaria 2. Strong arm 3. A burial ground called Wi Roa 4. Constant occupation 5. The mana of a chief over the land'[.][346]

The Wiroa block committee recorded Hiramai's *take* as

> He Raupatu; He Ringa Kaha; He Mana Rangatira mai i aku Tupuna tae noa mai ki a aku matua wahine; He Ahika; He wahi tapu[.][347]
>
> [Conquest; Strong arm; Chiefly authority from my ancestors down to my mother's generation; Occupation; sacred sites.]

In general, however, the grounds of claim put to the committee were – like those put to the Council – the same 'well-known stock of *take*', as McRae described them.[348] We set out over the following pages examples of the kinds of claims laid by Te Raki Māori, quoting from their testimony to the committees wherever possible.

We note first that, as in the Native Land Court, some claimants were their own 'kaikorero' and 'kaiwhakahaere' (or spokespersons and conductors) for their cases, while some relied on the expertise of others. A key feature also of the land court was the use of professional lawyers and land agents. From what we have seen lawyers and agents did not appear before the papatupu committees, and nor either does it appear that they appeared for papatupu claimants before the Council.[349] Claimants, having taken an oath before the committee ('Whakaoti-tanga ki te aroaro o te Komiti'[350]) then went on to substantiate their *take* with historical narrative much the same way that sworn evidence was given in Native Land Court hearings.

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[345] Papatupu Minute Book 41, pp 5 (#A54(b), vol 29, p 6155)
[346] TDMLC Minute Book 1, pp 58-59 (#A49, vol 6, pp 21864-21865)
[347] Papatupu Minute Book 19, p 3 (#A54(b), vol 9, p 1739)
[348] McRae, 'Participation', p 71
[349] In the case of Paremata Mokau block, Hone Pita objected to the appearance of Kipa Roera, explaining that 'The former President did not allow Maori lawyers or agents to appear. Kipa Roera is a well-known agent from the South.' Kipa Roera was not interested in the land himself, but was acting for Waitapu Pokai. Roera explainded that his wife was concerned with the land, and was a third cousin to Waitapu. Edger ruled that 'A man cannot be prevented from appearing for his wife.' TDMLC Minute Book 2, pp 170-171 (#A49, vol 6, pp 22343-22344). Kipa Roera was from Ngāti Raukawa ki te tonga and a grandchild of the famed chief Te Akakaramu.
[350] Papatupu Minute Book 48, p 6 (#A54(b), vol 35, p 7212)

4.3.2 An example: Hiramai Piripo's claim to Wiroa under raupatu

Hiramai Piripo, 'oati' or under oath, went on to substantiate his claim to Wiroa in terms of raupatu by detailing events surrounding the actions of his ancestors Auwha and Whakaaria after the death of their sisters. We dwell here on Hiramai's evidence and quote several extracts:

> Ka tae atu te karere kua mate a Whakarongo te patu i kora. Ka karangatia te hui ki Pakinga ka eke nga Rangatira katoa o N'Puhi ki Pakinga … ka kiia i kona kia mate te tangata me te whenua hei utu mo te kohurutanga o Whakarongo. Ka tukua te karere kia Kauteawha me te ki atu kua heke te toto inaianei mo te kohurutanga o Whakarongo. No tena wa ka whakatika mai a N'Puhi ka whawhaitia te whenua nei.[351]
>
> [The messenger arrived to say that Whakarongo was dead, that she had been killed. Thus a gathering was called for at Pakinga. All the chiefs of Ngapuhi came to Pakinga ... it was decided there that man and land would be the payment for the murder of Whakarongo. A messenger was sent to Kauteawha to tell him blood had been shed now for the murder of Whakarongo. At that time Ngapuhi prepared to fight over this land.]

Ngapuhi subsequently attacked the pā of Ngati Miru and Te Wahineiti (namely Pahangahanga, Taumatatungutu, Whakataha, Okuratope, and others), while the survivors fled to Opuawaka. Thence 'ka nohoia tuturutia tenei whenua katoa a te Waimate puta noa e nga hapu i whakaekea ai aua Pa nei'[352] [all this Waimate land was permanently settled by the hapū who took those pā.] Hiramai then contended that, three or four years later, Auwha and Whakaaria became worried that the remnants of Ngati Miru and Te Wahineiti would 'whakatuputupu' or increase in numbers and seek revenge. They sought the assistance of Kauteawha of Ngati Rahiri to attack them. They would travel inland ('ko nga hapu o Tuawhenua me ra uta') while Kauteawha would take the coastal route ('me ra moana'). After commenting on the success of the expedition in taking the pā Rakauwhakapakeke, Maramatautini, and Opuawaka, Hiramai stated that

> Ko te matenga tena o taua mana atu i konei tae noa ki te moana … Ka mutu te whawhai. Ka puta te kupu a Auwha, a Whakaaria ki a Kauteawha. Ko koe i ra te moana mai, ki a koe te mana o te moana. No reira tenei whakatauki, Ka ngaru te moana o Mangonui 'Ka Tia N'Rahiri'.[353]
>
> [That was the end of the mana here through to the sea ... The fighting ended. Auwha and Whakaaria said to Kauteawha, 'You came via the coast here so you shall have the authority

[351] Papatupu Minute Book 19, pp 10-11 (#A54(b), vol 9, pp 1746-1747)
[352] Papatupu Minute Book 19, p 11 (#A54(b), vol 9, p 1747)
[353] Papatupu Minute Book 19, p 12 (#A54(b), vol 9, p 1748)

over the waters.' Hence the proverb, when the waves are high on the water at Mangonui, then it is said that Ngati Rahiri is out paddling.][354]

Based on this evidence, Hiramai concluded that

> Ka riro mai te whenua na i te mutunga o te Raupatu. Ka pumau tena whenua kia Auwha raua ko Whakaaria tae noa mai kia raua uri kia Te Hotete, kia Paengatai.[355]
>
> [The land was acquired through confiscation. That land was made permanent for Auwha and Whakaaroa through to their descedants Te Hotete and Paengatai.]

Hiramai also described his 'take ringa kaha' or the strong arm when Titore successfully defeated a plan by Whitirua to kill him as revenge for Ngati Miru and Te Wahineiti:

> Ka haere mai a Whitirua ki te patu i a Titore he morehu taua tangata no N'Miru no Te Wahineiti, ko te take mo te rironga i to ratou whenua me to ratou mate ko to ratou whakaaro me kohuru a Titore. Kihai i puta taua whakaaro ... No reira ka whakahaua e Titore kia whakaekeina te pa o te Mounga i Rangaunu. Rokohanga atu e te ope a Titore e noho ana a Whitirua i roto i te pa o te Mounga. Ka whakahaua e Titore kia patua a Whitirua, ka patua ka mate ka maua e nga tangata o Titore ki tahaki atu o te pa takahia ki te repo i Waihirore hoi hore rawa he pakanga i ara mo tena tangata. Ka mutu tena ka takoto rangimarie ano te whenua na i muri i tena. Ka tuturu tonu te mana o Titore ki taua whenua.[356]
>
> [Whitirua came to kill Titore, that man was a survivor of N'Miru and Te Wahineiti as their land had been taken and many killed so they thought they would murder Titore. They were not successful with that plan ... Thus Titore ordered his people to attack the pā of Mounga at Rangaunu. Titore's war party happened upon Whitirua in te Mounga pa. Titore ordered him killed, which he duly was. Titore's men took him outside of the pā and trampled him into Waihirore swamp. Now there was no further warfare over that man. When that affair ended, peace again reigned over the land. Titore's mana over that land was permanent.]

4.3.3 Claiming under traditional take

Hiramai was a descendent of Titore. In most cases, claimants claimed *take* tupuna or ancestral right, from either a male or female ancestor. For example, in the Matawaia case, Hohepa Kiwikiwi of Ngarehauata claimed land under the tūpuna Te Ringanui and Torekaa, while Erika Kauwhata of Ngati Tirangi set up Te Huha as the ancestral right. Hirini Taui of Ngati Tikiriahi claimed under the ancestor Taake while Erueti Kingi of Takotoke and Ngati Tirangi claimed under Hamu.[357] In most cases, claimants would go on to recite their whakapapa or genealogical connection to such ancestors, some in much detail. A note to the

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[354] For the translation of the proverb we have used Merata Kawharu's *Tāhuhu Kōrero: The sayings of Taitokerau*, Auckland, Auckland University Press, 2008, p 45 (saying no. 12).
[355] Papatupu Minute Book 19, p 13 (#A54(b), vol 9, p 1749)
[356] Papatupu Minute Book 19, p 13 (#A54(b), vol 9, p 1749)
[357] Papatupu Minute Book 31, p 2 (#A54(b), vol 20, p 4491)

left of whakapapa given by Hiramai Piripo during the Waimahe investigation states 'E inoi ana ahau ki te Komiti ki te tae ki to koutou haora tapu kei wareware ki tena whakapapa.'[358] [I pray that when the Committee arrives at your sacred hour, that it will not forget this genealogy.] We understand the 'sacred hour' to mean decision time.

The minute books therefore remain an important written historical record of whakapapa for Te Tai Tokerau iwi and hapū, as are those of the Native Land Court. Like the land court records, recounts of whakapapa were sometimes subjected to challenges of accuracy. For example, on 9 May 1903 the Punakitere 4 committee resumed proceedings at 9 am, the first matter of business being 'Ka whakawakia te he o nga whakapapa a Hiramai Piripo mo Punakitere Pakinga Poraka e ki nei i moe a Tangopo.'[359] [Investigated the objection to Hiramai Piripo's genealogy for Punakitere Pakinga block, saying Tangopo married]. Hira Hohaia explained his objection:

> Taku take whakahe kei te kiianga o Te Waihuka, Te Whero & Te Waha, he tamariki na Auha raua ko Tangopo. Ehara ki au i a Auha enei tamariki. Kaore a Auha i moe i a Tangopo. Engari ko te taane a Tangopo ko Tiri, ko Maatu te rua ona ingoa, a raua tamariki ko te Waihuka, Te Waha & Te Wheruu. Nga tamariki a te Waihuka ko Pepepeke, naana a Hakuene, naana a te Waka. Ta te Waka, ko te Mangatu, naana a Wirihita & Hiperiana naana a Ani raua ko Taniora. Ta Wirihita ko Pukepuke & Rewiri. E kore a Te Wheruu e taea e au te whakaheke. Engari ki taku rongo noa he uri a Marama Te Wiriana no Te Wheruu.[360]
>
> [My reason for objection lies with the testimony that Te Waihuka, Te Wheruu and Te Waha were children of Auha and Tangopo. To me these children were not Auha's, Auha did not marry Tangopo. But the husband of Tangopo was Tiri, his second name was Maatu, and their children were Te Waihuka, Te Waha and Te Wheruu. The children[361] of Te Waihuka was Pekepeke who had Hakuene who had Te Waka. Te Waha had Te Mangatu who had Wiririhita & Hiperiana who had Ani and Taniora. Wirihita had Pukepuke and Rewiri. I am not able to give the descent for Te Wheruu. But I have heard that Marama Te Winiana was a descendant of Te Wheruu].

Claimants also often highlighted key ancestors and their 'ringa kaha' as a source of mana pupuri whenua [the power to hold on to land] and mana rangatira [chiefly influence]. Hoori Whiu, for example, described his claims in the Maungaturoto investigation through his ancestor Matahai:

> Mana pupuri whenua
> I te wa i a Matahaia ka timata mai taua mana puupuri whenua i raro i ta ratou Raupatu hei aatete atu i nga iwi e eke mai ana ki runga ki tenei whenua. Mate atu a Matahaia ka ora ko ana teeina. Ka u ano ki te pupuri i te whenua tae iho ki a ratou tamariki tae iho ki o ratou uri ki a Heta Te Haara ma ...

[358] Papatupu Minute Book 51, p 124 (#A54(b), vol 37, p 7867)
[359] Papatupu Minute Book 39, p 557 (#A54(b), vol 27, p 6013)
[360] Papatupu Minute Book 39, p 557 (#A54(b), vol 27, p 6013)
[361] Hohaia says 'nga tamariki', meaning 'the children', but cites only one child.

Mana rangatira
Timata mai tenei mana rangatira i nga tupuna o Matahaia ma tae iho ki nga uri kia Heta te Haara ma. Ko tenei momo mai i nga tuupuna o Matahaia ma he whakatauki kei runga i a ratou penei

E hara a Ngapuhi he purupuru he takaa pa tauia. Ko ahau ko te titi ko te Aporei. Ko o tama purupuru marie, Ko Ngatirangi, ko te angaanga titi iho i te rangi.'[362]

[Power to hold on to the land
During the time of Matahaia did that mana to hold onto land commence based on their conquest and the ability to ward off tribes that tried to come onto the land. Although Matahaia died, his young brothers were alive. They held onto the land down to their children and to their descedants, to Heta Te Haara and others]

[Chiefly influence
This chiefly mana commenced with the ancestors of Matahaia and others down to the descedants to Heta te Haara and others. This group from the ancestors of Matahaia are referred to in proverb which goes like this: 'Ngapuhi is of no account, they are caulking, which will fall off. But Ngatirangi is the adorned one, the principal, the safe and strong caulking, the head which shines from heaven.'][363]

Like in the Native Land Court, claimants also described the boundaries of their interests in the land whether it be part of or, as Terehia Whanga claimed in the Mimitu hearing, 'te katoa o te whenua'.[364] [all of the land]. These boundaries were referred to as 'kaha', 'rohe' 'rohe tupuna' or 'rohe potae'. During cross-examination in the Te Karae investigation, Rihari Mete was asked whether 'He tangata mohio koe ki nga tikanga katoa o tenei poraka?' [Are you a knowledgeable person as to all matters concerning this block?]. Mete replied 'Ae i taku rohe potae'.[365] [Yes, within my boundary]. In the same hearing, Tangitupua Tipene gave 'nga rohe' or the boundaries of the land he claimed within the block:

Timata i te mutunga taipari o te awa o Uepoto ka ahu ki te hauraro ki Maungapohatu ka huri i reira ki te marangai ka tae ki te wahapu o te awa o Te Parikohatu ka ahu ki te marangai tonga ki te awa o Takotowhatui ka puta ki te awa o Orawau ka ahu ki waho o taua awa ki te Hauauru ma tonga ka tae ki te wahapu o te [awa mutu?] ka ahu ki te Hauauru. Hauraro ki roto o te awa o Awamutu ka haere i runga i te raina o te whenua a Hori Kerenene ka ahu ki te tonga ka tae ki te awa o Rahurahu ki te taha marangai ma tonga ka puta ki te awa nui o Mangamuka ka ahu mai ki te Hauauru ka tae ki te wahapu o Te Karae ka ahu ki roto o taua awa ki te Hauauru Hauraro ka tae ki te awa o Uepoto ka tuhono ki te timatanga.[366]

[Commencing at the high water mark end of the Uepoto stream, thence in a northerly direction to Maungapohatu, then turning there to the east to the mouth of the Te Parikohatu

[362] Papatupu Minute Book 49, p 31 (#A54(b), vol 36, p 7536)
[363] The translation of the proverb has been sourced from Kawharu, *Tāhuhu Kōrero*, p 38 (saying no. 6). Kawharu notes there are several variations to this saying.
[364] Papatupu Minute Book 23, p 4 (#A54(b), vol 13, p 2401)
[365] Papatupu Minute Book 32, p 165 (#A54(b), vol 21, p 4837)
[366] Papatupu Minute Book 32, p 15 (#A54(b), vol 32, p 4687)

stream, then towards the south east to the Takotowhatui stream, coming out at the Orawau stream, thence to the south west, arriving at the mouth of Awamutu, then to the north-west along the course of the Awamutu river, then following Hori Kenekene's boundary, thence towards the south, reaching the Rahurahu stream and then on the eastern side one comes out at the Mangamuka river, thence in a westerly direction until arriving at the mouth of Te Karae. Thence following that river to the north west until arriving at the Uepoto river and joining up to the beginning.]

Claimants provided further historical narrative as to how their tupuna came to permanently occupy the land or 'noho tuturu' and maintain their fires or 'ahi ka'. As was the case in the Native Land Court, evidence of ongoing occupation was particularly important in the title adjudication process. Claimants pointed to sites of significance such as pā [fortified villages] and other kainga [settlements], mahinga kai [food gathering sites], rāhui [reserves], other maaka [marks], and or wāhi tapu [scared or special sites]. They also recalled key events such as births, deaths, tuku whenua [the gifting of land] and pakanga [battles]. For example, Paoro Hoori spoke of a pā that he claimed as evidence of his ancestral occupation of Te Pupuke:

> Ka mea Hongi me haere katoa taua iwi ki Te Pupuke noho ai. Ka ki Hongi kia hanga he pa mo ratou. Ka hanga. Ka oti. Ka noho ratou ki taua pa ana rangatira katoa a Tupe, a Tareha, a Whiro, me Ururoa hoki raua ko Hongi. Kotahi tino tau i noho ai ena rangatira i roto i to ratou pa.[367]
>
> [Hongi said that all that tribe should come to Te Pupuke to settle. Hongi said to build a pā for them. It was built and completed. They resided at that pā, all his chiefs, Tupe, Tareha, Whiro and Ururoa along with Hongi. Those chiefs stayed at that pā for one year.]

In the Matauri hearing, Maka H Otai spoke of wāhi tapu on the land where some of his ancestors were buried:

> Mo te take Wahi Tapu, te Wahi Tapu tuatahi nei ko Piakoa. I takoto a Auwha ki kona me ona uri katoa, me o Te Tangare kei reira katoa. Wahi Tapu tuarua kei Te Ngaere, ko Te Pirita te ingoa no te Takiwa[.][368]
>
> [Concerning the right through wāhi tapu, the first wāhi tapu is Piakoa. Auwha is buried there and his descedants and Te Tangare, they are all there. The second wāhi tapu is at Te Ngaere, Te Pirita is the name and belongs to Takiwa[.]]

Te Papatahi was another wāhi tapu at Matauri associated with the site of waka construction. According to Tamati Hori, Ngai Tupango, Ngati Kura and Te Tawera – who resided together at Matauri – set about constructing the canoe of Tamati and Moihika when

[367] Papatupu Minute Book 34 vii, pp 108-109 (#A54(b), vol 24, pp 5460-5462)
[368] Papatupu Minute Book 8, pp 14-15 (#A54(b), vol 3, pp 558-559)

> Ka puta te piro. Katahi ka mohiotia he wahi tapu ko Te Papatahi te Ingoa. Kei Te Tapui tenei wahi tapu ... Ka puta te kupu a te Iwi no Te Tapui nei. Kahore he Moana e hoe ai tena Waka. Huaina tonutia atu te Ingoa o te Waka ko Moana Kore.[369]
>
> [Rot emerged. They then knew this was a wāhi tapu. Te Papatahi was the name. This wāhi tapu is at Te Tapui ... The people of Te Tapui said that that canoe would not be rowed on any water. The canoe was thus named Moana Kore.]

During the Maungaturoto investigation the aforementioned Hoori Whiu spoke of a tuku whenua, 'Taku maara e takoto nei a Pepeehanga kua mahue iho ki a korua ano ko Whiti. Ko te take tuku tena i roto i taku Ota'.[370] [my garden there, Pepeehanga, I leave to you and Whiti. That is my claim by gift in my order.]

There are a number of fights recounted in the papatupu minute books, although our role is not to open old wounds. Nonetheless we note, as an example, that Hone Ngapua referred to the well known fight at Moremonui around 1807 or 1808 between Ngapuhi and Ngati Whatua. He quoted a waiata associated with that fight:

> Kei hea te wai e kotokoto?
> Kei te Huehue te wai e kotokoto?
> Kei hea te wai e kotokotoo
> Kei te Tuhuna te wai e kotokotoo
> Kotokotoo ana ki to pura taua i ia
> E moe ra i to wahine papai
> E moe ra i to taane papai
> Taria hoki e hoatu ki Ririro
> Ki reira tawari ai to kiko whakairo

We do not attempt a translation of this waiata 'hari' or song to a dance but quote the explanation given by Hone Ngapua: 'Ko te tikanga o tenei hari e whakaatu ana ka tangi nga wai ki a ratou i mua i to ratou haerenga ki te whawhai ki Moremunui ki a Ngatiwhatua.' [The meaning of this hari is saying that waters will mourn for them before their fight at Moremunui against Ngatiwhatua] Later Hone Ngapua explained that the water 'e kotokoto' [sobbing] at Te Huehue was for the descedants of Te Wairua, Iritoka, and Ringa, while the water at Tuhuna was for the descedants of Horo, Paku, Kai, and Kawau.[371]

In the case of Mimitu, Terehia Whanga spoke of rahui and other maaka:

> Rahui – Ko Kopungaruerue he Karaka no Katupu. I mate a Reihana ki konei ... Nga Maaka he Rakau Piki, he Kuini. Kei runga i nga mahinga kua korerotia nei e ahau. Na Rukumoana enei Rakau i whakatoo.[372]

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[369] Papatupu Minute Book 8, pp 68-69 (#A54(b), vol 3, pp. 611-612)
[370] Papatupu Minute Book 49, p 26 (#A54(b), vol 36, p 7531)
[371] Papatupu Minute Book 41, pp 99-100 (#A54(b), vol 29, p 6251-6252)
[372] Papatupu Minute Book 23, pp 5-6 (#A54(b), vol 13, pp 2402-2403)

> [Rahui – Kopungaruerue is a karaka [tree] belonging to Katupu. Reihana died there ... Marks – a peach tree, queen peach. Rukumoana planted trees on the sites which I have mentioned.]

Peita Whaetohunga also spoke of rāhui within the Wairoa Block:

> He rahui i nga mea o waho o te moana i Waipapa. He rahui kutai he rahui ano i Waihopai ahu atu ki Waiparahoanga He rahui ika toheroa me etahi mea atu o te moana.[373]
>
> [Things in the ocean at Waipapa were reserved. There was a rāhui for mussels, there was another rāhui from Waihopai through to Waiparahoanga. It was a rāhui for toheroa and some other seafood.]

Claimants cited other rāhui mahinga kai whether they be reserves for 'tahere manu' or the snaring of birds, 'rore kiore' or rat traps, or 'rua kumara' or kūmara pits. These sites all had names. Rihari Mete, again in the Te Karae investigation, commented

> Ko Takapumangemange he tuunga rahui na Tohu raua ko Te Karea he rahui kukupa. Ko Ngatieke he tuunga rahui na Tohu he rahui kukupa, kiwi, kiore. Ko Ngatokoono he tuunga rahui na Tohu ratou ko ona matua. He rahui kukupa. Ko Wharerimu he tuunga rahui na Tohu me ona matua. He rahui kukupa, kiwi, kiore. Ko Tutukohai he tuunga rahui na Tohu ma. He rahui kukupa, kiwi, kiore.[374]
>
> [Takapumangemange was a reserve belonging to Tohu and Te Karea, it was a kukupa reserve. Ngatieke was a reserve belonging to Tohu, it was a reserve for kukupa, kiwi and kiore. Ngatokoono was a reserve belonging to Tohu and his parents. It was a kukupa reserve. Wharerimu was a reserve belonging to Tohu and his parents. It was a reserve for kukupa, kiwi and kiore. Tutukohau was a reserve belonging to Tohu and others. It was a reserve for kukupa, kiwi, and kiore.]

In the Paremata Mokau case, Mita Wepiha noted a mahinga kai of his ancestors at Oakura. He gave a karakia which he referred to as a 'pua kai' and which was recited when these food-gathering places were being prepared:

> E noho e tai e noho i te whare i te kore te whiawhia i te kore te rawea i te whaiwhaia noa kia koe e Mauri e ko wai ka tangi whai.[375]

Such karakia were the teachings of the whare wānanga. Hone Rameka cited one of his *take* as a 'take whare wananga' at Rangihoua during the Te Tii Mangonui investigations. He stated that the whare wananga belonged to Waikato and Puhi and noted that it was associated with several key historical events. He stated that it was here that

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[373] Papatupu Minute Book 22, pp 26 (#A54(b), vol 12, p 2133)
[374] Papatupu Minute Book 32, p 74 (#A54(b), vol 21, 4746)
[375] Papatupu Minute Book 12, p 112 (#A54(b), vol 7, p 1557). We do not attempt a translation of this.

> I tae mai Hongi kia whakatakoria e raua he whakaaro ka haere raua ki Ingarangi ki te tiki pu. Te whare wananga ano tenei i whakatakotoria te mate me te ora mo te mihinare tae tuatahi mai i te 25 o nga ra o Tihema, kotahi mano e waru rau kotahi tekau ma wha. Ko te whare ano tena i whakatakotoria e Te Hikutu te rongomate o Ngapuhi i te wai makomako. Ko te marae hoki tena o te Hikutu i tae mai ai te tinana o Ngati Whatua, ko tona ingoa ko Murupaenga.[376]
>
> [Hongi came here to lay down his idea that they should go to England to fetch guns. This was the house of learning where it was decided whether the missionary who came here on 25 December 1814 would live or die. This was also the house where Te Hikutu [translation unclear]. It was also the marae of Te Hikutu where the body of Murupaenga of Ngati Whatua was brought.]

Such accounts, along with the waiata, karakia, and whakatauki noted above, remind us of the richness of the papatupu minutes in terms of their historical and tikanga content. In some instances we are presented with explanatory commentary about the meaning of the tikanga or customary concepts cited, although usually within the context of the claim to interests in land. For example Hiramai Piripo offered this explanation of the concept of 'mana rangatira':

> Ko te mana Rangatira, he tiaki o te whenua me nga hapu katoa e noho ana i taua whenua. He mana ki te wehewehe i te whenua, he mana ki te hoko i nga waho [sic] o waho o te Poraka na, he mana hoki ki te whakatakoto i te wahi tapu. He mana ki te whakatuwhera kia keria nga kapia.[377]
>
> [The chiefly mana is one of looking after the land and all the hapu who live on that land. It is a mana to partition the land, a mana to sell to outsiders, a mana also to establish wahi tapu. It is also a mana to open up [the land] for gum-digging.]

Hori Poi Te Manuriki in the Mangakowhara 2 block investigation also offered some remarks on the meaning of mana rangatira:

> Tohu rangatira tuatahi he manaaki tangata. Tuarua he hohou rongo. Tuatoru he pupuri whenua. Kei tetahi tangata te ki whainga ... Ae he toa tetahi mea e whai ingoa ai e tau ai te mana rangatira.[378]
>
> [The first mark of a rangatira is providing hospitality for people. The second is peace-making. The third is the retention of land. It is a person whose word is followed ... Yes, being a warrior is another thing where one acquires a name for himself and achieves chiefly influence.]

[376] Papatupu Minute Book 51, pp 26-27 (#A54(b), vol 37, pp 7792-7793)
[377] Papatupu Minute Book 19, pp 4-5 (#A54(b), vol 9, pp 1740-1741)
[378] Papatupu Minute Book 51A, p 21 (#A54(b), vol 38, p 8024)

4.3.4 Claiming under modern take

McRae noted that 'innovative' claimants would often supplement these 'conventional claims' with the assertion of more contemporary rights, such as the mana to lease or sell portions of the land or the right to run sheep on it, the right to fell trees, the fact that it had been returned by the Government, the existence of churches on it, the fencing of areas and so on. Again, this reflected the practice when claims were set out to the Council. Hence Te Paoro Hoori, appearing before the Kahikatoa committee, spoke of the growing of produce and preparation of firewood for trade:

> He mahi kai kanga he whakato pititi, panana. He whakahau hoki i nga tangata kia mahi wahie ma te pakeha."[379]
>
> [Corn was grown, peach and banana trees were planted and the people were instructed to prepare firewood for the Europeans.]

During the Motukawanui hearing, Paora Kira spoke of several transactions with Pākehā concerning that block, including

> Ka hiahia tetahi pakeha i a te Hamerengi ki nga korari. Ko te moni tuatahi i homai mo nga korari e £5.0.0 pounds ... Kaati ka pera te korero a te Pakeha kia whakaaetia atu a Kuririki hei tunga mira tihore korari mana, a, whakaaetia ana e Kira.[380]
>
> [A Pākehā named Hamerengi wanted the flax. He first gave £5 for the flax. Then the European asked whether he could have Kuririki as a place to put his flax stripping mill and Kira agreed.]

Paora Kira noted 'Kaore au i rongo i tetahi tangata e ki ana ka he tera mahi noku.'[381] [I never heard one person say what I did was wrong.]

In the Wiroa hearing, Wiremu Poakatahi listed all those who had contributed (including the monetary amounts) to the fencing of the wahi tapu known as Rangaunu.[382] In the Te Tii Mangonui investigation Hone Rameka cited the traditional range of *take* but also

> Take Whenua Karauna Karati} Ko te Whenua Karauna Karati ko Haiheki te tuatahi. Tuarua ko Wharengaere. Tuatoru ko Tunapohepohe Tuawha ko Maramatautini
>
> Take Hoko Whenua} Ko Mataka te whenua tuatahi i hokona. Tuarua ko Putanui. Tuatoru ko te Kauri ki te Karikaringa, tuawha ko Te Wiroa ki Parangiora. Ko enei whenua na nga uri o Puketawa ina i hoki. Ko te Kauri ki te Karikaringa na te taha kia Kauteawha i hoko.

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[379] Papatupu Minute Book 34 ii, p 34 (#A54(b), vol 24, p 5386)
[380] Papatupu Minute Book 4, p 57 (#A54(b), vol 1, p 62)
[381] Papatupu Minute Book 4, p 57 (#A54(b), vol 1, p 62)
[382] Papatupu Minute Book 19, pp 189-190 (#A54(b), vol 9, pp 1925-1926)

> [Claims to land through Crown Grant} The Crown Grant, Haiheki was the first. The second was Wharengaere. The third was Tunapohepohe. The fourth was Maramatautini
>
> Claims through Sale of Land} Mataka was the first land sold. The second was Putanui. The kauri at Karikaringa was the third, Te Wiroa at Parangiora was the fourth. These lands belonged to the descedants of Puketawa. The kauri at Karikaringa were sold by Kauteawha's side.]

We have already mentioned wāhi tapu recalled by Maka H Otai in the Matauri hearing. Another wāhi tapu he cited was a 'Wahi Tapu o te Whare Karakia', namely a church cemetery.[383]

The Te Karae committee also took evidence from a Pākehā timber merchant, Alfred Cooke Yarborough,[384] who stated whom he had paid royalties to:

> I have bought timber of the Karae on different occasions for the cutting and the delivery of timber with Rihari Mete & H. K. Kawiti both from Europerans & Natives. In all cases I have paid royalties to Rihari Mete H. K. Kawiti and Wetini tohu[.][385]

McRae considered that these kinds of *take* signalled 'the influences on and changes required in Maori thought on land tenure to meet the challenges of Pakeha judicial processes'.[386]

4.4 Sitting hours and minute-taking

Some committees sat long hours, making use of most waking hours of the day. This is probably explicable in terms of funding, a subject we return to in the following chapter. Table 12 sets out the sitting hours recorded in the minute book for the Matauri inquiry over the course of its sitting from 21 November to 8 December 1903.

Table 12: Hours sat by the Matauri committee, 21 November to 8 December 1903

Date	Sitting hours
Saturday 21 November 1903	9 am to 8 pm
Monday 23 November 1903	2 pm to 10 pm
Tuesday 24 November 1903	9 am to 10 pm
Thursday 26 November 1903	9 am to 10 pm
Friday 27 November 1903	9 am to 9.30 pm
Saturday 28 November 1903	9 am to 10 pm
Monday 30 November 1903	9 am to 10 pm

[383] Papatupu Minute Book 8, pp 14-15 (#A54(b), vol 3, pp 558-559)
[384] Yarborough had been chairman of the Hokianga County Council and president of the local chamber of commerce. See 'Obituary', *New Zealand Herald*, 4 June 1925, p 10.
[385] Papatupu Minute Book 32, p 238 (#A54(b), vol 21, p 4908). The minutes here are in English.
[386] McRae, 'Participation', p 71

Table 12: Hours sat by the Matauri committee, 21 November to 8 December 1903	
Tuesday 1 December 1903	9 am to 2 pm
Wednesday 2 December 1903	9 am to 5 pm
Thursday 3 December 1903	9 am to 10 pm
Friday 4 December 1903	9 am to 2 pm
Monday 7 December 1903	9 am to 9 pm
Tuesday 8 December 1903	9 am to 12 pm

Most of the same members then considered claims to Mahimahi before hearing the Motukawanui case over the Christmas period, from 22 to 29 December. While they took Christmas day off, they sat until well after 10 pm on Christmas Eve and resumed again at 9 am on Boxing Day.[387] The Paremata Mokau committee also sat long hours, beginning on 3 July 1903, for example, at 9 am and closing for the day at 9 pm. The following day the committee sat from 9 am until 9.50 pm.[388] The Wairoa committee deliberated through the evening, finally reaching a decision at midnight: 'I te 12 midnight, ka oti te whakatau a te Komiti.'[389] [The Committee finalised its decision at midnight.] It is not clear whether such hours were the norm, as it is often difficult to tell in the minutes what session times the committees kept. It seems that a number of other committees kept less demanding hours, beginning at 10 am and not conducting an evening session.

While we cannot be completely sure, we suspect that the minutes of the committees were written by the karaka or clerk. During the Wairoa hearing the chairperson wrote in the minute book that they were still awaiting the arrival of the clerk: 'Kia tae mai ano he Karaka tuturu mo te Komiti, katahi te Komiti ka tino whakahaere i ana mahi.'[390] [when a permanent clerk for the Committee arrives, the Committee will then commence its work.] With the karaka's arrival, the handwriting in the minute book distinctly changes. We also note that the Parahaki committee included costs for a 'Kai tuhituhi a te Komiti'[391] or scribe for the committee.

4.5 Outside arrangements between the parties

In the minutes of the Puketaururu committee, it was noted that the chairman had instructed claimants before the sitting of the 'whare' to try and come to some sort of outside agreement:

> Me whakariterite a waho nga keehi e whakaatu nei mo Puketauru me kore e ngawari i runga I nga whakaotiotinga i waenganui ia ratou ka tuku mai ai i te kupu i oti i a ratou ki te Komiti.[392]

[387] Papatupu minute book 4, pp 87-91 (#A54(b), vol 1, pp 92-96). See also Anthony Patete, 'Matauri', draft report, April 2016, p 440.
[388] Papatupu Minute Book 12, pp 17-52 (#A54(b), vol 7, pp 1454-1487)
[389] Papatupu Minute Book 22, p 206 (#A54(b), vol 12, p 2363)
[390] Papatupu Minute Book 22, p 16 (#A54(b), vol 12, p 2173)
[391] Papatupu Minute Book 39, p 43 (#A54(b), vol 27, p 5697)
[392] Papatupu Minute Book 40, p 2 (#A54(b), vol 28, p 6045)

> [The claims for Puketaururu should be arranged outside to make matters easier through decisions resolved among themselves and then these determinations would be submitted to the committee.]

In theory, the block committee system offered claimants the benefit of being able to work together to decide upon a title and to bring this back to the Council (and later Board) for formal approval, thus saving the considerable time and expense that would be incurred through contesting title in the Native Land Court. The committees certainly operated on the basis of the parties resolving their own differences where possible, and this was a feature of the beginning of most committee hearings, as noted in the minute books themselves. To this extent the committees played as much of a mediation role as an inquisitorial one.

In many instances these agreements were conducted by a 'runanga kaumatua' or elders committee. In the case of Te Karaka, for example, the committee was told that 'I noho to matou Runanga Kaumatua ki te whiriwhiri i nga tikanga mo te Poraka o te Karaka'[393] [our committee of elders sat to decide on the arrangements for the Te Karaka Block]. The Te Karaka committee noted that its report was premised 'ki runga ano i te whakaotinga a te Runanga Kaumatua'[394] [on the conclusions reached by the elders council]. The Kopuakawau committee recorded such an agreement on 25 November 1902, which the claimants sought the committee to confirm:

> He whakaritenga tenei i waenganui i nga uri o Hiawe o te Haua me Rangitoki, mo te whenua e mohiotia nei 'ko Kopuakawau'. He whenua kei roto i te rohe potae o Waikare i korerotia nei e Mita Wepiha ahakoa i whai take matou ki taua whenua i te ringa kaha me te ahi ka, ka waihotia atu e matou mo Mita Wepiha anahe he mea ata whiriwhiri e matou tenei whakaritenga. Ko matou me ata noho mo te Poraka nui o Waikare. He whakaaetanga tenei kia whakatuuturutia e te Komiti Poraka etu nei i Waikare. I raro i te mana o te Ture Whakahaere Whenua Maori 1900.
>
> Koia ka hainatia e matou[395]
>
> [This is an arrangement between the descedants of Hiawe, te Haua and Rangitoki for the land known as 'Kopuakawau'. It is land within the Waikare block, which has been spoken about by Mita Wepiha. Despite the fact that we can claim that land based on the strong arm and settlement, we leave it for Mita Wepiha alone. We have carefully considered this arrangement. We will remain in the large Waikare block. Let this agreement be confirmed by the Waikare block committee under the authority of the Maori Lands Administration Act 1900.]

The agreement was duly signed and witnessed.

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[393] Papatupu Minute Book 22, p 8 (#A54(b), vol 12, p 2165)
[394] Papatupu Minute Book 22, p 9 (#A54(b), vol 12, p 2166)
[395] Papatupu Minute Book 11, p 397 (#A54(b), vol 6, p 1429)

As noted, agreements were often made to 'whakakotahi' or 'whakakopa' – that is, to bring claims together under one claimant where certain parties shared the same *take* and whakapapa. Hunia Paaka stated in the Waihou case that

> Ko au ko Hunea Paa e whakaae pono ana ki te aroaro o te Komiti Papatupu o Waihou Poraka kia whakakopangia taku keehi ki raro i te keehi a Re Te Tai mo Waihou. Hei tohu i te pono ka hainatia nei toku ingoa[.][396]
>
> [I, Hunea Paa, consent before this papatupu committee for the Waihou block to bring my claim under that of Re Te Tai for Waihou. To mark this consent, I sign my name.]

Re Te Tai made several other agreements with claimants, with the committee welcoming such a simplification of claims.

Armstrong and Subasic called such agreements the papatupu committees' 'main strength',[397] although McRae's view was that the Native Land Court already promoted tribal 'cooperation over allocation of ownership' of lands brought before it.[398]

Another example of these outside arrangements was the Whakarapa inquiry in March 1903, which was linked to the neighbouring Waihou investigation. Re Te Tai recalled to the Council in June 1905 that the chairman, Hori Riwhi, had requested the parties to come to an amicable arrangement:

> In the Bk Com commencing their sitting the Chairman stated 'I have two suggestions to make to you the claimants. I wd suggest that you decide these matters accg to Maori Custom & in manner in which our Elders did in times of peace. I wd ask you to eliminate all feeling of anger from the matters before us. I advise you to meet together and endeavour to come to an arrangement and if you can decide the hapu interests between yourselves. If you are unable to do so the Committee will investigate.' We came together the following day & endeavoured to arrange.[399]

Hori Riwhi's suggestion is recorded in the minute book in Māori as follows:

> Kua puare te whakawa mo Whakarapa. Na e nga iwi e nga rangatira enga kai-tono o Whakararapa e hiahia ana ki te whakapuaki kupu torutoru kia koutou ara he penei atu. Kei te nui noa toku whakapai ki tou koutou huihuinga mai ki konei a e mahara ana ano hoki au kei te awhina i nga ture o te Kaunihera Whenua Maori. Hoi e tino hiahia ana au kia koutou ki nga kai-tono o Whakarapa kia whiriwhiri rawahotia e koutou nga tikanga katoa o to koutou whenua me kore koutou e whakakotahi hei reira ka homai ma te Komiti e whakamana.[400]

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[396] Papatupu Minute Book 28, p 5 (#A54(b), vol 17, p 3356)
[397] Armstrong and Subasic, 'Northern Land and Politics', p 1429
[398] McRae, 'Participation', p 79
[399] TDMLC Minute Book 1, p 328 (#A49, vol 6, p 22136)
[400] Papatupu Minute Book 29, p 9 (#A54(b), vol 18, p 3792)

> [The hearing for Whakarapa is open. Now to the tribes, the chiefs, the claimants of Whakarapa, I wish to say a few words to you. I am very pleased that you have gathered here and I note that you are assisting the laws of the Maori Land Council. Now I earnestly desire that you the claimants of Whakarapa decide outside the arrangements for your land and see if you might not come together, then give this for the Komiti to confirm.]

The result of this was that the two principal competing claimants, Re Te Tai and Heremia Te Wake, came to an agreement on sharing Whakarapa and Waihou equally between their respective parties, with Re Te Tai's side gaining title to Waihou and Heremia's gaining Whakarapa. Accordingly, each side would 'unuhia' or withdraw its claims to the other block. There were several other non-resident claimants who were bound to oppose this arrangement, and Re Te Tai said that he and Heremia agreed that they could 'only do their best to defeat them and take the consequences'. However, Re Te Tai claimed that Heremia soon breached their compact by asserting claims to Waihou and belittling Re Te Tai's ancestor. Heremia's position was that it had been impossible for him to confine his testimony to Whakarapa, as the outside claimants had addressed both blocks and he had 'to show the comparison'.[401]

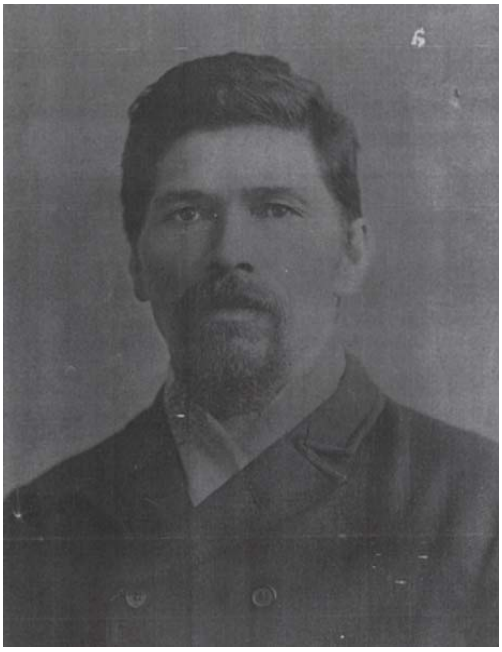

Image 10: Heremia Te Wake, date unknown[402]

Re Te Tai's brothers had also been unaware of the arrangement between Heremia and Re Te Tai, and were strongly opposed to it. They wrote to the Waihou papatupu committee

> e inoi ana, a e tono ana ki to koutou Komiti Honore kia whakakorera atu nga whakaotinga kupu i waenganui i a Re Te Tai raua ko Heremia Te Wake mo Waihou me Whakarapa … ta

[401] See Papatupu Minute Book 29, pp 470-472 (#A54(b), vol 18, pp 4254-4256); TDMLC Minute Book 1, pp 310-330 (#A49, vol 6, pp 22118-22138)
[402] https://www.geni.com/people/Heremaia-Te-Wake/6000000014295701202 accessed 31 August 2016

> raua Ripoata me tino horoi atu i runga i to matou kore e pai mai ano i tera i tonoa ai a Re Te Tai e Heremia Te Wake.[403]
>
> [praying and asking your honourable committee to dismiss the determinations between Re Te Tai and Heremia Te Wake for Waihou and Whakarapa … their report should be scrubbed as we do not approve of what Re Te Tai and Heremia Te Wake have requested.]

They further requested of the committee

> kia kaua matou e tukituki mo to matou whenua i runga i te whakae a te tangata kotahi, ara a Re Te Tai ... ka tono matou kia tukua ta matou keehi mo Whakarapa kia whakahaerea, a, me tuku mai te keehi a Heremia mo Waihou kia whakahaerea kia ata mohio ai to koutou Komiti ki te teka o tana korero mo ana tupuna kia mohio ai hoki to koutou Komiti ki te tika o matou nei take korero. Kaore hoki ona tureiti ki te whakahaere i ona take mo Waihou me matou hoki, kaore e tureiti ana ki te whakahaere i o matou nei take ki Whakakarapa, a, e tika ana matou ki te patai ki a ia inaianei.[404]
>
> [that we not be taken to pieces over our land on the agreement of one man, namely, Re Te Tai. … we ask that we be allowed to proceed with our claim for Whakarapa, and that Heremia's case for Waihou be allowed to proceed so that your committee know the correctness of his statements about his ancestors and so that your committee is also aware of the correctness of our claims. He is not too late to proceed with his claims for Waihou. And us also, we are not too late to proceed with our claims for Whakarapa, and we are right to question him now.]

In the circumstances, the committee allowed Re Te Tai to extend his claims to Whakarapa. Even though the committee decision was ultimately to split the land relatively evenly between the two principal parties, therefore, the outside agreement had become – in the committee's words – 'kua tino whakakore' [well and truly invalidated].[405]

The Whakarapa and Waihou examples arguably demonstrate that, despite the theory, it was not always so easy in practice for the parties to present a mutually agreed settlement to the committee (and thus on to the Council). In some instances, claimants returned to the committee to state that they were unable to reach an agreement.

Sometimes agreements made outside were later discarded. In the case of Mimitu in 1906, and arrangements that had been made a year and half earlier, Hone Mokena stated before the committee

> Kua korerorero matou, a kua kitea me whakakore rawa atu era whakaotinga, me mahi hou te Komiti i nga tika mo tenei whenua kia kitea paitia te hunga noho tuturu ki tenei whenua.[406]

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[403] Papatupu Minute Book 28, p 388 (#A54(b), vol 17, p 3737)
[404] Papatupu Minute Book 28, p 390 (#A54(b), vol 17, p 3739)
[405] Papatupu Minute Book 29, p 486 (#A54(b), vol 18, p 4256)
[406] Papatupu Minute Book 23, p 1 (#A54(b), vol 13, p 2398)

> [We have spoken and decided that those arrangements should be abandoned and that the committee should conduct a new hearing for this land to determine properly the right people who dwell on this land.]

It is not known why the Mimitu arrangements were discarded, but sometimes the agreement reached outside the committee left certain claimants dissatisfied and made it difficult for them to resist having the matter reopened later before the committee or the Council or Board. In the case of Kohewhata, Hemi Wi Hongi related to the Board in July 1906 how the block committee had asked all the parties 'to go outside and make terms amongst ourselves. We agreed and the result was the arrangement which we all signed.' According to Wiremu Tuhai, this agreement took two days. However, the agreement covered only the ancestors for the block and not all the names of the persons entitled. Instead, the lists were submitted by the parties or fixed by the committee. In Hemi Wi Hongi's view, many names were included of individuals who held no rights, and he now wished to break the agreement.[407] Similarly, Rauahi Puataata explained that he had signed the agreement but had been

> told by Hurua Tito to accept the arrangement so as to let the matter drop for the present. I signed although I did not agree to what I was signing. I am not in the habit of doing this.
>
> I object because my ancestor has not been awarded a sufficient number of shares.[408]

Mate Monoa added that she

> signed the agreement. I was asked to do so by the Bk Com. I stated when I was signing that I knew I wd be in trouble for it. I did not fully understand what I was signing but they told me I wd be quite right. I am not in the habit of signing documents without knowing what they contain. This is really the first document of this kind I have signed without knowing its contents.[409]

How the Board dealt with the many objections to the Kohewhata block committee report is returned to in chapter 6. It is worth noting at this point, however, that the signing of outside agreements appears to have been an innovative feature of the committee sittings. We are unaware of outside agreements being committed to writing and signed in the same way before the Native Land Court.

The Pukahu case had some similarities to Kohewhata. According to Rihari Mete, who spoke in the hearing of objections to the Pukahu committee report in July 1905, it was while the Te Karae case was ongoing that the committee members – who were the same for each block – noticed that

[407] TDMLC Minute Book 4, pp 225, 227-228, 230 (#A49, vol 6, pp 23168, 23170-23171, 23173)
[408] TDMLC Minute Book 4, p 231 (#A49, vol 6, p 23174)
[409] TDMLC Minute Book 4, p 232 (#A49, vol 6, p 23175)

> the same ancestors were entitled in Pukahu & they told us we had better try & arrange outside. We had a meeting & came to the arrangement set out in the signed document. All the persons whose signatures are attached signed it. They fully understood it was an arrangement to settle the decision of Te Pukahu. Each person who signed was told the contents of it.[410]

The other claimant, Taipari Heihei, told the Council that the committee chairman gave the claimants the names of three ancestors and 'We went outside & arranged it and signed an arrangement.' It was only after this, he contended, that he found that one of the ancestors was not entitled. He asked the committee chair to strike that ancestor's name out but the chairman refused, telling him to take it up with the Council. Taniora Mato added that he had signed in ignorance of the lack of entitlement of one of the ancestors,[411] while Tangipoi said that he

> did not know what was in the paper when I signed it. He [Hori Kakuene] did not tell me. I thought perhaps I wd get some money for signing and I was disappointed. I thought I might have to pay some money on a/c of Taniora's case. As a rule I never sign my name and if I do I never know what is in the documents.[412]

Rihari Mete, however, alleged that Taipari's reason for seeking to repudiate the agreement was much more personal, in that he was reacting to having been called a 'taurekareka' [slave] by Hori Karaka.[413] Ultimately, as we shall see in chapter 6, the Council agreed with Rihari Mete.

In other words, therefore, an arrangement made in good faith at the time could be undone later by two of the parties falling out. In another example of this, Paora Hori related to the Council in October 1905 how in both Te Touwai and Te Kahikatoa he had signed agreements made with the other parties before the committees, which had put them into effect. He had understood them 'perfectly' when he had signed them. However, since then he had had a dispute over the erection of fences with Ritete Puke, and for this reason he now asked the Council to set the arrangements aside.[414]

A complex case that involved an outside agreement between certain of the parties and the later giving of offence by one of them to another was Pakonga 2. There, several claimants – including Mihaka Hapata, Hare Matenga, and Rawiri Te Ruru – joined together before the committee to oppose Hiramai Piripo. They agreed that Hare Matenga would present their evidence. Upon hearing Matenga give his evidence, though, Hapata felt that it was incorrect, and sought to speak himself. But when Matenga had finished presenting, he told Hapata not to speak. Hapata explained that he

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[410] TDMLC Minute Book 3, p 112 (#A49, vol 6, p 22660)
[411] TDMLC Minute Book 3, pp 108-111 (#A49, vol 6, pp 22656-22659)
[412] TDMLC Minute Book 3, p 112 (#A49, vol 6, p 22660)
[413] TDMLC Minute Book 3, pp 112-113 (#A49, vol 6, pp 22660-22661)
[414] TDMLC Minute Book 3, pp 179-182 (#A49, vol 6, pp 22727-22730)

> therefore kept back for fear I might disturb the evidence of Hare Matenga, & did not give evidence, thinking in my own mind that the case would go for further investigation ie that the Council would investigate the matter.[415]

In fact Hapata even told the committee that he was satisfied with its decision and would not appeal. Before the Board, however, Matenga, remarked that Hapata's party had 'no right', and that he (Matenga) had only not told the committee this 'because they were under my case'. In turn, Hapata, now sought to unwind his previous commitment not to object. He explained to the Board that

> That statement of mine [about not appealing] is correct … but now that the matter is opened up before the Board I take the opportunity of objecting. I acquiesced to the Bk Com decision in a confused way. … I was satisfied with the evidence given by Hare Matenga before the Bk Committee & I expressed myself as satisfied with its decision. It is only because Hare Matenga stated this morning that my ancestor had no claim that I wish now to reopen the case so that it may be investigated again & that I may be able to give evidence.[416]

If Matenga was correct about the merits of Hapata's case then it demonstrates quite clearly that committee inquiries were not always co-operative efforts aimed at ascertaining the true customary owners of papatupu land, but often deals borne of rivalry and compromise. There were certainly multiple opportunities for individuals to attempt to relitigate agreements come to collectively, and many took these.

Sometimes an outside arrangement was made that was then allegedly not put into proper effect by the committee. In the case of the Korotangi block, for example, Wi Kaitara came to an agreement outside with Hone Rameka. According to Kaitara, when they returned to the committee to report on their settlement Rameka said that Kaitara and he would both withdraw their grounds of claim. Kaitara refused to agree to this, but the committee's report nevertheless stated that he had done so and gone in under Rameka's ancestor, to which he strongly objected.[417] In Mahimahi, Paora Kira told the Council that he and Puhipi Pene had settled matters outside but that he had been given too few shares by the block committee. However, after being offered some additional shares by Hone Hapa, Kira changed his tune, and expressed his full support for the committee:

> There was an amicable arrangement made by myself & Puhi Pene outside. After the matter was arranged we brought the matter before the Block Committee. The arrangement was read out by the Block Committee – there were no objections & it was ratified. The list of names and the shares were read out. I heard the allotment of shares read. I did not make any objection. I uphold the arrangement now that my shares are made up to 20. I withdraw my objection as to the Block Committee's decision.[418]

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[415] TDMLC Minute Book 4, p 97 (#A49, vol 6, p 23040)
[416] TDMLC Minute Book 4, p 98 (#A49, vol 6, p 23041)
[417] TDMLC Minute Book 5, pp 183-184 (#A49, vol 6, pp 23521-23522)
[418] TDMLC Minute Book 3, pp 128-129 (#A49, vol 6, pp 22676-22677)

Perhaps the most elaborate outside arrangement occurred in the case of Tautoro (Motatau 5). As noted in chapter 3, two committees were formed to guide the block committee, with Kuao a member of the kaumātua committee. Other members of that committee, according to Kaka Porowini, included Ruatara, Eru Tahere, Wi Mura, Wi Pou, Tirarau, and Maera Kuao.[419] The committees made a decision on which parties should be entitled to the block, and laid down all the boundaries and partitions. This in turn was implemented by the block committee in its report (with Kuao fully participating in the committee's inquiry in late 1903 after having been released from custody).[420] According to Kaka, Kuao did not want any rights awarded on the basis of conquest as this would mean that 'the interests of Ngatirangi wd be swept away'.[421] Kaka added that

> When the arrangement made by the Native Committee was brought before the Block Committee I protested but the Block Committee wd not hear me and I have therefore come before the Council. My objection was as to the whole of the arrangement. Raina Puriri objected because her case under Hone Heke was not awarded anything.[422]

Kaka now claimed a defined portion of the block under conquest. Hori Whiu added that the partitions and boundaries were complex and understood properly only by Kuao, who was now dead. For this reason and the fact that 'There was no proper investigation made of the titles of the ancestors and people who are in the lists', he asked that 'this arrangement be made void and the title re-investigated'.[423] The arrangement made by the elders, it seems, was only going to endure as long as Kuao remained alive. Now that he was dead, those who had previously been afraid of him were reasserting themselves. As Hori Whiu put it,

> We made no objection to the Bk Committee's report at the time it was made, in fact we agreed to it because it was based on the arrangement made by the elders. We object now because Iraia is dead.[424]

Likewise, Hirini Taui added that

> At the time of the Bk Com's report we were all in fear of Kuao because he wd not allow us to set up any cases. I set up cases for those portions not included in his report. It was out of fear of Kuao that I made no objection to the report.[425]

How the Council addressed the objections to the Tautoro committee report is returned to in chapter 6.

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[419] TDMLC Minute Book 3, p 298 (#A49, vol 6, p 22846)
[420] Clayworth, 'A History of the Motatau Blocks, c.1880-c.1980', pp 88-89
[421] TDMLC Minute Book 3, p 280 (#A49, vol 6, p 22828)
[422] TDMLC Minute Book 3, p 279 (#A49, vol 6, p 22827)
[423] TDMLC Minute Book 3, p 280 (#A49, vol 6, p 22828)
[424] TDMLC Minute Book 3, p 281 (#A49, vol 6, p 22829)
[425] TDMLC Minute Book 3, p 282 (#A49, vol 6, p 22830)

While it lies outside the Te Raki inquiry district in Muriwhenua, it is also worth mentioning here the arrangements made over the Taumatakaramu block (otherwise known as Ahipara 24), the committee for which was convened in Ahipara. In this case a committee of elders arranged for a list of owners to be handed to the block committee consisting of the names of one representative of each hapū entitled only. This apparently was their 'express condition'. The block committee accepted this arrangement, but then called for a list of names for each hapū. In doing so they were alleged to have included additional hapū, not on the elders' original list. Their decision was objected to by Herepete Rapihana, who told the Council that 'as the arrangements, that one person only was to be put in for each hapu, has been broken, it will not now be conceded that all these hapus have a right, but only some of them: and that those objected to will have to prove their right'.[426] Why the owners wished to have one owner only for each hapū and how the Council dealt with the matter is returned to in chapter 6. It suffices here to note that outside agreements, including those made by committees of elders, were not always effected by block committees.

4.6 The making of lists

The making up of 'rarangi ingoa' or lists of names of those who were to be allocated shares in a block was similar to the process in the Native Land Court. It was a requirement imposed on the court by the Native Land Act 1873 to ensure all rightful holders to land were recognised. These lists were generally part of the 'outside arrangements' and sometimes passed the committees without difficulty. However, as in the Native Land Court, the process was often fraught and relationships strained over who should be included in the lists and who should not. Murupaenga Wiriana recalled during the Motatau 5 or Tautoro hearing that a 'komiti' was held at Waiomio prior to the block committee sitting where the lists were the subject of much debate:

> I whakaturia ai taua komiti hei whiriwhiri i nga Rarangi Ingoa e mahia ana e te Iwi. Kotahi Rarangi Ingoa i rauraru i reira. Na matou taua Rarangi Ingoa, he nui te tautohe mo taua Komiti, tukua ana ma taua Komiti e whakatau ... [427]
>
> [That committee was established to select the lists of names to be used by the tribe. There was a problem there with one list of names. That list of names was ours. There was much debate for the committee and it was thus left for that committee to decide.]

4.7 Site visits

While the committees had available to them at least a sketch plan of the block, as part of their inquiry, they often walked over the land in order to see important places and boundary lines for themselves. In Te Pukahu, for example, the committee 'went up to view the Block and

[426] TDMLC Minute Book 2, p 350 (#A49, vol 6, p 22525)
[427] Papatupu Minute Book 27, p 35 (#A54(b), vol 16, p 3146)

were shown the ancestral boundaries'.[428] Likewise, in Te Wawa, Putoto Kereopa made a reference to the committee 'going on to the land',[429] while in Punakitere 4 the committee 'went to view the land and see the boundaries' after it had heard the evidence.[430]

In the case of Kohewhata, Manihera Kauwhata told the Board that

> The Bk Com's statement that I had no kainga on Kohewhata is wrong.
> The Bk Com went on to the land to see the kaingas.
> I asked the Bk Com to go & see my father's house at Korowhawha[.][431]

Hiramai Piripo also noted that the Waimahe committee had visited the land to see who was in occupation. He claimed that 'The Com found when viewing the land that mine was the only house there.'[432] During the Waihou investigation, the committee recorded their visit to the block

> Te haerenga o te Komiti Papatupu o Waihou Poraka ki te tirotiro inga Rohe me nga Maka ka whakapuakina e nga Kai Kereme mo taua Poraka i roto i a ratou whai korero ki te Komiti. No te 10 Karaka i te ata o te Taite te 20 o Akuhata o 1903 ka haere te Komiti ka tae ki Waihou.[433]
>
> [The excursion of the Waihou papatupu block committee to look at the boundaries and marks spoken of by claimants for that block in their addresses to the committee. At 10 o'clock on Thursday morning, 20 August 1903, the committee went to Waihou.]

Claimants such as Re Te Tai took the opportunity to point out sites on the ground and reiterate arguments made before the Committee:

> Kia ora te Tiamana me tou Komiti, he nui toku whakapai ki te Komiti ki te kaha ki te haere kia kite i nga Whenua nei kia kite i te pono o nga korero i korerotia ki te Komiti. E te Tiamana me tou Komiti ka whakaatu au kia koutou koia tenei ko te whenua i korerotia ra e au ki te aroaro o te Komiti timata i Waihou, Whakarapa, Motuti, me Whangapatiki, koia tenei ko te whenua matua o N. Te Reinga.[434]
>
> [Greetings to you the chairman and your committee. My many thanks to the committee for the effort to come and look at this land and see the truthfulness of the words spoken to the committee. Chairman and your committee, I will show you that this is the land which I spoke of before the committee, it commencing at Waihou, Whakarapa, Motuti, and Whangapatiki, this is the principal land of N. Te Reinga.]

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[428] TDMLC Minute Book 3, p 113 (#A49, vol 6, p 22661)
[429] TDMLC Minute Book 3, p 209 (#A49, vol 6, p 22757)
[430] TDMLC Minute Book 4, p 12 (#A49, vol 6, p 22955)
[431] TDMLC Minute Book 4, p 268 (#A49, vol 6, p 23211)
[432] TDMLC Minute Book 5, p 168 (#A49, vol 6, p 23506)
[433] Papatupu Minute Book 28, p 393 (#A54(b), vol p 3742)
[434] Papatupu Minute Book 28, p 393, (#A54(b), vol p 3742

Re Te Tai and others who spoke all attested to what was recorded in the minutes by signing their names.

4.8 Committee decision-making

Generally speaking, 'whakatau' or committee decisions were unanimous and reported as such. Thus the Maungakawakawa committee gave its decision having heard evidence over three weeks, telling each of the parties that presented claims before it, 'Kua kitea e te Komiti i runga i tana whiriwhiringa i te tirohanga i nga korero a tena tena o nga kai korero mo ia keehi mo ia keehi'[435] [The committee has decided based on its deliberations and examination of the claims of each speaker]. It was often at this stage of the investigation that claimants submitted their 'rarangi ingoa' or proposed list of owners who were to be allocated shares. Such was the case for Maungakawakawa. With no objections to their decision, the Committee noted

> I te mea kua oti nei nga mahi a te Komiti mo tenei Poraka ka tukua atu nei e te Tiamana ratou tahi ko nga mema, na ratou i whakawa tenei whenua, i tenei pukapuka ki te Kaunihera Whenua, hei tohu i hainatia e o matou ringa.[436]
>
> [Because the work of the committee for this block has finished, the chairman together with the members who investigated this land will send this book to the Land Council signed by our hand.]

In the case of Waikare, the committee was split on a key decision point and thus – pursuant to regulation 26 – required to take a vote:

> I tautohetia e te Komiti ta ratou Ripoata mo te whakatau o Waikare Poraka. No Ratakitahi ranei te mana no Te Ahi ranei. No reira pooti ana te Komiti
>
> I a Ratakitahi
> Hetaraka Manihera
> T. Waaka Hakuene
> Rawiri Teruru
>
> I a Te Ahi tae iho ki nga Tamariki
> Hone Rameka
> Hare Matenga
>
> Kotahi te puta
> No reira tu ana te pooti mo Ratakitahi'[437]

[435] Papatupu Minute Book 41, p 153 (#A54(b), vol 29, p 6303)
[436] Papatupu Minute Book 41, p 159 (#A54(b), vol 29, p 6309)
[437] Papatupu Minute Book 12, p 244 (#A54(b), vol 7, p 1693)

[The committee debated their report for the decision for the Waikare block. Did Ratakitahi or Te Ahi have the mana. The committee took a vote

Ratakitahi
Hetaraka Manihera
T. Waaka Hakuene
Rawiri Teruru

Te Ahi down to the children
Hone Rameka
Hare Matenga

There was but one outcome
Hence the vote for Ratakitahi stood.]

Committee decisions were often challenged, and indeed committees invited objections, which they subsequently considered. On occasion they amended their decision giving a 'whakatau tuarua' or second decision. This opportunity to respond directly, in person, to the decision-makers in a title investigation was manifestly a significant departure in practice from the proceedings of the Native Land Court, where a judge delivering his decision did not have to listen to any parties' objections. Rather, in the court, appeals were made using form 33 and the matter was then regarded as having moved entirely on to the Appellate Court.[438] In the committee process, though, the members heard the objections kanohi ki te kanohi [face to face].

The Oromahoe committee, for example, noted that 'I tae mai nga whakahe a Ihimaera Haratua raua ko Perepe Komene mo te Ripoata ate Komiti'[439] [the objections of Ihimaera Haratua and Perepe Komene to the committee's report arrived]. The Pakonga 2 committee minuted that 'Hiki ana te Komiti mo te rima meneti, kia whiriwhiria nga whakahe a Atareria Matenga ma me ta Rawiri Te Ruru hoki'[440] [the committee adjourned for five minutes to consider the objections of Atareria Matenga and Rawiri Te Ruru]. In the Oromahoe case the committee amended its decision – 'Nga whakatikatika a te Komiti mo nga whakahe.'[441] [The committee's amendments for the objections]. However, in the Pakonga case the committee determined 'kahore e whakarereketia te Ripoata a te Komiti mo taua whakatau mo Pakonga Nama 2' [the committee's report in its decision for Pakonga No. 2 will not be changed].

In other instances, claimants refused to cooperate with the committees, and preferred to pursue matters before the Council or Board. In Maungaturoto, Remana Kiwikiwi did not appear before the block committee because he felt it had 'no mana', and had instead chosen to 'wait for the Council'.[442] In the same case, Hirini Taui objected to the shares allotted him

[438] *Gazette*, no. 18, 7 March 1895, pp 444, 452
[439] Papatupu Minute Book 20, p 44 (#A54(b), vol 10, p 1979)
[440] Papatupu Minute Book 21, p 166 (#A54(b), vol 11, 2149)
[441] Papatupu Minute Book 20, p 45 (#A54(b), vol 10, p 1980)
[442] TDMLC Minute Book 5, pp 142-143 (#A49, vol 6, pp 23480-23481)

by the committee. He therefore 'refused to allot the shares given to me to the persons in my list and went away', and later objected to the Board about the allocation of the shares that had had to take place in his absence.[443] In giving the Board's decision on Rangihamama in August 1906, Browne remarked that

> The great grievance appears to be that some of the parties interested were not present when the relative interests were defined. This was their own fault and not the fault of the Committee because they absented themselves deliberately for the purpose of embarrassing the committee in its work.[444]

Browne had previously complained to Sheridan about claimants refusing to bring their claims before the block committees, as we shall see at 5.6 below.

In the case of Punakitere 4, Putoto Kereopa refused to appear 'because I saw they refused to listen to the objections of the others'.[445] In the same case, according to Te Kohe Tahere, Eru Tahere refused to conduct a case because the committee had failed to keep an undertaking to accept the arrangement he had made outside fixing the boundaries.[446] And – also in Punakitere 4 – Wiremu Tuhai told the Council that 'I know the Committee notified me twice to attend. I paid no attention to their request because they had put my shares on a hill.'[447]

It seems also to have been reasonably common for committees to refuse to consider objections made to their reports, but rather to tell dissatisfied claimants to take their issues up with the Council. This appears to have been especially so when objections were made to agreements made outside and signed by all the parties. One can well imagine why the committees, which had in some cases been operating for years, would be rather reluctant to re-open matters that were deemed to have been settled.

We have already seen how Taipari Heihei was told to raise his Pukahu objection with the Council. Similarly, in Punakitere 4, Hori Whiu reported that he had objected to the case of Noa Karaka and Hone Pita, but the committee 'did not re-consider the question. It was left for the Council.'[448] Hira Hohaia had also objected to Hiramai Piripo's list, but the Punakitere 4 committee 'stated another com should decide this claim. … We considered the matter & concluded we wd bring it to the Council.'[449] It would seem that this is what the committee meant by 'another com'. In Kohewhata, Hemi Tuwhai objected to the arrangement signed by the parties 'but there were only two members present and I was told to leave the matter to the

[443] TDMLC Minute Book 5, p 142 (#A49, vol 6, p 23480)
[444] TDMLC Minute Book 5, p 210 (#A49, vol 6, p 23548)
[445] TDMLC Minute Book 4, p 9 (#A49, vol 6, p 22952)
[446] TDMLC Minute Book 4, p 11 (#A49, vol 6, p 22954)
[447] TDMLC Minute Book 4, p 15 (#A49, vol 6, p 22958)
[448] TDMLC Minute Book 4, pp 18-19 (#A49, vol 6, pp 22961-22962)
[449] TDMLC Minute Book 4, p 24 (#A49, vol 6, p 22967)

Whakaputanga ote Ripoata whakatau

Mo.

Maungaturoto Poraka.

Ohaeawai whare kooti.

22. 1. 06. Kua puare te whare i tenei 22.nd Hanuere 1906. ite.
2. P.m. 2. P.m. Nga mema i tae mai.

1. Piatoa Poti
2. Arapeta Hami Pia.
3. Hoone Rameta
4. Wiremu. M. Kapa. Tamana.

Ka panuitia te Ripoata whakatau ate Komiti Poraka mo nga Keehi mo tenei whenua mo Maungaturoto Poraka. Kamutu te panui ite Ripoata.

Konga whakahe a nga Keehi Ki te Ripoata whakatau ate Komiti menga whakatea Hea onga Rarangi ingoa mo taua Poraka mo Apopo Ka Kokiri mai ai Ki te Komiti.

Kua hiri te whare mo ate
10. A.m. apopo.

23. 1. 06.
10. A.m. Kua puare te whare. ite 10. A.m. 23. 1. 06.

Tonoa ana e nga Kai Kereeme mo Maungaturoto Poraka Kia hiritia mo te 2. P.m. Ka Kokiri mai i a ratou rarangi ingoa Kua oti te whaka Heahea, me a ratou whakahe hoki Ki te Ripoata ate Komiti.

Kua hiri mo te 2. P.m. 23. 1. 06.

Image 11: The decision of the Maungaturoto block committee[450]

[450] Papatupu Minute Book 49, p 264 (#A54(b), vol 36, p 7769)

Council'.[451] And Hiramai Piripo himself told the Board that he had objected to the committee's decision in Wiroa, but 'They refused to alter their decision and told me I could take my objection to the Council.'[452]

After the committee report had been issued, it was forwarded to the Council for consideration. The Te Wawa block committee, having completed their report and finalised their lists, remarked

> Ka mutu nga mahi katoa ka oti nga rarangi, kahore atu he mahi ma tenei Komiti mo tenei poraka. Ka tukua atu ma te Kaunihera Whenua e tirotiro te ahua o te whakatau a tenei Komiti. Ka mutu.[453]
>
> [When all the work was done and the lists completed there was nothing more for this committee of this block to do. It was sent to the Land Council to review the decision of this committee. Finished.]

4.9 Conclusion

The papatupu committees appear to have convened in Pākehā buildings such as halls and courthouses, perhaps because these served as a kind of neutral venue between the various hapū asserting ownership of a block. The committees began their proceedings by establishing whether they had a quorum and whether a clerk was present, before the members took oaths that they would exercise their abilities and knowledge to arrive at the correct decision. The claimants then stated their grounds for claiming the block. The *take* asserted by claimants before the committees were generally similar to those stated to the Council when the committees were set up, although there were sometimes different emphases. By and large, however, they were drawn from the same 'stock' of *take*, with the same incidence of more modern grounds for claiming the land.

The committees often sat long hours to get through the cases before them. It was common for evening sessions to be held and for a day's sitting thus to last 12 hours. The conduct of the sittings was similar to that of the land court, with kaiwhakahaere or conductors acting for each party and witnesses being subjected to cross-examination. Site visits were also held so that the committee could see for itself the boundaries claimed by the parties. A common practice was for claimants to come to arrangements outside the committee sitting on the shares to be allotted each party or the owners to be admitted, and report this back to the committee, which would then reflect the agreement in its report. These agreements tended to be in writing and signed by the each claimant, which was an innovative feature of the committee process.

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[451] TDMLC Minute Book 4, pp 229-230 (#A49, vol 6, pp 23172-23173)
[452] TDMLC Minute Book 5, p 147 (#A49, vol 6, p 23485)
[453] Papatupu Minute Book 26, p 123 (#A54(b), vol 15, 3098)

Some have argued that the adoption of these outside agreements was the very strength of the papatupu committee system. However, it was not always so straightforward in practice, as a number of agreements – including those signed by the parties – were later repudiated by one side or the other. Also, if an agreement covered only the ancestors for the block but not the names of all those entitled, then there remained much wrangling to be done. It seems fair to conclude that committee inquiries were not always co-operative ventures to identify the true customary owners of the land, but often featured reluctant compromises between rivals. In the specific case of Tautoro it seems that the other claimants all went along with the arrangements laid down principally by Iraia Kuao, and the block committee adopted this. Later, when the matter came before the Council and Kuao and other elders were dead, a number of claimants attempted to undo the agreement.

The committees delivered their decisions in person in front of gatherings of the claimants, who could in turn lay objections with the committee over the decision. Herein lay another fundamental difference between the committee process and that of the land court, where appeals against decisions had to be made formally in writing using a prescribed form and were matters for the Appellate Court rather than the judge who made the decision. Sometimes the committees agreed to alter their reports, while at others they told objectors that they would need to take up their concerns with the Council or Board. Indeed, claimants knew that this avenue remained open for further appeal, and for this reason some did not bother to dispute the committee decisions.

In this chapter we described the essential elements of the committee process. We cannot fully evaluate that process, however, until we have discussed some of the many challenges faced both by committee members and claimants. We do that in chapter 5.

Chapter 5: The challenges faced by committee inquiries

5.1 Introduction

Having set out the basic course of a committee inquiry in chapter 4, in this chapter we focus instead on the various challenges faced by both claimants and committee members during the process. We consider, first and foremost, the issue of how the committee inquiries were funded. Having explained the challenges in this regard, we then go on to discuss several issues that were arguably related. These include the difficulties for many claimants in attending committee hearings (which in turn gave rise to some dissatisfaction about the outcomes). We also discuss the time taken by the committees to complete their reports and the reasons for the frequent delays. We also discuss the (greater) delays in the Council's own review of the committee reports. The chapter also outlines several cases where claimants used misleading evidence to gain advantage.

This chapter addresses questions 2(a), 2(c), 2(d), and 2(e), of the research commission, concerning how the committees functioned in relation to the Council and Board; how widely the opportunity offered by the committee system was taken up; how the committees operated in practice; whether the committees were adequately funded to deal effectively with the cases brought to them; what the nature of the evidence was that was put before the committees; and how their operation reflected Māori priorities.

5.2 Costs and expenses incurred by claimants in the committee inquiries

5.2.1 Meeting the block committee's costs

In short, there was no financial support for the committee process from the Council. Instead, committees operated on a subscription basis paid by claimants. For example, Te Wau Kingi Hori explained to the Council when it considered the Waihou committee report in June 1905 that he had given £2 to one of the principal claimants, Re Te Tai,

> for the purpose of paying for the Committee's board & stationery. We bought blankets for them. We had to subscribe also to pay the Clerk of the Committee. I did not keep an account of how much I subscribed.[454]

As if to highlight the uncertain status of such payments, he added 'I do not know what wd have happened if I had not subscribed.'[455] Re Te Tai, however, disputed that Te Wau's payment had been on behalf of his case. His own explanation to the Council gives further insight into how the committees were supported by parties contesting the title:

[454] TDMLC Minute Book 1, pp 344-345 (#A49, vol 6, p 22152-22153)
[455] TDMLC Minute Book 1, p 345 (#A49, vol 6, p 22153)

> Tewau is not right in saying their case was included with mine before Block Committee. I admit they subscribed money but he has not assisted me. His assistance went towards Heremia [Te Wake] in [the] case of Whakarapa. The food he brought from Waihou was taken to the Cook shop on Heremia's side for the purpose of feeding the members. I deny he ever came to me about this case of Waihou. As far as I know he only subscribed £1 to the fund under Waikoi [presumably Te Wai Koi hapū]. He got a refund of his £1 for the purpose of taking it to Heremia's Cook shop.[456]

'Nga whakapaunga moni a te Komiti' or the costs for the Parahaki papatupu hearing, which ran from 10-16 February 1902, were noted in the committee's minute book as follows:

Te Pukapuka mo te Mahi	15/–
Mo nga Kara o te Komiti	2/–
Nga pepa a te Komiti	1/–
Pirihimana hei tiaki	20/–
Kai tuhituhi a te Komiti	16/–
	£2-14-0[457]

[The minute book	15/–
For the Kara of the committee	2/–
The paper of the committee	1/–
Policeman for protection	20/–
Committee scribe	16/–
	£2-14-0]

During the Waihaha investigation the committee noted the bill for its expenses: 'I tukua te Pire o nga raruraru o te Komiti £8.8.6.' [the bill for £8.8.6 for the committee's troubles was handed over].[458] The committee determined that the Waikare, Waihaha, Punaruku 2, and Ramaroa claimants should collectively 'e utu tenei Pire' [pay the bill].[459] When the committee next sat it requested that its bill be given consideration. Hone Pita asked the committee 'Kia kaua ia e whakaurua ki te utu i te Pire o Waihaha'[460] or that he be excused from paying the bill for Waihaha. During that same hearing, the committee noted Henare Keepa's similar request to be excused any further payment given the expense he had already incurred:

> I tonoa mai a Henare Keepa ki te Komiti kia whakaaroa tana moni i utua ai te Komiti me nga Kai tohutohu ki Waikare o te haerenga ka kite i nga papa mahinga ko taua moni £1.[461]

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[456] TDMLC Minute Book 3, p 14 (#A49, vol 6, p 22562)
[457] Papatupu Minute Book 39, p 45 (#A54(b), vol 27, p 5697)
[458] Papatupu Minute Book 12, p 247 (#A54(b), vol 7, p 1696)
[459] This may relate to the fact that these blocks had certain committee members and claimants in common, although the overlap was by no means complete.
[460] Papatupu Minute Book 12, p 247 (#A54(b), vol 7, p 1696)
[461] Papatupu Minute Book 12, p 248 (#A54(b), vol 7, p 1697)

> [Henare Keepa asked the committee to consider his money that he paid the committee and the guides for Waikare for the visit to see the cultivations. That was £1.]

Committee expenses were summarised by one contemporary observer in the Māori newspaper, *Te Pipiwharauroa*, who noted how the costs borne by claimants could mount and how the committee members were still uncertain of being paid:

> He iti noa iho te utu mo te keehi a te tangata, e rima hereni ano, otira tera ano etahi atu huarahi i pau ai te moni a te tangata, ara, a nga tangata whai keehi. Ma ratou e whangai, e atawhai, te Komiti; ma ratou e whangai nga tangata noho noa, kahore nei he take; he nui te kai e pau ana i a ratou ano. Hei te mutunga o te whakawa ka utua te Komiti i runga i te whakaaro noa iho; he nui ano hoki te utu mo nga kaiwhakahaere.[462]
>
> [The cost for someone to bring a case is very small, only five shillings. However, there are other costs incurred by claimants. They have to feed and take care of the committee; they have to feed the people there who have no reason to be there – they consume much food. At the end of the hearing the committee is paid only if people think to do so; it is also very costly for the conductors.]

Subscription payments to cover committee expenses seem to have been relatively common. In the case of Waihaha, noted above, Pou Werekake later told the Council (in August 1904) that 'We the leaders of the people have had to pay the expenses before the Block Komiti. The Komiti recommended that 2/– each be paid by those of the owners who have not already paid anything.'[463] Patete notes that the Matauri committee appears to have charged claimants 5 shillings for two hours of sitting time.[464] At one point during Puhipi Pene's evidence, for example, the committee minutes note 'Kua pau te 4 Haora. Kua utu i te 5/– mo te 2 Haora'. [4 hours were taken up. 5/– was paid per 2 hours.] That cost was presumably borne by the party cross-examining (who was Maaka Hoori). Later, during the cross-examination of Paora Kira by Hone Hape, Hape stated 'Ka hoatu e ahau he moni e rima herengi mo te rua Haora kia homai maku mo te patai kia Paora Kira.' [I gave 5 shillings for two hours so that I might cross-examine Paora Kira]. At the start of the minute book was a ledger of money paid. This showed that Maaka Hoori had paid £1 5s 'mo te keehi' [for the case] and 5 shillings for 'Over Time', while Hone Hapa had paid 5 shillings.[465] In the case of Punakitere 4, claimants were given one hour for cross-examination. They were told, however, that 'ki te neke atu e ahei ana mo te tekau herengi 10/–.'[466] [one can go over for 10 shillings].

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[462] 'Ture Kaunihera', *Te Pipiwharauroa: He Kupu Whakamarama*, Hepetema, 1906, p 1. We suspect that the reference to it costing only 5 shillings to bring a claim related to the cost before the Council prior to the committee investigations.
[463] TDMLC Minute Book 2, p 156 (#A49, vol 6, p 22329)
[464] Patete, 'Matauri', ' p 112
[465] Papatupu Minute Book 8, p 1, 147, 239 (#A54(b), vol 3, p 545, 690, 782)
[466] Papatupu Minute Book 39, p 49 (#A54(b), vol 27, p 5701)

While we cannot be certain, it seems from this that payment to be heard by a committee cost about £1 5s and that this bought about a day's sitting time, with anything extra charged at the rate of 5 shillings for two hours. The minute book covering the Mahimahi and Motukawanui cases, for instance, also began with a ledger recording payments of £1 5s each 'mo te keehi' [for the case] by Ihaka Pera and Maaka Hoori.[467] This probably relates to payments noted in the course of the minutes themselves. After Ihaka Pera had recited his grounds of claim to Mahimahi, for example, the committee told him 'Me homai e koe te moni £1-5..0', a remark repeated to Maaka Hori after he had stated his *take* to Motukawanui.[468] While different committees may well have applied different rules, this approximate level of payment to have a claim heard appears to have applied elsewhere too. In the case of Punakitere 4, Hira Hohaia told the Council that 'I had to pay £1 1/– for the hearing of our case.'[469]

5.2.2 Paying money to conductors

In addition to subscribing money to support the maintenance of the committee or to pay for hearing time, claimants also paid money to the conductors of the various cases. Evidently some of this money was passed on to the committees, but otherwise it appears to have been used to fund the conductors' own expenses. With the payment, it seems, went a general expectation of favourable inclusion in that party's list of owners. By contrast, failure to subscribe money could mean that those with a genuine interest might find themselves left out altogether or in receipt of a rather small shareholding only. The following examples of disputes over money (taken from the minutes of the Council or Board) are included to illustrate the practice of payment for the conduct of cases, rather than to suggest that disputes were the norm. For the most part, one can imagine, money was paid and parties felt no need for further comment.

In the case of Rangihamama, Mohi Wikitahi stated in June 1906 that he had paid Arapata Hami £2 'to help pay for the cost of the proceedings before the Block Committee'. This had clearly been part of a quid pro quo, whereby Wikitahi had made an arrangement with Hami to have himself and his son Eparaima included in Hami's list. Wikitahi's complaint to the Board in 1906 was that Hami had failed to include Eparaima.[470] In Kotuku A, Horima Wi Mura told the Council in November 1905 that he wanted 'the shares of my brother & sister increased to 6 each because they have subscribed the most money to Taniora [Te Korohunga] for the conduct of the case and the expenses of the Maori meetings'.[471] Likewise, in Kohatutaka, Akuhata Haki objected that his nineteen-year-old daughter had only received one share in Putoto Kereopa's list. Both he and his daughter had subscribed two shillings and sixpence

[467] Papatupu Minute Book 4, p 2 (#A54(b), vol 1, p 7)
[468] Papatupu Minute Book 4, pp 14-15 (#A54(b), vol 1, p 19-20)
[469] TDMLC Minute Book 4, p 24 (#A49, vol 6, p 22967)
[470] TDMLC Minute Book 5, pp 81-82 (#A49, vol 6, pp 23419-23420)
[471] TDMLC Minute Book 4, pp 40-41 (#A49, vol 6, pp 22983-22984)

towards Putoto's case, but Putoto had ended up with 60 shares and Putoto's 'barren' wife had received 40.[472]

In Kotuku B, Hetaraka Manihera had conducted Perepe Komene's case, but it appears that neither side was happy. The latter had ended up with a small shareholding and blamed Hetaraka, while Hetaraka said that Perepe had 'told me so many untruths about the money he ought to have paid for the conduct of the case'.[473] A similar dispute occurred in Punakitere 4 between Rauahi Puatata and Wiremu Tuhai. Rauahi argued that

> I had an arrangement with Tuhai that he was to conduct the matter under the ancestor & include me in the list. I contributed money towards the expenses of the case.[474]

Tuhai, however, said he 'had no arrangement with Rauahi to include him in my list & he never gave me any money.'[475]

In Maungaturoto, Maata Kuku sought the inclusion of herself and members of her family in the block's ownership after they were left out by the block committee. She explained that Remana Kiwikiwi had set up a case before the Council and then asked her for a subscription. Her family had 'subscribed money and handed it to him. That is the reason why we want our names included.' It seems, however (as noted in chapter 4), that Remana had not bothered to appear before the block committee as – according to Rawiri Te Ruru – he regarded it as having 'no mana' and had instead chosen to 'wait for the Council'.[476]

In one case the maker of a payment regarded it as essentially transferable to a different block. Pine Whai told the Board in August 1906 during the hearing of objections to the Tawapuku committee decision that

> My husband made an appln to have me included & Kato Whakaita agreed but I found out when the lists were read out … I was not. It was in Otuhi that he promised to put my name in. My husband made no appln to have my name included in Tawapuku. I gave Kato Whakaita some money to include my name in Otuhi. He withdrew his case for Otuhi. He set up a case for Tawapuku and because I paid him 5/– I want my name included in Tawapuku. I am a descendant of the ancestor.[477]

There was also the possibility that a claimant or conductor could not lever money out of those likely to benefit from their claim. In the case of Taraire, for example, Hemi Tuwhai alleged that Kaipo Hoterene – one of the claimants – 'came & demanded money from me to put my

[472] TDMLC Minute Book 5, pp 36-37 (#A49, vol 6, pp 23374-23375)
[473] TDMLC Minute Book 4, pp 30-31 (#A49, vol 6, p 22973-22974)
[474] TDMLC Minute Book 4, p 15 (#A49, vol 6, p 22958)
[475] TDMLC Minute Book 4, pp 15-16 (#A49, vol 6, pp 22958-22959)
[476] TDMLC Minute Book 5, pp 142-143 (#A49, vol 6, pp 23480-23481)
[477] TDMLC Minute Book 5, pp 115-116 (#A49, vol 6, pp 23453-23454)

name into this land but the Chairman told him he cd not possibly keep me out of it because I was entitled. I wd not give him any payment.'[478]

In the case of Maungakawakawa, Eruera Rauahi related how Taniora Te Korohunga (his uncle) had asked him and his brothers to subscribe money towards the block committee's expenses, and in exchange Taniora would include them in his list. However, according to Taniora's son Werepa, his cousins had decided that Taniora's case would fail and had elected instead to go in under Hori Rakete's list, paying him money instead. Werepa told the Board, however, that since Taniora's 'case has succeeded they wish to be included and to arrange the list according to their liking'.[479] The Rauahi brothers were left hoping that the Board would rearrange matters so as to give them parity with their cousins (see chapter 6).

Also in Maungakawakawa, Reihana Netana told the Board that his wife had made a financial contribution towards the expenses of the block committee but her brothers had not. He himself had tried to give money on their behalf to Hirini Taui, one of the claimants, but Taui would not accept it. Netana reflected that 'I suppose this is why they were left out.'[480] These Maungakawakawa examples show the risks borne by those who backed the wrong claimant or who failed to make any financial contribution. In Mataraua, Netana asked that he and members of his family be included in Putoto Kereopa's list. Putoto objected, in part because he denied Netana and his family had been in recent occupation, but also because 'They contributed nothing towards the expenses of the Block Committee.'[481]

Paying money tended to lead to an expectation on individuals' part of not only being included in a list of owners but also receiving a corresponding share of that party's entitlement. By contrast, those who did not pay sometimes found themselves omitted from the lists or given a small shareholding only. Sometimes claimants even sought to have their lists altered after the event in order to exclude those who had not paid up. In Maungaturoto, Rawiri Te Ruru – who was not a claimant himself but acting as a conductor for one of the parties – explained to the Board that

> I prepared the list of names at the direction of Rawiri Hirini. The people for whom I conducted made up the lists. When the lists were read out no one objected. My clients have come to the conclusion that as he has [sic] not been supported in the expenses incurred in connection with the case he had decided to ask that the names be struck out. In our affection for them we included them but they did not contribute towards our expenses.[482]

In Maungapohatu, Arapata Whare also asked the Board if he could amend the list of names he had made and handed to the block committee. He explained that he had 'allowed each family to allot its own shares' but now wished 'to strike out some persons'. In certain cases,

[478] TDMLC Minute Book 4, pp 127-128 (#A49, vol 6, pp 23070-23071)
[479] TDMLC Minute Book 5, p 48 (#A49, vol 6, p 23386)
[480] TDMLC Minute Book 5, p 62 (#A49, vol 6, p 23400)
[481] TDMLC Minute Book 5, p 64 (#A49, vol 6, p 23402)
[482] TDMLC Minute Book 5, p 138 (#A49, vol 6, p 23476)

this was because the individuals had no right or had died, but in other cases it was their lack of contribution to the expenses of the case: 'These people did not assist in the case. Reihana Netana did not assist at the hearing before the Bk Com.'[483] In the same case Hori Rewi explained why some objectors had been left out of his list:

> When we sat at Te Kawau I saw the whole of the Parawhau hapu there. I told them I was going to the sitting of the Bk Com. They knew there was the expense of staying there getting food etc. I attended the sitting without any assistance from them. I wrote to Patira Te Taka & ors asking them for £2 to pay expenses. They sent no money, & I had to pay all the expenses. That is why the shares were allotted in the way they were. These five persons were forgotten.[484]

As in most disputes of this nature an alternative viewpoint was put before the Board, with Peka Te Rata alleging that Hori Rewi had obtained his money by selling all the timber and flax on the land (which Rewi in turn denied).[485]

5.2.3 An attempt to have costs reimbursed

At one point a query was made with the Council as to the possible reimbursement of expenses incurred in prosecuting claims before the block committees. When the Council made an order in favour of the owners of the Waihaha block in August 1904, Hone Tautahi Pita asked Edger about section 29(3) of the Maori Lands Administration Act 1900. This, he suggested, 'authorises the refund of monies expended in perfecting the title'. Edger appeared not to know the answer, informing Pita only that 'Proper a/cs & vouchers must first be produced'.[486] Section 29(3) provided that, with regard to any lands vested in the Council, the Council could

> borrow money upon the security of the land, or a definite part thereof, to such extent and on such terms in all respects as it thinks fit, and may apply the net proceeds so borrowed in or towards discharging valid mortgages or survey-charging liens and other *bona fide* valid expenses or debts of the Maori owners incurred in perfecting the title to the said land, or to any other lands owned by the same Maoris[.]

The following month Pita, Pou Werekake, and Mita Wepiha submitted statements 'of expenses incurred in prosecuting claims before the Block Komitis'. It is not clear how Edger responded to this, but his minutes then record Pita as saying 'Well I withdraw the claim for 10/– a day if the President thinks it cannot be allowed.' Pou Werekake added 'We will reduce the claim from 10/– to 5/– a day, if the President thinks we ought to do so.' Edger then stated

[483] TDMLC Minute Book 5, p 215 (#A49, vol 6, p 23553)
[484] TDMLC Minute Book 5, p 222 (#A49, vol 6, p 23560)
[485] TDMLC Minute Book 5, p 223 (#A49, vol 6, p 23561)
[486] TDMLC Minute Book 2, p 156 (#A49, vol 6, p 22329)

that the accounts would be considered 'when there is time to look into them'. He noted underneath this 'Apparently no authority to pay them.'[487]

5.2.4 Comparison with the Native Land Court

Despite the parties' expenses in paying subscriptions to support both the case conductors and the block committees, Armstrong and Subasic's opinion is that 'overall the cost would have been considerably less' than having title ascertained through the Native Land Court.[488] We have already set out in chapter 2 that, at the time of the Maori Lands Administration Act 1900, it cost £1 for each party for every day of a court investigation. The cost (as reported in Matauri, Mahimahi, and Motukawanui) of £1 5s to bring a case before the committee and (as reported in Matauri) five shillings for every two additional hours (perhaps beyond a day) of hearing time tend to suggest that committee expenses were not particularly dissimilar. There is, however, one crucial distinction, which is that the payment for sitting time before the committees appears to have been borne by the party presenting evidence or cross-examining only, rather than by each party.

It is also well known that claimants often had to travel considerable distances to attend land court hearings, with all the attendant costs. The committee sittings, by contrast, appear to have been held at locations that were reasonably easy for claimants to get to (although we discuss the difficulty experienced by some claimants in attending below). Claimants before the committees did not have to pay expensive interpreters' fees either. We have not had time, however, to contrast all aspects of the court's and committees' operation, as doing so would have required us to research the operation of the court in Te Raki in some depth. Overall, therefore – on the evidence available to us – it is difficult for us to conclude that the committee process was significantly cheaper for claimants than the land court. This is especially so given the number of blocks that ended up having their title investigated by the court anyway, as we shall see in chapter 6. Suffice it to note here that the Crown did not support the committee process financially at all, despite the benefits it perceived of the quicker titling (and thus 'opening up') of such large tracts of papatupu land. As in the court, Māori essentially paid for the titling of their land.

5.3 Claimant difficulties in attending committee hearings

Many claimants were unavoidably absent from committee sittings. Armstrong and Subasic remarked upon this, noting that the Council minutes include many instances of claimants being absent for work or attending another block committee.[489] When the Kaihou committee met on 5 February 1907, for example, they recorded that 'Kotahi ano te Kai Kereme i tau mai

[487] TDMLC Minute Book 2, p 208 (#A49, vol 6, p 22381)
[488] Armstrong and Subasic, 'Northern Land and Politics', p 1432, note 3560
[489] Armstrong and Subasic, 'Northern Land and Politics', p 1428

ki te aroaro o te Komiti ko Timi Waa'[490] [Only one claimant came before the committee, Timi Waa.] Pou Werekake made the general point to the Council in August 1904 that 'so many of the owners are away in other districts'.[491] A typical story might be said to be that of Taniora Henare Ruhe, who told the Council in November 1905 why he had missed the Kotuku committee sitting:

> I am not included in any of the list[s]. I did not appear before the Block Committee. I was busy at bush work and I could not get any one to represent me. I heard the Bk Com was sitting just near the finish. I was then working at Snowden Bros bush at Te Waimate. … The Bk Com sat somewhere in Kaikohe. It is 10 or 11 miles from Waimate.[492]

In the case of Te Karae, Toki Panguru claimed that the committee had not allowed him to call a witness. He had then 'had to go to work & therefore had not time to state the names of my cultivations.'[493]

Another objector to the Kotuku B decision, Arapata Hami Pia, had not appeared before the Kotuku committee because he had been 'engaged in the Rawhiti case & did not get before the Committee in time. When I arrived the case was closed & Com wd not receive my list of names.' Likewise, both Hare Matenga (who, as we have seen, was appointed a member of ten block committees) and his wife had been ill and unable to leave the house, and in fact his wife had died at around the time the Kotuku B committee gave its decision.[494] Tuhingaia Te Rewha had missed the Mautakirua committee because of having to look after a deceased brother's children,[495] while Ruawhare similarly missed the Tawapuku committee because of being 'busy with my children'.[496] Kato Whakaita also missed the Tawapuku committee for an unspecified reason ('because he was absent').[497]

There appear to have been a number of unavoidable absences from the Rangihamama committee sitting. Akuhata Haki, for example, explained to the Board that he had been giving evidence to the Kohatutaka committee when the Rangihamama hearing was in progress. Marara Hirini was likewise preoccupied with Kaikou. Waiheke Hui was away gumdigging when the committee made its decision (and thus could not object), while Te Kohe Tahere was away at Waiomio and Wirepa Taniora at Whangaruru. As with Mautakirua, Tuhingaia Te Rewha was again unable to attend.[498] Marara Hirini was also unable to attend the Kohewhata committee hearing as she was at Russell busy dealing with the Motatau case. She told the Board in June 1906 that

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[490] Papatupu Minute Book 51A, p 1(#A54(b), vol 38, p 8004)
[491] TDMLC Minute Book 2, p 202 (#A49, vol 6, p 22375)
[492] TDMLC Minute Book 4, p 6 (#A49, vol 6, p 22949)
[493] TDMLC Minute Book 3, p 85 (#A49, vol 6, p 22633)
[494] TDMLC Minute Book 4, p 7 (#A49, vol 6, p 22950)
[495] TDMLC Minute Book 5, p 100 (#A49, vol 6, p 23438)
[496] TDMLC Minute Book 5, p 105 (#A49, vol 6, p 23443)
[497] TDMLC Minute Book 3, p 223 (#A49, vol 6, p 22771)
[498] TDMLC Minute Book 5, pp 68-73, 79 (#A49, vol 6, pp 23406-23411, 23417)

> I was at Russell at the time the Block Committee was sitting. I made an appln to the Tokerau Council to adjourn the hearing of Kohewhata until such time as I was able to get away from the Motatau case. I also made an appln to the Council that Kato Whakaita shd set up a claim on our behalf. The Council informed me that after the Motatau No 2 was finished I cd then come to Kohewhata. On my arrival they had already decided upon Kohewhata without further investigating my claim.[499]

In August 1904, Hone Tautahi Pita asked the Council to adjourn its consideration of the objections to the Paremata Mokau committee report for a day, as 'we are busy with the Block Komiti for Ngaiotonga No.4 & Whangaruru-Whakaturia'.[500]

As Taniora Henare Ruhe pointed out with respect to Kotuku, the distance between sitting venue and where people lived sometimes made the appearance of witnesses difficult. When Maungapohatu was before the Board in August 1906, Mita Wepiha asked if he could call witnesses in support of his objection. He explained that

> One of the persons was at Whangaruru & was not before the Block Committee at that time. The case was heard at Maungapohatu. It is a day's journey from Whangaruru. This person was not asked to come before the Bk Com. We did not send for him.[501]

On occasions it was the weather that intervened. On 29 May 1903 some Paremata Mokau claimants were delayed in attending the committee sitting by a 'tupuhi' or storm.[502] On other occasions it was tangi or funerals, although the committees were prepared to adjourn for that reason. For example, on 22 February 1904, the chairperson of the Te Karaka committee agreed that 'ka hiki atu no te whakawa mo Te Karaka. Ko te take i hiki ai ko te 23 o te marama nei ka tanumia a Hori Riwhi'.[503] [the Te Karaka hearing will again be adjourned. The reason for this adjournment is that Hori Riwhi is to be buried on the 23rd of this month.] Hori Riwhi had been a member himself of seven committees. Wiremu Rikihana, who was due to present his case, agreed with the reason for this adjournment, stating 'he take nui te mea i hiki ai, he aitua'.[504] [a death is an important reason for an adjournment.] The committee, however, only adjourned for the day, resuming again at 7 pm on the day of the burial.

Sometimes claimants seem to have been genuinely unaware that a case was proceeding. We have already seen in chapter 3 that some claimants were unaware of Council sittings, and so it appears to have been with block committees. In Kotuku A, Kato Whakaita claimed that 'I was at Kaikou. I did not know of the investigation. I heard of it after the Bk Com decision was given.'[505] In Rangihamama, Reupena Tuoro explained that he lived at Waimamaku and

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[499] TDMLC Minute Book 4, pp 223-224 (#A49, vol 6, pp 23166-23167)
[500] TDMLC Minute Book 2, p 169 (#A49, vol 6, p 22342)
[501] TDMLC Minute Book 5, p 217 (#A49, vol 6, p 23555)
[502] Papatupu Minute Book 11, p 137 (#A54(b), vol 6, p 1215)
[503] Papatupu Minute Book 22, p 5 (#A54(b), vol 12, p 2162)
[504] Papatupu Minute Book 22, p 5 (#A54(b), vol 12, p 2162)
[505] TDMLC Minute Book 4, p 38 (#A49, vol 6, p 22981)

'did not know the case was going on'.[506] With regard to Maungakawakawa, Tuhingaia Te Rewha said 'I am living on Motatau No 4 a long way off & I did not know the case was going on.'[507] Aside from missing the Rangihamama sitting, Waiheke Hui was also absent from the Mataukirua committee's hearing. He explained to the Board that 'I did not appear before the Bk Com. I did not hear of the sitting. I did not appear before the Council. I was at the Wairoa then.'[508] In objecting in September 1908 to the decisions made in Kaikou 2 and 3 and Mangakowhara, Hari Pata Pare said that he had received no notice of the block committee sitting.[509]

In the circumstances of so many being unable to attend committee hearings, claimants often had to arrange for others to present evidence on their behalf. We can see that Toki Panguru may have been trying to do this in Te Karae, but was not permitted to call a witness. Again – as with the disputes over money – we tend to know of examples of others being entrusted to represent absent claimants because the absentee later objected to the committee decision. It can be assumed that many acted successfully as agents on others' behalf. However, the reliance of absentees on dealing with their claims via proxies was symptomatic of the scale of the block committees' work and the lack of resources available to claimants. It was perhaps inevitable that many parties' wishes would be misrepresented.

In the case of Taraire, for example, Marara Hirini stated that she and Hirini Taui had both been unable to attend and had agreed with Rauahi Puataata that he would conduct their case in their absence. However, she added, 'he did not do so'.[510] In Punakitere 4, Pera Wahapu was unable to attend the committee and 'left the matter to Hiramai but he did not include me'.[511] In Maungakawakawa, Matiu Wi Hongi explained that he had remained at home and that Hone Ngapua had prosecuted his case. The matter had been left 'entirely in his hands'. However, Hone Ngapua had consented to the committee's decision despite knowing 'that a mistake had been made'. Ngapua admitted that he had been satisfied with the committee's decision, but 'I have changed my mind now on account of the number of objections that have been made.'[512]

There were many instances in Kohatutaka of later objections to the Board because of the failings of those acting under delegation. Heremaia Te Waha 'left Te Whata and the others to look after my interests', but later also found cause to object. Mokaraka Mohitaka likewise left Heremaia Kauere to look after his interests but only found out the number of shares allotted him when Kohatutaka came before the Board in July 1906. He stated at the time that 'I now find for the first time that the actual occupiers of the land have been swamped by outsiders.' Matiu Patara told the Board that 'I don't know what was done or what evidence was given

[506] TDMLC Minute Book 5, p 82 (#A49, vol 6, p 23420)
[507] TDMLC Minute Book 5, p 90 (#A49, vol 6, p 23428)
[508] TDMLC Minute Book 5, p 99 (#A49, vol 6, p 23437)
[509] TDMLC Minute Book 6, pp 56-58 (#A49, vol 6, pp 23743-23745)
[510] TDMLC Minute Book 4, p 119 (#A49, vol 6, p 23062)
[511] TDMLC Minute Book 4, p 11 (#A49, vol 6, p 22954)
[512] TDMLC Minute Book 5, pp 44, 46 (#A49, vol 6, pp 23382, 23384)

before the Block Committee. I left some persons to look after my case but they were ignorant and obtuse.' Similarly, Awarua Maihi had not objected to the committee decision because 'My sister was looking after my case. She did not object. She does not know enough.' Wiremu Tuhai, by contrast, had left his list with the committee and gone away to Mangakahia, there being 'no one in my list who could have looked after it in my absence'.[513] Tuhai made the same complaint in Punakitere 4, telling the Council that 'I had to go to Whangarei & there was no one whom I cd trust to conduct the case for me.'[514]

It seems that Wiremu Tuhai was not prejudiced by leaving his list with the Kohatutaka committee and not remaining personally in attendance, although he did later request a greater allotment of shares.[515] The apparent acceptance by the committee of his list would appear to reveal a more liberal practice in the committees than in the land court, where evidence not presented in court was simply ignored.[516] There were clearly occasions when claimants had to be present, however. In August 1904, the Council was asked whether the Oakura committee should proceed in the continued absence of one of the three claimants, Hone Pama. The Council arranged that the committee would sit in Russell the following week, with Pama – who lived in Whananaki, a day's journey away – to be sent a telegram by the chairman notifying him to be present. Edger would also cable Pama and inform him that the committee would go on without him if he did not attend. Edger noted in the minute book that 'All other parties are here, & ready for the fray' (he then crossed out 'fray' and wrote 'work' in its place).[517] Claimant non-attendance was also a problem when the Board received the Oakura block committee report, as we shall see in chapter 6.

In the case of Rangihamama, Marara Hirini had been unable to attend. She had entrusted Peneha Kiingi to look after her interests, but he 'did not conduct the case properly'. As she explained to the Board,

> I object to his conduct of the case because he did not advance my claims. … I do not know what evidence he gave before the Block Committee. I knew he had not advanced my rights because when I came sometime afterwards I found his case had failed and he had not included me in his list. Peneha's parents told me he did not come to them for any information about the land because he was at variance with them. … Therefore his case failed through his ignorance of the history of this land.[518]

Marara Hirini had also entrusted Peneha and his father Kato Whakaita to represent her interests in Kohewhata, but had cause there too to lodge an objection to the block committee's report.[519]

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[513] TDMLC Minute Book 5, pp 13-15, 18 (#A49, vol 6, pp 23351-23353, 23356)
[514] TDMLC Minute Book 4, p 14 (#A49, vol 6, p 22957)
[515] TDMLC Minute Book 5, p 13 (#A49, vol 6, p 23351)
[516] See Williams, *'Te Kooti tango whenua'*, pp 159-160.
[517] TDMLC Minute Book 2, p 167 (#A49, vol 6, p 22340)
[518] TDMLC Minute Book 5, p 68 (#A49, vol 6, p 23406)
[519] TDMLC Minute Book 4, pp 223-225 (#A49, vol 6, pp 23166-23168)

In sum, the sheer volume of block committee (and concurrent land court) activity in Te Raki was an added factor – beyond the usual requirements of work and family, and the distances to travel – that made it difficult for many claimants to attend committee sittings. The upshot was that claimants often relied on others to prosecute their claims, and many were left dissatisfied with the outcome.

5.4 Member absences and delays in completing reports

It was not just claimants who had difficulty attending committee sittings, but often so also did the members. As noted in chapter 3, Blomfield was concerned before the committees even began their work that they were not obliged to report within a set timeframe and that there was no provision in the legislation for what would happen if they failed to come to a decision. And, as noted further in chapter 2, the Government passed an amendment to the Maori Lands Administration Act in 1903 that allowed the Council to compel any committee that had not reported after six months to furnish its report within one month. If it did not do so, it could be dissolved.

As we shall see, however, these amendments did not prevent considerable delays in certain cases. The Council had limited capacity to take over investigations itself, and may have issued such warnings to committees more as a means of generally expediting their progress. As far as is known, only two such directives were issued to block committees (see below).

As also noted in chapter 2, a quorum for a block committee was the majority of its members. It was not unusual for sittings to occur with the bare quorum, and for minor delays to occur because of members' temporary absences. When the Puketaururu committee convened at Taheke in March 1905, for example, only two members were present, and the sitting was adjourned until the following day when another member arrived. The minutes record that 'I te mea kei te ngaro atu ano etahi o nga mema o te Komiti na reira ka nekehia te whare kua hiki mo apopo.'[520] [As some of the Komiti members are missing, the house shall be adjourned until tomorrow.] Similarly, the Wairoa committee opened on 18 February 1904 at Te Karaka a member short of a quorum, and reconvened with a third member on 23 February after also having found 'He Karaka tuturu mo te Komiti' [a permanent clerk for the committee].[521] The Whakarapa, Te Wawa, and Whakakoro committees all began their sittings with four members, while the Rawhiti and Taporepore committees both began sitting with three.[522] When the Wiroa committee opened at Ohaeawai in September 1903 there were four members present, but Wiremu Tuwhai promptly resigned leaving only the bare quorum to hear the case.[523]

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[520] Papatupu Minute Book 40, unpaginated (#A54(b), vol 28 p 6044)
[521] Papatupu Minute Book 22, pp 4-5, 16 (#A54(b), vol 12, pp 2161-2162, 2173)
[522] Papatupu Minute Book 29, p 20 (#A54(b), vol 18, p 3792); Papatupu Minute Book 26, p 6 (#A54(b), vol 15, p 2981); Papatupu Minute Book 25, p 1 (#A54(b), vol 14, p 2540); Papatupu Minute Book 18, p 5 (#A54(b), vol 8, p 1720); Papatupu Minute Book 42, p 5 (#A54(b), vol 30, p 6324)
[523] Papatupu Minute Book 19, p 1 (#A54(b), vol 9, pp 1737)

Member absences occurred for a variety of reasons, such as illness and the competing priorities of attending other block committees or Native Land Court hearings. Resignations were also a problem. The saga of the Kohatutaka committee was explained to the Board by one of the block's claimants, Hone Ngapua, in 1906:

> The Committee was sitting for 2 weeks when 2 resigned. Two others were appointed. They were sitting for 3 weeks and then the Com adjd for a year. Before the year was out the Chairman died, Hone Rameka was appointed. When the Com sat again another member resigned & Hori Rakete was appointed.[524]

To attach some dates to this, the Kohatutaka committee was set up on 7 November 1902, and began its inquiry in February 1904. After sitting for most of February and March 1904 the chairman, Hemi Kaurera, adjourned on 31 March 1904 until 20 February 1905. As he explained,

> E whakaautu ana au ki te iwi katoa i te mea kua patata nga ra o te Kooti Whenua Maori ki Rawene a e whai take ana hoki au ki taua kooti me koutou hoki no reira ka hikitia atu tenei kooti mo a Pepuere 1905. Ki taku mahara ano hoki e roa te tunga o taua kooti ki Rawene. No reira me waiho marie hei nga ra o te Mahana ka whakahaere ai ano i tenei whakawa. Kei a reira mohiotia ai te ra hei puaretanga. [525]
>
> [I am saying to the whole tribe that as the Native Land Court sitting at Rawene is close to hand and I and you also have claims in that court, that this court shall adjourn until February 1905. I believe that that court at Rawene will sit for a lengthy time. Thus we shall leave it for the warmer days and commence proceedings again. The day for the opening will be made known then.]

The Native Land Court sitting at Rawene lasted from 7 April to 15 August 1904.[526] While this was months before the block committee reconvened it was probably impractical for the committee to recommence any sooner, given the need for claimants to pursue other activities (including generating income). The Kohatutaka committee finally issued its report on 20 November 1905.[527]

Similar delays and member absences beset the committee set up in May 1903 to consider the claims to Kaikou 2 and 3 and Mangakowhara. Two years later, in June 1905, Hori Rewi complained to the Council that

> The Block Committees for these Blocks were set up on 14th May 1903. They have never notified us to attend any meeting or made any attempt to investigate the title although the claimants have asked them to do so. We think they have had quite sufficient time to make the

[524] TDMLC Minute Book 4, pp 376-377 (#A49, vol 6, pp 23319-23320 23406)
[525] Papatupu Minute Book 43, p 6 (#A54(b), vol 31, p 6384)
[526] See Northern minute books 34 and 35 (Wai 1040 document A49, vol 5).
[527] Papatupu Minute Book 43, pp 371-376 (#A54(b), vol 31, pp 6403-6408)

investigation. We ask that they should be notified under Sec 6 Act 1903 to furnish a report within a month & if they fail within the month we ask that they be dissolved and a fresh Committee appointed.[528]

Image 12: Former Rawene courthouse[529]

The matter was addressed at Russell in August 1905. The chairman of the committee was by now Haora Areka Whareumu, not Matiu Kapa as originally arranged (in fact Whareumu had not been one of the original members). Whareumu told the Council that 'Of the members elected or their successors Rewi Maaka was absent from the District and Henare Matehaere and Tau Pepene had resigned and it was impossible to get a quorum.' He proposed two new members, and one of these along with another nominated by Hirini Taui were duly appointed.[530] This was not the end of the committee's membership problems, however. In August 1906, Whareumu himself resigned from the committee, with his place being filled by Hone Rameka. Hare Wetiwha – one of the new appointees in 1905 – was appointed acting chairman and requested by the Board to convene a meeting of the committee.[531] The committee's reports on Kaikou 2 and 3 and Mangakowhara were completed in February 1907. However the reports were not considered by the Board until September 1908, more than five years after the committee was first set up.[532]

[528] TDMLC Minute Book 1, p 304 (#A49, vol 6, p 22112)
[529] http://www.fotothing.com/MargNZ/photo/d0a59d78d0a9a554cda7f658b0698bb4/ accessed 31 August 2016
[530] TDMLC Minute Book 3, p 126 (#A49, vol 6, p 22674)
[531] TDMLC Minute Book 5, pp 220, 233 (#A49, vol 6, pp 23358, 23571)
[532] Papatupu Minute Book 51A, pp 25-28 (#A54(b), vol 38, pp 8028-8031); TDMLC Minute Book 6, pp 56-59 (#A49, vol 6, pp 23743-23746)

Another committee set up at Whangarei in May 1903 – that considering Pipiwai 2 – also experienced delays. By August 1904, it was reported that no meeting of the committee had been held, and that the chairman, Hare Maihi, had resigned.[533] It is not clear when and if the Pipiwai 2 committee reported.[534] Several committees set up at Russell also encountered difficulties in completing their work. The committee set up to investigate Rawhiti, Poroporo, and Urupukapuka in June 1903 had stalled soon afterwards, leading to the claimants asking the Council to take over its work:

> I runga i te uaua o nga taha e rua, ka homai te kupu kia unuhia te Komiti poraka mo te Rawhiti ... kia kawea tenei kereme a te Rawhiti ma te Kaunihera e whakawa .[535]
>
> [Because of the difficulty with both sides, word came to withdraw the block committee for te Rawhiti ... and take this claim for Rawhiti and let the Council investigate it.]

Ru Rewiti told the Council in August 1904 that

> The … Block Komiti began its sitting, but as one member was re-called (by the Bishop) the proceedings could not go on. We concluded that the Komiti as set up wd not complete the work. Three only of the five attended the sitting. So we thought we wd ask the Council itself to deal with the case.[536]

It is not clear which member was recalled, but it may have been Matiu Kapa, a clergyman (as indeed was Hare Maihi). In any event, Edger advised in response that 'A notice has been sent to the Kahiti, in respect of this & other blocks, calling on the Komiti to finish Reports within one month.'[537] This notice, which was duly published on 18 August 1904, read as follows:

> KI te Tiamana me nga mema o nga Komiti Poraka Papatupu kua whakaturia nei hei kimi hei whakawa i nga take o nga tangata ki nga poraka whenua e mau nei nga ingoa i te rarangi i raro iho nei, ki te mahi ki te tuku mai hoki ki te Kaunihera, i nga ripoata whakaatu i nga ingoa o nga tangata i kitea e tika ana no ratou aua whenua me te nui hoki o nga hea paanga i whakaritea mo ia whanau mo ia tangata hoki.
>
> NOTEMEA kua pahure atu i te ono marama te roa o te wa i whakaturia ai koutou, no konei, he whakahau atu tenei ki tena ki tena o koutou kia tukua mai aua ripoata ki te Kaunihera i roto i te kotahi marama timata atu taua kotahi marama i te ra i perehitia ai tenei panuitanga ki roto ki te Kahiti, ara, koia tenei, i mua mai o te 15 o nga ra o Hepetema, 1904, i taua ra tonu ranei.
>
> Na ETIKA
> Tumuaki o te Kaunihera[538]

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[533] TDMLC Minute Book 1, p 157 (#A49, vol 6, p 21962)
[534] We have found no record of a Pipiwai committee report among either the papatupu minute books we have had access to or the minute books of the Council and Board.
[535] Papatupu Minute Book 18, p 7 (#A54(b), vol 8, p 1722)
[536] TDMLC Minute Book 2, p 146 (#A49, vol 6, p 22319)
[537] TDMLC Minute Book 2, p 146 (#A49, vol 6, p 22319)
[538] *Kahiti*, no. 39, 18 Akuhata 1904, p 334

> [To the Chairman and the members of the Papatupu Block Committee established to investigate the claims to the block of land of the people who have attached their names below, and to prepare and send reports to the Council of the names of the people who have been seen to have a right to those lands as well as the number of shares arranged for each family and individual.
>
> BECAUSE it has been more than six months since you were established, this therefore is an instruction to each of you to send in your reports to the Council within one month starting from the day this notice was published in the Gazette, that is before or on the 15 September 1904.
>
> From EDGER
> President of the Council]

The blocks listed were Te Tii Mangonui, Urupukapuka, Rawhiti, Poroporo, Korotangi, Wiroa, Waimahe, Whangaroa Ngaiotonga 4, Whangaruru Whakaturia, and Oakura.

Committees for the last three of these blocks (which were all formed in September 1902) shared a number of members: Hare Matenga and Te Waaka Hakuene were members of all three, while Rawiri Te Ruru, Hone Rameka, and Pou Werekake were members of two of the three each. After Edger announced that a notice had been sent to the *Kahiti* Hone Tautahi Pita – who was a claimant in Whangaroa Ngaiotonga 4 and Whangaruru Whakaturia and whose wife Marara Pita was a claimant in Oakura – reported to the Council that

> We have come to an amicable settlement about Ngaiotonga No 4 & Whangaruru-Whakaturia. Will the Council direct the Komiti to finish their work, & send in their Reports?[539]

The chairman of both these committees, Hare Matenga, was present and informed the Council that the committee (he referred to it as singular) had not yet met. Edger remarked that Matenga 'had better take the matter in hand'.[540] It is not known when the committee reports for Whangaroa Ngaiotonga 4 and Whangaruru Whakaturia were completed, but they were not considered by the Board until August 1906.

Despite this instruction, however, the Council decided to consider the request by Rewiti Ru and others for it to take over from the Rawhiti committee. It recorded a few days later that it had met 'in camera' and decided 'that, as this was an important case, & the Komiti had failed to deal with it, and it was the general wish that the Council should itself investigate the title, the Council would agree to do so'.[541] The Council members decided that Kiingi Ruarangi and Herepete Rapihana would sit with Edger to hear the case.[542] At this point a date could not be fixed for the hearing, and none may have been scheduled before the start of 1905, when Rawhiti came up again before the Council. Edger recorded on 16 January 1905 that

[539] TDMLC Minute Book 2, p 146 (#A49, vol 6, p 22319)
[540] TDMLC Minute Book 2, p 146 (#A49, vol 6, p 22319)
[541] TDMLC Minute Book 2, p 161 (#A49, vol 6, p 22334)
[542] TDMLC Minute Book 2, p 161 (#A49, vol 6, p 22334)

> A letter was produced signed by all the leading persons concerned in this case, asking that the matter be discharged from hearing by the Council & Block Komiti, in order that it might be heard by the N.L. Court now sitting at Russell.
>
> As the parties have withdrawn their claims before the Council the request is acceded to, & the Rawhiti lands are discharged from further consideration by the Council under the Admin. Act. Order made to this effect.[543]

The Native Land Court heard the case and delivered its judgment on 22 February 1905. The judge was none other than Edger himself, who awarded the bulk of the land to the Ngapuhi claimants who argued that Ngare Raumati had been conquered by Wharerahi and others in 1825. Ngare Raumati claimants appealed, with the Native Appellate Court – consisting of Chief Judge Seth-Smith and Judge Browne, Edger's successor as president of the Council – ruling against them in July the same year.[544]

It is not clear why claimants such as Ngare Raumati would take their chances with a Pākehā judge in the land court rather than persist with the block committee process. Part of the answer might be found in a letter written to the Native Minister in March 1902 by Paora Peni and 12 others from Matauri Bay, which revealed a concern by some occupants that a Council process dominated by rangatira would favour claims of conquest over claims of occupation:

> I runga o te pouritanga o matou ngakau mo te rironga o matou whenua i raro o te Kaunihera whenua maori [h]e tono atu tena na matou kia tirotiro kia ta matou kupu[.] E kore matou e pai ma taua Kaunihera e whakawa o matou whenua i te mea e mohio ana matou ko taua Kaunihera he whakatau rangatira e kore e whai i nga take tika i te mea ko nga take a nga rangatira he raupatu (conquest) ko a matou nei take he tupuna he ahi ka (occupation)[.] Ko nga mema o te Kaunihera whenua maori he maori i muri o tena ka riro ano ma te Kooti whenua maori e whakawa ara e uiui taua whakataunga[.] Na reira he kupu atu tena na matou kua puta ke a matou tono i roto i te Kahiti mo te Kooti whenua maori i tu ki Mangonui i te 18 o nga Ra o Hepetema 1901 mo te nei whenua mo Matauri Block mo te Mahimahi[.] Na konei waiho ano ma te Kooti whenua maori e whakawa enei whenua.[545]

The Government's translation of the letter was as follows:

> Consequent upon the darkness of our hearts owing to the passing of our lands under the Maori Land Council, this is an application from us asking you to consider our words. We are not willing that the said Council should adjudicate upon our lands, because we know that the same Council will decide according to rangatiraship (rank), they will not be guided by the rightful claims (takes), because the claims of the chiefs (men of rank) are based on conquest, whereas our claims are based on ancestry and permanent occupation. The members of the

[543] TDMLC Minute Book 1, p 286 (#A49, vol 6, p 22094)

[544] 'Native Land Court. An interesting case', *New Zealand Herald*, 25 February 1905, p 7; 'Native Appellate Court. An interesting case', *Auckland Star*, 31 July 1905, p 5

[545] Paora Pene and 12 others to the Native Minister, 26 March 1902. Archives New Zealand file ADYU 18191 MA-MLA1 2 1902/72. See also Patete, 'Matauri', pp 102-103.

> Maori Council are Maoris and after they have dealt with the case it will have to be adjudicated upon by the Native Land Court, i.e. the Native Land Court will have to revise their decision. Therefore this is a word from us informing you that our applications have appeared in the Kahiti for the Native Land Court which sat at Mangonui on the 18th day of September, 1901, for this land Matauri and Te Mahimahi. Therefore let these lands remain for the Native Land Court to adjudicate upon.[546]

The other instance in which the Council issued a directive to a set of committees to issue their reports within a month or face dissolution came in August 1905 and concerned 12 blocks, committees for which had been set up variously at Kaikohe (in seven cases), Whangaroa (four) and Whangarei (one). The direction did not include the committee set up for Kaikou 2, Kaikou 3, and Mangakowhara, presumably because this had just been reconstituted. It was issued by Browne and was worded somewhat differently to Edger's of the previous year. It read:

> NOTEMEA ko nga Komiti Papatupu kua whakatuuria hei whiriwhiri i nga take o nga whenua ka tuhia ki raro iho nei. Kaore ano aua Komiti i mahi i whakatakoto i a ratou ripoata ki te Kaunihera i roto i nga marama e ono i muri tonu iho i te ra i pootitia ai he Komiti, i roto ranei i tetahi wa hono ki tera, i runga i ta te Tumuaki o te Kaunihera i whakaeae ai.
>
> Na, konei, ko tonoa atu ki aua Komiti kia whakatakotoria tonutia a ratou ripoata i roto i te marama kotahi i muri i te ra i taia ai tenei panui ki te *Kahiti*.
>
> Na HEMI W. PARAONE
>
> TUMUAKI, Kaunihera Whenua Maori mo te Takiwa o Tokerau.[547]
>
> [BECAUSE Papatupu Committees have been established to deliberate on the claims to the lands noted below and those Committees have not yet furnished their reports to the Council within six months since the Committee was elected or within an additional time agreed to by the President of the Council.
>
> Hence, those Committees are asked to submit their reports within one month from the date of the publication of this notice in the Gazette.
>
> JAMES BROWNE
> PRESIDENT, Taitokerau District Maori Land Council]

The blocks listed were Wharepoke, Pokapu 2, Te Rua a Rei, Mautakirua, Maungaturoto, Mataraua, Te Kohewhata, Orakau, Kaiwhai, Whangaihe, Ririwha, and Te Totara. It is not clear why Ririwha was on the list, as the committee decision seems to have been made in that case on 30 December 1902. Likewise, it appears that the Orakau decision had been made earlier in 1905 on 20 April. It may be that there had been a problem in communicating the completion of the work of these committees to the Council.

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[546] Paora Pene and 12 others to the Native Minister, 26 March 1902. Archives New Zealand file ADYU 18191 MA-MLA1 2 1902/72. See also Patete, 'Matauri', p 103.
[547] *Kahiti*, no. 40, 24 Akuhata 1905, p 396

Rawhiti was not the only case in Tai Tokerau of the Council being requested to reassign a case to the Native Land Court. When Otara – a block on the Kaipara Harbour, and outside the Te Raki district boundary – came before the Council for the establishment of a block committee at Helensville in November 1904, Wiri Henare stated that 'It is our wish that Otara be heard by the N.L. Court, not by the Council.' Paraone Hemana added further, with respect

Image 13: Former Helensville courthouse[548]

to Oruawharo, that 'we will discuss the question as to Court or Council' and give the Council a preference the following day.[549] Again, it is not known why there was this reluctance to have title to these Kaipara blocks adjudicated by the block committees.

5.5 Time frame for committee investigations and review by the Council or Board

On 12 September 1902, at the Whangaroa sitting of the Council, the chairman of the Taupo block committee, Hapeta Renata, announced that his committee 'would give their decision within the month of November'. The Ririwha, Te Kahikatoa, and Te Touwai committees all added that their decisions would be given 'before [the] end of [the] year'. Later that same day the chairmen of the Matauri, Mahimahi, Whangaihe, Motukawanui, Te Totara, Kaiwhai, and Hoahoaina committees all advised Blomfield that 'a decision would probably be given before the end of the year'.[550] This Council sitting appears to be the only instance in the Council minutes of committees giving a timeframe for the production of their reports, and it is likely

[548] Photograph by Les Downey from the Walsh Memorial Library, MOTAT. http://www.nzmuseums.co.nz/account/3031/object/475741 accessed 31 August 2016
[549] TDMLC Minute Book 1, p 270 (#A49, vol 6, p 22078)
[550] TDMLC Minute Book 1, pp 47, 53-54 (#A49, vol 6, pp 21852, 21858-21859)

that the answers were given in response to questions from Blomfield. The answers would have pleased him given his concern (noted in chapter 3) about the lack of any time limits on committees issuing their reports.

The achievement of the block committees within a short space of time was heralded by the Pākehā press. In May 1903, it was reported that

> The Hon. Mr Carroll, who returned to Wellington from the North on Friday evening, has received satisfactory reports of the progress made by the Maori Land Councils in the districts in which they have had time to get into working order. In the Tokerau district, north of Auckland, where settlement and progress have been impeded to a considerable extent by the large areas of native land lying with titles undetermined, the Council and natives have been doing good work. The principal business has been the investigation by Native Block Committees, elected by the natives themselves, of the ownership of various blocks of native land. In all 59 Block Committees have been set up by the Council. Their proceedings affect the title to about 231,400 acres. Thirteen of those Committees have already completed their enquiries, and seven of them are now sitting and will shortly conclude their portion of the work of investigation. In addition there are a number of applications before the Council for the election of other Committees for 39 blocks at Whangarei, Helensville, Kaikohe and Russell. These mean an additional area of about 70,000 acres. The clothing of this large area of land with a legal title, and the consequent progress towards unlocking them, and opening them up for settlement will mean a great gain to the north.[551]

However, when the scheduled April 1903 Council sitting at Kaikohe was postponed at the claimants' request because they were busy preparing for the impending visit of James Carroll, Blomfield was unperturbed. He noted in the minute book that 'The block committees already set up have enough work in hand to keep them going for some considerable time.'[552] Here he was no doubt recognising the multiple committees that certain individuals were members of, and possibly also expressing relief in terms of the Council's own mounting backlog. As table 13 shows, for 25 selected blocks (essentially those for which the key commencement and completion dates were most straightforward to obtain, and counting the four Aotea blocks for which the same committee was set up in October 1903 as one), the average wait from the time a committee was set up until it began hearing evidence was 11.1 months. However, in these 25 cases the average length of time it took before the completed report was read and objections called for at a sitting of the Council or Board was 19.8 months.

[551] 'Maori lands. Operation of Native Council', *Poverty Bay Herald*, 13 May 1903, p 4
[552] TDMLC Minute Book 1, p 156 (#A49, vol 6, p 21961)

Table 13: Timeframes for the commencement of committee sittings, the production of committee reports, and review of those reports by the Council or Board (selected blocks)						
Block	**Committee set up**	**Committee sitting**	**Lapse of time before sitting**	**Committee decision**	**Before Council/ Board**	**Lapse of time before report reviewed**
Kopuakawau	6 Sep 1902	Nov 1902	2 months	24 Nov 1902	18 Aug 1904	21 months
Te Kahikatoa	11 Sep 1902	Nov-Dec 1902	2 months	29 Dec 1902	13 Oct 1905	34 months
Ririwha	11 Sep 1902	Nov-Dec 1902	2 months	30 Dec 1902	5 Oct 1905	34 months
Te Touwai	11 Sep 1902	Nov-Dec 1902	2 months	29 Dec 1902	13 Oct 1905	34 months
Matauri	12 Sep 1902	Nov-Dec 1902	2 months	15 Jan 1903	28 Sep 1905	32 months
Waimahe	23 Sep 1902	Nov-Dec 1904	26 months	16 Dec 1904	15 Aug 1906	20 months
Kahakaharoa	15 Oct 1902	Feb 1904	16 months	12 Feb 1904	22 Jun 1905	16 months
Te Karaka	15 Oct 1902	Feb 1904	16 months	24 Feb 1904	23 Jun 1905	16 months
Wairoa	15 Oct 1902	Mar 1904	17 months	22 Mar 1904	22 Jun 1905	15 months
Whakarapa	15 Oct 1902	Mar-Sep 1903	5 months	10 Sep 1903	15 Jun 1905	21 months
Matawaia	23 Oct 1902	Nov 1904-Jan 1905	25 months	5 Jan 1905	13 Aug 1906	19 months
Maungakohatu	24 Oct 1902	Apr 1905	30 months	17 Apr 1905	28 Aug 1906	16 months
Orakau	24 Oct 1902	Apr 1905	30 months	20 Apr 1905	28 Aug 1906	16 months
Parahaki	25 Oct 1902	Feb 1903	4 months	16 Feb 1903	2 Jun 1905	28 months
Maungaturoto	6 Nov 1902	Jan-Dec 1903	2 months	22 Jan 1906	8 Aug 1906	7 months
Tuataranui	6 Nov 1902	Nov 1902	0 months	27 Nov 1902	31 Oct 1905	35 months
Punakitere 4	7 Nov 1902	Mar 1903	4 months	8 May 1903	27 Nov 1905	30 months
Te Tii Mangonui	8 Jun 1903	Oct 1904-Jun 1905	16 months	3 Jun 1905	25 Aug 1906	14 months
Te Karae	16 Sep 1903	Nov 1904	14 months	24 Nov 1904	4 Jul 1905	8 months
Motairehe Kawa/ Nimaru/	8 Oct 1903	Jun 1904	8 months	30 Jun 1904	23 May 1905	11 months

Table 13: Timeframes for the commencement of committee sittings, the production of committee reports, and review of those reports by the Council or Board (selected blocks)						
Block	**Committee set up**	**Committee sitting**	**Lapse of time before sitting**	**Committee decision**	**Before Council/ Board**	**Lapse of time before report reviewed**
Onewhero/ Te Roto						
Maungakawakawa	28 Oct 1903	Oct-Nov 1904	12 months	11 Nov 1904	24 Jul 1906	20 months
Puketaururu	28 Oct 1903	Mar-Oct 1905	17 months	11 Oct 1905	3 Nov 1905	1 month
Taporepore	28 Oct 1903	Oct-Nov 1904	12 months	14 Nov 1904	24 Nov 1905	12 months
Te Wawa	28 Oct 1903	Nov 1904	13 months	29 Nov 1904	31 Oct 1905	11 months
Oromahoe	23 Aug 1904	Sep 1904	1 month	24 Sep 1904	13 Aug 1906	23 months

The most extreme example of this disparity was the 80-acre Tuataranui block, for which a committee was set up at Kaikohe in November 1902. The committee completed its relatively straightforward report the same month, but the report did not come before the Council until October 1905, nearly three years later .[553] There were other intervals of nearly three years in the case of the Whangaroa blocks for which committees were set up in September 1902.

While various delays occurred at the block committee stage, for reasons that we have already explained, it is also clear that the Council struggled to keep up with the volume of completed committee reports that reached it. In November 1904, its president, Herbert Edger, complained of his lack of adequate assistance both to deal with the day-to-day clerical demands of the job as well as the extra clerical work arising from reviewing block committee reports, such as drawing up orders and lists of names. He told Sheridan that

> It will be at least two years before this reviewing has been completed; by which time clerical work will doubtless have increased in other directions. … At present I am doing double work. The work of reviewing Block Komiti Reports is fully equal to that of holding an ordinary Native Land Court. This, in addition to the correspondence and general administrative work of the Council, as well as the Court work in the Tokerau district, is piling altogether too much work upon me.[554]

[553] See committee report at Papatupu Minute Book 30, p 82 (#A54(b), vol 19, p 4341) dated 27 November 1902.
[554] H F Edger to P Sheridan, 5 November 1904. Archives New Zealand file ADYU 18191 MA-MLA1 3 1904/104

Image 14: Herbert Edger[555]

Edger was also highly critical of James Browne, the registrar of the Native Land Court for the Auckland district (and later Edger's successor as president of the Council). When answering Edger's initial complaint about his workload, Sheridan suggested that he call upon Browne for extra clerical assistance. Edger responded privately that

> So far … Mr Browne has evinced a somewhat antagonistic spirit towards the [Waiariki and Tokerau] Councils. … I today asked him to get me some information upon a Council matter of some urgency. He replied that he would do it 'When he had time.' I cannot accept the position of being dependent upon him in any way.[556]

[555] Sir George Grey Special Collections, Auckland Libraries, AWNS-19090506-4-3

[556] Hand-written note marked 'Private' attached to H F Edger to P Sheridan, 5 November 1904. Archives New Zealand file ADYU 18191 MA-MLA1 3 1904/104. Blomfield may have also had a grudge against Browne, who it seems was appointed at a much higher salary. Member of Parliament for the Bay of Islands, Robert Houston, told the House on 18 August 1905 that Browne's salary of £160 was quite unfair to Blomfield, who had not received 'one shilling extra' over his magistrate's salary for his Council work. Furthermore, the Government had 'refused even to allow Mr. Bloomfield [sic] more than one month's salary when he retired from the position'. Blomfield, contended Houston, 'was treated worse than any other Magistrate in the colony had been treated, while he had done more work during the time he was in the district than any other man, and for nothing'. NZPD, vol 133, 18 August 1905, p 772. After finishing as Council president Blomfield soon returned to acting as counsel for, among others, parties seeking to lease Tai Tokerau Māori land for milling or mining purposes, and appeared regularly before the Board as agent for purchasers of land and timber leases as well as for lessees and other Māori owners willing to lease or sell. See, for example, Clayworth, 'A History of the Motatau Blocks, c.1880-c.1980', pp 113-114.

The following month Edger asked to be relieved of his duties. He reported that

> the main work in Tokerau is the reviewing of Block Komiti Reports. As well as I can estimate, there is six months work to review reports that have already been sent in, and Komitis are now sitting, dealing with other blocks. There are some 60 Komitis that have not yet sent in reports, and I have been intending to try and get them to sit and complete their work; but if the Council is not to be enabled to review the reports when they come in, it is only a mockery to urge the Komitis to set to work.[557]

Edger considered that the Council should sit at Kaikohe for two to three months solely to review reports, and then repeat the same at Hokianga and Whangaroa. Instead, he had been told by Sheridan that he was only to hold Council sittings for a day or two when travelling for land court work. He told the Native Minister that it was 'absolutely impossible to conduct the Council business in Tokerau in this way'. He had thus 'abandoned all hope of being able to achieve something under the Administration Act', and did 'not care to hold a position in which I apparently can effect nothing, and in the work of which therefore I have lost interest'.[558]

The consideration by the Council of committee reports and the issue of the time taken by the title investigation process established by the Maori Lands Administration Act is returned to in chapter 6.

5.6 Misleading evidence, confrontation, and dissatisfaction with the committees

In McRae's view, the fact that committee members knew more about the local people and their history than land court judges effectively served to keep the claimants honest. As she put it,

> Ownership of land was a multi-faceted concept, and had been complicated by numerous conquests and fluctuating periods of occupation, and the chance had been provided in the Court for some to turn their knowledge of tribal lore to their own account making judges' decisions at times appear to the Maori as incompetent and inconsistent. Committees held this in check by their regional constitution with each committee conversant with the area and its inhabitants.[559]

Likewise, Armstrong and Subasic considered that, while the committee system did not preclude 'attempts at machinations often seen in the Native Land Court', it was a much more satisfactory process because it 'involved Maori leaders with sufficient knowledge and

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[557] H F Edger to Native Minister, 22 December 1904. Archives New Zealand file ADYU 18191 MA-MLA1 4 1905/8

[558] H F Edger to Native Minister, 22 December 1904. Archives New Zealand file ADYU 18191 MA-MLA1 4 1905/8

[559] McRae, 'Participation', p 75

authority'. The arrangements made between the elders and chiefs, they continued, 'often prevented the adversarial, winner-take-all, atmosphere pervasive in' the court. Put another way, 'the arrangements and their subsequent confirmations by the Council provided Northland hapu with a procedure whereby titles to land could be ascertained on Maori terms and in a Maori forum'.[560] Wi Repa, from the East Coast and a member of the Te Aute Association, remarked in October 1907 – at a time when no new committees were being set up (see chapter 6) – that

> The fact that the members of the block committee already know who the real owners of the block are lessens the temptation to false speaking – a vice which was painfully evident during the Native Land Court regime.[561]

The editor[562] of the Māori newspaper, *Te Pipiwharauroa*, noted the replacement of the land councils with land boards from 1906 and feared the loss also of the block committees, which he saw as the 1900 regime's sole benefit:

> Kotahi ano te wahi o tenei ture i whai hua, ara ko te Komiti Poraka … i whakawhiwhia nei ki nga mana o Te Kooti Whenua Maori … he kino atu te Komiti Poraka, ina hoki i turakina ai, a, i whakahokia ai ano ki te tikanga tawhito, ara, ki te Kooti Whenua.[563]
>
> [There is but one part of this law that was beneficial, that is the Block Committees … they were given the mana of the Native Land Court … it will be a bad thing if the Block Committee is done away with and we return to the old way, i.e. the Land Court.]

The writer of the article, having spent nearly a month observing the operations of the Council and committees in 1905, considered it better to have Māori adjudicate their own lands as 1. 'Ka iti nga moni e pau' [it was less expensive], 2. 'Ka araia te korero parau' [it prevented false speaking] and 3. 'Ka tika te whakatau i te mea he mohio te Maori ki nga korero ki nga tikanga Maori' [it provided correct decisions as Māori themselves know their history and customs].

There is no reason to doubt the general truth of these assessments, but they perhaps need to be further qualified. The editor of *Te Pipiwharauroa* noted that papatupu hearings were not free of spurious evidence, blaming in part the relatively small cost to set up a case and thus allowing anyone to bring claims:

> I te iti o te utu o te keehi kahore te tangata e wehi ki te whakatu keehi mana, ahakoa he teka katoa nga korero o tana keehi. Ki te Kooti pakeha ki te mau te teka o te tangata ka peia ki waho kahore ranei e whakaaetia kia korero, otira ki te Kooti Maori kahore e araia kahore e

[560] Armstrong and Subasic, 'Northern Land and Politics', pp 1431-1432
[561] 'Progress of the Maori', *Evening Star*, 31 October 1907, p 6
[562] This was more than likely the first Māori bishop, the Bishop of Aotearoa Frederick Bennett.
[563] 'Ture Kaunihera', *Te Pipiwharauroa*, Hepetema 1906, p 1

> peia te tangata teka, ahakoa mau pu te teka. E ahei te tangata tino tahae te whakatu keehi mana, kahore he ture kahore he utu hei arai, hei whaka-wehi i a ia.[564]
>
> [Because the fee for the case is small, no one is afraid to set up a case for himself, despite the fact that what is said during the case is all lies. In the Pākehā court if a person is caught lying, he is kicked out or is not permitted to speak, but with the Māori court, the person lying is not prohibited or expelled, even though he maintains his lies. A person who is very much a crook is able to set up a case for himself and there is no law and no riposte to stop him and make him afraid to do so.]

The editor thought the problem was also 'he whanaunga katoa te Maori', that is that Māori were all related and that it was difficult for Māori to be hard on their relatives. The writer also suggested that another difficulty was that the members of the committees were not well educated in the law: 'ko nga Komiti Maori, ko te tokomaha ehara i te hunga matau'. Furthermore, he suggested that Māori were afraid to reject claims fearing retaliation by the unsuccessful claimants, which might include inflicting physical and psychological harm and even death through spiritual powers or 'kei whaiwhaiatia'.[565] This belief system was still very much a feature of the Māori mindset at this time.

Unlike the Native Land Court minutes, claimants were often required to attest to the correctness of their evidence given and to affix their signature to their recorded evidence in the minutes as well, of course – as discussed in chapter 4 – any agreements made. Hence Kawariera te Wharepapa, who brought his claim under that of Hone Mokena, stated

> Heoi ano aku korero mo taku keehi i raro i te Ingoa o Hone Mokena. Na reria ka Haina nei au i taku ingoa hei tohu mo te pono o aku korero.[566]
>
> [Now that is my evidence for my case under the name of Hone Mokena. Therefore I sign my name as a mark of the truthfulness of my words.]

This attesting to evidence by signature is a distinct feature of the minute books, despite the fact that claimants had already taken an oath at the beginning of their evidence. It may have been another means to discourage 'korero parau' or false speaking.

Claimants frequently disputed each other's testimony, often in adversarial fashion. In the case of Tawapuku, the Board was moved to comment that 'the evidence laid before the Block Committee was so conflicting and the statements of the parties so much at variance' that it was 'only after considerable deliberation' that it had been able to decide the merits of the six objections.[567] This does not mean that anyone was necessarily speaking dishonestly. As Eparaima Poakatahi stated before the Puketaururu committee, 'Ehara nga korero a Wiremu i

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564 'Ture Kaunihera', *Te Pipiwharauroa*, Hepetema 1906, p 1
565 'Ture Kaunihera', *Te Pipiwharauroa*, Hepetema 1906, p 1
566 Papatupu Minute Book 23, p 88 (#A54(b), vol 13, p. 2487)
567 TDMLC Minute Book 5, p 159 (#A49, vol 6, p 23497)

te korero teka engari he pohehe'[568] [what Wiremu has said is not lying, however he is mistaken in his thinking].

In the investigation for Pakonga 2, as we have already seen, several claimants were aligned against Hiramai Piripo, including Rawiri Te Ruru and Mihaka Hapata. Mihaka Hapata said that their strategy 'was to try and upset [Hiramai's] case'. Rawiri stood and said 'Hoi taku whakahe ko te keehi a Hiramai Piripo … E tino whakahe ana ahau'[569] [now I oppose Hiramai Piripo's claim … I totally object to it.] Furthermore, while Hare Matenga represented the other claimants he later denied they had any real claim.[570]

This does suggest an adversarial rather than inquisitorial process. In the case of Te Wawa, Mate Monoa told the Council that 'Poa told me outside that not to speak of Te Kura's mana before the Bk Committee for fear Hini's [Hini Tuwhai's] case might gain.'[571] Hini Tuwhai himself challenged fellow claimants during the committee investigation:

> E whakahe ana au ki te keehi a te Kohe Tahere mo tenei poraka i raro i a Kino
> E whakahe ana ano hoki au ki te keehi a Putoto Kereopa
> Ko taku whakahe ki enei keehi kei nga raira e rakapikipiki nei.[572]
>
> [I oppose the claim of Kohe Tahere for this block under Kino
> I also oppose the claim of Putoto Kereopa.
> My opposition to these claims is that their [boundary] lines cross over.]

In fact the Te Wawa proceedings appear to have been particularly confrontational. According to Hini Tuwhai,

> I had arrayed against me all the other cases. The matter was so serious that when I tried to elude some of the strategy of the other side the Chairman Piri Teira actually assaulted me. I accused him of allowing irrelevant matter to be brought it [sic] & he assaulted me. They did not give their judgment in accordance with the evidence.[573]

Hini Tuwhai's claim was in the end dismissed by the Te Wawa committee.[574]

This is not the only example of block committee proceedings turning violent. In the case of Punakitere 4, Wiremu Tuhai told the Council that

> I know the Committee notified me twice to attend. I paid no attention to their request because they had put my shares on a hill. … I asked the Committee to give me a day after I rtd from

[568] Papatupu Minute Book 40, p. 76 (#A54(b), vol 28, p 6119)
[569] Papatupu Minute Book 21, pp 165-166 (#A54(b), vol 11, pp 2148-2149)
[570] TDMLC Minute Book 4, pp 97, 112 (#A49, vol 6, pp 23040, 23055)
[571] TDMLC Minute Book 3, p 205 (#A49, vol 6, p 22753)
[572] Papatupu Minute Book 26, p 49 (#A54(b), vol 15, p 3024)
[573] TDMLC Minute Book 3, p 200 (#A49, vol 6, p 22748)
[574] Papatupu Minute Book 26, p 128 (#A54(b), vol 15, p 3103)

> Whangarei. They did so but Hiramai took it all up. He had a row with the Chairman, took off his coat and wanted to fight him. So the day was lost without my having an opportunity to say what I had to say.[575]

As noted above, the Parahaki committee retained the services of a 'pirihimana' [policeman] 'hei tiaki' [for protection].[576]

In other cases there were clear attempts made to mislead the committee. When the Waihaha committee decision came before the Council, Henare Kaupeka addressed his son-in-law, Hone Tautahi Pita, who had objected to it. Kaupeka told Pita

> I acted as a witness for you in Waikare case. And stated that Waikare and Waihaha were one land. We supported you in your whakapapa. … I confessed that we had conspired to give evidence to disregard the ancestor Wahanui. That ancestor really had a right on the lands at Waikare generally.[577]

As an upshot of this, the Council asked Pita to produce his whakapapa in writing. When he did so he appeared to backtrack, and withdrew his claim:

> I wish the council to understand that I have not set up a frivolous claim to this land. I have ancestral claims to a large area of land extending to Kaikohe. I do not wish to be hard [sic], over this land. There has been more withholding of ancestors for the other lands. Whakapapa formerly put in by the Kapotai have since been admitted before the Block Komiti to have been incorrect. However, on the whole, to save trouble, I will withdraw my claim to this block.[578]

Kaupeka was involved in another 'conspiracy' over a nearby block, Paremata Mokau. Eruera Maki alleged that Eru Nehua had 'told lies over the titles' and that Nehua and Kaupeka had 'conspired to misrepresent the truth'.[579] Indeed, Eru Nehua confessed that this was so. He told the Council that

> I did not set up a case. I withheld all my claims. I wished to assist Henare Kaupeka. He is from [the ancestor] Kahukuri & lived perm. on the block. He was to search in Auckland to see what ancestors were set up in Opuawhanga. He & Hone Hapa went to Ak. & it was decided to set up Hikihiki. I am not from Hikihiki. Henare Kaupeka was found to be the sole desc. of Hikihiki. So we settled to set up Hikihiki.[580]

Nehua then 'told my people not to set up a claim under Kahukuri'. Those he told included Maki, who would not agree. Even though Nehua claimed that 'the Komiti became aware of

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575 TDMLC Minute Book 4, p 15 (#A49, vol 6, p 22958)
576 Papatupu Minute Book 39, p 45 (#A54(b), vol 27, p 5697)
577 TDMLC Minute Book 2, p 153 (#A49, vol 6, p 22326)
578 TDMLC Minute Book 2, p 154 (#A49, vol 6, p 22327)
579 TDMLC Minute Book 2, pp 178, 180 (#A49, vol 6, pp 22351, 22353)
580 TDMLC Minute Book 5, p 184 (#A49, vol 6, p 22357)

the conspiracy between me & Henare Kaupeka',[581] it awarded the land to those claiming descent from the Hikihiki.

The Council considered it plain that

> a conspiracy or arrangement was entered into between Henare Kaupeka & Eru Nehua to suppress the rightful ancestors for the land, & to set up Hikihiki, in order, as they considered, that Henare Kaupeka might obtain a larger share of the block. In return for withholding the true ancestor, Henare Kaupeka agreed that Eru Nehua should be allotted an area of land described by bdys [boundaries] in writing.[582]

The action the Council took as a result is discussed in chapter 6. It suffices to note here that the committee – who lived at Waimate (Hare Matenga, Hone Rameka, and Hiramai Piripo), Te Ahuahu (Rawiri Te Ruru), and Rawhiti (Hohaia Tango) – were not able to prevent the deception, or at least failed to act upon it when Nehua (as he claimed) went and told them about it.[583] It may be that Paremata Mokau was something of an exceptional case, but it does confirm the need for caution in concluding that the parties' conduct before the committees was of an entirely different nature to the approach adopted in many land court proceedings.[584]

Sometimes witnesses gave incorrect evidence to the committees because – as they later put it – they knew no better at the time, or had simply forgotten something. In objecting to the Te Karae committee decision, Nui Hare told the Council that he was giving evidence 'I forgot to give before the Bk Committee'.[585] In Kohatutaka, Wiremu Karaka told the Board that he had only objected before the committee 'to the allotment to Wharekauri because at that time I was ignorant of my descent from Te Taonga. I found it out during the evidence given on the objections before the Block Committee'.[586] In Rangihamama, Erana Nareta explained that she had even forgotten about one of her own children:

> Wm Kowhai had one of my children in the list. I made no objection to the inclusion.
>
> It was through a mistake on my part that the other was left out. I had forgotten that I had such a child.[587]

There was some suspicion about the introduction of new evidence before the Council or Board. In the case of Pakonga 2, Rawiri Te Ruru considered that 'Hare Matenga's claim that

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[581] TDMLC Minute Book 5, p 185 (#A49, vol 6, p 22358)
[582] TDMLC Minute Book 5, p 186 (#A49, vol 6, p 22359)
[583] TDMLC Minute Book 5, p 185 (#A49, vol 6, p 22358)
[584] Another noteworthy aspect of the Paremata Mokau case is the fact that Kaupeka and Hone Hapa took the trouble of travelling to Auckland to research the ancestry of the district, presumably in Native Land Court minute books. This is not the only occasion on which this occurred. As noted in chapter 3, Kipa Roera went to Auckland to research the title to Motuarohia.
[585] TDMLC Minute Book 3, p 71 (#A49, vol 6, p 22619)
[586] TDMLC Minute Book 5, pp 16-17 (#A49, vol 6, pp 23354-23355)
[587] TDMLC Minute Book 5, p 79 (#A49, vol 6, p 23417)

only Piriaho stayed behind after the conquest is new altogether.'[588] As noted above, Mita Wepiha asked the Board to allow him to call a new witness in Maungapohatu. This was opposed by Wiremu Tuhai,[589] and it does not appear that Browne allowed it. Browne in fact was vexed by what he saw as claimants having been too slack to appear before the committees then bringing claims to the Council. He told Sheridan in November 1905 that

> The natives here [he was writing from Kaikohe] are a contentious lot and worry me a good deal. I often think it is a pity there is no provision made enabling us to charge hearing fees in cases where the parties having neglected to bring their claims before the Block Committees or having ignored the Committees altogether come forward when the Council sits and object to the reports.[590]

At Ahipara in September 1904, a claimant, Riapo Puhipi, even suggested that the Council charge alleged time-wasters:

> Will the Council make the persons who cause trouble, delay, & expense bear the cost, & charge that cost agst those portions of the land that are awarded to these contentious people[?][591]

Edger responded that he approved of the notion, 'but is not clear whether there is power to do this'.[592]

However, Browne for one might have done well to consider the case of Paremata Mokau, because it was just the sort of late claim he complained of – by Eruera Maki – that had revealed the 'conspiracy'. When Maki objected to the committee's report Hone Tautahi Pita stated that Maki

> proposes to set up a new ancestor & claim inclusion. We object to that. If he asks to be put in through aroha let him come to our house. He put in his lists to the Komiti after the case had been practically completed. I have asked him to withdraw. He has not consented.[593]

As we have seen, Maki's late claim was subsequently vindicated.

5.7 Conclusion

The papatupu committees produced an impressive amount of work, with so many reports piling up at the Council's door that it probably would have come as a relief to Blomfield

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[588] TDMLC Minute Book 4, p 101 (#A49, vol 6, p 23044)
[589] TDMLC Minute Book 5, p 220 (#A49, vol 6, p 23558)
[590] James Browne to Patrick Sheridan, 15 November 1905. Archives New Zealand file ADYU 18191 MA-MLA1 4 1905/73
[591] TDMLC Minute Book 2, p 231 (#A49, vol 6, p 22405)
[592] TDMLC Minute Book 2, p 231 (#A49, vol 6, p 22405)
[593] TDMLC Minute Book 2, p 166 (#A49, vol 6, p 22339)

when the Kaikohe sitting to set up more committees scheduled for April 1903 was postponed because of the impending visit of the Native Minister. Blomfield's remark that the committees had more than enough to be going on with recognised that some individuals were members of multiple committees and could not easily be called upon to do more for the time being. The task was a considerable one for the community to bear – especially given the lack of any financial support for the committees from the Council. There were many delays in committee investigations due to member resignations or unavailabilities, in some cases caused by illness or even death. In other cases it was concurrent Native Land Court hearings, which seemed to take priority for both committee members and claimants.

Comparatively more delay, however, occurred waiting for the Council (or Board) to review the reports. One committee, for example, was appointed at Kaikohe in November 1902 and completed its report the same month, but this report was not considered by the Council until October 1905. It seems that the Council was simply not sufficiently resourced to cope with the number of reports flowing in. Blomfield's successor as president, Herbert Edger, complained to the Maori Lands Administration Department in 1904 about his workload. He soon thereafter asked to be relieved of his duties, contending that it was 'only a mockery' to urge the committees to do more work when the Council could not address what had already been submitted.

The sheer quantity of titling activity meant that many claimants could not attend all the sittings they needed to be at. Sometimes they delegated the task to others, whom they later claimed had misrepresented them. On other occasions claimants could find no-one to represent them, or at least no-one they would trust. It is also clear that the committees were by no means immune from the 'false speaking' that regularly featured in the court. In more than one case claimants conspired to keep the identity of the true ancestor for a block from the committee and thus advantage themselves over other claimants. In another couple of cases there were reports of violent confrontations between claimants or between a claimant and committee member. Council presidents were also critical of claimants who had not bothered to appear before block committees but who then came before the Council and objected to the reports. It is true that some claimants refused to cooperate with the committees, knowing full well they could pursue their claims later before the Council, as we saw also in chapter 4.

The costs involved in pursuing claims before the block committees may well have been less than those faced in the court, but we cannot conclude that this was significantly so. Surveys did not have to be made before a committee inquiry, and venues may have been more convenient, but claimants nevertheless had to pay both the committee's expenses and charges and the costs incurred by those who conducted their cases. Surveys also had to be paid for eventually, before legal title could issue. Moreover, as we shall see in chapter 6, most blocks reported on by committees ended up before the court anyway. Our general assessment is that it would be wrong to depict the committee process as cheap. The principal financial beneficiary of the committees' operation was undoubtedly the Government, for whom it cost

practically nothing. As with the court, it was Māori land-owners who paid for the investigation of title to their lands.

The committees were successful in the sense that their achievements evidently surpassing the expectations of the officials who allotted resources to the councils. But the very limitations on their power – effectively being only able to recommend the customary ownership of blocks of land to the Council or Board – meant that any notion of 'success' must be qualified. As we shall see in chapter 6, the many avenues open to claimants to object or appeal meant that the committees were often little more than a preliminary point in the titling process. It is probably fair to say that the committees offered a more satisfactory and co-operative avenue for pursuing claims than the land court, but nor were they were free of the same disagreements and disputes that characterised the court. We return to this in our discussion in chapter 7.

Chapter 6: Council and Board consideration of committee reports and objections

6.1 Introduction

The previous two chapters discussed the operation of the papatupu committees. This chapter focuses instead on how the Council and Board dealt with committees' reports that were submitted to them, along with their treatment of the many objections to those decisions that were lodged by the claimants. The number of objections for each block is set out in tabular form and the general nature of those objections is noted (as well as specifically in the case of one block, Taraire). The chapter draws a comparison between the number of objections lodged and the number of claims that had originally been made for the block, showing an evident link between the two.

The chapter discusses the several types of responses made to the objections by the Council and Board. These included adopting the resolution of them achieved outside by the claimants; rejecting the objections, especially if a committee had relied on mutual agreements amongst the parties; and, in some cases, rejecting a committee report and commencing a fresh inquiry. The chapter also summarises the extent to which Council and Board decisions were the subject of appeals, and attempts to explain why this occurred so frequently.

Other matters dealt with in the chapter include the issue of whether title could be awarded by the Council or Board to hapū or just to individuals; the treatment of requests for land to be made inalienable; the costs and expenses borne by claimants at this stage of the process; and the Government's pressure on the Council in late 1905 to hasten its process. We relate how this was allied to the passage of the Maori Land Settlement Act 1905, and appears to have led to a policy decision by the Native Department that no new committees should be set up.

The chapter addresses questions 2(a), 2(f), 2(g), and 2(h) of the research commission, concerning how the committees functioned in relation to the Council, Board, and land court; what the nature of the title the committees recommended was; whether the committees could recommend restrictions on alienation, and how and whether these were upheld; whether the committee decisions were upheld or rejected by the Council and Board; and to what extent appeals were lodged against Council and Board decisions made in respect to committee reports.

6.2 Members, venues, and notice

The Council convened at Kawakawa in November 1903 for its first review of block committee reports. The regulations were silent on whether there was a separate quorum requirement for the Council when it met for this purpose (that is, as opposed to when it sat to set up committees), but the practice of the Tokerau Council and Board appears – with one

exception – to have always been for at least two other members to be present at such sittings. Thus Blomfield was joined at Kawakawa by both Herepete Rapihana and Wiremu Rikihana. Council and Board member attendance at hearings of objections to block committee reports is set out in the following table. The aforementioned exception to the attendance rule was at Russell in August 1906, when Browne sat with Herepete Rapihana alone.

Table 14: Council and Board members present at sittings where committee reports were reviewed

Venue	Date	Members present
Kawakawa	Nov 1903	Edward Blomfield, Henry Wilson, Herepete Rapihana and Wiremu Rikihana
Russell	Aug-Sep 1904	Herbert Edger, Kiingi Ruarangi, and Wiremu Rikihana
Ahipara	Sep-Oct 1904	Herbert Edger, Kiingi Ruarangi, and Hoterene Paraone Kawiti
Helensville	Oct 1904	Herbert Edger, Herepete Rapihana, and Wiremu Rikihana
Whangarei	May-Jun 1905	James Browne, Herepete Rapihana, Kiingi Ruarangi, Hoterene Paraone Kawiti[594], and Wiremu Rikihana[595]
Rawene	Jun-Jul 1905	James Browne, Kiingi Ruarangi, and Hoterene Paraone Kawiti
Kohukohu	Jul 1905	James Browne, Kiingi Ruarangi, and Hoterene Paraone Kawiti
Whangaroa	Sep-Oct 1905	James Browne, Herepete Rapihana, and Hoterene Paraone Kawiti
Kaikohe	Oct-Dec 1905	James Browne, Kiingi Ruarangi, and Herepete Rapihana
Kaikohe	Jun-Aug 1906	James Browne, Henry Wilson, and Herepete Rapihana
Russell	Aug 1906	James Browne and Herepete Rapihana
Whangarei	Aug 1906	James Browne, Henry Wilson, and Herepete Rapihana
Whangarei	Sep 1908	James Browne, Henry Wilson, and Herepete Rapihana

The most notable feature of table 14 is probably the change from Council to Board at the start of 1906 and the corresponding end of the Māori member majority reviewing committee reports. Whether this made any significant difference to the net result is difficult to say. The impression from the minutes is that the three presidents were all dominant figures, and there is no firm evidence that they routinely deferred to the views of their Māori members during the existence of the Council. As noted in chapter 3, Edger for one held a reasonably low opinion of the Māori members and expressed the view that the Council would be better with no Māori membership at all.

[594] When the hearing began, Browne listed the members present as including 'Hoterene Wi Kaipo'. Later, the name of Kawiti appears in the minutes as 'Hoterene Wi ~~Kaipo~~ Kawiti'. It seems that Browne inadvertently wrote down Kaipo's name and partially corrected it on the second occasion to refer to Hoterene Paraone Kawiti. TDMLC Minute Book 1, pp 288, 307 (#A49, vol 6, pp 22016, 22115)

[595] Rikihana was absent when the Council began its sitting on but took his seat that same day (23 May).

We have already noted in chapter 3 that, in the setting up of committees, the Māori members did not sit on the Council where they had an interest in the lands in question (with perhaps the exception of Kiingi Ruarangi at Helensville in May 1903). The same applies to the consideration of committee reports. In his minutes at the start of the August 1904 sitting at Russell, for example, Edger noted that Hoterene Paraone Kawiti was 'in attendance, but as he was concerned generally in the lands to be heard at Russell, did not take a seat upon the Council'.[596]

Unlike sittings for the setting up of committees, however, the venue of the hearings when committee reports were considered was barely mentioned. There were none of the same adjournments to the local hall, although we are reluctant to speculate from this that the sittings took place at the local courthouses and that fewer people attended. There is, again, one exception to the silence on this subject. The Council sat in Ahipara in September 1904 in Reid's store, and Edger's minutes record that there was 'A large assemblage of Natives.' Herepete Rapihana, in his role as a claimant, told Edger that

> We had arranged that the Council should sit at the Meeting House adj. the Court House. We had got the house ready. I made preparations (only a mile distance). We ask that the Council adjourn to the Meeting House.[597]

Image 15: Attendees at the Council sitting in Ahipara, October 1904[598]

[596] TDMLC Minute Book 2, p 147 (#A49, vol 6, pp 22320)
[597] TDMLC Minute Book 2, p 212 (#A49, vol 6, p 22386)

Herepete was supported in this request by Mitikakau Otene and Riapo Puhipi. However, Edger would not agree, telling Herepete that the 'Council thinks there is no hardship in coming a mile to attend the sitting of the Council.'[599] In other words, Edger would not budge from Reid's store, near which he may well have been lodging. It will be remembered that regulation 11 governing papatupu committees provided that the Council would sit for the purpose of setting up block committees, where practicable, in meeting houses. While the regulations did not say anything about appropriate venues for the Council to hear objections to committee reports, Edger's decision in this case is a reminder that the Council president held the 'ultimate mana' under the papatupu committee system, rather than the claimants or the Māori members. [600] It is also possible that Edger felt that Reid's store represented a more neutral venue for the competing parties, although there appeared to be general support among the claimants for Rapihana's request.

As per regulation 37, sittings to hear objections to committee reports were advertised in both the *Kahiti* and the *Gazette*. The *Kahiti* pānui for the November 1903 Kawakawa sitting was as follows:

> He whakaatu teni ka huihui te Kaunihera Whenua Maori mo te Takiwa o Tokerau, ki Kawakawa, Peiwhairangi, a te tekau-ma-rua o nga ra o Nowema, 1903, i te tekau o nga haora i te ata, ki te whakawa, a ki te whakatau i nga take e huaina nei i roto o te Kupu Apiti kua tuhia ki raro nei, kua tae mai nei ki au nga tono mo aua take, me era atu mea katoa e whakatatokoria tikatia ana i runga i te ture ki te aroaro o te Kaunihera.
>
> E. C. BLOMFIELD
> Tumuaki o te Kaunihera[601]

The English version of this published in the *Gazette* was as follows:

> NOTICE is hereby given that a sitting of the Tokerau District Maori Lands [sic] Council will be held at Kawakawa, Bay of Islands, on the 12th day of November, 1903, at 10 o'clock in the forenoon, to hear and determine the several matters mentioned in the Schedule hereunder written, in respect of which applications have been received by me, and all such other matters as may be lawfully brought before it.
>
> E. C. BLOMFIELD
> President[602]

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[598] 'North Auckland native lands: Maoris attending the land court at Ahipara', *Auckland Weekly News*, 27 October 1904. While the caption accompanying this image by A Northwood refers to a land court sitting, it was most probably taken at the Tokerau Maori Land Council sitting in Ahipara that ran from 29 September to 15 October 1904. Sir George Grey Special Collections, Auckland Libraries, AWNS-19041027-11-1.
[599] TDMLC Minute Book 2, p 212 (#A49, vol 6, p 22386)
[600] McRae used the term 'ultimate mana' to describe the authority of the land court judges despite claimant consensus-making outside the courtroom. She considered that the committee system was little different in practice. McRae, 'Participation', pp 79-80. See chapter 7.
[601] *Kahiti*, no. 50, 1 Oketopa 1903, p 585
[602] *Gazette*, no. 77, 1 October 1903, p 2131

The schedule underneath each of these notices listed the block committee reports for Pokeka B, Okuratope, and Motatau numbers 1-4.

At each Council or Board sitting at which committee reports were reviewed, the same basic procedure was followed: the report of block committee was read aloud, including the list of persons found entitled and the shares allotted to each. Objectors were then called for, who were permitted to call witnesses and to cross-examine other objectors. Those who supported the committee's report could also make a declaration to that effect, which appears to have given them the same standing in the ensuing proceedings as the objectors. It does not appear that any fee was attached to making either an objection or a declaration of support. Once it had heard the claim and counter-claim of the parties, the Council or Board would then issue its own decision and make an order using Form G (which is set out in full in appendix 1).

6.3 Objections to committee reports

Of the 90[603] blocks for which papatupu committees were set up in the Te Raki district, the number of objectors to the committee reports is known in 71 cases. Of the other 19, there is either no mention in the Council or Board minutes of the block committee's report, or no mention of any objectors, or – in the case of Rawhiti, Urupukapuka, and Poroporo – the investigation of title was taken over by the Council before the committee had reported. Of the 71, it was in only a small minority of cases – 19, or 27 per cent – that there was no objection lodged to the committee report. In other words, objections to committee reports were the norm, and in fact in 14 blocks there were more than ten objectors.

Table 15: Number of objectors to committee reports

Number of objections to committee's report	Number of blocks
0	19
1	11
2	6
3	8
4	2
5	1
6	3
7	3
8	2
9	2
11	4

[603] The number 90 is used here rather than 89, because while there is no mention of the setting up of a committee for the Mataranui block in the Council minutes, there is reference to it furnishing its report.

Table 15: Number of objectors to committee reports	
Number of objections to committee's report	**Number of blocks**
12	1
13	1
16	2
17	1
18	3
20	1
27	1

The number of objectors tended to have a direct relationship to the number of claims that had been made. Thus 27 objections were made about the Taraire committee report, which corresponded to there having been a higher number of claims to Taraire (18) than for any other block. Lower numbers of objections were made in cases where there had been fewer claims, such as the blocks for which committees were set up in Russell and Whangaroa in September 1902 and the Aotea blocks for which committees were set up at Whangarei in October 1903. Table 16 and figure 7 depict the relationship between the number of claims and number of objections for the 70[604] blocks for which both figures are known.

Table 16: Number of claimants and number of objectors to committee decisions for each block			
Block		**Number of claimants**	**Number of objectors**
1	Waikare	2	0
2	Paremata Mokau	2	4
3	Punaruku 2	3	1
4	Te Ramaroa	2	1
5	Whangaruru Whakaturia	2	0
6	Kopuakawau	1	0
7	Whangaroa Ngaiotonga 4	3	0
8	Oakura	3	0
9	Waihaha	2	1
10	Taupo	4	3
11	Ririwha	2	2
12	Te Kahikatoa	3	1
13	Te Touwai	1	2
14	Matauri	4	5
15	Mahimahi	2	1
16	Motukawanui	2	3

[604] That is, the 71 excluding Mataranui.

Table 16: Number of claimants and number of objectors to committee decisions for each block			
17	Hoahoaina	2	0
18	Okuratope	6	0
19	Pokeka B	1	0
20	Wiroa	6	3
21	Waimahe	6	3
22	Motatau 1/Pokapu	9	6
23	Motatau 3/Orauta	11	0
24	Kahakaharoa	2	1
25	Whakarapa	11	11
26	Waihou	14	4
27	Te Karaka	2	11
28	Matihetihe	1	1
29	Kotuku A	10	17
30	Kotuku B	10	8
31	Mautakirua	7	11
32	Matawaia	4	2
33	Motatau 5/Tautoro	13	16
34	Maungapohatu	6	9
35	Orakau	1	1
36	Rangihamama	7	18
37	Parahaki	4	0
38	Taraire	18	27
39	Maungaturoto	9	3
40	Otuhi 2	3	0
41	Otuhi 1	3	7
42	Kohatutaka	13	18
43	Mataraua	6	13
44	Tawapuku	2	1
45	Kohewhata	14	11
46	Punakitere	11	18
47	Wharepoke	5	8
48	Pakonga 2	7	7
49	Whakakoro	2	0
50	Kaikou 2	12	6
51	Kaikou 3	9	6
52	Mangakowhara	7	3
53	Ruarangi	1	0
54	Takahiwai	3	3
55	Korotangi	2	2
56	Te Tii Mangonui	2	2

Table 16: Number of claimants and number of objectors to committee decisions for each block			
57	Te Karae	5	16
58	Oriwa	1	1
59	Te Pukahu	2	9
60	Te Mimitu 1	6	3
61	Section 123 Block XI Waikiekie Parish	3	0
62	Te Roto	2	0
63	Motairehe Kawa	2	0
64	Onewhero	2	1
65	Nimaru	2	0
66	Te Wawa	5	7
67	Puketaururu	5	12
68	Taporepore	5	2
69	Maungakawakawa	6	20
70	Oromahoe	4	0

The *Auckland Star* reported on the Council's consideration of the committee reports for Te Ramaroa, Paremata Mokau, Waihaha, Kopuakawau, Punaruku 2, and Waikare in September 1904. As can be seen in table 16, the reports for these six blocks had a total of only seven objections between them. The *Star* remarked that

> The title to these lands has been greatly disputed for years past, but the different claimants, having had their fights out before the Block Committees, came to the sitting of the Council in a more conciliatory spirit, with the result that all these titles have been settled – by consent in nearly every instance – upon the basis of the Block Committee's reports.[605]

It added, with excessive confidence, that 'There is no likelihood of any appeal in respect of any of these lands.'[606] (see section 6.14 on appeals against Council and Board decisions, which included those for Waikare and Paremata Mokau).

An objection could be to a whole committee report or something relatively minor about the decision. For example, where the committee decided that rights to the land derived from a conquest and recommended that shares be awarded accordingly, those who denied the conquest might object to the decision in its entirety. Alternatively, an individual might object to being left off a list of owners or to the small size of their shareholding. It is not so straightforward, however, to categorise objections in the way that grounds of claim can be grouped by type. That is because objections were varied in nature: some were relatively trivial while others expressed fundamental opposition, and they could also range from the multi-faceted to the very specific. Table 17 gives something of the flavour of the objections

[605] 'Maori lands in the north', *Auckland Star*, 3 September 1904, p 3
[606] 'Maori lands in the north', *Auckland Star*, 3 September 1904, p 3

by summarising the 27 made in response to the Taraire decision (thus corresponding to table 5 in chapter 3, which summarises the 18 Taraire claimants).[607]

Table 17: Detail of the 27 objections to the Taraire committee report		
#	**Objector**	**Nature of objection**
1.	Hetaraka Manihera	objects to the whole decision
2.	Kato Whakaita	objects on behalf of Heremaia Hiku to the decision with regard to specific place known as 'Taraire', a portion of the main Taraire block
3.	Hare Matenga	objects to the boundary of Taumataroa
4.	Hine Tuwhai	objects to portions of the decision
5.	Marara Hirini	objects on behalf of Hirini Taui to the decision of Opango (only the portion for which he has set up a case)
6.	Hine Whai	objects to her and her brother being left out of Hemi Wi Hongi's list, to the name of Kaipo Hoterene in the list of Te Hawera, and to the award in Ometo No.1
7.	Hori Paraea	objects to the award of a portion of Opango
8.	Wiremu Tuhai	objects to decision that Hua has no title in the block and to the boundaries of both the portion awarded Puke te Awa and of the portion awarded to Hetaraka Manihera under the sale by Nopera Kairau
9.	Wiremu Poakatahi	objects to the award of Kaikohe Hill
10.	Rauahi Puataata	objects to the exclusion of Te Hua from Opango
11.	Te Hura Hohaia	objects to the award of Waingaehe No.1 and other places
12.	Raina Puriri	objects to the exclusion of Hone Heke as a descendant of Tamakitera
13.	Mate Monoa	objects, as she denies the right of Tamakitera to Taraire and Omapere
14.	Waikere Heke	objects to the award in Ometo No.1 and to their exclusion from Te Kumi and other places
15.	Putoto Kereopa	objects to the award in Manawakaikeha and other places
16.	Manihera Kauwhata	objects to the whole decision and is opposed to the case of Hetaraka Manihera
17.	Wiremu Kowhai	objects to the award in Manawakaikeha and other places
18.	Tirahu Wi Hemara	objects to the award in Tauaraunui and other places and because the shares awarded him are insufficient
19.	Hone Ngapua	objects to the award in Kaikohe Puke only
20.	Marama Tahere	objects to the award in Kaikohe Puke and to Kaipo's boundary from Waiwhakairo through Te Nana to Pukerakuraku
21.	Hemi Wi Hongi	objects to the large number of shares awarded to Kaipo and to the block committee not having decided the relative interests

[607] Information taken from TDMLC Minute Book 4, pp 107-110 (#A49, vol 6, pp 23050-23053)

Table 17: Detail of the 27 objections to the Taraire committee report		
		of Ngatikoro and Tamakitera
22.	Erana Wi Hongi	objects to not being in Kaipo Hoterene's list for Te Aokiwi and asks also that Pei Kihi should be included
23.	Akuhata Haki	asks that the names of his children appear in Mate Monoa's list instead of their mother, who is dead, and that their shares be increased
24.	Waata Aporo	wants to be included in Hemi Wi Hongi's list for Kaikohe Puke and objects to the boundary; also wants to be included in Kaipo's list for Kaikohe Puke at a place called Tauarunui
25.	Rihara Kou	objects to the award for Te Puna
26.	Hori Puriri	objects to a portion of the committee's award and to it not having defined the relative interests of Ngatikoro and Tamakitera; also objects to Hiramai Piripo's case
27.	Kaipo Hoterene	objects to the cases of Eru Tahere, Pukeataua Te Awa, and Wiremu Poakatahi for Kaikohe Puke; to the case of Hone Tua for the portions awarded him; to the case of Hiramai and Hirini Taui for Opango; to the case of Arapata Hami and Mate Monoa for the portion near Taraire; and to the case of Hetaraka Manihera

In many instances, as can be seen, the Taraire objections were personal and specific. It was a similar story in other cases. In Te Karaka there were 11 objections to the block committee report, with all but one being individual requests to be put into one or other of the lists of owners (and the other being from someone who felt they had been awarded too few shares).[608] Of the 12 objectors to the Puketaururu decision, most wanted a larger number of shares awarded to those in their list, although there were also two objections to the inclusion of non-occupants in the title and some dispute over the committee's decision on ancestral rights.[609] Of the 18 objectors to the Rangihamama decision, seven wanted themselves or others included in a list or to have their shares increased. In a further two cases, the objectors wanted their own names withdrawn and their shares given to others, and another objector merely wanted the names of his children corrected.[610]

Objections could be made in person to the Council or Board or sent in advance, in writing. In Takahiwai, for example, Peka Rata told the Council in May 1905 that all his objections had been outlined in a letter to the president written on 18 January 1904. Fellow objector Tahi Honetana added that his objections, too, were set out in his letter to the Council.[611] (These letters have not been located in the course of this research). However, if a claimant who had objected in writing did not actually appear, they were deemed no longer to object. This

[608] TDMLC Minute Book 3, pp 24-25 (#A49, vol 6, pp 22572-22573)
[609] TDMLC Minute Book 3, pp 225-226 (#A49, vol 6, pp 22773-22774)
[610] TDMLC Minute Book 5, pp 65-67 (#A49, vol 6, pp 23403-23405)
[611] TDMLC Minute Book 1, pp 292-293 (#A49, vol 6, pp 22100-22101)

occurred in the case of three Whangaruru blocks before the Board in August 1906, Oakura, Whangaruru Whakaturia, and Whangaroa Ngaiotonga 4. In Oakura the Board recorded that

> Rahera Te Kero & ors had lodged an objection in writing. None of the persons signing it appeared in support of it. The inference therefore was that they did not intend to proceed with it and the Board after considering it and the report decided to dismiss it.[612]

In Whangaroa Ngaiotonga 4, the objection of Rihi Paea, who also failed to appear, was similarly dismissed. In Whangaruru Whakaturia no fewer than three objections had been lodged in writing, but again none of those parties appeared in support of them. Once more, these objections were dismissed.[613] To this extent the Board employed a similar policy to the Native Land Court's rule that only the evidence presented in person could be considered by judges.[614]

Some objections were relatively trivial, and dismissed as such by the Council or Board for that reason. As noted in chapter 4, in the case of both Te Touwai and Te Kahikatoa Paora Hori wanted the agreements he had signed in front of the committee overturned because of a subsequent dispute between himself and Ritete Puke over fencing. The Council refused to re-open the matter, especially since the parties had made an agreement in writing. As it explained,

> The view the Council takes of the matter is that where an arrangement, such as these in question, has been deliberately entered into by all parties interested and signed by their representatives very strong reasons indeed must be brought forward to show why it must be annulled or cancelled especially as, in these cases, where the request is made by one only of the parties to the arrangement.
>
> The only reason brought forward in these cases is that after the agreements were signed the parties had some petty squabbles about fences.
>
> Nor can the Council look upon it that these arrangements were made for the purpose of being set aside at any time one or other of the parties chose, in a fit of pique, to do so because something or other not connected with the arrangement was not agreed to by the other party or parties.[615]

In the case of Punakitere 4, Wiremu Komene Poakatahi explained to the Council that he was objecting 'on account of Te Kohe Tahere's conduct in the Puketaururu case. If it had not been for his conduct in this case I wd have let my brother's withdrawal of my objection stand good.'[616] This shows that objections were made to committee decisions not just to ensure the correct award of title but also as part of a broader negotiation over rights to the land and even on a tit-for-tat basis. Sometimes, also, a claimant was influenced to object by the number of

[612] TDMLC Minute Book 5, p 186 (#A49, vol 6, p 23524)
[613] TDMLC Minute Book 5, p 188 (#A49, vol 6, p 23526)
[614] Alan Ward, *A Show of Justice: Racial 'amalgamation' in nineteenth-century New Zealand*, Australian National University Press, Canberra, 1974, p 186
[615] TDMLC Minute Book 3, p 192 (#A49, vol 6, p 22740)
[616] TDMLC Minute Book 4, pp 16-17 (#A49, vol 6, pp 22959-22960)

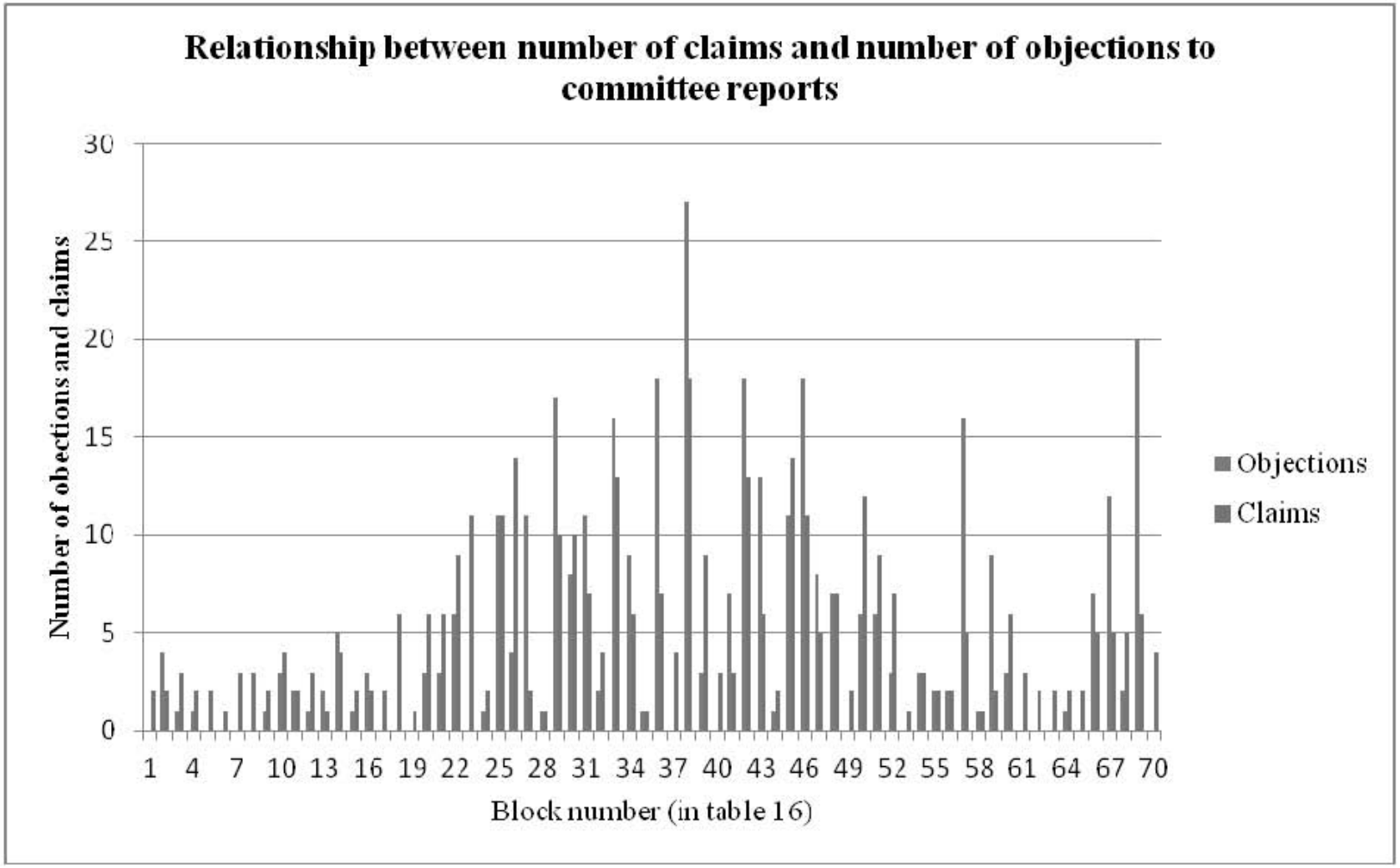

Figure 7: Relationship between number of claims and number of objections to committee reports

other objectors. In Maungakawakawa, for example, Hone Ngapua told the Board that 'Before the Block Committee I expressed my satisfaction with the decision. I have changed my mind now on account of the number of objections that have been made.'[617] And in Kohatutaka, Wiremu Komene Poakatahi told the Board that

> I support the Bk Committee's decision because it is the logical decision based on the evidence of Heremaia Kauere. … I object to the inclusion of the mataotaos [those whose fires of occupation had gone cold]. I did not object to them before the Block Committee. We had an arrangement outside about the shares as we were one people. My only reason for objecting is because I hear all my friends objecting. Therefore I object too.[618]

As noted above, in addition to making objections claimants could also declare their support for the committee's decision. Five did so in response to the Puketaururu report's conclusions as to the entitled ancestors, choosing Putoto Kereopa to conduct their case for them.[619] Other blocks where claimants stated support for the committee decision included Mahimahi, Motukawanui, Waihou, Taupo, Otuhi 1, Otuhi 2, Tawapuku, Tautoro, Taporepore, Pakonga 2, Kohewhata, Kohatutaka, Rangihamama, Maungaturoto, Orakau, and Mimitu. In Waihou, it was the principal claimant, Re Te Tai, who stepped forward in this regard. In the case of Te Wawa, three appeared who were said to 'practically uphold' the decision.[620] There is no note of any claimant declaring support for the committee decision in Te Karae, but the minutes do state that Hapeta Henare conducted the case for those in support of the committee's decision.[621] In the case of Matauri the minutes record that 'No one supports decision of Block Committee',[622] although it may be that this was simply a reference to no-one appearing to make this declaration.

6.4 The resolution of objections by the parties

According to Armstrong and Subasic, the mutual arrangements between the parties that were encouraged by the block committees 'were usually confirmed by the council'.[623] They noted Edger's remarks to the parties involved in the Taumatakaramu case at Ahipara in October 1904 that 'The Council is always willing to facilitate a reasonable arrangement for settling ownership of land. Whatever you can agree to, that is within the law, will be adopted.'[624] Indeed, the Council or Board's regular agreement to the parties reaching a settlement on the objections outside also matched the policy of the Council during the phase for the setting up of the committees.

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[617] TDMLC Minute Book 5, p 46 (#A49, vol 6, p 23384)
[618] TDMLC Minute Book 5, p 19 (#A49, vol 6, p 23357)
[619] TDMLC Minute Book 3, p 226 (#A49, vol 6, p 22774)
[620] TDMLC Minute Book 3, p 199 (#A49, vol 6, p 22747)
[621] TDMLC Minute Book 3, p 74 (#A49, vol 6, p 22622)
[622] TDMLC Minute Book 3, p 127 (#A49, vol 6, p 22675)
[623] Armstrong and Subasic, 'Northern Land and Politics', p 1429
[624] TDMLC Minute Book 2, p 358 (#A49, vol 6, p 22532)

In the case of Ramaroa, for example, the sole objector sought the inclusion of three names in the title. Others disagreed, as the three were not occupants, but the matter was resolved outside and an agreement reached that they would be included.[625] Almost exactly the same resolution occurred in Kahakaharoa, where another solitary objector sought the inclusion of three names.[626] In Matihetihe, Re Te Tai was the lone objector but – after a brief adjournment – withdrew his objection after an undertaking by the other parties to offer his people 100 shares.[627] Similarly, in Te Karaka, all 11 objectors were satisfied through the willing adjustment of shares or inclusion of names by the other parties.[628]

After Blomfield's rejection of the Motatau 2 committee report (see below), the Council adjourned proceedings as the claimants entered 'an amicable discussion, and would possibly come to an amicable agreement'. The following day, however, it had become apparent that 'there was no possibility of a settlement', and the Council's inquiry proceeded.[629] So it was too with the other blocks. In Motatau 1, the parties met outside and 'decided not to accept the block committee's decision' but to make an alternative division of shares.[630] In Motatau 4, the Council adjourned to allow the parties to attempt to resolve the ancestral awards that remained in dispute, albeit to no avail.[631] At Russell in August 1904 Edger adjourned consideration of the Waikare objections till the following day to allow the parties to settle their differences through 'discussion outside'.[632]

At Whangaroa in September 1905, the parties met likewise outside to come to an arrangement concerning Mahimahi, Matauri, and Motukawanui. Among other things, this agreement involved Matauri being divided and claims to Motukawanui being withdrawn.[633] And in Tautoro, where the Council decided to adopt the committee's report, it nonetheless believed that the proposed partitions should be abandoned and that many in the lists of owners had no claim under occupation. It therefore

> decided to hold the matter over for a few days and give the parties an opportunity of coming to an arrangement if they can whereby the divisions will be done away with, one order made for the whole land, and revised lists handed in under the different ancestors.
>
> If no such decision can be made the Council will confirm the Block Committee's decision.[634]

As an upshot of this an arrangement was made for an apportionment of shares by most of the owners who had been found entitled. However, this agreement was in turn objected to by eight others, and the Council opted to fall back upon the decision of the block committee.

[625] TDMLC Minute Book 2, pp 148, 150 (#A49, vol 6, p 22321, 22323)
[626] TDMLC Minute Book 3, pp 20-21 (#A49, vol 6, pp 22568-22569)
[627] TDMLC Minute Book 3, p 28 (#A49, vol 6, p 22576)
[628] TDMLC Minute Book 3, pp 26-27 (#A49, vol 6, pp 22574-22575)
[629] TDMLC Minute Book 2, pp 34-35 (#A49, vol 6, p 22205-22206)
[630] According to Matiu Kapa. TDMLC Minute Book 2, pp 108-109 (#A49, vol 6, p 22281-22282)
[631] TDMLC Minute Book 2, p 110 (#A49, vol 6, p 22283)
[632] TDMLC Minute Book 2, p 160 (#A49, vol 6, p 22333)
[633] TDMLC Minute Book 3, pp 135-136, 155-156 (#A49, vol 6, pp 22683-22684, 22703-22704)
[634] TDMLC Minute Book 3, p 378 (#A49, vol 6, p 22926)

This left one or two cases in which the shares had still not been allotted. In this regard the Council gave 'the parties interested an opportunity of defining the shares', albeit reiterating that 'If they cannot agree the Council will do the work itself.' [635]

6.5 Council and Board acceptance of committee decisions

Resolution of differences by the parties outside was not always achievable. In such circumstances the Council and Board tended to accept the committee reports and dismiss the objections. McRae noted, in this regard, that 'The Council itself had, in the main, the role of confirming committee reports or hearing objections – in the latter case inclining to the view of the majority and not without recognition of the elders' role in decision making'.[636]

The Council and Board were even more likely to accept committee decisions if an outside agreement between the parties had previously been made or if the decision had been based on the recommendations of a committee of elders. Often, in the case of weak objections, these were easy decisions to make. But there was also an element of self-interest involved, because re-opening proceedings – say by allowing new claims to be considered – would cause both significant delays and more work for the Council or Board. If anything, it appears that the Board was even more willing than the Council simply to dismiss objections and confirm the committee reports, which was unsurprising given the growing political pressure for a faster process (see below). (As we will see in chapter 7, in Te Tai Rawhiti the council there essentially decided not to inquire into any objections).

We can see that the existence of an agreement signed by all parties before the committee weighed heavily against objectors. The Council's response to the Touwai and Kahikatoa objections in this regard has already been quoted above. Similarly, in the Pukahu case – which was outlined in chapter 4 – the Council considered

> that the arrangement with respect to the ownership of this land made by the elders and given effect to by the Block Committee was a reasonable one and perfectly fair to all parties and that the persons who signed it clearly understood its purpose before doing so.
>
> The Council therefore confirms the Block Committee's decision in all respects.[637]

With respect to the Tautoro committee report, the Council likewise could point to a decision made by kaumātua. As it explained in making its own ruling,

> The decision in this case was arrived at by a Committee of Elders after months of work and consideration and was confirmed & adopted by the Block Committee. When the decision was published by the Bk Com there were only three objectors viz Kaka Porowini, Ruatara & Raina Puriri. All the other parties interested consented to the decision. Now however when

[635] TDMLC Minute Book 4, pp 2-3 (#A49, vol 6, p 22945-22946)
[636] McRae, 'Participation', p 77
[637] TDMLC Minute Book 3, p 125 (#A49, vol 6, p 22673)

> most of the elders are dead they come forward before the Council and object to it. This we are sure they wd not have done if the elders were still alive.
>
> After perusing the evidence given before the different Committees which sat on the Block & hearing the evidence given at this sitting the Council has come to the conclusion that its proper course is to adopt the Block Com decision.[638]

As noted in chapter 4, Kaka Porowini had argued that Iraia Kuao had concealed an alleged conquest from the committee in order to protect the interests of his hapū, Ngati Rangi. However, the Council did not believe there was evidence of a conquest, adding that

> the Committee of Elders refused to recognise the alleged conquest although some of them would have benefited to a large extent under it and this fact has influenced the minds of the Councillors considerably against the Conquest.[639]

The Council or Board regularly praised committees for their work and dismissed the objections. In Kohatutaka, where there were 18 objections, the Board remarked that the committee had 'carefully considered' 'voluminous evidence', and 'the ancestors found entitled by the Block Committee were the proper ones and the allotment of the shares to those ancestors was fair and reasonable'.[640] In Maungaturoto, where there were three objectors, the Board considered that 'no sufficient ground has been shown why we should alter the decision as given by the Committee'. Indeed, the Board was 'satisfied that upon the evidence laid before it as to occupation the Block Committee has made a very fair allotment of shares to the different claimants and we therefore refuse to alter that allotment'.[641] In Mataukirua, where there had been 11 objections, the Board dismissed them all and upheld the committee's decision.[642] With regard to the claimants who had failed to set up a case before the committee, it remarked that it did 'not think that sufficient reason has been shown at this stage of the proceedings why the case should be re-opened and the parties put to the expense and trouble of fighting it over again'.[643]

In Rangihamama the Board essentially dismissed all 18 objections, noting at one point that 'the Committee gave very careful consideration to the matter and made a very fair allotment between the parties'.[644] The Board was also resolute in the face of the 20 objections to the Maungakawakawa committee report. It found that the committee's allotment of shares was 'a fair and reasonable one and we uphold it'. In fact the only adjustment it would make was in favour of the Rauahi brothers (see chapter 4), although it felt that it was the brothers' 'own fault either in allowing themselves to be included under Hoori Rakete's case or in not looking

[638] TDMLC Minute Book 3, p 378 (#A49, vol 6, p 22926)
[639] TDMLC Minute Book 3, p 377 (#A49, vol 6, p 22925)
[640] TDMLC Minute Book 5, pp 189-190 (#A49, vol 6, pp23527-23528)
[641] TDMLC Minute Book 5, p 156 (#A49, vol 6, p 23494)
[642] TDMLC Minute Book 5, pp 160-161 (#A49, vol 6, p 23498-23499)
[643] TDMLC Minute Book 5, p 99 (#A49, vol 6, p 23437)
[644] TDMLC Minute Book 5, p 208 (#A49, vol 6, p 23436)

after their interests better (we are not certain which) that they were not awarded a larger share by the Block Committee'.[645]

6.6 Council and Board intervention in title investigations

Despite the regular willingness of the Council and Board to accept committee decisions, it is also apparent that they were occasionally prepared to throw out a committee report and start again, if they felt a conclusion would be drawn quicker as a result. Perhaps the most notable example of this was in the case of Motatau 2, which came before the Council on 13 November 1903. Blomfield summed up the problems with the report as he saw them:

> 1. The report is not complete. There is nothing to show which lists of names have been accepted by the committee. Some of the lists do not show any shares. Notwithstanding this, the total number of shares included in the remaining lists forwarded with the report, is in excess of the number fixed by the committee as the total number in the block.
> 2. The objections were not received by the committee and objectors were compelled to send them to the Council.
> 3. From questions asked it appeared doubtful what new cases the committee had allowed claimants to set up. It was alleged that lists of names had been handed in by parties to the committee and had simply been received by the committee which did not decide whether the claimants were entitled to succeed or not, the matter being left in some cases to the Council to decide.
> 4. The objections traversed the whole report, and the Council could not therefore accept any part of the report as admitted.[646]

The Council decided 'to inquire into the claims de novo, referring to the report where necessary'.[647] In Motatau 1, as well, Blomfield noted that 'For the reasons stated in No 2 case … the Council decided that it was necessary to rehear this case', while in Motatau 3 he also considered that 'the matter will have to be reopened, and probably proceedings commenced de novo'.[648] Effectively, therefore, the Motatau 1-3 claimants had had to present their cases twice: once before the committee and once again before the Council.

In other cases where committee reports were incomplete or otherwise deficient they tended to be referred back to the committee for more work. This occurred with the Parahaki, Taupo, Te Touwai, Te Kahikatoa, Otuhi 1, and Tuataranui reports. Whereas these cases mainly involved a failure by the committee to set out the allocation of shares between the lists of owners, and the Motatau 1-3 flaws may have been more fundamental, there were clearly other factors motivating Blomfield to take over the Motatau 1-3 investigations. As Armstrong and Subasic noted, Motatau was regarded as prime yet 'idle' Māori land that had long been 'locked up' and needed to be vested in the Council and thus made available for European settlement. This

[645] TDMLC Minute Book 5, pp 195-196 (#A49, vol 6, pp 23533-23534)
[646] TDMLC Minute Book 2, pp 4-5 (#A49, vol 6, pp 22174-22175)
[647] TDMLC Minute Book 2, p 5 (#A49, vol 6, p 22175)
[648] TDMLC Minute Book 2, pp 83, 103 (#A49, vol 6, p 22256, 22276)

was the 'magnificent' land to be addressed by block committees that Blomfield told Sheridan about in May 1902 (see chapter 2). Completion of the title investigations for the various Motatau blocks was thus one of Blomfield's highest priorities; indeed, Armstrong and Subasic labelled it an 'obsession'.[649]

In the circumstances, therefore, Blomfield was unlikely to refer Motatau 1-3 back to the committee to complete its investigations. He was also critical of the Motatau 4 report, concluding that it 'took no evidence',[650] although in that case he did not begin the investigation anew. Blomfield's appropriation of the Motatau 1-3 work from the committee appears to have lessened the Tai Tokerau Māori faith in the Council process. Te Waaka Hakuene told Edger in September 1904 that 'The reason why the work before the Block Komiti has slackened is bec. in Motatau the Reports were not considered'. It is not clear where the slackening off occurred, although it seems this was a reference to the work of committees currently under way rather than a drop-off in applications for new committees. Te Waaka Hakuene added, by contrast, that 'at the present sitting, the work of the Komiti has been appreciated'.[651]

Blomfield was not the only president prepared to take over the investigation of a block's title rather than refer it back to a committee. In the case of Taraire, Browne heard the many objections in June 1906 and remarked that the Board did 'not understand the methods adopted by the Block Committee' in determining the relative interests. He proposed that there were two possible courses:

> 1. To refer the matter back to the committee for further consideration, or 2. To take the matter in hand and make any further inquiry we think expedient ourselves.
>
> The first course is open to the objection that we have no guarantee that the Bk Committee will come together again or do anything and in any case considerable delay will occur.
>
> The second course is we think the course we will have to adopt as being the most expeditious. For the aim of the Govt is to get these lands clothed with titles as soon as possible so that they may be in a position to be dealt with and thus be of benefit both to European's [sic] and Maorie's [sic].[652]

Here we can see that Browne's motives in taking over the investigation were essentially the same as Blomfield's in 1903 in regard to Motatau 2. Both wanted to expedite the issue of a title so that the land could be leased to Pākehā settlers. In Browne's case there had also been

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[649] Armstrong and Subasic, 'Northern Land and Politics', pp 1421-1422
[650] TDMLC Minute Book 2, p 127 (#A49, vol 6, p 22300)
[651] TDMLC Minute Book 2, p 202 (#A49, vol 6, p 22375). These were Edger's notes of Te Waaka Hakuene's comments, and it is possible that Edger was subtly drawing a comparison between himself and his predecessor that reflected well on him. Blomfield's work appears to have been generally appreciated by the claimants. On 23 March 1904 an unidentified group of 'natives interested in Native Council work' wrote to Blomfield from Ngarongotea in the Hokianga to wish him well in his new role. They told him that they had been 'fully impressed with and plainly followed the upright, true and open manner in which you conducted your administration of the law, and your firm methods of putting down and pacifically settling all disputes that have arisen in this district'. 'Mr Blomfield, S.M.', *Auckland Star*, 5 April 1904, p 3
[652] TDMLC Minute Book 4, p 150 (#A49, vol 6, p 23093)

the added pressure the previous year – from both Sheridan and, indirectly, the Premier himself – to make haste. McRae considered that Browne's comments on Taraire revealed 'the intentions of Government in this legislation',[653] while Armstrong and Subasic regarded his comments as essentially an admission of the Board's role as 'an instrument of Government policy'.[654] The Board completed its investigation into Taraire on 18 July 1906, having 'taken evidence as to the ancestry and occupation of every person in the lists who has been objected to'.[655]

The Board took a similar approach in the case of Kohewhata, where there were 11 objections to the committee's report. It read out the list of names of those who had been found entitled but soon learnt that 'Everybody objected to everybody else'. According to Browne's minutes the parties were unanimous that the Board should 'try and settle their differences' rather than refer the matter back to the committee. The parties were even 'willing to pay the same fees as were charged in [the] Native Land Court'. The Board considered the request and decided that it would complete the investigation by adopting the ancestors that had been agreed before the committee but inquiring into the occupation of the land by every person named in the lists, as it had done in Taraire.[656]

A similar inquiry into the status of hundreds of individuals named in lists took place in the adjoining Waihou and Whakarapa blocks. In June 1905, after hearing considerable argument from the various parties, the Council stated

> that before it could go any further with the cases it would require Whakapapas to be furnished showing the descent of each person in the lists from the ancestors under whom they claimed before the Block Committee.[657]

This followed on from Heremia Te Wake already having devoted a considerable time to naming those who had not lived on Whakarapa.[658] When it eventually gave its decision as to the owners of Whakarapa and Waihou, the Council noted that it had 'investigated the claims made of occupation and ancestry by every individual in the lists passed by the Block Committee'.[659] This represented a substantial investigation over and above that undertaken by the committee.

It should be noted that, in Paremata Mokau, where Henare Kaupeka and Eru Nehua had concealed the identity of the rightful ancestors for the block (see chapter 5), the Council stated that it would 'not allow Eru Nehua and Henare Kaupeka to reap the benefit of their conspiracy', and reduced the shares awarded to Nehua from 1,500 to 300. Nehua did not

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[653] McRae, 'Participation', p 98
[654] Armstrong and Subasic, 'Northern Land and Politics', p 1456
[655] TDMLC Minute Book 4, p 381 (#A49, vol 6, p 23324)
[656] TDMLC Minute Book 4, pp 234-235 (#A49, vol 6, pp 23177-23178)
[657] TDMLC Minute Book 3, p 19 (#A49, vol 6, p 22567)
[658] TDMLC Minute Book 1, pp 349-250, and minute book 3, pp 1-13 (#A49, vol 6, pp 22157-22158, 22549-22561)
[659] TDMLC Minute Book 3, p 102 (#A49, vol 6, p 22650)

object. As he put it, 'I accept the decision of the Council. I admit that I did wrong, & have now been punished: & I now resume my normal state.'[660]

6.7 The conduct of Council and Board hearings of objections to committee reports

Objectors to committee reports and supporters of them argued their positions before the Council or Board in the same manner as the parties had prosecuted their claims before the committees themselves. Conductors or kaiwhakahaere called witnesses and cross-examined opponents, with regular adjournments – as noted – to allow for outside arrangements. On one occasion, a committee member was actually present during the course of the investigation, and remarked upon the veracity of what an objector was asserting. This occurred in Taraire, where Marara Hirini alleged that the committee had not allowed Rauahi Puataata to give evidence about a particular gift. Committee member Tane Ruwhiu countered that Rauahi Puataata had not sought such permission.[661]

There were, naturally, limits to the extent to which committee members could become involved in the hearing of objections. In the case of Paremata Mokau – where Eru Nehua and Henare Kaupeka had misled the committee (see chapter 5) – objector Eruera Maki sought to use Hohaia Tango to conduct his case for him. However, Tango had been a member of the Paremata Mokau committee, and Edger remarked that 'Council will not allow Hohaia Tango to appear in support of an objection agst the Report which is signed by himself.'[662] In Mangakowhara 2, Hare Wetiwha appeared before the Board and objected both to the definition of the relative interests as well as to some persons not entitled being awarded the land. He added that he was a member of the block committee, which perhaps prompted the next objector, Peihopa, to make clear that he was 'not a member of the Block Committee'.[663] What the Board made of an objector having been a committee member in this case is unknown, as the Board did not review the report (see below).

Of the many witnesses called, only two were Pākehā, both appearing in respect of the objections to the Taupo report. The first of these was John Goodwin Shepherd, the son of the missionary James Shepherd. He testified that he had known the Taupo block since 1847 and the only people living there at that time had been 'the people of Touwai viz Hone Tua & Henare Tanguru'. Wiremu Maihi had not arrived from Kaeo until about 1860, and he had 'never seen Mita Hape & his people on the land'.[664] The second Pākehā witness was William Henry Saies, a storekeeper from Totara North. He also testified about who was living on the Taupo block when he first saw it (in 1865) and who had lived there since.[665] It is very likely that both Shepherd and Saies gave their evidence and answered questions in Māori.

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[660] TDMLC Minute Book 2, pp 187, 189 (#A49, vol 6, pp 22360, 22362)
[661] TDMLC Minute Book 4, pp 120-121 (#A49, vol 6, pp 23063-23064)
[662] TDMLC Minute Book 2, p 176 (#A49, vol 6, p 22349)
[663] TDMLC Minute Book 6, p 56 (#A49, vol 6, p 23743)
[664] TDMLC Minute Book 3, p 157 (#A49, vol 6, p 22705)
[665] TDMLC Minute Book 3, p 165 (#A49, vol 6, p 22713)

As had the committees, the Council often conducted site visits to inspect the land and fix boundaries. While at Russell in September 1904, the Council made a day-long inspection of the Waikare block, reaching it via steamship.[666] Likewise, in June 1905 the Council spent a day visiting the Whakarapa and Waihou blocks.[667] The following month, while considering Te Karae, the Council announced one morning that it 'desired to view the land. Horses to be ready at 12.30 pm.'[668] In October that year the Council also adjourned its sitting at Whangaroa 'to allow Council visiting & fixing division boundary of Matauri Block'.[669] There is no record, however, of the Board making any visits to see the blocks that were the subject of cases before it.

In disputing committee reports or the testimony of witnesses before the committees, objectors made frequent reference to specific pages within the committee minute books. In the case of Motukawanui, for example, Hone Hapa asked the Council to note that Paora Kira had stated before the committee that the conquest he referred to did not extend to the island. The Council then adjourned until the following morning 'to allow parties to look up minutes & give references'.[670] In other cases, witnesses were already prepared with references. In Te Karae, for example, Rihari Mete made dozens of references to the committee's minutes.[671] So too did Hori Rakete and Hiramai Piripo in setting out their objections to the Mataukirua and Wiroa committee reports respectively.[672]

The Council or Board could of course also refer back to the committee minutes. In the case of Punakitere 4, Hori Rakete claimed that the report stated that Eru Tahere would allot him shares. However, when challenged about this Rakete could not 'point out anything in the report in support of this statement'. Rakete also claimed that the committee had refused to consider his objection, but the Council noted that 'From the minutes p 244 it wd appear that the objections were considered by the Committee & dismissed'.[673]

6.8 The precedent of previous committees

Quite aside from the minutes of the block committee inquiry itself, objectors often cited previous committee investigations into the land in question. The precedent value came both in terms of the lines of argument previously run before those committees and the decisions they came to over the rightful ownership. If a claimant before a block committee used a different ancestor to the one they had put up previously, for example, they could be accused of being inconsistent. Alternatively, if they were awarded a lesser shareholding than they might have expected, they could also point to contrary decisions made previously. Several

[666] TDMLC Minute Book 2, pp 200, 206, 208 (#A49, vol 6, pp 22373, 22379, 22381)
[667] TDMLC Minute Book 3, p 62 (#A49, vol 6, p 22610)
[668] TDMLC Minute Book 3, p 120 (#A49, vol 6, p 22668)
[669] TDMLC Minute Book 3, p 137 (#A49, vol 6, p 22685)
[670] TDMLC Minute Book 3, p 130 (#A49, vol 6, p 22678)
[671] TDMLC Minute Book 3, pp 104-106 (#A49, vol 6, pp 22652-22654)
[672] TDMLC Minute Book 5, pp 94-97, 147-150, 152 (#A49, vol 6, pp 23432-23435, 23485-23488, 23490)
[673] TDMLC Minute Book 4, p 13 (#A49, vol 6, p 22956)

different panels were pointed to as precedents. As was the case with committee investigations themselves, reference was made most commonly to the Komiti o Te Tiriti o Waitangi or the Committee of Twelve, but importance was also placed upon testimony given to the Native Land Court and – in two cases – arbitration proceedings.

As noted above, failure to have set up a case before the Komiti o Te Tiriti o Waitangi, or to have set up a case that failed, were regarded as materially relevant to block committee decisions. In the Council's consideration of objections to the Pukahu block committee decision, for example, Mihikakau Otene appeared as a witness for Rihari Mete. He stated that

> The portion to be allotted to Hori Karaka is under the ancestral boundaries. It is not a straight line. In all our disputes it has been acknowledged & it was fixed by the Committee which sat under the treaty of Waitangi. … Hipirini [Kiroa] set up a case before the Treaty Committee & failed.[674]

Similarly, in Taupo, Mita Hape told the Council that 'About 1889 the title to this land was investigated by the Committee of the Treaty of Waitangi. Hemi Rua did not set up a claim. I object to his being awarded any lands under those grounds.' With respect to Makareta Hohepa, he added that 'She was admitted by the Block Committee under the gift of Ururoa Te Taha. I object because she did not set up a claim at the time the Bk was investigated by the Com Treaty of Waitangi.'[675]

The Matawaia block had also previously been investigated by the Komiti o Te Tiriti o Waitangi. Hirini Taui told the Council that Honorata had set up the case 'but Erika & Manihera Kauwhata were the kaiwhakahaeres'. Taui went on to contend that Erika had set up a different ancestor before the block committee to the one he had set up before the Tiriti committee, and thus 'forsook the claim he set up under the Treaty of Waitangi'. In his evidence to the Board, Taui made frequent reference to the minutes of both the block committee and the Tiriti committee, pointing out Erika Kauwhata's inconsistencies. He also pointed to Erika's statements to the Committee of Twelve investigation into the Tokakopuru block.[676]

It seems that, in response to this (the Board minutes are a little difficult to follow), Manihera Kauwhata dismissed the evidence given by his father Erika before the earlier committee:

> Kauwhata was a man of without [sic] historical knowledge & new to the procedure in connection with land claims – hence the mistakes he made. I object to all his evidence. It is since I have grown up that [Hetaraka?] Manihera & Tukaru have told me of this history & that there was no conquest of this land. Erika Kauwhata gave evidence before the Bk Com. He said then the conquest was not right.[677]

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[674] TDMLC Minute Book 3, p 117 (#A49, vol 6, p 22665)
[675] TDMLC Minute Book 3, pp 146, 148-149 (#A49, vol 6, pp 22694, 22696-22697)
[676] TDMLC Minute Book 5, pp 121-126 (#A49, vol 6, pp 23459-23464)
[677] TDMLC Minute Book 5, p 126 (#A49, vol 6, p 23464)

Maungaturoto was also reported by one claimant, Ruatara, to have 'passed through a maori [sic] court and I succeeded in a portion which I sold to a butcher at Taheke'.[678] In the case of Kotuku A, Mate Monoa told the Council that, while she had not objected to the block committee about their decision, she told them 'that their decision was all very well but Kiore was the ancestor set up before the Committee of the Treaty'.[679]

Sometimes, however, a past ruling was disputed. In Rangihamama, for example – when the block committee was being set up – Pukeatua Te Awa told the Council 'I don't admit Meri Tautari's claim to the portion formerly awarded her by the committee. She has no claim to an interest in the land.'[680] The committee in question will have been the Committee of Twelve; when the Board later heard objections to the block committee report, Arapata Hami Pia said that the Committee of Twelve had awarded half of the land to Pokai, but the block committee 'did not award even half to us'.[681] He also noted that none of Peneha Kingi, Marara Hirini, Hone Waipuna, Tuhingaia Te Rewha, and Reupena Tuoro (all objectors to the block committee's decision) had set up cases before the Committee of Twelve.[682]

On occasion it was not the previous investigation of the same block that was cited as a precedent, but the investigation of a neighbouring block. In the case of Puketaururu, Wiremu Komene Poakatahi was referred under cross-examination by Putoto Kereopa to the investigation of the adjacent Tuhuna block by the Committee of Twelve in 1887. At that time, when Komene said he was 35, he had set up Wairua as an ancestor, but told the Council that he would not do so now. As he explained, 'I did not know when I set him up that he was not entitled.' In fact, Komene claimed he had not remembered his evidence concerning Tuhuna before the Committee of Twelve, as the Committee of Twelve minute book was not available to him at the block committee sitting.[683] Putoto's objective, it would seem, was to make Komene appear inconsistent and contradictory.

In the case of Wiroa, Hone Rameka appeared before the Board to dispute the conquest claimed by Hiramai Piripo. Rameka cited the 1895 investigation of Whakataha 'by the Com of H P Kawiti' (the Komiti o Te Tiriti o Waitangi), in which Hiramai had claimed on the basis of gift. On another investigation into a portion of Whakataha in January 1900 the 'grounds of claim then were the same viz the gift'. Furthermore, continued Rameka, in 1889 before Hone Mohi Tawhai's Committee of Twelve investigation into Whakataha, 'Hiramai was present but did not set up a case'. Nor was Rameka averse to making reference to the decisions of Pākehā judges. When Whakataha passed the Native Land Court – in what Rameka said was Blomfield's first title investigation – Rameka and others appealed the decision, and 'The judgment of the Appellate Ct was against the conquest set up by

[678] TDMLC Minute Book 1, p 126 (#A49, vol 6, p 21931)
[679] TDMLC Minute Book 4, p 37 (#A49, vol 6, p 22980)
[680] TDMLC Minute Book 1, p 112 (#A49, vol 6, p 21917)
[681] TDMLC Minute Book 5, p 76 (#A49, vol 6, p 23414). In an intriguing aside at this point, the minutes record that 'Mr Seon points out for information of Board that the word "half" when used by natives generally means a portion and not half as understood by English speakers'. It is not known what Māori word was being referred to.
[682] TDMLC Minute Book 5, pp 83, 87 (#A49, vol 6, p 23421, 23425)
[683] TDMLC Minute Book 3, pp 228-229 (#A49, vol 6, pp 22776-22777)

Hiramai.'[684] The Board itself, in rejecting the Wiroa objections, also cited the precedent of the Native Appellate Court decision in Whakataha.[685]

Another example of cross-over between the proceedings of the Native Land Court and the block committees came in Maungapohatu. There Mate Komene explained to the Board that he had prepared a list of names for the block and allotted them shares, but it was only later, when the Pipiwai block (presumably Pipiwai 2) came before the Native Land Court that he realised that his list was wrong.[686]

In Kohewhata there were several prior title investigations to refer to. According to Hemi Wi Hongi, in 1868 his father had leased the entire block to Joseph Williams. Hone Ngapua had disputed his right to do so and the Government had set up an arbitration court consisting of 'Messrs Clarke Williams & Kemp'. This had awarded three quarters of the block to Wi Hongi and a quarter to Hone Ngapua. Later, Hone Ngapua had begun to make purchases out of the block from the other owners, some of which at least were given effect to by the Committee of Twelve. A dispute over the purchase of eight acres at Te Ruapekapeka in 1881 was also the subject of an investigation by the Komiti o Te Tiriti o Waitangi.[687] There had also been a government arbitration over the Motatau 2 block (presumably the 1886 arbitration referred to in chapter 1 that covered a larger area than just Motatau 2), and in that case the arbitration file from Wellington and 'the evidence given before the arbitration' were among the papers considered by the Council.[688]

6.9 Awards to hapū

Whereas the Council's task was to determine the individuals to whom title of the blocks should be awarded, it at times made effectively what amounted to a hapū award. The best example of this is perhaps Motatau 2, where the Council found that Ngāti Hine had 'in the past shown the principal and in the present practically the sole occupation'. While the Council was 'not prepared to look on N' Hine as the sole owners', as it was satisfied that Ngati Tu had 'some right', it nevertheless awarded Ngati Hine '¾ of the block'.[689] This did not mean, of course, that Motatau 2 was awarded in some form of collective title (as question 2(f) of the research commission seemed to suggest might be possible); the Council approved lists of owners and, in 1905, the block was awarded by the land court to 711 individuals.[690]

As we have seen in chapter 4, a committee of elders attempted to have the Taumatakaramu block at Ahipara awarded to a limited number of individuals who would serve as the

[684] TDMLC Minute Book 5, pp 153-154 (#A49, vol 6, pp 23491-23492)
[685] TDMLC Minute Book 5, p 203 (#A49, vol 6, p 23541)
[686] TDMLC Minute Book 5, p 221 (#A49, vol 6, p 23559)
[687] TDMLC Minute Book 4, pp 289, 322-324 (#A49, vol 6, pp 23232, 23265-23267)
[688] TDMLC Minute Book 2, pp 81, 140 (#A49, vol 6, pp 22254, 22313)
[689] TDMLC Minute Book 2, pp 140-141 (#A49, vol 6, pp 22313-22314)
[690] Paula Berghan, 'Northland Block Research Narratives: Vol. V: Native Land Court Blocks 1865-2005: Mahimahi-Nukutawhiti', February 2006 (Wai 1040 document #A39(d)), p 303

representatives of the entitled hapū. This case was one of those that led to complaints about Rapihana by other Ahipara Māori (see chapter 3). In response to Natanahira Awarau's October 1904 petition, Edger wrote to Sheridan to provide more details of the dispute. The elders had in mind, he said, that each hapū would be allotted the area of land it occupied in the Manukau and Ahipara blocks, and that the three stands of kauri bush (the principal one of which was Taumatakaramu) would be allotted to one representative each of 30 hapū, to enable the timber to be sold. Where the committee departed from these arrangements was in receiving lists of owners of each hapū for Taumatakaramu. Rapihana and the elders objected to this, because it meant that their arrangements to sell the timber could not be confirmed.[691]

In its decision the Council was more sympathetic to the committee than the objectors:

> The Council, after hearing a number of the objectors, has come to the conclusion that neither the case set up by the claimants, nor the cases set up against them, can be upheld. The claimants cannot insist that one person only of each hapu shall be made an owner, if their proposal is opposed by more of the persons belonging to the hapu.
>
> Nor, on the other hand, can the objectors rightly claim for only a few persons, ignoring the rest. As the proposal for one representative of each hapu is not accepted, the Council must decide that if a hapu has right at all[,] all the persons belonging to the hapu are entitled to a share. It could not award the land to those few persons only who are forward in pushing their claims. It has to decide, not only as between parties, but who in its opinion are the owners of the land.[692]

Edger told Sheridan that the Council had nonetheless endeavoured to go some way to meeting the ambitions of Rapihana and the elders:

> The ultimate decision by the Council as to this bush was an order in favor [sic] of 165 persons in equal shares, this being an arrangement by consent of all, five persons being selected from each hapu. Herepete and the Elders were not satisfied by this arrangement, but accepted it as (to them) the less of two evils, the alternative being to award the bush to all the owners of the Ahipara block, some 1200 in number.[693]

Edger also explained that, in arranging so many divisions, Rapihana and the elders had been trying to carry out section 17 of the Maori Lands Administration Act, which required block committees to adopt 'hapu boundaries as far as practicable'. However, the partitions had been 'impossible to give effect to' due to the lack of an adequate survey plan.[694]

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[691] H F Edger to Patrick Sheridan, 14 December 1904. Archives New Zealand file ADYU 18191 MA-MLA1 3 1904/120
[692] TDMLC Minute Book 2, pp 351-352 (#A49, vol 6, pp 22525-22526)
[693] H F Edger to Patrick Sheridan, 14 December 1904. Archives New Zealand file ADYU 18191 MA-MLA1 3 1904/120
[694] H F Edger to Patrick Sheridan, 14 December 1904. Archives New Zealand file ADYU 18191 MA-MLA1 3 1904/120

6.10 Requests for areas to be inalienable

While the committees had no power themselves to recommend restrictions on alienation (as asked in question 2(g) of the research commission), in a number of cases small areas were cut out of the blocks as wāhi tapu, with the Council confirming the committee's awards and the claimants' requests for these areas to be inalienable. In Okuratope, for example, Hiramai Piripo told the Council that 'The wahi tapu to be inalienable.'[695] This referred to the five-acre Okuratope A – an urupā – which remains Māori-owned land today.[696] In the coastal Wairoa block in north-western Hokianga, the Council affirmed the block committee's orders for two wāhi tapu, Parengaroa (of 10 acres) and Pipiro (of 14 acres), with Browne noting that the 'Wahi Tapus to be inalienable.'[697] These two urupā, which the committee had awarded to two owners each, also remain in Māori ownership.[698] The same applies to a four-acre urupā cut out of the Matihetihe block known as Maungahiona, which was awarded to four owners.[699] As part of the outside arrangements made over the Matauri and Motukawanui blocks (see above), a four-acre urupā – where his grandmother was buried – was awarded to Hone Hapa alone.[700] An example of a somewhat larger wāhi tapu was the 50-acre area called Pahau, which was cut out of Kahakaharoa and awarded to two owners.[701]

In the case of the three Whangaruru blocks for which the objectors had failed to appear in August 1906 (see above), one of these objectors – Waata Paati – later appeared before the Board to explain the reason for his objection. He stated that he had objected 'for the purpose of having the wahitapus reserved so that the owners might not be able to dispose of them'. However, the Board 'explained that the whole land was inalienable by sale. The parties could apply for a partition & have the wahitapus cut out.' Paati was apparently satisfied with this explanation.[702] In 1909 five urupā were partitioned within the Oakura block, and remain today in Māori ownership.[703] Browne's response to Paati highlights the fact that the legislation had simply rendered all land passing the Council as inalienable by sale; it required the owners to take extra and ongoing steps to ensure that their lands remained in their hands.

Small wāhi tapu including urupā were one thing, but a key role of the Councils under the Maori Lands Administration Act 1900 was also to ascertain how much land was required for the ongoing maintenance and support of 'each Maori man, woman, or child'. Such land was to be declared papakainga and to be made 'absolutely inalienable' (section 21(1-3)). This

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[695] TDMLC Minute Book 2, p 3 (#A49, vol 6, p 22173)
[696] Paula Berghan, 'Northland Block Research Narratives: Vol. VI: Native Land Court Blocks 1865-2005: Oakura-Owhatia', February 2006 (Wai 1040 document #A39(e)), pp 59-60
[697] TDMLC Minute Book 3, p 23 (#A49, vol 6, p 22571)
[698] Pauala Berghan, 'Northland Block Research Narratives: Vol. IX: Native Land Court Blocks 1865-2005: Uakanga-Wiroa', February 2006 (Wai 1040 document #A39(h)), pp 181, 184
[699] TDMLC Minute Book 3, p 28 (#A49, vol 6, p 22576); Berghan, 'Northland Block Research Narratives: Vol. V: Native Land Court Blocks 1865-2005: Mahimahi-Nukutawhiti', pp 223, 226-227
[700] TDMLC Minute Book 3, pp 136, 155 (#A49, vol 6, pp 22684, 22703)
[701] TDMLC Minute Book 3, pp 21-22 (#A49, vol 6, pp 22569-22570)
[702] TDMLC Minute Book 5, p 206 (#A49, vol 6, p 23544)
[703] Berghan, 'Northland Block Research Narratives: Vol. VI: Native Land Court Blocks 1865-2005: Oakura-Owhatia', pp 10-11, 14

meant, effectively, that any other land could be alienated. The issue of whether land should be set aside as papakainga was not a matter for the block committees, but it does appear to have featured in some committee inquiries as well as being raised by some claimants in the course of the Council's review of committee reports. In the case of Whakarapa, for example, Heremia Te Wake told the Council that

> A large area of the Whakarapa Bk is already under cultivation with grass & crops including all the flats & a considerable portion of the hills. We wd like to be declared as Papakainga & made inalienable. There are Churches & Schools etc there. This land at Whakarapa is the principal asset we have in any other Bks in which we have interests or shares are small. [sic][704] [emphasis in original]

While the Council decision on the Whakarapa objections was silent on the papakainga status of the block,[705] similar requests to Heremia Te Wake's were made with regard to the Waikare and Waihaha blocks. In the case of Waihaha, Pou Werekake told the Council that 'The Komiti cut off 200 shares (acres?) [sic] as a papakainga.' Edger could find no note of this in the committee's report but he did locate three lists. His minutes record that 'Orders to be made on Monday when the position of the 200 acres papakainga has been marked off on the plan.'[706] In Waikare, a larger area – also known as no. 2 – was cut out and reserved as papakainga. This seems largely to have been at the claimants' collective instigation. Pou Werekake told the Council that 'We have agreed that the papakainga be cut off … for the persons named.'[707]

6.11 Government pressure to quicken the process, late 1905

While we have not had the time to quantify the issue, and it is difficult to generalise, it seems (as noted) that the Board was less tolerant of objectors than the Council, and more inclined simply to accept a block committee's report. In October 1905, for example, Kato Whakaita objected to the Tawapuku committee report on the grounds that, because of absence, he had not appeared before either the Council or committee to set up a case. The Council referred the matter back to the committee to address and indeed adjourned its hearing so that the committee could sit in the hall for the rest of the day.[708] This arguably contrasts with the Board's attitude to a similar matter in Mautakirua in July 1906. One of the objectors to the committee's report was Wiremu Kowhai, who had been allotted only one share. The Board stated that it could not

[704] TDMLC Minute Book 1, p 314 (#A49, vol 6, p 22122)
[705] TDMLC Minute Book 3, pp 102-104 (#A49, vol 6, pp 22650-22652)
[706] TDMLC Minute Book 2, p 155 (#A49, vol 6, p 22328)
[707] TDMLC Minute Book 2, p 162 (#A49, vol 6, p 22335). Edger wrote 'Waihaha No. 2' here instead of 'Waikare No. 2'. This appears to have been a slip of the pen; the setting aside of Waikare 2, of 1,900 acres, was confirmed the following month. TDMLC Minute Book 2, p 207 (#A49, vol 6, p 22380)
[708] TDMLC Minute Book 3, p 223 (#A49, vol 6, p 22771)

> allow Wiremu Kowhai to set up a case. … Board finds that Wm Kowhai had ample time to come from Whangaroa to take part in the Block Committee proceedings if he had chosen.[709]

It may be that the Council and Board responses in these two cases were appropriate and fair, and that there is no comparison to be drawn between the two. But it is also undeniable that government pressure was applied to Brown in late 1905 to speed up. Browne wrote to Sheridan from Kaikohe on 15 November 1905 to report on progress. He was at the time dealing with the Tautoro committee report and

> going into the objections pretty carefully so that in case appeals should be lodged there will be no chance of the Block being thrown back on the Council or N L Court by the Appellate Court. The Committee has found there are 4000 owners and partitioned the Block into 28 divisions. I think I will have to weed out the owners, cancel the partitions and make one order for the whole.[710]

Browne added that, since he arrived at Kaikohe, he had

> received a batch of reports for review and I am sending you down by this mail for insertion in Gazette and Kahiti notification that they will be dealt with at the present sitting. I think it is just as well to get everything possible done here before I leave.
>
> I have also asked the Chief Judge to advertise the Motatau Nos 1 3 & 4 Blocks. The parties are all here and want them dealt with. The Blocks lie between Motatau No 2 heard by Appellate Court at Russell and Motatau No 5 now before Council and I consider it is a very good opportunity to have them investigated now, especially as I am pretty familiar with the history of the lands about here now.[711]

Before Sheridan received this letter he appears to have wired Browne to inform him that he would soon have to finish his Kaikohe work as he was required for a sitting in Auckland. Browne pointed out in reply that he would 'have to break off in middle of work here to attend leaving several matters uncompleted'. He had asked the Chief Judge to advertise hearings for Motatau 1, 3, and 4 because he had understood Sheridan 'wanted the titles settled as soon as possible', and his current review of committee reports for surrounding blocks would 'to a large extent decide ownership' of the Motatau blocks.[712] Sheridan replied telling Browne he had to be in Auckland by 12 December and advising him that he should not sit in the court on

[709] TDMLC Minute Book 5, p 98 (#A49, vol 6, p 23436)
[710] James Browne to Patrick Sheridan, 15 November 1905. Archives New Zealand file ADYU 18191 MA-MLA1 4 1905/73
[711] James Browne to Patrick Sheridan, 15 November 1905. Archives New Zealand file ADYU 18191 MA-MLA1 4 1905/73
[712] James Browne to Patrick Sheridan, 17 November 1905. Archives New Zealand file ADYU 18191 MA-MLA1 4 1905/73

any of the Motatau block hearings.[713] As to the other blocks before him, Sheridan told Browne that the sooner they got 'into the Appellate Court the better'.[714]

Browne was perplexed by this, replying the same day that

> Do not understand your wire[.] [A]m endeavouring to get Lands into appellate Court or otherwise as quickly as possible but presume Council must hear objections in accordance with provisions of act. There has been no delay on my part as far as I am aware of it[.] [W]ill be impossible to finish work advertised by Decr twelfth[.] [P]lease let me know what intention is with respect to it so that I may inform natives who are waiting[.] Edger estimated there was six months work for Council in this district[.] [I] have not been here three weeks yet[.][715]

Sheridan replied that 'I don't think that Council should spend more than one day in hearing the objections to any block'.[716] In other words, Browne had been taking far too long in considering the objections, and needed to proceed with greater haste.

When the Premier learnt of the Council's impending adjournment at Kaikohe with committee reports not yet reviewed, however, he applied some pressure of his own to Sheridan. Seddon told him that

> It has been brought under my notice that there is a large area of native land near Kaikohe, some 75,000 acres of which land is before the Court for adjudication. The Tokerau Maori Land Council commenced its sittings some three weeks ago and these lands are now before it. There is much indignation caused because the Council is to be adjourned sine die from the 5th December and no date fixed for it to meet again. I wish you to give instructions for the Council, Board, or Court, whichever it is, to fix a date early in January for it to sit again.
>
> It is just possible the change in the law may have something to do with it.
>
> I also understand there are a number of applications pending hearing by the Native Land Court, and the Gazette notices re Motatau Blocks Nos. 1, 3, and 4 for the 11th December have been withdrawn. The Native owners wish these lands gazetted for hearing at Kaikohe as soon as possible. Kindly put some life into this matter. There is too much 'taihoa.'[717]

'Too much taihoa' was a phrase Seddon had used before. In March that year, for example, he had told a gathering of Te Arawa at Rotorua that, with respect to the opening up of Māori land for settlement, 'The natives and the Native Land Council must bestir themselves. There

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[713] Sheridan explained the reasoning behind this to the Chief Judge: 'As Motuotau [sic] Blocks will have to be dealt with by the Dist Maori Land Board it is not desirable that the President of the Board should sit as Judge on the investigation of title.' Sheridan to Chief Judge, 22 November 1905. Archives New Zealand file ADYU 18191 MA-MLA1 4 1905/73

[714] Patrick Sheridan to James Browne, 20 November 1905. Archives New Zealand file ADYU 18191 MA-MLA1 4 1905/73

[715] James Browne to Patrick Sheridan, 20 November 1905. Archives New Zealand file ADYU 18191 MA-MLA1 4 1905/73

[716] Patrick Sheridan to James Browne, 21 November 1905. Archives New Zealand file ADYU 18191 MA-MLA1 4 1905/73

[717] Richard Seddon to Patrick Sheridan, 28 November 1905. Archives New Zealand file ADYU 18191 MA-MLA1 4 1905/73

has been too much "Taihoa."'[718] It was also a phrase that had been adopted by the Opposition. William Massey told the House in the debate on the Maori Land Settlement Bill on 28 September 1905 that 'there has been too much "Taihoa, taihoa, taihoa," and so long as we have a policy of "taihoa" nothing whatever will be done for the benefit of the Native people or for the good of the European settlers'.[719]

Sheridan replied to Seddon on 29 November, apparently seeking to place the blame for the uncompleted work at Kaikohe on Browne. As he put it, 'The three weeks already spent by the Council at Kaikohe was quite sufficient in my opinion to have finished the work.' He added that he had asked the Chief Judge to convene a sitting of the court at Kaikohe at the earliest possible date.[720] A hearing was duly convened for Russell in February 1906, at which the title to Motatau 1, 3, and 4 was to be considered.[721] As we can see in table 14 above, however, the Board did not return to Kaikohe until June 1906.

6.12 Costs and expenses

As noted, there was no charge for objecting to a committee report, and this undoubtedly contributed to the large number of objections that were made. There were, however, other costs that had to be met at this stage of the process. When the Council or Board made an order for the award of title to a block, a £1 fee had to be paid. This charge had been set out when the regulations governing the committees were gazetted in January 1901 (being described as 'Order confirming report of papatupu block appeal').[722] If a small portion of the block was to be reserved as a wāhi tapu, for example, then an order for it also attracted the £1 fee. Thus £2 was paid by the Matihetihe owners for the orders for Matihetihe 1, of 1,736 acres, and Matihetihe 2, the four-acre burial reserve.[723] These monies will often have been paid out of royalties held by the Council for the block (possibly from timber licences), as occurred in regard to the fees resulting from the orders for Waihaha 1 and 2 in August 1904.[724]

When the Council opted to undertake a site visit to view the land and its boundaries first hand, it appears that the claimants had also to meet this expense. For example, the 30-shilling cost of hiring the SS *Ida* for the day in September 1904 to visit the Waikare block and fix the boundary between Waikare 1 and 2 was paid for by one of the claimants, Hone Tautahi

[718] 'Native lands administration. The Premier's views on the subject. A radical alteration necessary', *Wanganui Herald*, 22 March 1905, p 6. It seems that 'too much taihoa' was a colloquial expression in use before the advent of the Government's 'taihoa' policy. The first use of it found by a search in the online newspaper database *Papers Past* is in the *Hawera & Normanby Star* in 1882, where local Māori were reported to be 'continually inquiring as to when their lands are to be leased. They give vent to their disgust in this fashion: "Too much *taihoa*, *taihoa*, *taihoa*!"'. 'Opunake', *Hawera & Normanby Star*, 29 November 1882, p 3
[719] NZPD, vol 135, 27 September 1905, p 247
[720] Patrick Sheridan to the Premier, 29 November 1905. Archives New Zealand file ADYU 18191 MA-MLA1 4 1905/73
[721] Clayworth, 'A History of the Motatau Blocks, c.1880-c.1980', p 128
[722] *Gazette*, no. 1, 7 January 1901, p 9
[723] TDMLC Minute Book 3, p 28 (#A49, vol 6, p 22576)
[724] TDMLC Minute Book 2, p 156 (#A49, vol 6, p 22329)

Pita.[725] It must also be assumed that the claimants had to subscribe payments to meet the expenses of their case conductors. Following on from lengthy committee investigations, these costs will have built up for claimants to blocks like Taraire, Tautoro, Kohewhata, and others.

The largest expense, however, is likely to have been survey costs. In the case of Paremata Mokau, for example, Eru Nehua asked that the £90 survey cost owed to Hugh Munro Wilson 'be paid out of royalties in the hands of the Council'.[726] Fortunately for many claimants, the external boundaries of their claims had already been surveyed during the titling of neighbouring blocks. All blocks adjoining Oakura, for instance, had already been surveyed with the exception of Ramaroa, leaving only a two-chain length unsurveyed.[727] Likewise, Waihaha was surveyed on all sides apart from a few chains on the Waihaha Creek,[728] and Tuataranui was adjoined on three sides by surveyed blocks.[729] Maungapohatu was even bounded entirely by surveyed lands.[730] Where a former survey was deficient, however, the owners were responsible for the cost of any new survey. In Okuratope, for example, Hiramai Piripo and others had been in dispute with their neighbour, Mr Clarke, about the location of the boundary line between the two blocks. Blomfield noted that 'If necessary a new survey will be made and expenses charged against the block.'[731]

Another example of a substantial survey cost being charged against a block was in Whangaroa Ngaiotonga 4. Hone Pita told the Council in August 1904 that

> Mr Patrick is here to ask for a charging order agst this block. We wish him to be paid for his work & have cut off 400 acres to be vested in four persons who are to convey to the Council, in order that this debt may be paid off.[732]

The Council noted that it had no power to sell the land, but only to lease. Patrick decided to take his charging order instead.[733]

It should be noted that, as a further mark of his contrition for his evidence in Paremata Mokau, Eru Nehua offered to pay the Council's expenses in the case. He stated that

> If an a/c is furnished to me of the cost to be apportioned agst my piece, I will pay it, i.e. the expenses to be charged for the cost of the Council's proceedings. I will also pay the expense as to the 200 acres awarded to Eruera Maki & ors.[734]

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[725] TDMLC Minute Book 2, p 208 (#A49, vol 6, p 22381)
[726] TDMLC Minute Book 2, p 189 (#A49, vol 6, p 22362). The royalties held by the council appear to have been regarded by some as a multi-purpose fund. Nehua added that he had made himself liable for £80 when Takirihi Piripi Kaupeka was sent to jail in 1902 for attempted murder, and 'it was intended to pay for it out of these royalties'. Hone Tautahi Pita, however, indicated that this cost would be met separately. On Takirihi's conviction see 'Law and police', *New Zealand Herald*, 12 August 1902, p 7.
[727] TDMLC Minute Book 1, p 33 (#A49, vol 6, p 21837)
[728] TDMLC Minute Book 1, p 35 (#A49, vol 6, p 21839)
[729] TDMLC Minute Book 1, p 132 (#A49, vol 6, p 21937)
[730] TDMLC Minute Book 1, p 107 (#A49, vol 6, p 21912)
[731] TDMLC Minute Book 2, p 4 (#A49, vol 6, p 22174)
[732] TDMLC Minute Book 2, p 169 (#A49, vol 6, p 22342)
[733] TDMLC Minute Book 2, p 169 (#A49, vol 6, p 22342)

It does not appear that the Council took Nehua up on his offer. Te Waaka Hakuene remarked the following day that 'I think that the land should bear all the expenses of the Council in investigating the title.'[735]

6.13 The end of use of the committees

The Maori Land Settlement Act 1905 made no reference to block committees, although it did – as noted in chapter 2 – state in section 7 that

> The Native Minister may apply to the Native Land Court to investigate the title to and ascertain and determine the owners, according to Native custom, of any papatupu land, and thereupon the said Court shall proceed in all respects as if the application had been made by some person claiming an interest in such land.

In other words, it was no longer necessary for the customary owners to trigger an investigation into the ownership of their papatupu land: now the Native Minister could begin this process himself. This 'very proper provision' pleased the *Ohinemuri Gazette*, which remarked that 'obstinate Natives' would no longer be able to keep their lands from being titled.[736]

The following year, as also noted in chapter 2, a further amendment provided that the Board could, if it thought it 'inexpedient' to confirm a committee report, simply refer the matter to the Native Land Court as if the claim to the land had been made under the terms of the Native Land Court Act 1894. Before this measure was passed the *Poverty Bay Herald* remarked that

> It is likely that a clause will be introduced into the measure removing to the Native Land Court business pending before the Papitipu [sic] Block Committees, which have practically ceased work owing to the disorganisement [sic] in the work of the Land Court.[737]

Some confusion about the ongoing role of the committees appears to have arisen as a result of these changes. In 1907, Browne told the Under Secretary of the Native Department that

> A number of applications have lately been made to the Tokerau Board to set up Block Committees to investigate the Titles to Native Lands and I would be glad to know what the intention of the Honble the Native Minister is with respect to the matter. If it is decided that the lands should be left for the Native Land Court to investigate I would like to inform the parties accordingly.[738]

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[734] TDMLC Minute Book 2, p 190 (#A49, vol 6, p 22363)
[735] TDMLC Minute Book 2, p 190 (#A49, vol 6, p 22363)
[736] 'The Maori Land Settlement Act', *Ohinemuri Gazette and Upper Thames Warden*, 6 November 1905, p 2
[737] 'Maori washing-up bill', *Poverty Bay Herald*, 28 August 1906, p 4. It seems that this may have been a reference to the work of the court in Te Tai Rawhiti.
[738] Jas W Browne, Judge, to Under Secretary, Native Department, Wellington, 15 May 1907. Archives New Zealand file ACIH 16036 MA1 916 1907/220

The Under Secretary informed him in response that 'it is deemed advisable that the investigation of titles to "papatupu" blocks shall in future be left to the Native Land Court to deal with'.[739] In fact no record has been sighted of any new committees being set up in Te Tai Tokerau after May 1905.

By 1908, Browne had been replaced as Board president by C Dean Pitt. When the block committee reports for Wharepoke, Mangakowhara 1 and 2, Kaikou 2 and 3, and Mimitu came before the Board in September that year, the objections were noted and the Board minutes stated simply 'To be referred to Native Land Court.' In two of the cases – Mangakowhara 1 and Mimitu – objectors asked that this be the outcome.[740] It seems that Pitt did this under the authority of the 1906 amendment.

6.14 Appeals against Council and Board decisions

In all, it appears that the Council or Board decisions on 44 of the Te Raki blocks investigated and reported on by papatupu committees were appealed to the Chief Judge of the Native Land Court. These blocks are listed in table 18. A further ten blocks ended up in the court albeit not because of an appeal against a Council or Board decision but because the claimants had opted out of the committee process (as in Rawhiti) or because the Board was no longer considering committee reports (as in the blocks referred on by Pitt in 1908). In only 27 cases, as far as we can tell, were Council or Board decisions on committee reports not appealed, while in another nine cases it is not clear whether a committee reported or either the land court or appellate court investigated the title..[741] Blocks that did not end up before the court tended also to be on the whole much smaller (and thus generally less disputed). This accords with Stout and Ngata's figures published in 1908 (see chapter 7), where they found that only 28,315 acres out of the 175,393 investigated by the committees for all counties north of Auckland were confirmed by the Board and not subject to appeal.[742]

Table 18: Breakdown of blocks according to whether or not Council or Board decisions appealed		
Blocks where Council or Board decisions were appealed to the Chief Judge		
Kohatutaka	Kohewhata	Kotuku A
Kotuku B	Mahimahi	Matauri
Mataraua	Matawaia	Maungakawakawa

[739] Under Secretary, Native Department, to Judge Browne, 18 June 1907. Archives New Zealand file ACIH 16036 MA1 916 1907/220
[740] TDMLC Minute Book 6, pp 55-59 (#A49, vol 6, pp 23742-23746)
[741] The information in table 18 is based largely on the Māori Land Court Minute Books Index database (http://www.knowledge-basket.co.nz/databases/maori-land-court-minute-book-index/). Some other sources (such as Council or Board minutes) have been used for corroboration in certain cases.We make no distinction between blocks sent to the appellate court and those investigated *de novo* by the land court, as we did not have time to pursue the matter further.
[742] AJHR, 1908, G-1J, p 8

Table 18: Breakdown of blocks according to whether or not Council or Board decisions appealed		
Maungapohatu	Maungaturoto	Mautakirua
Motatau 1	Motatau 2	Motatau 3
Motatau 4	Motukawanui	Oakura
Otuhi 1	Parahaki	Paremata Mokau
Puketaururu	Punakitere 4	Rangihamama
Ririwha	Takahiwai	Taraire
Taupo	Tautoro	Tawapuku
Te Kahikatoa	Te Karae	Te Touwai
Te Tii Mangonui	Te Wawa	Waihou
Waikare	Waimahe	Whakakoro
Whakarapa	Whangaihe	Whangaroa Ngaiotonga 4
Whangaruru Whakaturia	Wiroa	
Blocks where Council or Board decisions were not appealed		
Hoahoaina	Kahakaharoa	Kopuakawau
Korotangi	Mataranui	Matihetihe
Motairehe Kawa	Nimaru	Okuratope
Onewhero	Orakau	Oriwa
Oromahoe	Otuhi 2	Pakonga 2
Pokeka B	Punaruku 2	Ruarangi
Section 123 Block XI Waikiekie Parish	Taporepore	Te Karaka
Te Pukahu	Te Ramaroa	Te Roto
Tuataranui	Waihaha	Wairoa
Blocks where committee reports not considered by Board or work overtaken by court before committee report complete		
Kaikou 2	Kaikou 3	Mangakowhara
Pipiwai 2	Poroporo	Rawhiti
Te Mimitu 1	Te Rua a Rei	Urupukapuka
Wharepoke		
Blocks where it is not clear whether a committee reported or court investigated title		
Huatau 2	Kaiwhai	Motukauri
Pokapu	Rangiahua, Mahuki, and Motutaiko	Ruangarahu
Te Aioheketoru	Te Totara	Waireia

In other words, where the committees delivered their reports to the Council or Board and a decision on the title was subsequently issued by those bodies, some 62 per cent of blocks ended up being considered by the Native Land Court or Native Appellate Court after appeals by claimants. If we include the blocks where a committee report was partially or fully completed and the title investigation went to the court for reasons other than an appeal against the Council or Board decision, then the proportion rises to exactly two thirds.

Moreover, if we use land area as a reference point rather than the number of blocks, we can see in figure 8 that the overwhelming bulk of lands investigated by papatupu committees ended up with the title being inquired into by the court.

Browne gave some explanation for the number of appeals in his May 1907 letter to the Native Department. He told the Under Secretary that

> The work of the Appellate Court with respect to the Tokerau Board decisions has, from my point of view[,] been fairly satisfactory as far as it has gone. The orders with respect to the following Blocks have either been wholly affirmed or affirmed with slight variations viz.

Otuhi No 1	450 acres	Wholly affirmed
Matauri No 2	1250 "	Wholly affirmed
Manukau	6000 "	Affirmed with variations
Pukepoto	3050 "	Affirmed with variations
Waihou & Whakarapa	13000 "	Affirmed with variations
Te Karae	19000 "	Affirmed. Alterations were made on the shares of two of the owners only
Parahaki	2725 "	Wholly affirmed

> In four cases the decisions of the Council or Board have been annulled and the Blocks referred to the Native Land Court for investigation. The reason of this was because there had been practically no evidence taken either by the Block Committee or by the Council. The matters were arranged outside by the owners and there being no objection at the time the Council simply affirmed the arrangement and made orders in accordance with it. Appeals were afterwards lodged by dissatisfied persons and the Appellate Court held there was no course open to it but to send the Blocks to the Native Land Court to be heard.[743]

Two of the four blocks Browne mentioned having been referred to the land court will have been Matauri 1 and Motukawanui. According to Patete's research, parties to both appeals told the Appellate Court that the Council had taken limited evidence because matters had been arranged outside.[744] For example, Hataraka Poihipi, the agent for Matauri 1 appellant Rawinia Tamati Ho, told the court that 'There is no evidence [to the Council] in respect of the reasons we object to because the matter was arranged outside.'[745] The referral of Motukawanui to the land court was not well received by Judge Michael Gilfedder, who delivered his decision on 26 October 1909. He remarked that

> One of the leading spirits in bringing about the arrangement outside the Court was Hone Hapa and no sooner had the Council given effect to the compromise arrived at than he turned round and appealed. He now says that although he received 20 shares from the Council, he was satisfied with 10 and gave away the other 10. His object therefore in appealing is difficult to

[743] Jas W Browne, Judge, to Under Secretary, Native Department, Wellington, 15 May 1907. Archives New Zealand file ACIH 16036 MA1 916 1907/220
[744] Patete, 'Matauri', pp 141-143, 452
[745] Patete, 'Matauri', p 141

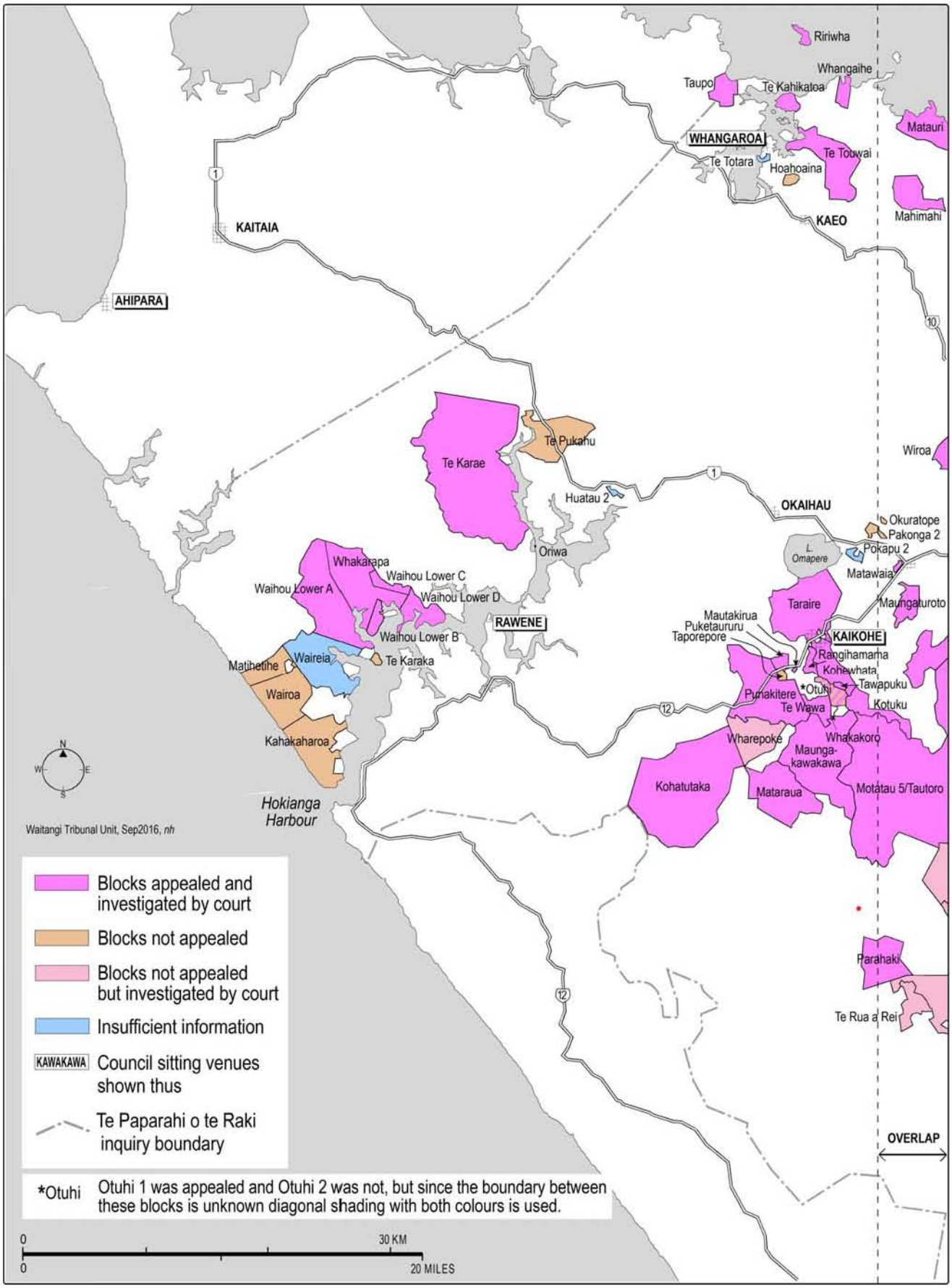
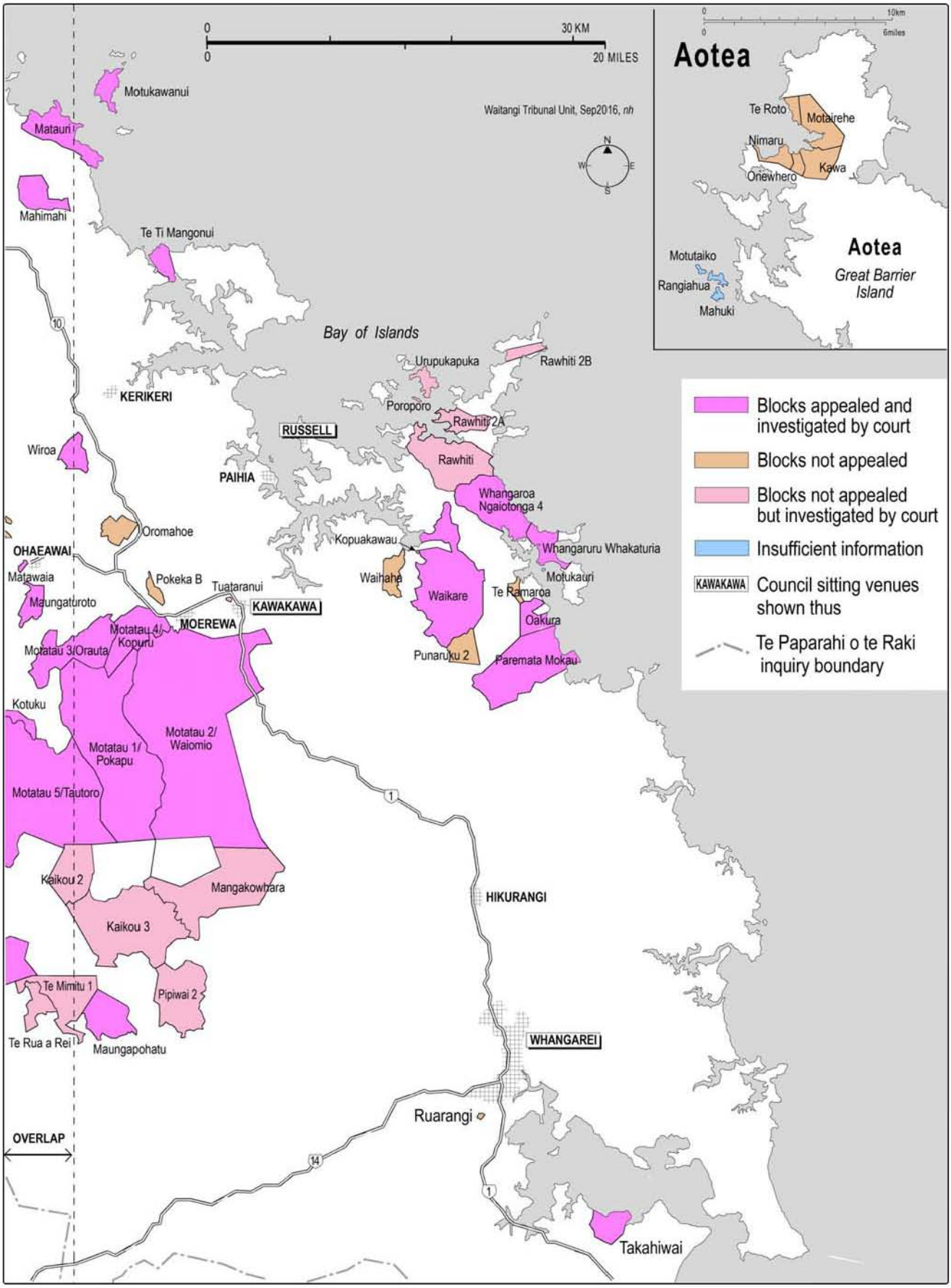


Figure 8: Blocks where Council or Board decisions were appealed to the Native Appellate Court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Wiroa
Rawhiti
PAIHIA
Whangaroa Ngaiotonga 4
Oromahoe
Kopuakawau
Whangaruru Whakaturia
OHAEAWAI
Matawaia
Pokeka B
Tuataranui
Waihaha
Motukauri
Maungaturoto
KAWAKAWA
Waikare
Te Ramaroa
MOEREWA
Oakura
Motatau 4/ Kopuru
Motatau 3/Orauta
Punaruku 2
Paremata Mokau
Kotuku
Motatau 2/ Waiomio
Motatau 1/ Pokapu
Motatau 5/Tautoro
Kaikou 2
Mangakowhara
HIKURANGI
Kaikou 3
Te Mimitu 1
Pipiwai 2
Te Rua a Rei
Maungapohatu
WHANGAREI
Ruarangi
OVERLAP
Takahiwai
Aotea
0
10km
0
6miles
Te Roto
Motairehe
Nimaru
Kawa
Onewhero
Aotea
Great Barrier Island
Motutaiko
Rangiahua
Mahuki
Blocks appealed and investigated by court
Blocks not appealed
Blocks not appealed but investigated by court
Insufficient information
KAWAKAWA Council sitting venues shown thus
Te Paparahi o te Raki inquiry boundary

> imagine except that as an agent he desired to ensure a second fee for appearance before the Appellate Court and a third for conducting the case before the Native Land [Court] should the order be annulled as he asked the Appellate [Court] to decree. The ready compliance of the Appellate Court besides putting the country and the Natives to expense has complicated the position.[746]

Gilfedder added that 'The usual stories of ancestral occupation which are wont to be fabricated for Native Land Court purposes have been told, but we can place no reliance on them.'[747]

The issue of block committees endorsing outside agreements without themselves evaluating the evidence had previously been raised before the Board. In setting out his objections to the Taraire report, Manihera Kauwhata had told the Board in June 1906 that he objected

> to the awards of the Bk Committee of Waitakaruru Nos 1, 2, 3, 4, & 5. The information they got respecting these Bk[s] was not by evidence but obtained outside. There was no evidence given respecting these Bks.[748]

Another decision Browne will have been referring to as having been annulled and referred to the Native Land Court was that concerning Waikare. In that case the appeals were considered by Chief Judge Seth-Smith and Judge MacCormick over 15 days at Russell in February and March 1907. In their judgment they noted that the committee report had been subject to 'many objections', and that 'when the Council sat to consider the report and hear the objections, the conductors for the several parties agreed amongst themselves to disregard the report and to settle the matter by mutual arrangement'. The Council made four orders: for Waikare 1 and 2, and for two smaller pieces named Owhata and Patoetoe. The appeals related to Waikare 1 and 2. The judges did not believe that the conductors had the authority to make the arrangements they did, and that appellants had effectively 'repudiated their conductors' actions'.[749]

The court then considered whether it could alternatively fall back on the committee's decision, but had 'no hesitation in saying that the Block Committee dealt with the case in a manner which could not lead to any satisfactory result'. Its apportionment of shares appeared to be 'quite arbitrary', and the awarding of those shares to particular individuals – who in turn could nominate those entitled to a share – was 'open to very serious objection'. The court explained that

> In all cases of investigations of title, the Court has to determine who are the persons who, as descendants of the former owner of the land, have preserved by occupation an interest in it.

[746] Northern Minute Book 43, 26 October 1909, pp 88-89 (Wai 1040 document #A49, vol 5, pp 20818-20819). See also Patete, 'Matauri', p 457
[747] Northern Minute Book 43, 26 October 1909, p 89 (#A49, vol 5, p 20819). See also Patete, *Matauri*, p 457
[748] TDMLC Minute Book 4, p 123 (#A49, vol 6, p 23066)
[749] 'Native Appellate Court. Orders annulled', *New Zealand Herald*, 13 April 1907, p 8

> The application of the rules necessitates an inquiry into the position of each individual person by whom, or on whose behalf, a claim is preferred. We are unable to see how any satisfactory result can be arrived at without such an inquiry. As no such inquiry has been made in this case we have no option but to annul the orders made by the Council. It is quite clear that the definition of relative interests in Waikare No. 2 made by the Council at Rawene was not the result of any inquiry into the individual rights of the owners.[750]

In other words, where the committee (first) and Council or Board (thereafter) relied upon outside agreements among the parties in making their decisions as to who was entitled to the land (and in what shares), all it took was for someone to object to this and the Appellate Court would rule that there had been insufficient inquiry and the case would have to be investigated anew. Not only did this undermine the many arrangements made and so relied upon by the committees, but it also contradicted the advice given claimants by the likes of Edger, who had announced at Ahipara in 1904 (as noted above) that 'Whatever you can agree to, that is within the law, will be adopted.'[751]

The fourth block where the Council decision was annulled was presumably Ahipara, where Judges Seth-Smith and MacCormick gave their decision at the same time as that issued with regard to Waikare. They concluded, again, that the title to the block had not been properly investigated and that 'the only course we can adopt is to annul the orders'. They considered the Council had been correct to disallow the award of Taumatakaramu to hapū representatives only, but then did not follow why the Council allowed the division to be awarded to five representatives from each hapū instead. 'In our opinion', they wrote, 'this order cannot be upheld.'[752]

In the debate on the Native Land Bill in 1909, the Member for the Bay of Islands, Vernon Reed, gave the example of an unnamed block of land within his electorate 'to show the enormous expense the Natives are put to' in pursuing claims in the Native Appellate Court:

> One particular block of land was taken to the Block Committee under the present law, and from there to the Maori Land Council; and on both those occasions the decisions were more or less the same, and quite satisfactory. As usual, some discontented individual appealed to the Appellate Court, and the Natives were brought to attend that Appellate Court a distance of a hundred and fifty miles. Some fifty or sixty of them travelled that distance. They were kept there for a fortnight, when the Appellate Court held that there was a flaw in the form of the proceedings. On account of that technicality the case was thrown right back to start again from the Block Committee, thus putting those Natives to just twice the cost they would originally have had to pay. The block is still in the unsatisfactory position of the ownership not being ascertained, and by the time the ownership is ascertained it will cost each of those Natives the value of the land that will be awarded them by the Court.[753]

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[750] 'Native Appellate Court. Orders annulled', *New Zealand Herald*, 13 April 1907, p 8
[751] TDMLC Minute Book 2, p 358 (#A49, vol 6, p 22532)
[752] 'Native Appellate Court. Orders annulled', *New Zealand Herald*, 13 April 1907, p 8
[753] NZPD, vol 148, 15 December 1909, p 1107

It is not clear which block Reed was referring to, and we are unaware of any blocks that the Appellate Court referred back to a block committee. However, the point made by Reed about the sheer expense of titling Māori land via prolonged litigation in court serves to emphasise that the block committee process was not as economical for the Te Raki claimants as some have suggested.

We have not been able to investigate the decisions made in every block subject to appeal, and we must note that a rather different judicial approach to that taken in Waikare is to be found in the case of Whangaruru Whakaturia, which was heard by the appellate court later in 1907. Hearn notes that the appellant in that case – Hone Pita – contended that the committee had failed to properly investigate the title, instead asking the claimants to agree upon the ownership among themselves. Other deficiencies were also alleged, such as the inclusion of those with no right. The appellate court was unsympathetic. It concluded that both Whangaruru Whakaturia and neighbouring Whangaroa Ngaiotonga 4 (subject to a similar appeal and heard together with Whangaruru Whakaturia) had been settled by agreement among the parties. The court noted, in Hearn's words, 'that it was prepared to interfere only where an agreement could be shown to be unreasonable or where someone having a genuine interest in the land was not a party to such agreement', and it therefore affirmed the Council's decisions.[754]

It is not known whether the decision taken over Whangaruru Whakaturia and Whangaroa Ngaiotonga 4 was an exception to the appellate court's approach or representative of a number of cases. In any event, it is quite at odds with the reasoning given by the court in cases like Waikare and explained by Browne to the Native Department.

Generally speaking, it appears that a large proportion of the appeals against Council and Board decisions were motivated by the same kinds of complaints that led to so many objections to committee reports. That is, the opportunity to appeal to the Chief Judge offered one more avenue for obtaining a larger shareholding or having one's name inserted in a list of owners. The outside arrangements made before the block committee and often endorsed by the Council or Board were not a deterrent in this regard. The fact was, simply, that the system encouraged and facilitated objections and appeals. The committees' reports were recommendatory in nature only and, as we have seen, for this reason some claimants did not even bother to pursue a claim before them, waiting instead to stake their claim before the Council or Board.

It will be recalled that the Tautoro committee supported a decision come to by a separate committee of elders, and that the Council essentially endorsed this approach, albeit giving the parties the opportunity to redefine the lists of owners and do away with the committee's proposed partitions. Since the parties could not agree on an alternative approach, the Council ultimately fell back on the committee's decision. As a result, 'numerous' appeals were lodged, including those alleging that there had been no opportunity to present evidence

[754] Hearn, 'Local study: Tuparehuia, Otara, Oteaka, and Whangaruru-Whakaturia', pp 25-26

showing superior claims to the land.[755] In 1907 the Native Appellate Court decided to annul the Council's orders for the block and refer the matter to the Native Land Court to investigate *de novo*. The presentation of the parties' evidence to the court concluded on 12 May 1909, at which point Judge Gilfedder urged another out-of-court settlement. His minutes state that

> The Court then exhorted the Natives to endeavour this evening to meet and come to an agreement amongst themselves for the division of shares amongst those entitled to inclusion and for the exclusion of those who have no occupatory rights. They had now heard all the evidence and knew the strength or weakness of the various claims and they had also the advantage of knowing from personal observation and experience how far the evidence of the witnesses was borne out by fact. There had in the past been too much jugglery over setting up ancestors and defining ancestral boundary [sic] and as a consequence the same owners were included not only in many Blocks but also in the various subdivisions of the same Block. There were other Blocks before this Court for investigation and it would be better if the Natives could agree among themselves for an apportionment of these on an equitable and sensible basis so that some would go into one Block and some into another rather than all to try to secure inclusion in every Block. They would have until 10 o'clock tomorrow to consider the matter and if they then came before the Court and admitted that they could not agree then the Court would be prepared to deliver judgment.[756]

The next day the parties reported that they had not been able to come to a satisfactory arrangement, thus giving Gilfedder another opportunity to sound off about the evidence that had been submitted both to his court and to previous inquiries:

> It must be quite patent that the occupatory rights of many of those who seek admission are of the most nebulous, flimsy, and imaginary character. Although some witnesses presume to speak in a 'cocksure' manner of all the movements of remote ancestors they know little or nothing of those of their grandparents and, in many cases, the evidence now given does not correspond with that given by them in previous courts when other blocks were under consideration. … Those who have been able to satisfy previous courts that they and their elders for generations past have continuously occupied other blocks and thereby secured the maximum number of shares therein cannot readily convince this court by any casuistry sophistry or ancestor jugglery that they and their ancestors lived also continuously on Motatau No 5. This court discountenances migratory and nomadic habits and propensities and fails to understand why a man who spends a few years in each of a dozen Blocks should, in the aggregate, amass a much greater quantity of land than the man who lives continuously and cultivates regularly on the one block. Such a contention would be tantamount to offering a premium to nomadic principles and encouraging intermittent occupation.[757]

The following month Gilfedder gave judgment on the appeals lodged against the Maungakawakawa, Kohatutaka, Mataraua, Kohewhata, and Te Wawa decisions. In doing so he complained again about claimants 'rambling about' from block to block and thus

[755] Northern Minute book 41, p 322 (#A49, vol 5, p 20233)
[756] Northern Minute Book 41, pp 320-321 (#A49, vol 5, pp 20231-20232)
[757] Northern Minute Book 41, pp 323-324 (#A49, vol 5, pp 20234-20235)

increasing their overall shareholdings. He cited the examples of one witness claiming that he had interests 'in at least 25 Blocks' and another who had

> confessed that it had been her custom on all previous occasions when giving evidence to call the Block then before the Court her permanent Kainga. According to the Minute Books she has had over a dozen permanent abodes and must be between 300 and 400 years old.[758]

In passing judgment in these cases, Gilfedder explained, he had endeavoured to ensure that even 'the most cunning, blatant and nomadic applicants do not secure an undue advantage'.[759] He thus dismissed the application of Mate Monoa in Kohewhata, for example, remarking that she had 'interests in many lands in the district' and was being treated 'very liberally' by the court in other blocks.[760] In Mataraua, he ruled that Hori Rakete held a better right in Maungakawakawa and 'should get all his shares there'.[761] And in Maungakawakawa he dismissed the applications of ten claimants on the grounds of their lack of occupation and the fact that they were being awarded significant interests elsewhere. These included Heta Pareihe, 'whose permanent abode is in Punakitere No 4 and who gets interests in numerous other Blocks'; Hini Tuwhai, 'who gets valuable interests in Kohewhata, Mataraua etc'; and Mate Monoa, 'who is living on Tuhuna and is receiving large areas in Tuhuna Punakitere No 4 and other Blocks'.[762]

Just as Blomfield had hoped in 1901 that the process of titling papatupu land would lead to Tai Tokerau Māori becoming increasingly 'English' in their lifestyles (see chapter 2) – cultivating and occupying specific blocks of land – so too did Gilfedder wish to ensure that Māori customary interests in land were recognised and consolidated in one place only. His reference to 'the man who lives continuously and cultivates regularly on the one block' had echoes of Blomfield's hope that the future Māori farmer would see himself more as English than Māori and be focused on 'the settlement, occupation, and cultivation of his lands, and the running of stock thereon'.[763]

6.15 Conclusion

When the block committees had completed their reports, they forwarded them to the Council or Board, which then convened a sitting to hear any objections. Comparatively few committee reports went unobjected to, and it was quite normal for there to be multiple objections. Some of these were to the whole report, but many others were to a relatively minor aspect, such as an individual's omission from a list of owners or the size of their shareholding. The fact that it cost nothing to lodge an objection probably contributed to the sheer number that were made. Since the committee reports were recommendatory only,

[758] Northern Minute Book 42, p 116 (#A49, vol 5, p 20432)
[759] Northern Minute Book 42, pp 116-117 (#A49, vol 5, pp 20432-20433)
[760] Northern Minute Book 42, p 120 (#A49, vol 5, p 20436)
[761] Northern Minute Book 42, p 122 (#A49, vol 5, p 20438)
[762] Northern Minute Book 42, p 123 (#A49, vol 5, p 20439)
[763] AJHR, 1901, H-26B, p 8

objectors may have been looking to reassert their claims before the Council or Board gave the matter active consideration. There was also, unsurprisingly, a strong correlation between the number of objections to a committee decision and the number of claims that had been laid to the block in the first place.

The Council took a reasonably dim view of objections that were made in spite of the parties having signed an agreement before the committee that led to the committee's decision. It seemed to consider that committee decisions that had been based on outside agreements made willingly by the parties at the time – especially where a separate committee of elders had been involved – should in principle be upheld. The Council also tended to follow the committees' approach by allowing the parties to come to a further resolution of the objections outside, if possible. Some objections were clearly made for relatively petty reasons, or as a kind of reprisal for unrelated events, and the Council found these straightforward to reject.

It is difficult to be certain whether the Council and Board progressively became more determined simply to uphold committee decisions, but there are some suggestions that they took less interest in objections as time went by. They would in any event have been conscious that to reopen proceedings would lead to further delays and more work on their own part. In late 1905, the Government gave the Council a clear direction to move faster, with Patrick Sheridan telling Browne that he should spend no more than one day in hearing objections to any committee report. Shortly after this, Premier Seddon complained to Sheridan about the Tokerau Council's delays, remarking that there was 'too much "taihoa"'. This stemmed from an impending adjournment at Kaikohe, where work in hearing objections to reports was incomplete. Whereas this stemmed from stretched resources, Sheridan attempted to place the blame on Browne for taking too long.

Sometimes the Council or Board did decide to intervene and assume control of title investigations itself. Blomfield did this with the Motatau 2 block in late 1903, which appears to have led to a temporary reduction in enthusiasm for the committee process among some Te Raki Māori. In 1906, Browne also decided that the Board would take over the investigation of the relative interests in the Taraire Block itself rather than refer the matter back to the committee. This, he explained, would better align with the Government's desire to see the lands 'clothed with title as soon as possible' so that they would be made available for Pākehā settlement. The Government's pressure of the previous year had clearly made an impact. It should be added that sometimes claimants were also happy for the Council or Board to take over the committee's work, perhaps as a means of resolving complex disputes (as in Kohewhata).

A common theme among the objectors was the extent to which other claimants had argued consistently with positions taken before previous title investigations, such as those carried out by the Komiti o Te Tiriti o Waitangi or the Committee of Twelve. Those inquiries and decisions served as a kind of precedent for the work of the papatupu committees. Likewise, the minutes of the block committees themselves were routinely scrutinised to check whether parties were contradicting themselves in setting out their objections. Sometimes even the

investigation by the Native Land Court into the ownership of a neighbouring block was cited in mounting an argument over a block committee report.

Most Council and Board decisions were appealed to the Chief Judge. A key reason for this was the very factor that made the committee process such a theoretical success in the first place; that is, outside agreements adopted by the committee (and in turn by the Council or Board) were not based on recorded evidence given 'in court'. This gave dissatisfied parties a firm ground on which to appeal, and in many cases the appellate court had little option but to refer matters to the land court for a new investigation of title. In other words, therefore (and notwithstanding the divergent approach taken over the Whangaruru Whakaturia and Whangaroa Ngaiotonga 4 appeals), the entire *modus operandi* of the committees – based on flexibility and an emphasis on the parties coming forward with a united position on a block's ownership – often proved ultimately to be a liability in the final confirmation of title. The irony was that this very approach had been encouraged – and indeed adopted – by the Council.

Most appeals were based on the same kinds of grounds as the objections had been, concerning the non-inclusion in ownership lists or the award of a small shareholding. The system provided one further opportunity for and this appears to have been what counted, rather than the fact that the parties may previously have come to a mutual agreement about the block's ownership. Ironically, this placed the final decision again in the hands of a Pākehā judge. Whereas it may have been standard for customary rights to be held in several places where an individual had ancestral connections, a judge like Michael Gilfedder objected to such 'rambling about' and favoured a consolidation of Māori interests in one location. For many claimants, therefore, applications for title to papatupu blocks took a long and winding path from block committee to Council or Board and ultimately to the land court – the very institution which the process had originally appeared to offer the opportunity of avoiding.

Chapter 7: The demise of the papatupu committees and a discussion of their overall significance

7.1 Introduction

In this chapter we discuss the reasons for the demise of the block committees. As will be seen, these reasons had little to do with the performance of the committees themselves, and everything to do with the broader political context. We also take the opportunity to reflect on the committees' significance, in part by considering what other historians have written about them. We address, in particular, the extent to which they offered Te Raki Māori – from 1902 until 1905, at least – a genuine alternative to the Native Land Court. It is clear that Te Raki Māori embraced the new regime, but the question is whether this enthusiasm was rewarded by the committee system. We also look briefly at the operation of the committees in two other districts, the East Coast and the Waikato.

The chapter addresses questions 2(b), 2(c), and 2(j) of the research commission concerning the extent to which Crown and Māori expectations of the committees were realised; the extent to which the committees offered Te Raki Māori an alternative for title investigation to the land court; and the reasons for the abolition of the committee system.

7.2 The demise of the committees

We have already set out, in chapters 2 and 6, that the passage of the Maori Land Settlement Act 1905 – with its provision enabling the Native Minister to apply for investigations of title to customary land to the Native Land Court – appeared to undermine the role of the block committees. We have also noted, in chapter 6, that such was the ensuing uncertainty that Judge Browne was unsure in 1907 whether new committees should be set up. The Native Department answered in response that it was 'advisable' for the title to papatupu blocks to be referred to the Native Land Court. Thus, while existing committees were able to complete their reports after the Maori Land Settlement Act was passed, it became a matter of policy, rather than law, for committees no longer to be established. It also appears that, when Browne was replaced by Pitt as Board president in 1908, committee reports were no longer reviewed, and instead referred directly to the court.

The reasons for the demise of the committees do not appear to stem in any way from the performance of the committees themselves. Indeed, in 1908 when they issued their report on Māori lands and Māori land tenure in Whangarei, Hokianga, Bay of Islands, Whangaroa, and Mangonui counties, Stout and Ngata considered that the papatupu committees had been remarkably successful:

> In 1900 Parliament delegated to Maori Committees, elected by claimants to papatupu lands, some of the powers of the Native Land Court on investigation of title. We were given to understand that this method of investigation had ignobly failed. Yet its results are astonishing, judging from the following figures which summarise the position for all counties north of Auckland:
>
> | | A. | R. | P. | A. | R. | P. |
> |---|---|---|---|---|---|---|
> | Area of blocks dealt with | 175,393 | 0 | 26 | | | |
> | Area affirmed by Board and not appealed against | | | | 28,315 | 2 | 26 |
> | Area appealed against and finally determined by Appellate Court | | | | 73,217 | 2 | 0 |
> | Area referred to Native Land Court, or for which no title issued | | | | 72,240 | 0 | 0 |
>
> The time occupied was seven years, and in our opinion there was a considerable saving of money to the State.[764]

The reality was, however, that the Government's 'taihoa' policy had been under considerable political pressure for some time. As early as November 1903, for example, Massey claimed that, despite Seddon's promise in 1900 of the benefits of the Maori Lands Administration Act in 1900, not a single acre of Māori land had been 'settled' in the Auckland provincial district (by which he meant settled by a Pākehā farmer).[765] Hone Heke responded by suggesting that the committees were by no means to blame:

> What has been going on in the Auckland Province under the Act is the clothing of lands which are still papatupu lands, or lands not clothed with a title; and if I tell the House they have been successful in clothing all of those lands which have been submitted to the Maori Committees under the Act of 1900, it will go a long way to prove that the Act has done something, and that the Maoris have done something in submitting these lands to be clothed with a Crown title.[766]

The committees were essentially collateral damage in this dispute. The following year Ewen Alison, the Member for Waitemata, argued that the Maori Councils had proven 'a huge failure' through their inability to see the 'enormous areas of first class land' owned by Māori made 'productive use of'.[767] Others called for freer trade in Māori land and the complete individualisation of Māori land titles. Egmont MP William Jennings complained that delays in settling Māori lands in the Rohe Potae 'were retarding settlement in the North Island, and consequently keeping the colony back'.[768] Carroll gave a spirited defence against these charges, focusing in his reply on the Tokerau district:

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[764] AJHR, 1908, G-1J, p 8
[765] NZPD, vol 127, 12 November 1903, p 528
[766] NZPD, vol 127, 12 November 1903, p 530
[767] NZPD, vol 128, 19 August 1904, p 577
[768] NZPD, vol 128, 19 August 1904, p 578

> In the North of Auckland there were large areas of papatupu land that had not been investigated or cut up, but that had been their [sic] state for the last fifty years. It was only since 1900, when the Maori Councils were established, that the Maoris could be persuaded to bring their lands before any tribunal for investigation of title. This showed the rooted repugnance of the Maori against having anything done with his land. If, then, it had taken sixty years to bring the Maoris within the pale of the law, it could not be expected that the titles would be investigated and the lands cut up and settled in three years. He would read what had been done in connection with the papatupu lands north of Auckland:—
>
> *Tokerau District.*
>
> Leases consented to, 4; area, 823 acres.
> Leases refused, nil.
> Several applications were withdrawn; a few are awaiting hearing.
> Applications for removal of restrictions, 1.
> Applications withdrawn, 1.
> Waiting hearing, blocks transferred to Council, nil.
> Papatupu Committees set up, 95.
> Area, 240,000 acres.
> Reports received, 39.
> Area, 160,000 acres.
> Dealt with by Council, 6.
> Area, 60,000 acres.
> Finally approved, nil; sent to Appellate Court, 6; area, 60,000 acres.
>
> These figures showed that that Council had been at work all the time, and the result of its operations had to be judged with due regard to the initial difficulties that surrounded the investigation of titles of papatupu lands. The honourable gentleman, quoting the member for Napier, said the Councils had been in existence for four years, and that there was absolutely nothing to show for their work. The information he had already given to the House showed that this was a wild statement that could not be substantiated.[769]

By 1905, however, the Government was clearly feeling the political pressure. In March, as we have seen, Seddon told Te Arawa Māori and their land council that they were both guilty of 'too much taihoa' in opening land for settlement. Carroll again defended the work of the councils in the house on 18 August, claiming that the Tokerau Council had 'put under title' 229,780 acres, with nine blocks on the East Coast totalling 34,886 acres also having been passed through and title given'.[770] The Tokerau figure came from an updated return requested by Sheridan of Browne on 22 June 1905 and supplied by the latter on 5 July. According to Browne, 72 committee reports had been reviewed for blocks encompassing 146,735 acres, ten of which were now under appeal. A further 33 block committee reports were 'ready', encompassing another 83,045 acres. These two areas together comprised the 229,780 acres cited by Carroll, although he was hardly accurate in describing them all as 'put under title'. Even where the reports had been reviewed, no appeals had been made, and the president had

[769] NZPD, vol 128, 19 August 1904, pp 578-579. The figure of 95 committees obviously included some outside of the Te Raki inquiry district.
[770] NZPD, vol 133, 18 August 1905, p 772

signed orders, surveys were still needed before a formal title could issue that would allow the land to be leased.[771]

Image 16: Minister of Lands inspecting Māori land at Kaikohe, c. March 1907[772]

Neither the Opposition nor the press were convinced by Carroll's statistics, even if they were inaccurate in their own version of them. On 20 September 1905 the *Manawatu Standard*, for example, claimed that nothing had been achieved over the previous two years:

> With regard to one large block in the Auckland Province, which we quote as an instance of what is going on, it was thought the Maori Lands Administration Act would have the effect of opening these lands, of having the titles ascertained, and then of having the lands thrown open, through the assistance of the Maori Council or otherwise. The Council started its work, and some two years ago the Native Minister stated in the House of Representatives that the Maori Council had set up block committees under the Act to inquire into the titles of some 300,000 acres, and had given its decision on blocks representing an area of, perhaps, some 30,000 or 40,000 acres. What position are those lands in now? The Premier recently gave a statistical return, and the Native Minister made a statement in the House this session to the

[771] In fairness to Carroll, it appears that neither Sheridan nor Browne had been particular about this distinction either. Sheridan asked Browne to provide a return of the 'Names & areas of Blocks put under Title by Papatupu Block Committees', and Browne obliged with a list of 'Block Committee reports reviewed by Council'. Sheridan also asked for a return of 'Blocks for which reports are ready for review by Council', 'Blocks for which Committees still deliberating', and 'Blocks for which Committees have not yet been set up'. Browne's response listed 28 blocks encompassing 28,930 acres where committees were still deliberating and 24 blocks totalling about 10,000 acres where committees had not yet been set up. It is not clear if committees for any of these 24 ever were set up. See Jas W Browne, President, Tokerau Maori Land Council, to P Sheridan, Maori Land Administration Department, 5 July 1905, and attached return. Archives New Zealand file ADYU 18191 MA-MLA1 4 1905/44

[772] Sir George Grey Special Collections, Auckland Libraries, AWNS-19070314-15-1

> effect that the titles appeared in exactly the same position. That may be taken to indicate that those block committees were constituted but no titles have been ascertained, so that, although the Act was passed in 1900, and the Councils have been in existence for four years, as far as can be ascertained nothing has been done.[773]

Inevitably, the Government decided to 'modify and amend' the Maori Lands Administration Act.[774] The Maori Land Settlement Bill was introduced to Parliament on 27 September 1905 and referred directly to the Native Affairs Committee (see chapter 2 for a summary of its key features).[775] Carroll explained that 'the Government was just as anxious as any one to have this problem [which he had defined as 'the great Native-land question'] solved'.[776] In speaking to the second reading on 13 October 1905, Carroll continued to defend the councils' record, claiming that their work – and here he appeared to refer generally, rather than specifically to the Tokerau district – had seen 229,788 acres 'placed under legal title'. However, he explained that the name of the councils was being changed to 'boards' because 'of late there has been some prejudice in the public mind against Maoris Councils' (he presumably meant here the councils created under the Maori Councils Act 1900). He added that the reduction in the number of members – including the doing away with electing Māori members – would save on expense, and 'I do not know that you would get better men by election than you can by nomination'.[777]

Carroll did not make any mention of the papatupu committees, but he made reasonably clear that their work would now be done by the Native Land Court, and at the direction of the Government:

> The time has now come when there should be no more papatupu lands allowed to exist in this colony. Every inch of land should be brought into line and clothed with title; and if the Natives persist in keeping them from coming under our Acts, and will not allow them to be investigated by the machinery already provided by our laws, then, I say, some compulsory form must be adopted. What I propose, in effect, is that the Native Minister shall cause to have investigated all papatupu lands that are now in existence. We may give the owners a little time to do this; but if they do not move, the Native Minister is empowered under this Bill to have these lands investigated by the Native Land Court.[778]

It does not appear that any other member of the House or Legislative Council referred in any way to the work of the block committees in speaking to the Bill.[779]

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[773] 'Maori lands', *Manawatu Standard*, 20 September 1905, p 4
[774] James Carroll, NZPD, vol 135, 13 October 1905, p 702
[775] NZPD, vol 135, 27 September 1905, pp 237-248
[776] NZPD, vol 135, 27 September 1905, p 245
[777] NZPD, vol 135, 13 October 1905, p 703
[778] NZPD, vol 135, 13 October 1905, p 705
[779] Even after the legislation had been enacted the criticism of the 'locked-up' Māori lands continued. A supplement to an edition of the *New Zealand Herald* in November 1905 claimed that there were nearly 7.5 million acres of Māori land 'locked up', with nearly 6 millions acres of it 'fit for settlement'. Onto this land could be introduced '17,000 new farms and homesteads – the happy homes of an industrious and prosperous rural population'. Instead, however, would-be settlers were 'denied the opportunity of providing homes for themselves and families on the land', the colony's prosperity was retarded, Auckland's progress was hampered,

As an aside, it should be noted that the fact that the Tokerau blocks were not yet 'clothed with title' for want of survey must have become apparent to Carroll later in 1905. On 18 December he wrote to the Minister of Lands to state that

> It is of the utmost importance that the survey of a very large number of blocks North of Auckland, (fully 100), which have been put under title by the Tokerau District Maori Land Board should be proceeded with forthwith in order that the lands may be brought into occupation as soon as possible.
>
> The work will be more expeditiously and satisfactorily performed by Staff Surveyors, and I would urge upon you the advisableness of increasing the staff by 2 or 3 new appointments if necessary.[780]

Sheridan forwarded this correspondence confidentially to Browne, who replied the following month that he had 'furnished the Survey Department with all the information in my possession'.[781]

It is possible that the silence over the performance of the committees stemmed from the fact that, as McRae suggested, 'the legislation was never written with successful block committees in mind'.[782] Moreover, the Pākehā politicians were not interested in the means by which land was delivered up for settlement but simply assumed that it would be. They could take no positives out of the fact that the committees had performed so well. Again, as McRae put it,

> The Maori Lands Administration Act of 1900 stimulated Pakeha support by anticipation of obtaining land vested in Boards. Such distraction precluded interest in the value of the mechanisms by which the land was freed.[783]

The demise of the papatupu committees was put beyond all doubt by the enactment of the Native Land Act 1909, section 90 of which stated that 'The Native Land Court shall have exclusive jurisdiction to investigate the title to customary land, and to determine the relative interests of the owners thereof.' There was essentially no recognition that this had conclusively brought to an end a rather exceptional experiment in the history of the adjudication of title to Māori land. It may be that this absence of comment – from either Māori or the Crown – reflected the fact that there was now so little papatupu land left. Speaking to the Native Land Bill in Parliament in late 1909, Carroll stated that he was

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and the economy was stagnant. If only the land could be 'thrown open for settlement', the supplement continued, New Zealand would advance 'by leaps and bounds'. 'The locked-up Native and Crown Lands in the North Island of New Zealand', supplement to the *New Zealand Herald*, 17 November 1905

[780] James Carroll to Minister of Lands, 18 December 1905. Archives New Zealand file ADYU 18191 MA-MLA1 4 1905/44

[781] James Browne to Patrick Sheridan, 22 January 1906 (recorded incorrectly as 1905), written on James Carroll to Minister of Lands, 18 December 1905. Archives New Zealand file ADYU 18191 MA-MLA1 4 1905/44

[782] Document A47, p 109

[783] Document A47, 108

> glad to announce to the House that the area of land under that head [customary land] does not exceed 450,000 acres, or thereabouts. That is proof of the fact that the Native Land Court has been considerably active during the last two or three years, and has reduced the greater portion of an area or nearly two million acres of customary land to title, and even the half of what is left has been under investigation by the Native Land Court and is pending appeals for rehearings.[784]

In 1911, the *Northern Advocate* reported as follows on the diminishing base of papatupu land:

> In 1891 the area of Papatupu lands lying virgin, not only to the axe of the settler, but to the law, held by the aboriginal owner under their customs and usages, not according to any title recognised by the District Land Registration offices, amounted to 2,777,209 acres. In 1909 this had been reduced to 490,752 acres.
>
> At March 31, 1911, this area had been further reduced to 190,792 acres, of which the bulk is in the Auckland Land District.
>
> In two years it is estimated there will not be any block of value remaining in the category of 'customary' or 'papatupu' land.[785]

It is possible that Te Raki Māori themselves regarded the committees as something of a failed experiment, but there is little indication of any sentiment either way. In 1914, a Ngati Hine candidate for the Northern Maori seat, Nau Paraone Kawiti, claimed that, if elected, he would 'sweep away' the Land Boards, Land Courts, County Councils, Village Committees and the Komiti Wahine (Ladies' Committee)', which were 'but a burden on his people'. While there is no clear indication that he was referring to the earlier papatupu committees, he added 'What had the Block Committee done[?] It had accomplished no more than the waste of time and money!'.[786]

The only Māori Member of Parliament to speak on the Native Land Bill in 1909 was Wi Pere in the Legislative Council. He remarked that, aside from the opening up of the Government Advances to Settlers Office to Māori land-owners, there was 'nothing of any benefit to Maori in this Bill'. He did not make mention of section 90.[787] Perhaps had Hone Heke not died prematurely, in February 1909, he may have lamented the end of the committees he had been so instrumental in bringing into existence a decade earlier.

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[784] NZPD, vol 148, 15 December 1909, p 1100. Even this amount of Māori land remaining papatupu was too much for some. Legislative Councillor John Ormond called it 'a very large tract of country' and predicted that the owners' 'desire for procrastination and *taihoa*' meant that it would largely remain untitled. He advocated that the owners be forced 'to come in and prove their titles'. NZPD, viol 148, 21 December 1909, pp 1328-1329
[785] 'Papatupu lands diminshing', *Northern Advocate*, 2 November 1911, p 5
[786] 'Korero Maori', *Northern Advocate*, 17 June 1914, p 7
[787] NZPD, vol 148, 21 December 1909, p 1334

7.3 Discussion

7.3.1 The embrace of the committees

It seems that the majority of lands remaining papatupu in Te Raki in 1900 passed through the block committees. Stout and Ngata noted in 1908 what lands remained papatupu in Whangarei, Hokianga, Bay of Islands, Whangaroa, and Mangonui counties, and this included a whole 57,668 acres in Bay of Islands County. However, this encompassed lands that had been through the committees but had not yet had a final resolution of title. As Stout and Ngata explained, 'a number of blocks comprising this area were dealt with by the block committees, confirmed by the Maori Land Board, but were referred back to the Native Land Court by the Native Appellate Court'. Overall, across the five counties, they believed that about half of the 124,564 acres which remained without an ascertained title had been 'partially investigated by Block Committees'. A key reason for the delay in issuing titles for blocks that had subsequently been investigated by the land court was the 'huge arrears of survey work in all five counties'.[788]

It is not just the region-wide distribution of papatupu committees and scale of uptake that is notable about the Te Raki district. Blocks brought under claim before the committees included the prized Motatau blocks that had been long held back from the land court. Nor, according to Armstrong and Subasic, was it until the committee system arose that another important block, Te Karae in Hokianga, was put under claim.[789] This was in keeping with the views of Tai Tokerau Māori – put at a meeting with Seddon and Carroll to discuss native land legislation at Waitangi in March 1899 – that they

> would rather that the papatupu lands should remain as they are until some better laws can be brought into operation, with a view to lessening the expense which is at present incurred in the investigation of title, and of preserving intact their inheritance, and also of supplying a method for the better utilisation of their land, which is to them life.[790]

The question is whether Te Raki Māori were rewarded for embracing the opportunity the committees appeared to offer.

7.3.2 The historiographical debate on the committees' value

Historians are in some disagreement on the subject of the committees' overall value to Te Raki Māori. A more positive take on the committees was provided by Armstrong and Subasic, who felt that the characteristic outside arrangements approved by the committees

[788] AJHR, 1908, G-1J, p 4, 7-8
[789] Armstrong and Subasic, 'Northern Land and Politics', p 1432. The authors based this on evidence presented to the Stout-Ngata Commission.
[790] Quoted in McRae, 'Participation', p 39

> and their subsequent confirmations by the Council provided Northland hapu with a procedure whereby titles to land could be ascertained on Maori terms and in a Maori forum. The importance of such a process must not be underestimated. In the first place, it avoided the worst excesses of the Native Land Court – arrangements decided upon between elders and chiefs had no real need for the host of lawyers, interpreters and a myriad of other unsavoury characters often associated with the Native Land Court, and often prevented the adversarial, winner-take- all, atmosphere pervasive in that body.[791]

Armstrong and Subasic argued that the involvement in the titling process of 'Maori leaders with sufficient knowledge and authority' showed that decisions could be reached on an impartial and objective basis, even if it did not entirely prevent 'attempts at machinations often seen in the Native Land Court'. They added that the committee process was also 'a boon for Northland hapu on a simple economic level', given the much lower costs than those involved in a Native Land Court inquiry. More importantly, they continued, the committee system 'allowed a considerable degree of Maori control over Maori land'. As they put it,

> Although the ultimate confirmation of the arrangements, and the Block Committee decisions in general, rested upon the Council, the Council needed to have strong legal reasons to overturn such decisions, and the Maori majority on the Councils undoubtedly ensured that the Committees' work and decisions were taken seriously.[792]

As far as Armstrong and Subasic were concerned, the papatupu committees were the best example of the fact that the 1900 legislation worked successfully for Northland Māori, despite it not resulting in the levels of land being vested in the Tokerau Council that the Government had hoped for. The committees, they said,

> were no mere intermediaries between 'unofficial hapuu bodies and the Court', as Jane McRae has suggested, but they were rather legally recognised facilitators of Maori resolutions to one of the most pertinent Maori problems of the time, title ascertainment. As such, they provided an almost unique, and vital, connection between Maori custom and European law.[793]

As noted by Armstrong and Subasic, McRae had been much less enthusiastic in summing up the worth of the committee system. She noted that the land court had operated on the basis that, while hapū might facilitate settlement of claims by reaching agreement on the allocation of ownership, the 'ultimate mana' was wrested from the hapū by the court 'handing down an irrevocable decision from a Judge's bench'. The laws of 1883 and 1900 that provided for Māori committees to investigate titles, she suggested,

[791] Armstrong and Subasic, 'Northern Land and Politics', p 1431
[792] Armstrong and Subasic, 'Northern Land and Politics', p 1432
[793] Armstrong and Subasic, 'Northern Land and Politics', pp 1442-1443

> were as much a muffler for the Maori as a streamlining of the Court to facilitate judgement; they resulted in Maori leaders going through the processes of investigation and decision-making, but with no powers of enforcement.[794]

From McRae's perspective, the provision for papatupu committees in the Maori Lands Administration Act 1900 would have been disappointing to Māori leaders, who would have realised 'that there was no real advantage in the formal over the usual informal operations'. The committees were, she wrote, 'merely supplementing and therefore supporting the Court they had wanted abolished'.[795]

Here, then, are two rather opposed summations of the extent to which the block committees offered Te Raki Māori something tangibly different and closer to their own aspirations. There is an extent to which both are right. The committees did constitute a process that was at once fundamentally different to what had previously been available to Māori owners of papatupu land. It must have been an altogether empowering feeling for claimants to select the committee members and for the committees to convene and consider the testimony of the parties in an entirely Māori environment, without a land court judge in sight. The costs, too, were lower during the title investigation as it was not necessary at this stage to procure a proper survey.

But the committee inquiry was just one stage of a long process that began and finished before Pākehā judges (as the Council and Board presidents might as well collectively be regarded). Much – or even most – of the time, too, proceedings ended back up in the Native Land Court, the very place that the claimants had hoped they would avoid. It would be intriguing to know just how much of an economic 'boon' the committees ultimately were to Te Raki Māori given the final consideration of so many blocks by the court, with all the expense that that entailed. This came not just after appeals against Council and Board decisions, but also by claimants opting out of the committee process (for example at Rawhiti – 'kia kawea tenei kereme a te Rawhiti ma te Kaunihera e whakawa'[796]) or through direct referral of committee reports by the Board to the court (as occurred in 1908).

7.3.3 The operation of papatupu committees in other districts

It should be noted that the committee system did not work entirely smoothly elsewhere. In Te Tai Rawhiti, 22 committees had been set up by March 1905, tasked with investigating the title to 103,170 acres. Apparently more committees could have been set up but, as the *Poverty Bay Herald* observed, 'past experience goes to show that it is not a wise course to throw too many blocks upon the hands of the native committees as the work gets clogged'.[797] As it transpired, there were numerous objections to the block committee reports, and also many

[794] McRae, 'Participation', pp 79-80
[795] McRae, 'Participation', p 106
[796] Papatupu Minute Book 18, p 7 (#A54(b), vol 8, p 1722)
[797] 'East Coast native lands', *Poverty Bay Herald*, 11 March 1905, p 2

appeals against the Council's treatment of the objections. The Native Appellate Court dealt in 1907 with 41 similar appeals via a 'test case' involving the Council's decision confirming the committee's report on the ownership of the Hurakia block. It had been alleged both that the Council had lacked a proper quorum when it considered the objections to committee reports and that it had failed to give all parties an opportunity to be heard. In fact the Council president had remarked that, faced with so many objections to the committee reports, 'no good end could be served in hearing the evidence, which would in the ordinary course last for months, at great waste of time and expense'. The Council therefore decided simply to confirm all committee reports and leave it up to the objectors to appeal to the Chief Judge. Judges Jones and Rawson of the Appellate Court ruled it

> clear that the Council did not attempt to discharge the duty cast upon it by statute, and an order made under such circumstances is bad. We must therefore annul the order.[798]

In at least one case (Marangairoa 2), the Tairawhiti Board subsequently referred the matter to the Native Land Court, as per section 17 of the Maori Land Claims Adjustment and Laws Amendment Act 1906,[799] the same provision presumably used by Pitt in Tai Tokerau in 1908 (see chapter 6).

Stout and Ngata reported in 1908 on native lands and native land tenure in Waiapu County. There they said that papatupu committees had dealt with 73,625 acres of land between 1902 and 1905. Referring, it would seem, to the aforementioned failures both to constitute a quorum and to consider objections properly, they added that 'owing to a technical defect in the Council's orders of confirmation, the Native Appellate Court referred the matters back'. At the time of Stout and Ngata's report, in January 1908, title to these lands had still not been confirmed. They considered that the lands would need to be investigated by the Native Land Court, with the papatupu committees' prior investigations merely providing what they called a 'foundation for the inquiry' since they had 'taken a good deal of evidence'.[800] The delays were apparently a cause of some frustration to Tai Rawhiti Māori.[801]

In 1903, a papatupu committee was set up to investigate the ownership of the 47,000-acre Moerangi block at Aotea, south of Raglan.[802] This was also subject to delays, and likewise ended up before the Native Land Court. The committee had reported on the block's ownership by 1906 but, at some point, had substituted Mahuta Tawhiao's name as sole owner, rather than as a trustee. This was a cause of dispute, including indeed within the committee itself.[803] Details are sketchy, but Mahuta, it seems, wanted to have a substantial portion of the block as a reserve for his landless followers.[804] The block's title was eventually

[798] 'Native Appellate Court', *Poverty Bay Herald*, 3 May 1907, p 4
[799] 'Settling the native titles', *Poverty Bay Herald*, 27 February 1908, p 6
[800] AJHR, 1908, G-i, pp 2, 13
[801] '"Hung up"', *Poverty Bay Herald*, 12 December 1907, p 2
[802] 'Maori Council', *Waikato Argus*, 15 July 1903, p 2
[803] 'Settlement of Maori lands', *Waikato Argus*, 8 June 1906, p 2
[804] 'Local and general news', *New Zealand Herald*, 26 September 1907, p 4

settled by the Native Land Court, which – according to one press account – disallowed Mahuta's case and found in favour of Ngati Te Wehi and Ngati Mahanga.[805]

7.3.4 New aspects to the committee inquiries

Despite the title investigation so frequently ending up back in the land court, there were other, altogether new aspects of the committee inquiries. Unlike the court, with its insistence on enforcing the 1840 rule, claimants before the committees raised any number of more contemporary *take* to the land. This accorded with Hone Heke's conception of how the process should work that he had expressed to the Native Affairs Committee in 1899: grounds of claim should include the usual array of *take* 'and all other conditions, modern or old, under Native customs or otherwise' ('me etahi atu tikanga, tawhito hou ranei, i raro i nga ritenga me nga huarahi Maori i etahi atu ritenga ranei').[806] As McRae observed, there was some emphasis on the kind of evidence that would command the 'greatest recognition under Pakeha law'.[807] We have observed these innovative claims to the land in our own research. It was particularly common, for example, for claimants to note their leasing of land or sale of timber-cutting rights to Pākehā as examples of their authority over the land.

Alongside this changed emphasis, though, was also what McRae suggested was a deeper connection to traditional tikanga than had appeared in evidence to the land court. This is also something that we ourselves have observed. Tauparapara, pepeha, and whakatauaki were used much more frequently than in the court, wrote McRae, 'suggesting that a greater depth in discussion took place in these meetings'. Genealogies, too, 'became primary evidence'. McRae surmised that having the proceedings conducted in Māori 'inspired confidence[,] being a correct and satisfying way of discussing topics central to Maori thought and behaviour and of deep emotional attachment.'[808]

Innovation also came also in other forms. The outside agreements between the parties were nothing novel, but the fact that they were usually written down and signed was. So too was the routine practice – as provided for by regulation 29 – of the committee reading back the written record of witnesses' evidence to them and requiring them to sign their name alongside it. These measures may well have been intended to eradicate the practice of kōrero parau or false speaking, which often hampered court investigations. The way that the committees convened meetings at which they conveyed their decisions and considered objections was also a unique aspect of the process, and clearly a significant departure from that of the court.

[805] 'Partition of Maori land', *New Zealand Herald*, 15 March 1910, p 6
[806] AJHR, 1899, I-3A, p 27, and 'Translation', p 28
[807] McRae, 'Participation', p 69
[808] McRae, 'Participation', pp 69, 70, 86

7.3.5 Summary

To the extent that Te Raki committees endorsed out-of-court agreements between the parties, sometimes directed by kaumātua, and the Council or Board adopted these in turn, the system appeared at least to be going a long way towards meeting original Māori aspirations. If no appeal was lodged against the Council or Board decision, then the parties' own arrangements would be reflected in the title. But where the decision was appealed, then the land court often found itself obliged to hear cases anew, as the committees had recorded little in the way of evidence. To that extent, as we have said, the very strength of the committee system also served as a reason for unpicking the committees' decisions. The legislation's very design – with the committees having recommendatory power only, and there existing so many avenues for objection – was almost a guarantee that many claimants would find themselves eventually back in a forum not of their choosing.

The committees were thus a mixed offering to Te Raki Māori. While they were active they appeared to fulfil Māori wishes, but once the committee decisions were passed on to the next tier of decision making there were no guarantees. The committees came unstuck in part because of the comparative ease of the process: it was relatively cheap to make a claim, and cost nothing to make an objection. This latter fact effectively undermined committee decisions before they were even made. Boast has written, with respect to the land court, that the 'complexity of Maori land tenure and contestability of tribal history necessarily dictated many appeals and rehearings'.[809] We agree that some Te Raki cases were particularly complicated, but still consider that there were too many opportunities to dissent. As McRae put it, 'Perhaps the greatest disadvantage was that applicants for title had open to them a number of avenues for argument – unofficial runanga, the Block Committees, the Council (for objections), and, in some cases, the Court and Appellate Court'.[810]

Ultimately, then, we doubt there was much economic gain to Te Raki Māori because of the committee system, even if there was a substantial benefit to the State. The process began and finished with Pākehā decision-makers, and such was the Government's determination to assuage its critics and 'open up' more Māori land for settlement that compulsory vesting had been reintroduced before the committees had even finished their work. In Pākehā eyes the committees were a reasonably inconsequential means to an end, and their demise would not have been regarded with any regret. It is not clear what Te Raki Māori thought of the committee system at the time it was abandoned, but it is likely that the optimism felt by Heke and others at the outset had been drained away, both by the Government's tinkering with the legislation and the relocation of argument over so many blocks to the court..

[809] Boast, *Buying the Land, Selling the Land*, p 77
[810] McRae, 'Participation', p 109

7.4 Conclusion

While legislative provision for the papatupu committees was removed in 1909, in truth the committees had essentially already been phased out. No new committees were set up in Te Tai Tokerau after 1905, despite applications for them from Te Raki Māori as late as 1907. Furthermore, by 1908 committee reports were no longer being considered by the Board but simply referred on to the Native Land Court.

There was no particular suggestion in all this that the committees themselves had failed. They were simply part of a suite of policies brought in by the Government in 1900 that were routinely criticised by the Pākehā press and habitually attacked by the Opposition, and which put the Government on the defensive. The complaint was that not enough Māori land was being 'opened for settlement', and the Government's regular legislative amendment to the 1900 regime was designed to fix that perceived problem.

In fact, far from failing, the committees were accepted as having been a remarkable success. Stout and Ngata enthused in 1908 about the 'astonishing' results of the Tai Tokerau committees, which had dealt with 175,000 acres of land. They also, in this regard, remarked on what they saw as the committees' 'considerable saving of money to the State'. It is true that the committees cost the Government next to nothing; it was Te Raki Māori themselves who scratched together the money to pay their expenses. Beyond Stout and Ngata, this achievement was scarcely recognised. When the committees were finally and officially removed from the statute book there was little comment, from either Māori or Pākehā.

This lack of comment may well be because there was now so little papatupu land left. Indeed, the idea of Māori committees adjudicating the title of the remaining papatupu blocks had been comprehensively embraced in Te Raki. There were exceptions, such as Iraia Kuao's opposition to the process, but the scale to which the opportunity was taken up was exemplified by the application for committees to investigate blocks that had been long held back from the court, such as Motatau and Te Karae.

The few historians who have assessed the value of the committees are divided on their overall worth to Te Raki Māori. Armstrong and Subasic, in their evidence for this inquiry, enthused about the adoption of outside agreements and what they saw as the concurrent avoidance of the ills of the Native Land Court. They regarded the committee system as both empowering of Te Raki Māori and an economic boon to them, given the lesser costs than the land court. By contrast, McRae, in her 1981 thesis, felt that the committees made Māori leaders no less subject to the 'ultimate mana' of Pākehā judges than the land court. Rather than supplanting the court, she suggested, the committees in reality merely supported it.

Neither Armstrong and Subasic nor McRae gave much attention to what became of the blocks where Council or Board decisions (often simply endorsing committee recommendations) were appealed. There we find that the outside agreements – the committees' supposed great strength – were often also its undoing, as cases were routinely

referred back by to the Native Land Court for a brand new investigation of title. Much of the expense spared claimants at the committee stage thus eventually found its way to most of them, and the court – which Te Raki Māori had so wished to avoid – became the final arbiter of title in most of the blocks anyway. It was the same story in other districts where committees operated (most notably in Te Tai Rawhiti).

At the same time, the committees were innovative and offered something distinctly new. In particular, they sought to establish rights on the basis not of custom as frozen in 1840 but also as it had evolved in the intervening sixty years. Evidence of ongoing occupation was particularly important in the title adjudication process, and this often involved contemporary demonstrations of rights, such as signing leases with Pākehā interests to cut timber, dig gum, or graze stock. The committee system was also one in which te reo Māori was the language used by the decision-makers, and this aspect must have flavoured the entire proceedings. In sum, the committees were a much more satisfactory experience for Te Raki Māori than the court would have been. But we can only take this point so far, given that so many blocks ended up back in the court regardless.

Chapter 8: Conclusion

The passage of the Maori Lands Administration Act 1900 was part of the Liberal Government's 'taihoa' policy, whereby it agreed – in the face of Māori protest – to desist from purchasing Māori land and to safeguard a sufficient landholding for Māori communities. The legislation provided for the establishment of papatupu block committees, whereby the Māori owners of customary land would select committees to adjudicate on the title. In turn, these committees would make recommendations to the local Māori land council (also established under the 1900 Act), which could issue a title in the way that the Native Land Court had. In making this new system of title investigation available, the Government foresaw that more Māori land would soon be opened for Pākehā settlement, albeit on a leasehold rather than freehold basis.

Through their Member of Parliament, Hone Heke Ngapua – who was a prominent advocate of the papatupu committees – Te Raki Māori had, by extension, a good deal of input into the design of the new system. The committees satisfied their aim of having the process of determining land titles under their own control, and removed from the land court. This, the likes of Heke envisaged, would save claimants to the land not only from considerable expense but also from the kinds of disputes that regularly characterised proceedings in the court. There were certainly some Te Raki Māori who regarded the committee system with suspicion, and believed it to be merely a new means by which they would be parted from their lands. But others may have seen it as a natural evolution from the earlier, independent Ngapuhi initiative to adjudicate titles to papatupu lands, the Komiti o Te Tiriti o Waitangi, or even the Government-sponsored committee set up for the same purpose under the Native Committees Act 1883.

The 1900 regime was at once radically different to the Native Land Court. It provided for Māori claimants to the land to elect a committee to investigate the title, and required only a sketch plan of the block rather than a proper survey during the committee's inquiry. While the committees tended to adopt the same mode of inquiry as the court, it was open to them – under the gazetted regulations that governed their conduct – to adopt the form of procedure they felt best suited to ascertaining the block's customary ownership. Objections could be made direct to a committee itself after it had delivered its decision, and, if it saw fit, it could amend its report. It then forwarded the report to the land council, which also considered any objections. If none were received the council could make an order for the issue of title after a survey had been completed. However, appeals against council decisions could be made to the Chief Judge of the Native Land Court, who could either inquire himself or refer the matter to the Native Appellate Court. Thus could the committee process be drawn back into the orbit of the court.

The new regime became operative in Te Raki in 1902, when the new Council began sitting and hearing applications for papatupu block committees to be set up. The system was embraced by Te Raki Māori, with some 85 committees being formed between September

1902 and October 1903, along with a further two each in both 1904 and 1905. Altogether these blocks encompassed over 235,000 acres. The committees were well spread throughout the north, with a smattering a blocks around Whangaroa and bigger concentrations where large areas of papatupu land remained in northern Hokianga, Whangaruru, Kaikohe, and the inland area stretching from Kaikohe south to Mangakahia. This included the large Motatau block, which had long been held back from the land court by Ngapuhi. The Council's first president, Edward Blomfield, was excited that these 'magnificent' lands would at last be titled. He also believed that the ensuing individualisation of the lands' ownership would help sweep away the 'old system of communism' and turn Te Raki Māori into Englishmen.

Differing numbers of claims were laid to each block, with the majority having fewer than four claimants but 11 having had ten or more. Altogether, 192 individuals made claims. The 477 committee positions across the 89 blocks were filled by 139 individuals, with many individuals thus serving on multiple committees. More than a third of these men (for they appear always to have been male) were also claimants. Committee members, however, tended to come from outside the immediate district of the block in question.

The most common *take* asserted by claimants when initially presenting their claims to the Council were ancestry and occupation. Evidence of these grounds of claim often involved contemporary use or authority over the land. This was as Heke had contemplated in 1899, when he had proposed that claims might be based on rights 'modern or old, under Native custom or otherwise'. This was another distinction from the land court, where the '1840 rule' prevailed. As in the land court, however, the process was open to all, and this undoubtedly led to a much greater number of claims than if only hapū leaders had been eligible. 'Mana' and 'chieftainship', for example, were cited by only a minority of claimants. To this extent the committee system did nothing to restore the tribal authority that the land court had eroded over the previous three or more decades.

A handful of claimants appear to have chosen not to pursue claims before the committees, reasoning that the committees had little status and claims could simply be held back for the Council. There was also one other notable exception to the willing take-up of the committees in Te Raki. This came in Tautoro or Motatau 5, where the elderly rangatira Iraia Kuao attempted to resist any adjudication of the title by the appointed committee. He even threatened violence against any claimants who participated. The Government took this matter seriously, and arrested Kuao and his supporters before the Tautoro committee was due to sit. As it happened, however, Kuao later cooperated with the committee and in fact dominated its decisions.

The committees appear to have convened at neutral, Pākehā venues such as courthouses and halls. They sat long days, perhaps in order to allow members and claimants to return as quickly as possible to their other responsibilities. The evidence was usually led by conductors for each party, who cross-examined witnesses from the other side. While this was reminiscent of the land court, other aspects were not. Many committee investigations were resolved by the parties going outside to reach an agreement and then committing this to writing and

affixing their signatures. Committees usually accepted these arrangements and allocated shares accordingly, and – particularly in the case of signed agreements – the Council (or Board, from 1906) in turn tended to endorse the committee's decision irrespective of objections. As noted, the committees could amend their decisions after directly receiving objections from the claimants.

At the same time, however, it is important not to view committee inquiries as an altogether more cooperative and principled undertaking than land court investigations. Heke had made it seem in 1899 as if a committee would simply submit its decision to the council (he used the term 'Board') for confirmation, and all the expense and wrangling of the court would be avoided. This rather romantic view presupposed that the committees would be simple exercises in consensus-building among the claimants. The reality was, however, that customary ownership was usually contested and disputes were commonplace, even among parties who had signed the outside agreements. It is possible that claimants were less inclined to 'korero parau' or 'speak falsely' given that the committee members were Māori and more knowledgeable about the history of the land than a Pākehā land court judge. This did not mean, though, that the evidence presented was not motivated at times by rivalry and coloured by exaggeration.

Nor, in comparison to the court, was the committee process as cheap as some have suggested. Claimants had to subscribe money to pay for the committee members' expenses, such as food, accommodation, stationery, the committee clerk or scribe, and even (in one known case) a policeman for security. They also had to find the money to pay for their own conductors. Failure to do so often seems to have led to claimants being nominated for a small shareholding only or even being omitted entirely from the ownership list submitted by the conductor. While claimants did not have to pay for a survey upfront, this cost had to be met eventually. Above all, most claimants before the committees ultimately had to contest the title before the land court anyway, with all the expense that that entailed.

The committees were taxing on the community in other ways. The sheer quantity of titling activity meant that claimants were not always able to make it to each committee sitting they needed to be present at. Nor could the committee members always attend, and there were various delays in inquiries due to the need to replace members who had resigned or the occasional inability to constitute a quorum. By the same token, the committees' output was a considerable achievement, and was more than the Council could handle. In 1904 the second president, Herbert Edger, complained to the Maori Lands Administration Department about his workload. Edger observed that it was but a 'mockery' to ask the committees to furnish more reports when his Council could not even manage the pile that had already mounted at its door.

The prime beneficiary of all this activity was the Crown, which had paid nothing for it. As with the land court, therefore, it was ultimately the Māori owners themselves who paid for the titling of their land, even though this was meant to be of great assistance to the Government in its aim of 'opening' the land for (Pākehā) settlement. In 1908 the Stout-Ngata

Commission, looking back at the committees' activities in Te Tai Tokerau, described the results as 'astonishing' and remarked that they represented 'a considerable saving of money to the State'.

The Council and Board received a large number of objections to committee reports. Sometimes these were to the whole premise underlying a committee's decision, but often they were made by individuals who had missed inclusion in a list of owners or wanted to receive a greater shareholding. Lodging an objection cost nothing and this meant that dissatisfied parties had nothing to lose by doing so. This inevitably served to undermine the authority of committee decisions. As noted, though, the Council and Board tended to endorse committee decisions made on the basis of signed outside agreements. There may also have been a greater reluctance by the Board after 1906 to reopen proceedings, especially after the Government made it clear in late 1905 that the Council was spending too long in considering the objections.

On several occasions, however, the Council or Board decided to intervene and essentially hear the claims to a block *de novo*. This stemmed from either their dissatisfaction with committee reports or the assumption that it would be quicker to do so than to refer the matter back to the committee. As the third president, James Browne, put it in 1906, the Government's objective was to see the lands 'clothed with title as soon as possible' so that they would be available for Pākehā settlement, and so he felt it necessary for the Board to take over the investigation into the relative interests in Taraire. Sometimes the claimants even welcomed the Council or Board taking over where the disputes seemed too intractable for the committee to resolve (as occurred with the Kohewhata block in July 1906).

Just as there were many objections to the committee reports, so were there a large number of appeals against the Council and Board decisions. In fact well over half of all Council or Board decisions were appealed to the court. Often this was again prompted by individuals receiving fewer shares than they felt entitled to, but a key ground for a number of the appeals was that the committees had relied on the outside agreements and had not heard and taken down the evidence themselves. In a number of cases the appellate court felt that, in these circumstances, it had little option but to refer the cases back to the land court for a new investigation of title. Thus was the committee system's supposed greatest strength – the endorsement of decisions made outside by the parties, often involving kaumātua – ultimately a liability in these blocks. Ironically, therefore, many claimants ended back before the land court, with all the expense that that entailed, despite it having been the very place they had hoped to avoid in the first place.

The court was not happy about claimants being awarded shareholdings in different blocks. Judge Michael Gilfedder objected to such 'rambling about', and preferred claimants' interests to be consolidated in one location. In this his perspective was similar to that of Blomfield's at the outset of the committee process, in that he saw the point of titling as ensuring that Māori owned and worked the land at fixed locations, rather than having 'intermittent occupation' of several places. To the extent to which the committees had recognised customary tenure by

awarding owners interests in the different locations they had ancestral connections, therefore, the court swept this away where it could.

The lifespan of the committee system was relatively brief. The Maori Lands Administration Act 1900 was significantly amended in 1905 through the passage of the Maori Land Settlement Act. As part of this change, the predominantly Māori and elected land councils were replaced by Pākehā-dominated and appointed land boards, and the Native Minister was empowered to trigger the investigation, in the Native Land Court, of the title to any papatupu land. This clearly brought the role of the committees into question. The committees' role was further eroded in 1906, when another amendment provided that the boards could refer any committee reports or applications for new committees directly to the land court. In 1907 the Native Department advised the Board that it should not set up any new committees, and by 1908 – when Dean Pitt replaced Browne as president – the Board was indeed no longer considering committee reports but referring them on to the court.

Legislative provision for the committees was eventually done away with in 1909, but it is clear that the committees had effectively already been phased out. This had nothing to do with their own performance. Rather, they were part of the Liberal Government's 1900 regime for the administration of Māori land that was routinely criticised by the Opposition and the Pākehā press for failing to deliver enough land for Pākehā settlement. The Government was forced to become increasingly defensive about the land councils, and the 1905 amendment was designed to blunt the accusation that there was 'too much taihoa'. When the committees were legislated out of official existence in 1909 there was no specific comment on their demise, from either Māori or Pākehā. This may be because there was now relatively little papatupu land left, or because Heke had recently died and was not around to pass comment. But it also reflected the fact that Pākehā politicians had essentially regarded the committees as a means to an end. They were not so interested in this means by which land was delivered up for settlement, but merely in the assumption that it would be.

The committees also operated in Te Tai Rawhiti (and, in one known instance, in the Waikato). There, too, the same kinds of issues arose: committees reported, many objections were filed, the Council accepted the committee decisions and did not engage with the objectors, and the land court deemed it necessary to investigate the titles anew. As in Te Raki, therefore, much of the expense spared claimants at the committee stage on the East Coast eventually found its way to most of them, with the court being the final arbiter of the blocks' ownership. The Crown, in devising the 1900 regime, failed to protect papatupu block owners from this inevitable outcome. It granted the committees only a limited and recommendatory power and provided claimants with many avenues to object. Ideally, the final decision-maker after the production of committee reports should have been a truly Māori-dominated council. Instead the committees were one staging post of a long and winding path that began and finished with Pākehā judges. We agree with Jane McRae's observation that, ultimately, the committees did not so much replace the land court as support it.

The committees did have positive attributes. They allowed the pursuit of title to customary lands in (venue aside) an entirely Māori environment. That must have been remarkably liberating for claimants who had grown accustomed to Pākehā judges who knew comparatively little of tikanga making decisions on customary rights. Instead, papatupu block claimants could now even nominate the committee members themselves. The process mimicked the land court in certain ways but was also innovative and new. The heavy emphasis on outside agreements and the participation in them of kaumātua accorded with Māori preferences, and the way committees presented their reports to the people – kanohi ki te kanohi – was also a more culturally satisfactory means of conveying decisions. The assertion of modern grounds of claim – rather than only those that existed in 1840 – also acknowledged that customary rights could evolve and change with the times. It must also be remembered that, while most blocks ended up back in the land court, in a third of cases the committee decisions were upheld or modified by the Council or Board and not appealed.

But did Māori claimants 'virtually' have 'the power to settle the title' under the committee system, as Alfred Cadman suggested they would in 1900? The answer is that they did not. While the committees operated they gave Māori control over the titling process in that moment, but not beyond. As such the power Cadman referred to was illusory. Te Raki Māori embraced the committee process because they perceived significant advantages, but – on the face of it – this embrace was not rewarded. The committees more often than not served only as a preliminary stage of a drawn-out titling process. Ultimately, therefore, they did not constitute a genuine alternative for title determination to the Native Land Court.

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Appendix 1: Papatupu Block Committees – Regulations and Forms

Reg. no.	Wording
6	The Council of the district in which a block of papatupu land is situate may, by notification in the *Kahiti* in form E of the schedule hereto, and by notice to be affixed to a conspicuous place at any kainga or Maori village on or adjacent to such block, fix a time and place for the holding of a meeting of claimants to the land, and the election of a Papatupu Block Committee.
7	Such notification shall describe the block by its name and its boundaries or other sufficient description; and the Council may for the purpose use the name, boundaries, and description used in any application made to the Native Land Court in respect of papatupu land before the date of such notification, where such application has not been investigated; and such notification shall further state where, and at what time, a sketch map of the land in question is open for inspection.
8	The notification shall be inserted in at least three consecutive issues of the *Kahiti* and shall fix a date for the meeting not less than six weeks from the date of the publication of the first insertion of the notice in the *Kahiti*.
9	Maoris claiming the land, or any portion thereof, may claim the same in Form F of the Schedule hereto.
10	The claim shall set forth the names, residences, and hapus of the claimants, and also the grounds or *take* on which the claimants rely in support of their claim.
11	The meeting shall, when practicable, be held on the land in question, or at some runanga-house or kainga on or adjacent to the land, or at some other place that the Council may appoint to suit the convenience of the majority of the claimants. At the time and place fixed for the meeting the President or his deputy, and at least one Maori member of the Council, shall attend.
12	The President shall preside at such meeting, or, in his absence, the deputy to be appointed by him shall be chairman.
13	The notice convening the meeting, and the purpose for which such meeting is convened, shall be read out and explained to those present, and the sketch map shall be displayed prominently.
14	The President or chairman shall thereupon announce to the meeting the various claims received and call for any further claims (if any), which may thereupon be handed in.
15	The President and members of the Council present shall thereupon examine the same, and decide who are claimants or counter-claimants, or may decide that any two or more claims by Maoris of the same hapu may be amalgamated and constitute a separate party, and group the various claimants into parties. The President may thereupon decide, subject to the provisions of section 16 of the said Act, how many members the committee shall consist of, and how many of such members each party is entitled to elect, and may call for nominations accordingly.

16	In case any party shall nominate more than the requisite number of members of committee, the President shall require the members of such party to separate from the rest of the Maoris present, and shall call upon such party for a show of hands in favour of each candidate nominated, and shall declare the candidate or candidates receiving the largest number of votes to be the member or members of committee to represent such party.
17	In all cases in which any party shall nominate only the required number of candidates the President shall declare such candidate or candidates duly elected.
18	The time and date of the first meeting of the committee shall be fixed by the President, and at such meeting the members of the committee shall, before proceeding with any other business, elect a chairman from their number.
19	The chairman shall preside at all meetings of the committee, and shall have a deliberative as well as a casting vote.
20	In case of any vacancy the continuing members of the committee may act, provided that a quorum is present.
21	A quorum shall be a majority of members of the committee.
22	The committee may meet together for despatch of business, adjourn, and otherwise regulate their meetings as they think fit.
23	All questions arising at a meeting shall be decided by a majority of votes, and each member shall have one vote.
24	In the absence of the chairman the members of the committee present shall choose one of their number to be chairman for such meeting.
25	The chairman may, with the consent of the meeting, from time to time, and from place to place, adjourn any meeting.
26	If a poll be demanded it shall be taken by show of hands, or in such other manner as the chairman directs; the result of such poll shall be deemed to be a resolution of the committee, and the names of the members voting for or against the resolution, and the side on which each voted, shall be recorded in the book of the proceedings of the committee.
27	The committee may proceed in the manner prescribed by these regulations, or in such other manner as may be deemed best fitted for carrying out the provisions of sections seventeen and eighteen of the said Act.
28	Each party shall, in the order arranged by the committee, be entitled to call witnesses to give evidence in support of the grounds or *take* set forth in its claim, and each of the witnesses shall be entitled to cross-examine all witnesses other than their own.
29	The committee may, if it thinks fit, at any stage of the proceedings, require that the evidence of each witness shall be written down in Maori, and, after being read over to him, shall be signed by the witness and attested by the chairman and one member of the committee.
30	The party first proceeding to prove its case shall be deemed to be the claimant, and all other parties shall be counter-claimants. The case of the claimant and counter-claimants being concluded, the leader or conductor for the claimants shall

	be at liberty to address the committee in support of their claim. Each of the counter-claimants' leaders or conductors shall then be entitled to address the committee in the prescribed order, and the claimants' leader or conductor shall be entitled to reply.
31	The committee may, if it think fit, at any stage of the proceedings, require each or any of the claimants to hand in a list, in writing, of the names of all persons of their party who claim to be interested in the land, or any part thereof in respect of the interest they represent.
32	On completion of the hearing of the claim and counter-claims, the committee shall proceed to draw up its report in form and manner directed by sections 17 and 18 of the Act, and shall, by registered letter addressed to the leader or conductor representing each of the parties, appoint a day, time, and place on and at which it will publish its report to a meeting of the parties claiming the land.
33	At such meeting the report shall be read out in the presence of those assembled, and objections called for.
34	All objections shall be in writing, and shall be signed by the objectors.
35	The committee may thereupon consider such objections and may, if they think fit, alter or amend their report with a view to settle or adjust any objection.
36	The report of the committee shall thereupon be signed by the members of the committee and forwarded to the Council.
37	The Council shall thereupon fix a day to consider the report, and by notice in the *Gazette* and *Kahiti*, published at least forty-two days before the day fixed, call upon any objector to appear before it and support his objection.
38	If any objector appears he may give, or call witnesses to give, evidence before the Council in support of his objection, but shall not be allowed to go outside the points raised in his objection.
39	The council shall then proceed to consider the report of the committee, and objections thereto (if any), and shall thereon make an order in Form G of the schedule hereto, or as near as may be thereto.

Reg. no.	**Wording**
6	Ka ahei te Kaunihera o te takiwa kei reiranei tetahi whenua papatupu e takoto ana, i runga i te panui ki roto ki te *Kahiti* i runga i te Ahua e mau i te Kupu Apiti nei, me tetahi panui me whakapiri ki tetahi wahi marama i tetahi kainga Maori kei runga i taua whenua papatupu, e tata ana ranei ki taua whenua, hei tohu i te wa me te kainga hei huinga mo nga tangata e kereeme ana ki taua whenua, me te whakatuunga hoki i tetahi Komiti Poraka Papatupu.
7	Me whakaatu e taua panui te ingoa o te poraka me nga rohe me era atu tohutohu e tika ana; a ka ahei te Kaunihera mo runga i taua mahi, ki te tango i te ingoa, i nga rohe, me nga whakaaturanga katoa kei roto nei i tetahi tono i tukua ki te Kooti Whenua Maori mo tetahi whenua papatupu i mua atu o te ra o taua panui, mo nga tono ia kaore ano i uiuia; a me whakaatu ano hoki e taua tono te kainga e kitea ai, me te wa e kitea ai hei tirohanga, te mapi whakaahua o taua whenua.

8	Ko taua panui me kaua e hoki iho i te toru nga perehitanga i roto i nga putunga hono tonu e toru o te *Kahiti*, a me tohu te ra mo te hui, kaua e hoki iho i te ono nga wiki mai o te ra o te whakaurunga tuatahi o te panui ki roto ki te *Kahiti*.
9	Ko nga Maori e kereeme ana ki taua whenua, ki tetahi wahi ranei o taua whenua, me tuhi te kereeme ki runga ki te Ahua F e mai i te Kupu Apiti nei.
10	Me whakaatu e taua kereeme nga ingoa, nga kainga me nga hapu o nga kai-kereeme, me nga huarahi me nga take e okioki ana nga kai-kereeme hei tautoko i a ratou kereeme.
11	Me tu te hui, mehemea ka taea, ki runga tonu ki te whenua ko ia ra te putake o te hui, ki tetahi whare runanga ranei i runga i taua whenua, e tata ana ranei ki taua whenua, ki tetahi atu kainga ranei tera e whakaritea e te Kaunihera kia rite ai ki nga hiahia o te nuinga o nga kai-kereme. Me tae te Tumuaki tana teputi ranei, me etahi, engari kaua e kore tetahi mema Maori o te Kaunihera e tae ki taua hui.
12	Ko te Tumuaki hei tiamana i aua hui pera, a, mehemea ka ngaro ia, ko te teputi e whakaturia e ia hei tiamana.
13	Me panui-a-korero, a me whakamarama ki nga tangata i reira te panui karanga i te hui, me nga putake i karangatia ai taua hui, a me hora te mapi whakaahuaki tetahi wahi marama.
14	Hei reira me korero e te Tumuaki e te tiamana ranei ki te hui nga kereeme katoa kua tae atu ki te tari me te karanga ano hoki ki etahi atu kereeme (mehemea tera atu), e ahei an ate hoatu ana i reira.
15	Hei reira me tirotiro e te Tumuaki me nga mema o te Kaunihera i tae ki taua hui aua kereeme, me ratou e whakatau ko wai ma hei kai-kereeme, a ko wai ma hei kai tawari, a ka ahei ratou ki te whakatau i nga kereeme e rua maha atu ranei a nga Maori o te hapu kotahi kia huia kia tu ai hei wahanga motukahe, a ki te huihui haere i etahi atu kereeme hei wahanga motuhake. Hei reira ka ahei te Tumuaki ki te whakatau, i runga ano ia i nga ritenga o te tekiona 16 o taua Ture, kia hia nga mema mo taua komiti, a kia hia o aua mema e tika ana ia wahanga ki te whakatu, a ka ahei ki te tono kia whakaingoatia.
16	Mehemea ka maha ke atu nga mema e whakaingoatia e tetahi wahanga i nga mema e tika mo te komiti, me whakahau e te Tumuaki kia wehe atu nga tangata o taua wahanga ki tahaki atu o te huihuinga Maori o te hui, a mana e tono taua wahanga kia whakaaria e ratou o ratou ringa mo ia tangata i whakaingoatia, a mana e ki te tangata i riro i a ia te nuinga o nga pooti, ko ia ra te tangata nga tangata ranei hei mema mo taua wahanga ki runga ki te komiti.
17	Mehemea, ki te tupono, e rite tonu ana te tokomaha o nga tangata e whakaingoatia ana hei mema e tetahi ropu ki te maha o nga tangata e tika ana kia whakaturia e te Tumuaki, heoi, kua tu aua tangata hei mema.
18	Ko te wa me te kainga e tu ai te huihuinga tuatahi o te komiti ma te Tumuaki e whakatuturi, engari i mua o te whakahaerenga o a ratou mahi, me whakatu e ratou tetahi o ratou hei tiamana.
19	I nga huihuinga katoa ai te komiti ko te tiamana hei whakahaere i nga mahi mo

	taua huihuinga, a me whiwhi pooti whiriwhiri ia me te pooti whakatau hoki.
20	Mehemea ka watea tetahi nohoanga mema i runga i te komiti, ka ahei nga mema e mau tonu ana o ratou nohonga ki te mahi i nga mahi, engari me tae he korama ki ia huihuinga o ratou.
21	Ko te nuinga o nga mema o te komiti te tikanga o tenei kupu o te korama.
22	Ka ahei te komiti ki te huihui ki te whakahaere i a ratou mahi, ki te nuku, a ki te whakariterite i nga ra hei huinga mo ratou, i runga i ta ratou i mahara ai he tika.
23	Ko nga putake katoa e ara ana i tetahi huihuinga me whakatau a me riro i ta te nuinga o nga pooti, a kia kotahi tonu te pooti a ia mema.
24	Ki te ngaro atu te tiamana i tetahi huihuinga me whiriwhiri e nga mema i tae ki taua huihui tetahi o ratou hei tiamana mo taua huihuinga.
25	Ka ahei te tiamana, i runga i te whakaaetanga o te huihuinga, i ia wa i ia wa, ki te nuku atu i tetahi huihuinga ki tetahi wahi ke.
26	Ki te tonoa he pooti me whakatau i runga i te tikanga whakaari ringaringa, i runga ranei i tetahi atu tikanga tera e whakaritea e te tiamana; a ko te tukunga iho o te pooti pera ka kiia tena he whakatau n ate komiti, a ko nga ingoa o nga mema o te taha hapai o te taha turaki hoki i taua kupu whakatau, me te taha I poooti ai ia mema, me ata tuhi ki roto ki te pukapuka hei maunga mo nga mahi i whakahaerea e te komiti.
27	Ka ahei te komiti ki te whakahaere i a ratou mahi i runga i nga tikanga kua oti nei te whakatakoto i roto i enei huarahi-whakahaere, i runga ranei i era atu tikanga e whakaarohia ana e tika ana hei whakatutuki i nga tikanga o nga tekiona tekau ma whitu tekau ma waru i taua Ture.
28	Ka ahei ia taha ia taha, i runga i ta te komiti i whakarite ai, ki te karanga i a ratou kai-whaki korero ki te whakapuaki i a ratou kupu hei tautoko i nga take kua oti te whakaatu i roto i ta ratou kereeme, a ka ahei era atu taha ki te patapatai i nga kai-whaki korero katoa ehara nei i te taha ki a ratou.
29	Ki te whakaaro te komiti e tika ana kia peratia, me tuhi ki te reo Maori nga kupu i whakapuakina a te kai-whaki korero, a kia oti te panui atu ki a ia, me haina e te kai-whaki korero , a me haina hoki e te tiamana me tetahi o nga mema o te komiti o raua ingoa hei kai-titiro.
30	Ka kiia te taha i tu tuatahi ki te hapai i te taha ki a ia ko te kai-tono, a ko era atu taha katoa ka kiia ko nga kai-tawari. A te otinga o te keehi a te kai-tono me nga kai-tawari, ka ahei te kai-whakahaere mo te taha ki nga kai-tono ki te tu ki te wananga atu ki te komiti, ara, ki te tautoko i te kereeme a nga kai-tono. A, i muri i tera, ka ahei te kai-whakahaere o ia taha o nga kai-tawari ki te tu ki te wananga atu ki te komiti, kia mutu tetahi ka tu ake tetahi, i runga i ta komiti i whakahau ai, a ka mutu a era katoa, hei reira ka ahei te kai-whakahaere o te taha ki nga kai-tono ki te whakahoki i aua wananga a ratou.
31	Ka ahei te komiti, mehemea e whakaarohia ana e te komiti e tika ana, i te wa e whakahaera ana te keehi, ki te tono kia hoatu ki te komiti e ia o nga keehi a nga kai-kereme he rarangi ingoa, he mea tuhituhi, hei whakaatu i nga ingoa o nga tangata katoa o te taha ki a ratou e ki ana e whai-paanga ana ratou ki te whenua, ki

	teteahi wahi ranei o te whenua i runga i nga take e kereemetia ra e ratou.
32	A te mutunga o te whakawakanga o te kereeme a te kai-tono me nga kereeme a nga kai-tawari me tahuri te komiti ki te tuhituhi i tana ripoata i runga i te ahua me nga tikanga e mau nei te whakaaturanga i roto i nga tekiona 17 me 18 o te Ture, a, i runga i te pukapuka i tuhia atu, i rehitatia hoki, ki te kai-whakahaere o ia taha o ia taha, me whakatu he ra, he haora, he kainga hoki hei panuitanga ma te komiti i tana ripoata ki tetahi huihuinga o nga tangata e kereeme ana i te whenua.
33	I taua huihuinga me panui taua ripoata i te aroaro o nga tangata katoa kua rupeke ki reira, a me tono kia whakaaturia mai mehemea tera etahi kei te whakahe.
34	Ko nga kupu whakahe katoa me tuhituhi ki te pukapuka, a me haina e nga kai-whakahe.
35	Hei reira ka ahei te komiti ki te hurihuri i aua kupu whakahe, a mehemea e whakaaro ana ratou e tika ana, ka ahei ano ratou ki te whakarereke ki te whakatikatika ranei i ta ratou ripoata, he mea kia taea ai te whakaoti te whakatikatika ranei i nga whakahe.
36	Hei reira me haina e nga mema o te komiti o ratou ingoa ki taua ripoata ka tuku ai ki te Kaunihera.
37	Hei reira me whakarite e te Kaunihera he ra hei hurihurihanga i te ripoata, a ma te panui i roto i te *Gazette* me te *Kahiti*, kia kaua e hoki iho taua panuitanga i te wha tekau nga ra i mua o te ra i tohungia, e karanga nga kaiwhakahe, kia haere ki te tautoko i ana whakahe.
38	Mehemea ka tu mai he kai-whakahe ka ahei ia ki te hoatu, ki te karanga tangata ranei hei hoatu, korero ki mua o te Kaunihera hei tautoko i taua whakahe, engari e kore ia e whakaaetia kia puta ki waho i ana take i whakaara ai i roto i tana whakahe.
39	Hei reira me timata te Kaunihera ki te whiriwhiri i te ripoata a te komiti, me nga whakahe mo taua ripoata (mehemea he whakahe), a hei reira me hanga he ota i runga i te Ahua G o te Kupu Apiti e mau ake nei, ki tetahi ahua ranei e tata ana te rite ki tera.

Form E:[811]

NOTICE OF MEETING TO ELECT PAPATUPU BLOCK COMMITTEE

'The Maori Lands Administration Act, 1900.'

NOTICE is hereby given that, claims to a block of land named in the first column and described in the second column of the Schedule hereto having been received and a sketch-plan having been deposited, and application having been made to have the title to the said land investigated under 'The Maori Lands Administration Act, 1900,' a meeting of claimants is hereby fixed to be held at _____ on _____ day, the ____ day of _____ 19__, at _____ o'clock _____, to elect a Papatupu Block Committee.

[811] *Gazette*, no. 1, 7 January 1901, p 7; *Kahiti*, no. 2, 16 Hanuere 1901, p 12

A sketch-plan and copies of all claims received have been deposited at the place set forth in the third column of the said Schedule, and may be inspected without charge at the times and hours set forth in the fourth column of the said Schedule.

Name of Block.	Description of Block.	Place where Plan and Claims may be inspected.	Times and Hours at which Inspection may be made.

PANUITANGA WHAKAATU KIA HUIHUI NGA TANGATA KI TE WHAKATU KOMITI PORAKA PAPATUPU

'Te Ture Whakahaere i nga Whenua Maori, 1900.'

HE panuitanga tenei kia mohiotia ai kua tae mai he kereme mo te poraka whenua i whakahuatia nei te ingoa i rarangi tuatahi o te Kupu Apiti ki tenei e mau na te whakaturanga o te ahua o te poraka i te rua o nga rarangi, kua takoto hoki te mapi ahua, me te tono hoki kia whakawakia te taitara o taua whenua i raro i nga tikanga o 'Te Ture Whakahaere i nga Whenua Maori, 1900,' tenei ka whakaritea me tu te huihuinga o nga kai-tono ki _____ te _____ o nga ra o _____, 19__, i te _____ o nga haora i te _____, ki te pooti i tetahi Komiti Poraka Papatupu.

Kua whakatakotoria te mapi ahua me nga kape o nga kereme i riro mai ki te wahi e mau na te whakaaturanga i roto i te toru o nga rarangi o taua Kupu Apiti, a ka taea te titiro i reira i runga i te tikanga utu-kore i te wa i roto i nga haora hoki e mau na te whakaaturanga i roto i te wha o nga rarangi o taua Kupu Apiti.

Ingoa o te Poraka.	Whakaaturanga i te ahua o te Poraka.	Te wahi e taea ai e titiro i te mapi ahua me nga kereme.	Te wa me nga haora e taea ai te titiro.

Form F:[812]

PAPATUPU LAND CLAIM

'The Maori Lands Administration Act, 1900.'

To the _____ District Maori Land Council.

WE, the Maoris whose names are mentioned in the first column of the Schedule hereunder written, on behalf of ourselves and others, claim the land the name and description of which is set forth in the second and third columns of the said Schedule.

We belong to the hapus set forth in the fourth column, and reside at the places set forth in the fifth column of the said Schedule.

A sketch-plan of the land is attached hereto.

We hereby apply to have the said land investigated by a Papatupu Committee under the provisions of 'The Maori Lands Administration Act, 1900.'

The grounds or *takes* on which we rely in support of our claim are set forth in the paper writing attached hereto.

[812] *Gazette*, no. 1, 7 January 1901, p 7; *Kahiti*, no. 2, 16 Hanuere 1901, p 12

Names of Claimants.	Name of Block.	Description	Hapus.	Residence

KEREME TONO WHENUA PAPATUPU.
'Te Ture Whakahaere i nga Whenua Maori, 1900.'
Ki te Kaunihera o te Takiwa Whenua Maori o _____
Ko matou, ko nga Maori kua whakahuatia nei o matou ingoa i roto i te rarangi tuatahi o te Kupu Apiti ki tenei, e mea ana mo te taha ki a matou me etahi atu, no matou te whenua e mau nei te ingoa me te ahua i roto i te tua-rua me te tua-toru o nga rarangi o taua Kupu Apiti.
He tangata matou mo nga Hapu e whakaaturia nei nga ingoa i roto i te tua-wha o nga rarangi, ko o matou hainga noho kua tuhia ki te tua-rima o nga rarangi o nga rarangi o taua Kupu Apiti.
Kua tapiritia atu ki tenei te mapi ahua o te whenua.
E tono ana matou kia whakawawakia taua whenua e tetahi Komiti Papatupu I raro I nga tikanga o 'Te Ture Whakahaere i nga Whenua Maori, 1900.'
Ko nga take e mea ana matou hei tautoko i a matou kereme koia enei kua oti te whakaatu i roto i te pukapuka he mea tuhituhi kua tapiritia atu ki tenei.

Nga ingoa o nga kai-tono.	Te ingoa o te Poraka.	Te ahua o te Poraka.	Nga Hapu.	Nga kainga noho.

Form G:[813]

ORDER DECLARING OWNERS ON REPORT OF PAPATUPU COMMITTEE
'The Maori Lands Administration Act, 1900.'
AT a sitting of the _____ District Maori Land Council, held at _____, this ____ day of _____, 19__, after considering the report of the Papatupu Block Committee and giving all parties concerned full opportunity of being heard, it is hereby ordered that the Maoris whose names are set forth and therein numbered respectively from 1 to ____, both inclusive, are and they are hereby declared to be the owners of the parcel or block of land called or known as _____ containing _____, and delineated on a sketch-plan No. ____, a copy whereof is annexed hereto, in the relative shares or proportions set out in the third column of the Schedule, within the portion allotted to the hapu, sub-hapu, or family , as shown on the said plan, and in the fourth column of the Schedule.
In witness whereof of the common seal of the _____ District Maori Land Council has been hereunto affixed at a meeting of the said Council held at _____, on ____, the ____ day of _____, 19__.

……., President
……., } Members of
……., } Council

Schedule above referred to.

[813] *Gazette*, no. 1, 7 January 1901, p 7; *Kahiti*, no. 2, 16 Hanuere 1901, p 12

No.	Name of Owner.	Sex and if Minor, Age.	Relative interest.	Hapu and Area allotted to such hapu.

I, _____, Esquire, Chief Judge of the Native Land Court, by virtue of the powers conferred upon me by 'The Maori Lands Administration Act, 1900,' do hereby countersign the above order.

As witness my hand, at _____, this _____ day of _____, 19__.

OTA WHAKATU I NGA TANGATA NO RATOU TE WHENUA I RUNGA I TE RIPOATA A TE KOMITI PAPATUPU

'Te Ture Whakahaere i nga Whenua Maori, 1900.'

I TE nohoanga o te Kaunihera Takiwa Maori o _____ ki _____, i tenei te _____ o nga ra _____, 19__, i te mea kua hurihuritia te ripoata a te Komiti Poraka Papatupu, me te whakatuwhera hoki i tetahi taima hei rongonga i runga i te whakawa i nga korero a nga tangata katoa e te whakatikanga ana, tenei ka whakahaua ko nga Maori kua tuhia nei o ratou ingoa ki te rarangi tuatahi o te Kupu Apiti ki tenei, ki tua ranei, he mea ata nama marire timata i te Nama _____, tae atu ki te Nama _____, nga tangata no ratou te piihi te poraka whenua ranei e mohiotia nei te ingoa ko _____ e _____ nga eka, e mau nei te whakaaturanga i roto i te mapi Nama _____, kua tapiritia nei te kape o taua mapi ki tenei, ko te nui o nga hea whakaatu kei roto nei aua hea i te wahi i whakataua atu ki te hapu, whanau ranei, e mau na te whakaaturanga i runga i taua mapi, kua oti nei te tuhi ki te tua-wha o nga ranrangi o tenei Kupu Apiti.

Hei tohu, tenei kua whakapiria nei te hiiri o te Kaunihera o te Takiwa Whenua Maori o _____ i te huihuinga o taua Kaunihera ki _____, i te _____ o nga ra o _____, 19__.

……. Tumuaki

……. } Nga Mema o

……. } te Kaunihera

Kupu Apiti i whakahuatia i runga ake nei.

Nama.	Ingoa o te tangata nona te whenua.	He tane he wahine ranei, a mehemea he tamaiti me tuhi nga tau.	Te nui o te hea.	Te Hapu, me nga eka i whaka taua ki te Hapu pera.

Ko ahau ko _____, te Tumuaki Kai-whakawa o te Kooti Whenua Maori, I runga I nga mana kua whakataua ki ahau I raro I 'Te Ture Whakahaere i nga Whenua Maori, 1900,' tenei ahau ka haina nei I te ota e mau nei I runga nei.

Ina hoki tuku ringa he mea tuhi I tenei te _____ o nga ra o _____, 19__.

Appendix 2: Research Commission

OFFICIAL

Wai 1040, #2.3.47

Wai 1040

WAITANGI TRIBUNAL

CONCERNING the Treaty of Waitangi Act 1975

AND the Te Paparahi o Te Raki regional inquiry

DIRECTION COMMISSIONING RESEARCH

1. Pursuant to clause 5A of the second schedule to the Treaty of Waitangi Act 1975, the Tribunal commissions Paul Hamer and Paul Meredith, historians, to prepare a report on the operation of the Papatupu Block Committee system, 1900-1909 as part of the Local Issues Research Programme for the Te Paparahi o Te Raki inquiry.

2. In particular, the report will address the following questions:

   a) What was the legislative regime(s) under which the Papatupu Block Committees were created and operated? How were they appointed and how did they function in relation to the district Māori land councils/boards, Native Land Court and Māori Appellate Court in the Te Paparahi o Te Raki inquiry district? What was the nature and extent of their powers and jurisdiction?

   b) What were the Crown's and Te Raki hapū and iwi intentions and expectations in establishing Papatupu Block Committees? To what extent were those expectations realised? In particular, did Māori want and expect to gain more local control over land titling and how willing was the Crown to enable such control?

   c) To what extent did the Papatupu Block Committees offer Te Raki hapū and iwi an alternative for title determination through the Native Land Court and how widely was this opportunity taken up?

   d) How did the Papatupu Block Committees operate in Te Raki in practice? In particular, what impact did the level of funding and other resources have on the ability of the Papatupu Block Committees to deal effectively with the cases bought to them?

   e) To what extent was the nature of the evidence parties gave and the way this was heard and deliberated upon during Block Committee hearings similar or different from the procedures of the Native Land Court during the same period? In what ways did the operation of the Committees reflect distinctive Māori priorities?

   f) What was the nature of the title recommended by Papatupu Block Committees and to what extent, if at all, did this differ from that conferred by the council/board and by the Native Land Court during the 1900 to 1909 period? In particular, did the Papatupu Block Committee system provide a more collective form of title than that available through the council/board and the Native Land Court at this time?

   g) Did the Papatupu Block Committees have the power to recommend protections such as restrictions on alienation? To what extent were such recommendations made and were those recommendations regarding protections upheld by the council/board and Native Land Court?

h) To what extent were the decisions of the Papatupu Block Committees confirmed, amended or rejected by the councils/boards? To what extent were appeals against decisions of the committees made to the Native Land Court and Māori Appellate Court? What was the outcome of such appeals for Te Raki hapū and iwi?

i) Apart from the process of title investigation and determination and the resulting title, were there any other functions the Papatupu Block Committees performed? What were they, and what were the results for hapū and iwi in the Te Raki inquiry district?

j) Why were the Papatupu Block Committees abolished? To what extent were Te Raki hapū and iwi involved in that decision and/or consulted about it?

3. The commission will commence on 28 March 2016. A complete draft of the report is to be submitted by 2 September 2016 and will be distributed to all parties.

4. The commission ends on 28 October 2016, at which time one copy of the final report must be submitted for filing in unbound form, together with indexed copies of any supporting documents or transcripts. An electronic copy of the report should also be provided in Word or Adobe Acrobat format. The report and any subsequent evidential material based on it must be filed through the Registrar.

5. The report may be received as evidence and the author may be cross-examined on it.

6. The Registrar is to send copies of this direction to:

Paul Hamer
Paul Meredith
Claimant counsel and unrepresented claimants in the Te Paparahi o Te Raki inquiry (Wai 1040)
Chief Historian, Waitangi Tribunal Unit
Principal Research Analyst, Waitangi Tribunal Unit
Manager – Research and Inquiry Facilitation Services, Waitangi Tribunal Unit
Inquiry Supervisor, Waitangi Tribunal Unit
Local Issues Research Programme Supervisor, Waitangi Tribunal Unit
Inquiry Facilitator(s), Waitangi Tribunal Unit
Solicitor-General, Crown Law Office
Director, Office of Treaty Settlements

Chief Executive, Crown Forestry Rental Trust
Chief Executive, Te Puni Kōkiri

DATED at Wellington this 12th day of April 2016

Judge C T Coxhead
Presiding Officer
WAITANGI TRIBUNAL